



# Agenda

## Licensing Committee 2022/23

Tuesday, 20 December 2022 at 7.00 pm

Council Chamber, Town Hall, Ingrave Road, Brentwood, Essex CM15  
8AY

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### Membership (Quorum – 4 )

Cllrs Tanner (Chair), Barber (Vice-Chair), Dr Barrett, M Cuthbert, Fryd, Gelderbloem, Jakobsson, Laplain, Mrs Murphy, Mynott, Parker and Wiles

### Substitute Members

Cllrs Barrett, Mrs N Cuthbert, Heard, Mrs Hones, Mrs Pearson and Sankey

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### Agenda

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### Live Broadcast

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Jonathan Stephenson  
Chief Executive

Town Hall  
Brentwood, Essex  
12.12.2022

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### Information for Members

#### Substitutes

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The names of substitutes shall be announced at the start of the meeting by the Chair and the substitution shall cease at the end of the meeting.

Where substitution is permitted, substitutes for quasi judicial/regulatory committees must be drawn from Members who have received training in quasi- judicial/regulatory decision making. If a casual vacancy occurs on a quasi judicial/regulatory committee it will not be filled until the nominated member has been trained.

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#### Rights to Attend and Speak

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Any Members may attend any Committee to which these procedure rules apply.

A Member who is not a member of the Committee may speak at the meeting. The Member may speak at the Chair's discretion, it being the expectation that a Member will be allowed to speak on a ward matter.

Members requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting.

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#### Point of Order/ Personal explanation/ Point of Information

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##### Point of Order

A member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Procedure Rules or the law. The Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Mayor on the point of order will be final.

##### Personal Explanation

A member may make a personal explanation at any time. A personal explanation must relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate, or outside of the meeting. The ruling of the Mayor on the admissibility of a personal explanation will be final.

##### Point of Information or clarification

A point of information or clarification must relate to the matter being debated. If a Member wishes to raise a point of information, he/she must first seek the permission of the Mayor. The Member must specify the nature of the information he/she wishes to provide and its importance to the current debate. If the Mayor gives his/her permission, the Member will give the additional information succinctly. Points of Information or clarification should be used in exceptional circumstances and should not be used to interrupt other speakers or to make a further speech when he/she has already spoken during the debate. The ruling of the Mayor on the admissibility of a point of information or clarification will be final.

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### Information for Members of the Public

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#### Access to Information and Meetings

You have the right to attend all meetings of the Council and Committees. You also have the right to see the agenda, which will be published no later than 5 working days before the meeting, and minutes once they are published.

Dates of the meetings are available at [www.brentwood.gov.uk](http://www.brentwood.gov.uk).

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#### Guidelines on filming, photography, recording and use of social media at council and committee meetings

The council welcomes the filming, photography, recording and use of social media at council and committee meetings as a means of reporting on its proceedings because it helps to make the council more transparent and accountable to its local communities.

Where members of the public use a laptop, tablet device, smart phone or similar devices to make recordings, these devices must be set to 'silent' mode to avoid interrupting proceedings of the council or committee.

If you wish to record the proceedings of a meeting and have any special requirements or are intending to bring in large equipment then please contact the Communications Team before the meeting.

The use of flash photography or additional lighting may be allowed provided it has been discussed prior to the meeting and agreement reached to ensure that it will not disrupt proceedings.

The Chair of the meeting may terminate or suspend filming, photography, recording and use of social media if any of

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these activities, in their opinion, are disrupting proceedings at the meeting.

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 **Private Session**

Occasionally meetings will need to discuss some of its business in private. This can only happen on a limited range of issues, which are set by law. When a Committee does so, you will be asked to leave the meeting.

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  **Access**

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 **Evacuation Procedures**

Evacuate the building using the nearest available exit and congregate at the assembly point in the Car Park.



## Minutes

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### Licensing Committee Tuesday, 26th July, 2022

#### Attendance

Cllr Dr Barrett	Cllr Mynott
Cllr Cuthbert	Cllr Parker
Cllr Barber (Vice-Chair)	Cllr Wiles
Cllr Gelderbloem	Cllr Tanner
Cllr Laplain	Cllr Bridge (Chair)

#### Apologies

Cllr Fryd	Cllr Jakobsson
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#### Substitute Present

Cllr Mrs Hones  
Cllr Sankey

#### Also Present

Cllr Cuthbert  
Cllr Heard  
Cllr Hossack  
Cllr Aspinell  
Cllr S Cloke  
Cllr Naylor  
Cllr Wagland

#### Officers Present

Paul Adams	- Licensing Manager
Caroline Corrigan	- Corporate Manager (Planning Development Management)
Mike Ovenden	- Associate Consultant Planner
Carole Vint	- Planning Officer
Daryl Cook	- Planning Officer
Paulette McAllister	- Principal, Design & Conservation Officer
Steve Plumb	-
Tom Newcombe	- Solicitor, Birketts (for and on behalf of the Council's Solicitor)
Zoe Borman	- Governance and Member Support Officer

## LIVE BROADCAST

[Live broadcast to start at 7pm and available for repeat viewing.](#)

### 112. Apologies for Absence

Apologies were received from Cllrs Jakobsson and Fryd. Cllrs Hones and Sankey were substitutes respectively.

### 113. Minutes of the Previous Meeting

The Minutes of the Licensing Committee held on 28<sup>th</sup> June were agreed as a true record.

### 114. Minutes of the Licensing Sub Committee

The Minutes of the Licensing Sub Committee held on 1<sup>st</sup> July were agreed as a true record.

### 115. Licensing Act Policy Review

The Licensing Act 2003 requires Local Councils to review their Statement of Licensing Policy every five years. A reviewed policy has been produced for consideration of this committee in preparation for consultation.

Mr Adams summarised the report.

Cllr Bridge **MOVED** and Cllr Barber **SECONDED** the recommendations within the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** to:

1. **Agree for the reviewed statement of Licensing Policy to go out to consultation, and;**
2. **That after consultation, relevant responses are reported to the Licensing Committee for consideration, or**
3. **If no relevant responses are received during consultation, then it is recommended the policy be referred to Ordinary Council for the adoption.**

#### Reasons for Recommendation

The adoption of the policy is an Ordinary Council function.

This policy must be consulted upon as part of the review process. If there are relevant representations made this committee will have an opportunity to consider those before referral to Ordinary Council for adoption.

#### **116. Gambling Act 2005 Policy Review**

The Gambling Act 2005 requires local councils to review their Gambling Statement of Policy every three years. A reviewed Statement of Gambling Policy has been produced for consideration by this committee in preparation for consultation.

Mr Adams summarised the report.

Cllr Bridge **MOVED** and Cllr Barber **SECONDED** the recommendations within the report.

A vote was taken by a show of hands and it was **RESOLVED UNANIMOUSLY** to:

- 1. Agree for the reviewed statement of Gambling Policy to go out to consultation, and;**
- 2. That after consultation, relevant responses are reported to the Licensing Committee for consideration, or**
- 3. If no relevant responses are received during consultation, then it is recommended the policy be referred to Ordinary Council for the adoption.**

#### **Reasons for Recommendation**

The adoption of the policy is an Ordinary Council function.

This policy must be consulted upon as part of the review process. If there are relevant representations made this committee will have an opportunity to consider those before referral to Ordinary Council for adoption.

#### **117. Urgent Business - Hackney Carriage Fares**

There was one item of urgent business.

#### **Hackney Carriage Fares Report**

Local Authorities have a power to set fares for hackney carriages. A request from representatives of the hackney carriage trade has been received for an increase in the Taxi Fare, which has been subject to public consultation. This report considers the responses to the public consultation and asks members to agree the final Taxi Fare that will take effect in accordance with the statutory requirements.

Paul Adams summarised the report.

Following discussion, Cllr Bridge **MOVED** and Cllr Barber **SECONDED** the recommendations within the report.

A vote was taken by a show of hands and it was **RESOLVED**:

- 1. Consider the consultation responses as in appendix B, and**
- 2. To either agree for the proposed table of fares, as set out in Appendix A to come into effect from the 15 August 2022, or**
- 3. To make any amendments if feels necessary the table of fares in Appendix A, after considering the consultation response, and agree for the Table of Fares with those amendments to come into effect from the 15 August 2022**

### **Reasons for Recommendation**

The process of setting Hackney carriage Fares is prescribed by the legislation; this recommendation is compliant with the procedure to be followed.



# Minute Item 117

<b>Committee(s):</b> Licensing Committee	<b>Date:</b> 26 July 2022
<b>Subject:</b> Hackney Carriage Fares	<b>Wards Affected:</b> All
<b>Report of:</b> Paul Adams – Licensing Manager	<b>Public</b>
<b>Report Author/s:</b> Name: Paul Adams – Licensing Manager Telephone: 01277312503 E-mail: paul.adams@brentwood.gov.uk	<b>For Decision</b>

## Summary

Local Authorities have a power to set fares for hackney carriages. A request from representatives of the hackney carriage trade has been received for an increase in the Taxi Fare, which has been subject to public consultation. This report considers the responses to the public consultation and asks members to agree the final Taxi Fare that will take effect in accordance with the statutory requirements.

## Recommendation(s)

**Members are asked to:**

- R1. Consider the consultation responses as in appendix B, and**
- R2. To either agree for the proposed table of fares, as set out in Appendix A to come into effect from the 15 August 2022, or**
- R3. To make any amendments if feels necessary the table of fares in Appendix A, after considering the consultation response, and agree for the Table of Fares with those amendments to come into effect from the 15 August 2022**

## Main Report

### **1. Introduction and Background.**

- 1.1. Local Authorities have the power to set fares for Hackney Carriage vehicles.
- 1.2. The setting of fares relates to the Council fixing the rates or fares within the district, this may include what is charged for time and distance travelled and all other charges in connection with the hire of a vehicle or with the arrangements for hire of a vehicle
- 1.3. The rate or fares set is known as the "table of fares".

- 1.4. This fare is the maximum amount that can be charged, an individual driver does have the ability to charge below the amount prescribed in the table of fares if they chose to do so.
- 1.5. The table of fares were last set with effect from December 2016; details are provided in **Appendix A**
- 1.6. The cost of providing and running a hackney carriage vehicle has increased since the fare was set in 2016, this increase is being requested to rebalance to costs with the income achieved to ensure that a living wage can be achieved.
- 1.7. The power to set fares is provided by Section 65, Local Government (Miscellaneous Provisions) Act 1976.
- 1.8. When this power is exercised the Local Authority must publish in at least one local newspaper circulating in the district a notice setting out the table of fares allowing not less than 14 days for objection to be made. The Local Authority must make available at their offices a copy of said notice.
- 1.9. If after the 14 days no objection has been received or received and withdrawn, then the new fare takes effect from the date published in the notice
- 1.10. If objection has been received and not withdrawn the Local Authority must consider the objection and may make changes to the proposed table of fares as it feels necessary, or it may choose to not make any changes to the proposal.
- 1.11. If objection is received a report will be brought back to the Licensing Committee for consideration. The new fare will then come into effect within two months of the original date.

## 2. **Issue, Options and Analysis of Options**

- 2.1. Following a request from representatives of the hackney carriage trade via the Taxi Trade Consultative Group (TTCG) for an increase in the Taxi Fare which was considered and agreed for consultation by the Licensing Committee on the 28 June 2022. Consultation has been carried out in accordance with the legislation.
- 2.2. The proposes table of fares are detailed in **Appendix A**, which also provides a comparison on the difference in cost for a journey of varying distance.
- 2.3. Following the consultation, 4 responses were received, which can be found in **Appendix B**. 1 response supports the proposals, 2 responses suggest that the increase is too large, and one suggests that some of the extras should also be increased.
- 2.4. It is intended that the new table of fares will come into effect on Monday 15 August 2022, which is in line with the statutory time frame.

### **3. Reasons for Recommendation**

- 3.1. The process of setting Hackney carriage Fares is prescribed by the legislation; this recommendation is compliant with the procedure to be followed.

### **4. Consultation**

- 4.1. Consultation has been carried out in accordance with the requirements contained within Section 65, Local Government (Miscellaneous Provisions) Act 1976.
- 4.2. A notice was published in a local paper and was be posted on Brentwood Borough Council's Website and on the public notice board at the front of the Civic Offices, giving 14 days for representations to be made.
- 4.3. All licence holders were also emailed advising of the proposals and advising of their ability to make representation.
- 4.4. As representations have been received, these must now be considered by this committee.

### **5. References to Corporate Plan**

- 5.1. None.

### **Implications**

#### **Financial Implications**

**Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)**  
**Tel/Email: 01277 312500/jacqueline.vanmellaerts@brentwood.gov.uk**

There are no direct financial implications for Brentwood Borough Council arising from this report.

#### **Legal Implications**

**Name & Title: Amanda Julian, Corporate Director (Law & Governance) and Monitoring Officer**  
**Tel & Email: 01277 312500/amanda.julian@brentwood.gov.uk**

A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section.

(a) When a district council make or vary a table of fares, they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen

days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares or variation can be made.

A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

### **Economic Implications**

**Name/Title: Phil Drane, Corporate Director (Planning and Economy)**

**Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk**

There are no direct financial implications arising from this report as does not relate to the price of a license. The requested price increase relates to income paid directly to the drivers in connection to their business. The taxi trade plays an important role supporting the local economy and so the council should help to regulate it in partnership with representatives, as this consultation seeks to do.

### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Corporate Manager Communities, Leisure and Health**

**Tel/Email: 01277 312500/kim.anderson@brentwood.gov.uk**

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

The table of fares does not allow additional charges to be made for passengers accompanied by guide dogs or wheelchair users. This recognises the relevant duty set out in legislation to make reasonable adjustments for disabled users of Hackney Carriages.

### **Health & Wellbeing Implications**

**Name/Title: Jo Cory , Corporate Health & Wellbeing Officer**

**Tel/Email: 01277 312500/jo.cory@brentwood.gov.uk**

There are no direct Health or Wellbeing implications arising from this report.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None.

**Background Papers**

None.

**Appendices to this report**

**Appendix A** – Details of Current Table of Fares and Proposed Table of Fares

**Appendix B** – Consultation responses.

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01/03/2022

**Current Tariffs Dec 2016**

**Proposed Tariffs**

Appendix A

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	Tariff 1	Tariff 2	Tariff 3	Tariff 4	Tariff 1	Tariff 2	Tariff 3	Tariff 4
Initial Price	100.00%	112.50%	125.00%	200.00%	100.00%	112.50%	125.00%	200.00%
Unit Price	£3.40	£3.80	£4.20	£6.80	£4.80	£5.30	£5.80	£9.60
Yards to flagfall	1053	1034	1024	1053	1338	1272	1224	1338
Yards per drop	154	137	123	77	211	188	169	105
Initial Wait (secs)	239	234	233	260	273	257	246	280
Unit Wait (secs)	35	31	28	19	43	38	34	22
1st Mile	£4.32	£4.86	£5.40	£8.64	£5.40	£6.08	£6.75	£10.81
Per Mile	£2.29	£2.57	£2.86	£4.57	£2.50	£2.81	£3.12	£5.03
Waiting time per hour	£20.57	£23.23	£25.71	£37.89	£25.12	£28.42	£31.76	£49.09
Mileage	Tariff 1	Tariff 2	Tariff 3	Tariff 4	Tariff 1	Tariff 2	Tariff 3	Tariff 4
1	£4.32	£4.86	£5.40	£8.64	£5.40	£6.08	£6.75	£10.81
2	£6.60	£7.43	£8.26	£13.21	£7.90	£8.89	£9.88	£15.83
3	£8.89	£10.00	£11.12	£17.78	£10.40	£11.70	£13.00	£20.86
4	£11.18	£12.57	£13.98	£22.35	£12.91	£14.50	£16.12	£25.89
5	£13.46	£15.14	£16.84	£26.92	£15.41	£17.31	£19.25	£30.92
10	£24.89	£27.98	£31.15	£49.78	£27.92	£31.36	£34.87	£56.06

**Extra Charges**

For each person in excess of one - Additional £0.40p

All journeys with 5 or more passengers - Additional 50% of proper fare

Booking Fee up to a maximum of £20 may be added to the proper fare where a Hackney Carriage vehicle is used for Private Hire use within the district.

London Congestion Charge and Dartford Crossing - As Applied

Cab Soiling - Inside £50 - Outside £20

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# Appendix B

## Responses to the Taxi Fare Increase Consultation

### 1. Andrew Earl Licensed Taxi Driver Received by email 11/7/22

I would like to say that I support the proposed changes to the tariff.

Especially the over 5 passengers uplift which is most welcome. Extras never really covered the extra costs associated with a larger vehicle.

### 2. Trevor Yorke Licensed Taxi Driver received by email 11/7/22

I feel there should be a small increase in taxi fares within Brentwood. The proposed fares are too extreme and need to be scaled back a little. I feel the yardage is better, but the minimum fare should not be jumping up over a £1. We are getting a lot more local people using taxis as we are cheaper than Uber for short journeys and we need to keep that so local people keep using us

### 3. Andre Robson Licensed Taxi Driver received by email 8/7/22

20p has been the standard for 20+ years

40p is still every small addition for extras

£1 for first extra and 50 each thereafter making £2 max for four-seater and £3 per 6 seater.

Car soiling, again it's disgusting loss of earning when it happens. Prehistoric fees on soiling where the changes are needed and never have adjusted.

£50 never compensates. Double it.

Times need changing we still sitting in the past.

### 4. Mark Millership Licensed Taxi Driver received by email 18/7/22

I object to this increase as I feel it is too big,

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## Minutes

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**Licensing Sub-Committee**  
**Friday, 15th July, 2022**

### Attendance

Cllr Barber  
 Cllr Gelderbloem

Cllr Parker

### Also Present

Gary Burke - Essex Police Licensing Officer

### Officers Present

Paul Adams - Licensing Manager  
 Zoey Foakes - Governance & Member Support Officer  
 Dave Leonard - Licensing Officer

### LIVE BROADCAST

[Live broadcast to start at 10am and available for repeat viewing.](#)

### 97. Appointment of Chair

Members resolved that Cllr Parker would Chair the meeting.

### 98. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they are exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter will be determined on the facts before the Sub-Committee and the rules of natural justice will apply.

### 99. DETERMINATION OF OBJECTION TO TEMPORARY EVENT NOTICES - The Merchant, 125-127 High Street, Brentwood CM14 4RX

**Determination of Objection to Temporary Event Notice on Sunday 24 July 2022; Sunday 31 July 2022; Sunday 7 August 2022 and Sunday 14 August 2022: The Merchant**

**Licensing Sub-Committee of Brentwood Borough Council: 15 July 2022**  
**Councillors: Barber, Gelderbloem and Parker (Chair)**

## **Decision of the Committee**

The Committee imposed conditions on the Temporary Event Notice pursuant to s106 of the Licensing Act 2003.

## **Statement of Reasons**

The Committee noted the contents of the application and considered the oral representations of the Applicant who was present at the hearing.

The Committee noted the objection from Essex police who opposed the application on the basis that the licensing objectives, the prevention of crime and disorder and the prevention of public nuisance, would be undermined.

Essex Police submitted that a number of conditions had been agreed to assist with the prevention of crime and disorder and the prevention of public nuisance at the premises. Essex Police therefore sought that the conditions on the current premises licence be applied to the Temporary Event Notice.

The Committee noted the objection from Environmental Health who opposed the application on the basis that the licensing objective, the prevention of public nuisance, would be undermined.

Environmental Health submitted that a number of conditions had been agreed to assist with the prevention of public nuisance at the premises. Environmental Health therefore sought that the conditions on the current premises licence be applied to the Temporary Event Notice.

The Applicant informed the Committee that they were content to accept the existing conditions on its premises licence being imposed on the Temporary Event Notice.

It was noted by the Committee that Essex Police, Environmental Health and Licensing Officers commented that the premises was fully compliant with the conditions on the premises licence and that no complaints had been received attributed to the premises.

The Committee, in making its determination, had regard to the Authority's own licensing statement and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

Having sought legal advice the Committee resolved to allow the Temporary Event Notice with full conditions of the existing premises licence being imposed upon it.



## Minutes

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### Licensing Sub-Committee Wednesday, 20th July, 2022

#### Attendance

Cllr Barber  
Cllr Dr Barrett

Cllr Laplain

#### Apologies

Cllr Jakobsson

#### Officers Present

Paul Adams	- Licensing Manager
Zoey Foakes	- Governance & Member Support Officer
Sam Haldane	- For and on behalf of the Council Solicitor
Caroline Harrison	- Licensing Officer
Dave Leonard	- Licensing Officer
Maria Moses	- Licensing Officer

#### 100. Appointment of Chair

Members nominated Cllr Barber to Chair this hearing.

#### 101. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they were exercising an administrative function with the civil burden of proof, ie, 'on the balance of probabilities.' The matter would be determined on the facts before the Sub-Committee and the rules of natural justice would apply.

#### 102. Consideration of the suitability of a Hackney Carriage/Private Hire Driver to continue to hold a licence

The Sub-Committee Considered the report with appendices, considered all the information made available to it at the hearing and determined if the licence holder remains a fit and proper person to hold a Hackney Carriage and Private; Hire Drivers Licence; and decides whether to either:

R1. Revoke the licence; or

R2. Suspend the licence; or  
R3. Take no further action; or  
R4. Any other decision the Sub-Committee deems reasonable, which may include a written warning or to undertake some further training.

**Based on all the evidence, the Committee resolved that R4 would be appropriate to issue a written warning and undertake some further training.**

**103. Consideration of the suitability of a Hackney Carriage/Private Hire Driver to continue to hold a licence**

Members considered the report with appendices, and considered all the information made available to it at the hearing and determines if the licence holder remains a fit and proper person to hold a Hackney Carriage and Private Hire; Drivers Licence; and decides whether to either:

- a) Revoke the licence; or
- b) Suspend the licence; or
- c) Any other decision the Sub-Committee deems reasonable, which may include passing an approved Taxi Driver Assessment, issuing a written warning; or
- d) To take no further action.

**Based on all the evidence, the Committee resolved recommendation C to issue a written warning and for the driver to take an approved Taxi Driver Assessment.**



## Minutes

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**Licensing Sub-Committee**  
**Wednesday, 17th August, 2022**

### Attendance

Cllr Barber  
Cllr Laplain

Cllr Parker

### Apologies

### Substitute Present

### Also Present

### Officers Present

Liz Cox - Licensing Officer  
David Carter - Environmental Health Manager

### LIVE BROADCAST

[Live broadcast to start at 10am and available for repeat viewing.](#)

### 139. Appointment of Chair

Members resolved that Cllr Parker would Chair the meeting.

### 140. Administrative Function

Members were respectfully reminded that, in determining the matters listed below, they are exercising an administrative function with the civil burden of proof, i.e. 'on the balance of probabilities'. The matter will be determined on the facts before the Sub-Committee and the rules of natural justice will apply.

**141. Determination of an Application for a new Premises Licence - McCafferty's Bar, 99 High Street, Brentwood CM14 4RR**

This application had been withdrawn.

**142. Determination of an Application for a new Premises Licence - Sainsy's Pie Shop, 111 High Street, Brentwood CM14 4RX**

Brentwood Borough Council, being the relevant licensing authority, received an application for a new Premises Licence for Sainsy's Pie Shop 111 High Street, Brentwood.

Brentwood Borough Council's Environmental Health Noise Pollution Team Manager had made a representation citing an insufficient address of the prevention of public nuisance licensing objective. Two further representations were received from Responsible Authorities but were resolved through mediation and subsequently withdrawn. There were no representations received from Other Persons.

A hearing was held to consider the application for the new premises licence. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Brentwood Borough Council Licensing Policy;
- Statutory Guidance issued under the Licensing Act 2003

The Sub-Committee listened to all the evidence and submissions. It heard from:

- The Licensing Officer
- Environmental Health
- The Applicant did not attend but the committee had sight of the written representations.

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The Licensing Officer, Ms Cox, presented the report and outlined the application which had been submitted and responded to questions from all parties. A copy of the application was attached to the report.

The Applicant did not attend.

Mr David Carter, Environmental Health Officer, addressed the Sub-committee as the responsible authority.

The Sub-committee had due regard to the Licensing Objectives, particularly the prevention of public nuisance. The Sub-committee had regard to the



evidence in the Licensing Officer's report, as well as the written and oral evidence of all parties put forward at the Hearing and the relevant case law.

The Sub-committee were satisfied that granting the application in the terms sought would not undermine the promotion of the licensing objectives. The committee had received a copy of the Noise Management Plan prepared by the applicant which had been approved Environmental Health. The Sub-committee wished the following conditions to be included:-

1. Noise Management Policy to be included as part of the operating schedule. This is to be signed by both parties.

Having regard to the 4 licensing objectives the sub-committee were of the view that it is in the public interest to grant the application.

The meeting concluded at 10:48

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## Minutes

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**Licensing Sub-Committee**  
**Friday, 7th October, 2022**

### **Attendance**

Cllr Barber  
Cllr Laplain

Cllr Parker

### **Apologies**

### **Substitute Present**

### **Also Present**

### **Officers Present**

Paul Adams	-	Licensing Manager
Sam Haldane	-	For and on behalf of the Council Solicitor
Zoe Borman	-	Governance and Member Support Officer

### **LIVE BROADCAST**

[Live broadcast to start at 9:30am and available for repeat viewing.](#)

### **189. Appointment of Chair**

Members resolved that Cllr Parker would Chair the meeting.

### **190. Administrative Function**

Members were respectfully reminded that, in determining the matters listed below, they are exercising an administrative function with the civil burden of

proof, i.e. 'on the balance of probabilities'. The matter will be determined on the facts before the Sub-Committee and the rules of natural justice will apply.

**191. Determination of Objection to Temporary Event Notices The Vine 104 High Street Brentwood CM14 4RX**

The Licensing Office had received an objection from Essex Police, Mr Simon Barnes, with regards to four Temporary Event Notices (TENs) submitted in relation to extension of hours on Sunday 9<sup>th</sup> October 2022, Sunday 16<sup>th</sup> October 2022, Sunday 23<sup>rd</sup> October 2022 and Sunday 30<sup>th</sup> October 2022 to be held at **The Vine, 104 High Street, Brentwood CM14 4RX**. All four events request a one-hour extension to the hours for the provision of the Sale by retail of alcohol, The provision of regulated entertainment and The provision of late night refreshment from 0200hrs-0300hrs.

The objections relate to the prevention of crime & disorder.

A hearing was held to consider the application. The Sub-Committee determined the application with a view to promoting the four licensing objectives. It considered the application on its own merits. In reaching its determination, the Sub-Committee had regard to the following matters:

- The relevant parts of the written and oral evidence before them;
- The Brentwood Borough Council Licensing Policy;
- Statutory Guidance issued under the Licensing Act 2003

Mr Adams, Licensing Manager presented the report.

The Committee noted the contents of the application and considered the oral representations of the agent, Mr Bell, on behalf of the Applicant, Mr Artemis, who were present at the hearing.

The Committee noted the objection from Mr Barnes of Essex police who opposed the application on the basis that the licensing objectives, the prevention of crime and disorder and the prevention of public nuisance, would be undermined.

Essex Police submitted that attaching the conditions listed on the premises license applied to the TEN for the event would satisfy them that all measures put in place would remain in effect for any extension of the license.

The Committee, in making its determination, had regard to the Authority's own licensing statement and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

Having sought legal advice the Committee resolved to allow the Temporary Event Notice with full conditions of the existing premises licence being imposed upon it for the dates applied for.

### **Decision of the Committee**

The Committee imposed conditions on the Temporary Event Notice pursuant to s106 of the Licensing Act 2003.

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<b>Committee(s):</b> Licensing Committee	<b>Date:</b> 20 December 2022
<b>Subject:</b> Licensing Fees	<b>Wards Affected:</b> All
<b>Report of:</b> Paul Adams – Licensing Manager	<b>Public</b>
<b>Report Author/s:</b> Name: Paul Adams, Licensing Manager Telephone: 01277312503 E-mail: paul.adams@brentwood.gov.uk	<b>For Decision</b>

## Summary

This report sets out the process and methodology for the setting of Licence Fees associated with licence applications under the remit of the Licensing Committee and proposes the licencing fees for consultation where necessary for the 2023-2024 financial year.

## Recommendation(s)

**Members are asked to:**

- R1. To agree for the proposed fees and charges as set out in Appendix A for the 2023- 2024 financial year to go out to public consultation.**

## Main Report

### **1. Introduction and Background.**

- 1.1. Most licence applications attract a fee, different licensing regimes have different ways in which the fees are set, which generally is by one of three ways:
- A statutory set fee.
  - A locally set fee that has by statute, a capped maximum amount.
  - A locally set fee with no maximum cap.
- 1.2. With the exception of the statutory set fees, any fee charged must be based on cost recovery, no profit can be made on the licence fee income.
- 1.3. Fees that are set by statute, cannot be varied and must be charged as they are set within the legislation, this relates to all licences under the Licensing Act 2003 (Alcohol and Entertainment).main aspects of the standards are:
- 1.4. Fees that can be set locally with a capped maximum, must be set on a cost recovery basis up to the cap. If the cost recovery is less than the capped amount, then less than the cap should be charged. If the cost it is higher than the cap, then a loss will need to be made. This relates to fees under the Gambling Act 2005. Fees are currently set at the maximum cap.

- 1.5. Fees that can be set locally without a cap, must be set on a cost recovery basis only, they cannot be used to generate an income to perform other functions of the Council. This relates to Taxis, Sex Establishments, Scrap Metal Dealers, Street Trading, and all Animal Welfare Licences.
- 1.6. Guidance does exist in relation to fee setting in the form of:
  - Home Office Guidance on setting Scrap Metal Dealers Act 2013 Fees.
  - Draft LGA Guidance on Locally Set Fees, issued September 2013.
  - DEFRA Guidance, Animal Welfare Licence Fees - A Practical Guide to Fee Setting
  - Welsh Technical Panel Templates
  - Case law.
- 1.7. Cost recovery includes the covering the full cost of administering and ensuring compliance with the licensing regime. Each licensing regime has some slight differences but generally the costs that could be included calculations and apportioned appropriately are:
  - Administration - processing of the licence, officer time, printing, postage and licensing software, etc.
  - Visits - officer time for initial visits, renewal inspections, etc.
  - Third Party Costs – veterinary visits, vehicle inspections etc.
  - Consultation and liaison with third parties – engaging with Responsible Authorities and other stake holders.
  - Management Costs – apportioned cost of the management involvement in any process.
  - Democracy costs – committee costs for determining applications
  - On Costs – payroll, accommodation, finance, legal, travel
  - Training – For officers and members
  - Policies – development, consultation, publishing and review.
  - Web material – compliance with EU Directive, online applications.
  - Compliance work – ensuring licence holders are compliant with the licence.
  - Fees – setting and reviewing of fees
  - Appeals - legal costs of appeals
  - Maintaining registers – local and national
- 1.8. There are costs that are unrecoverable; this should include the cost of enforcement action in relation to un-licensed persons/premises/vehicles. This type of action should be funded out of the Council's General Fund.
- 1.9. In order to ensure that fees remain reasonable and proportionate it is necessary to carry out a regular review of the fees.
- 1.10. Generally fees cannot make a profit, case law has established that any surplus must be carried forward, and any deficit can also be carried forward and recouped.



- 1.11. Benchmarking of fees could be used only as a comparison and should not be used as a fee matching exercise. Each authority will have different costs, structures and processes, which could create significant differences in fees.

## 2. Issue, Options and Analysis of Options

- 2.1. Brentwood Borough Council's locally set licence fees were last increased in 2018. The fees were reviewed and set last year, but due to the impact of the COVID pandemic at that time, fees were held at their current level despite the need for an increase since.
- 2.2. A set of Taxi trading accounts have been prepared which have included the cost of providing each area of licensing based on the percentage of time officers spend on each activity, against the income against each area, which can be found in **Appendix A**.
- 2.3. Based on the trading accounts the proposed fees and charges for the 2023 – 2024 period are attached as **Appendix B**. It is intended that this fee change will come into effect from 1<sup>st</sup> April 2023, after consultation and further consideration by this committee. A summary of the changes is provided below.
- 2.4. Hackney Carriage and Private Hire Drivers fees. An increase in fees is required to reduce the growing deficit, the income is currently below the cost of the service provision and a rise is required to ensure cost recovery. The lower percentage rise of a three-year licence reflects the efficiencies and savings that exists when the licence is renewed every three years providing better value for a licensed driver. A separate fee for Hackney Carriage and Hackney Carriage Licences has been introduced.
- 2.5. Hackney Carriage and Private Hire Vehicles. An increase in both fees is required as there is a building deficit in both areas. This increase will help reduce the deficit between income and expenditure to allow for full cost recover.
- 2.6. Private Hire Operators. An increase is required for private hire operator licences due to the carry forward deficit that has accumulated.
- 2.7. Animal Licences. An increase is required for the animal establishment licences, which includes pet shops, dog boarders and breeders. The Zoo Licence fee has been significantly increased to reflect the level of work that is required.
- 2.8. Street Trading. The Policy is currently out for review, which will revise and extend the scheme. The fee proposes will better reflect the work associated with the extended scheme.

- 2.9. Skin Piercing and Scrap Metal Licensing. These have all been increased to reflect the increase in costs..

### **3. Reasons for Recommendation**

- 3.1. It is important that all licence fees are subject to regular review to ensure that they remain reasonable and proportionate. Where there is to be a significant change to the licensing fee, sufficient consultation must be undertaken to ensure compliance with legislation and to seek a balanced view of the proposed changes.

### **4. Consultation**

- 4.1. Consultation will be undertaken on any significant proposed changes to fees, or where consultation is required by statute.
- 4.2. Consultation will include communication of the proposed changes to all relevant licence holders for comments to be submitted on the council's consultation portal.
- 4.3. Under the Local Government (Miscellaneous Provisions) Act 1976, with regards to hackney carriage proprietors' licences, private hire vehicle licences and private hire operator licences, there is a requirement where the fee charged is greater than £25 to consult on the proposed fee as prescribed by the legislation.
- 4.4. The procedure requires that a notice must be published in a local newspaper, and at the offices, which must give 28 days from the date of publishing for objections to be lodged and advertise the date the fees will come into effect.
- 4.5. If objection is received and has not been withdrawn, then the council must consider the objections. If this is the case, then this committee will consider the objections

### **5. References to Corporate Plan**

- 5.1. None.

### **Implications**

#### **Financial Implications**

**Name/Title: Tim Willis, Interim Director of Resources**

**Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk**

As part of the budget process each year, the Council needs to review its fees and charges. The future development of the Medium-Term Financial Strategy takes into account changes in fees and charges in broad terms over the period of the strategy.

This report sets out information for the Licensing Committee, the process of setting fees in accordance with Legislation, Guidance and good practice.

It is important that the fee levels are set where possible at cost recovery to ensure that the service is financially viable for the current financial year.

### **Legal Implications**

**Name & Title: Andrew Hunkin, Interim Director of People & Governance and Monitoring Officer**

**Tel & Email: 01277 312500/andrew.hunkin@brentwood.rochford.gov.uk**

A Council is entitled to charge a reasonable fee for the grant of a licence, in accordance with relevant legislation, with a view to recovering the costs of issue and administration of those licences. This report sets out what is considered reasonable and the process to be followed.

### **Economic Implications**

**Name/Title: Phil Drane, Director of Place**

**Tel/Email: 01277 312610/phil.drane@brentwood.rochford.gov.uk**

There are no direct financial implications for Brentwood Borough Council arising from this report.

### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager**

**Tel/Email: 01277 312500/kim.anderson@brentwood.gov.uk**

To ensure any equality impact is managed, any change in fees must be communicated to all licence holders at the earliest opportunity, consultation on any proposed changes will be undertaken to ensure that customers have an opportunity to contribute to any decision to change and the council considers these contributions before taking a final decision.

### **Health & Wellbeing Implications**

**Name/Title: Jo Cory, Corporate Health & Wellbeing Officer**

**Tel/Email: 01277 312500/jo.corey@brentwood.gov.uk**

There are no direct Health or Wellbeing implications arising from this report.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None.

### **Background Papers**

None.

**Appendices to this report**

**Appendix A** – Licence Trading Accounts

**Appendix B** – Proposed Fees 2023/2024

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**FEES & CHARGES SCHEDULE AND CHARGING DIRECTORIES FROM 2023/24 ONWARDS**

**Committee: Licensing**  
**Service Area: Licensing**

**Objectives/rationale of the fee/charge (e.g. Full cost recovery)**

The primary objective of the charge is cost recovery. The level of charge also helps maintain the high level of service provision for the Borough.

**Proposed change in fee/charge from previous year (%)**

This varies dependant on fee type. th range of fee increase is bwtween 10% and 22%

**Justification for revised charge (compared to previous year)**

Increase reflects the increase to costs for supplying the service

**What benchmarking has been undertaken to inform level of fee/charge (when and frequency)?**

Fees have been benchmarked against the following local authorities XXX. The proposed Fees and charges are deemed average within the benchmarking exercise

**If significant change in charge, what consultation was undertaken with the general public?**

These fees will be subject to consultation.

**Expected budgeted income**

N/A

**PLANNING AND LICENSING  
FEES & CHARGES SCHEDULE FROM 1 APRIL 2023**

DESCRIPTION OF CHARGE	VAT	FEE	CHARGES		CHARGES	
			April 2022-March 2023 Excl VAT	Inc VAT	April 2023-March 2024 Excl VAT	Inc VAT

**SERVICE AREA: LICENSING**

**CHARGING AREA: Licence Fees**

**Street Trading**

Independent Permanent Stall - Annual	O	D	400.00	400.00		
Independent 'One Off Stalls'	O	D	90.00	90.00		
Lighting Up Brentwood	O	D	30.00	30.00		
Static Licence	O	D			1,000.00	1,000.00
Mobile Licence	O	D			600.00	600.00
Static Consent	O	D			1,000.00	1,000.00
Mobile Consent	O	D			600.00	600.00
Market Operator weekly Fee	O	D	350.00	350.00	425.00	425.00
Market Operator additional days Fee (per day)	O	D	150.00	150.00	200.00	200.00

**Scrap Metal**

Site Application - New - 3 years	O	D	495.00	495.00	510.00	510.00
Collector Application - New - 3 years	O	D	280.00	280.00	300.00	300.00
Variation	O	D	89.00	89.00	100.00	100.00
Site Renewal Application - 3 years	O	D	445.00	445.00	510.00	510.00
Collector Renewal Application - 3 years	O	D	230.00	230.00	252.00	252.00

**Skin Piercing**

Premises Registration	O	D	257.50	257.50	284.00	284.00
Practitioner Registration	O	D	91.50	91.50	100.00	100.00

**Animals**

\* Please note vet costs are in addition to these fees where vet required

Animal Boarding - Application Fee	O	D	300.00	300.00	330.00	330.00
Animal Boarding - Grant Fee	O	D	100.00	100.00	110.00	110.00
Selling Animals As Pets - Application Fee	O	D	300.00	300.00	330.00	330.00
Selling Animals As Pets - Grant Fee	O	D	100.00	100.00	110.00	110.00
Dog Breeding - Application Fee	O	D	300.00	300.00	330.00	330.00
Dog Breeding - Grant Fee	O	D	100.00	100.00	110.00	110.00
Hiring Out Horses - Application Fee	O	D	300.00	300.00	330.00	330.00
Hiring Out Horses - Grant Fee	O	D	100.00	100.00	110.00	110.00
Keeping Animals for Exhibition - Application Fee	O	D	300.00	300.00	330.00	330.00
Keeping Animals for Exhibition - Grant Fee	O	D	100.00	100.00	110.00	110.00
Combination Of Activities - Application Fee (for each additional activity)	O	D	150.00	150.00	145.00	145.00
Combination Of Activities - Grant Fee (for each additional activity)	O	D	75.00	75.00	82.00	82.00
Variation to licence/re-evaluation or rating	O	D	222.00	222.00	245.00	245.00
Appeal (All Licences)	O	D	137.00	137.00	150.00	150.00
Variation to reduce the licenable activities or number of animals	O	D	85.00	85.00	93.00	93.00
Additional Premises under an arragers element of a Home Boarding Licence	O	D			70.00	70.00
Dangerous Wild Animals - 2 years	O	D	300.00	300.00	500.00	500.00
Zoo Premises New - 6 years	O	D	927.00	927.00	1,500.00	1,500.00
Zoo Premises Renewal - 4 years	O	D	566.50	566.50	800.00	800.00

**Sex Establishment Licensing**

Premises Application	O	D	2,330.00	2,330.00	2,330.00	2,330.00
Premises Renewal	O	D	1,590.00	1,590.00	1,590.00	1,590.00
Premises Variation	O	D	530.00	530.00	530.00	530.00

**Pavement Permit**

New application Tables and Chairs 1-2 tables	O	D	260.00	260.00	286.00	286.00
New Application Tables and Chairs 3-6 tables	O	D	470.00	470.00	517.00	517.00
New Application Tables and Chairs over 6 tables.	O	D	675.00	675.00	742.00	742.00
Renewal application Tables and Chairs 1-2 tables	O	D	160.00	160.00	176.00	176.00
Renewal Application Tables and Chairs 3-6 tables	O	D	370.00	370.00	407.00	407.00
Renewal Application Tables and Chairs over 6 tables.	O	D	575.00	575.00	632.00	632.00
Business and Planning Act applications	O	D	100.00	100.00	100.00	100.00

**Road Closure**

Application to close road with 0 - 499 people attending	O	D	200.00	200.00	220.00	220.00
Application to close road with 500 - 1999 people attending	O	D	360.00	360.00	396.00	396.00
Application to close road with 2000+ people attending	O	D	680.00	680.00	748.00	748.00

**PLANNING AND LICENSING  
FEES & CHARGES SCHEDULE FROM 1 APRIL 2023**

DESCRIPTION OF CHARGE	VAT	FEE	CHARGES		CHARGES	
			April 2022-March 2023 Excl VAT	Inc VAT	April 2023-March 2024 Excl VAT	Inc VAT

**SERVICE AREA: LICENSING**

**CHARGING AREA: Licence Fees**

**Gambling Act 2005**

Bingo Clubs

New Application	O	D	3,500.00	3,500.00	3,500.00	3,500.00
Annual Fee	O	D	1,000.00	1,000.00	1,000.00	1,000.00
CON 29R including LLC1	O	D	1,750.00	1,750.00	1,750.00	1,750.00
Application to Transfer	O	D	1,200.00	1,200.00	1,200.00	1,200.00
Application to Re-instatement	O	D	1,200.00	1,200.00	1,200.00	1,200.00
Application for Provisional Statement	O	D	3,500.00	3,500.00	3,500.00	3,500.00
Licence Application (Provisional Statement Holders)	O	D	1,200.00	1,200.00	1,200.00	1,200.00

Betting Premises

New Application	O	D	3,000.00	3,000.00	3,000.00	3,000.00
Annual Fee	O	D	600.00	600.00	600.00	600.00
Application to Vary	O	D	1,500.00	1,500.00	1,500.00	1,500.00
Application to Transfer	O	D	1,200.00	1,200.00	1,200.00	1,200.00
Application to Re-instatement	O	D	1,200.00	1,200.00	1,200.00	1,200.00
Application for Provisional Statement	O	D	3,000.00	3,000.00	3,000.00	3,000.00
Licence Application (Provisional Statement Holders)	O	D	1,200.00	1,200.00	1,200.00	1,200.00

Tracks

New Application	O	D	2,500.00	2,500.00	2,500.00	2,500.00
Annual Fee	O	D	1,000.00	1,000.00	1,000.00	1,000.00
Application to Vary	O	D	1,250.00	1,250.00	1,250.00	1,250.00
Application to Transfer	O	D	950.00	950.00	950.00	950.00
Application to Re-instatement	O	D	950.00	950.00	950.00	950.00
Application for Provisional Statement	O	D	2,500.00	2,500.00	2,500.00	2,500.00
Licence Application (Provisional Statement Holders)	O	D	950.00	950.00	950.00	950.00

Family Entertainment Centres

New Application	O	D	2,000.00	2,000.00	2,000.00	2,000.00
Annual Fee	O	D	750.00	750.00	750.00	750.00
Application to Vary	O	D	1,000.00	1,000.00	1,000.00	1,000.00
Application to Transfer	O	D	950.00	950.00	950.00	950.00
Application to Re-instatement	O	D	950.00	950.00	950.00	950.00
Application for Provisional Statement	O	D	2,500.00	2,500.00	2,500.00	2,500.00
Licence Application (Provisional Statement Holders)	O	D	950.00	950.00	950.00	950.00

Adult Gaming Centres

New Application	O	D	2,000.00	2,000.00	2,000.00	2,000.00
Annual Fee	O	D	1,000.00	1,000.00	1,000.00	1,000.00
Application to Vary	O	D	1,000.00	1,000.00	1,000.00	1,000.00
Application to Transfer	O	D	1,200.00	1,200.00	1,200.00	1,200.00
Application to Re-instatement	O	D	1,200.00	1,200.00	1,200.00	1,200.00
Application for Provisional Statement	O	D	2,000.00	2,000.00	2,000.00	2,000.00
Licence Application (Provisional Statement Holders)	O	D	1,200.00	1,200.00	1,200.00	1,200.00

Prize Gaming Permit and Family Entertainment Centre Gaming Machine Permit

Permit Application (New)	O	S	300.00	300.00	300.00	300.00
Permit Application (Existing Operator)	O	S	100.00	100.00	100.00	100.00
Renewal of Permit	O	S	300.00	300.00	300.00	300.00
Change of Name on Permit	O	S	25.00	25.00	25.00	25.00
Copy of Permit	O	S	15.00	15.00	15.00	15.00

Club Gaming or Machine Permit

Permit Application (New)	O	S	200.00	200.00	200.00	200.00
Permit Application (Existing Holder)	O	S	100.00	100.00	100.00	100.00
Permit Application (Holder of club premises certificate under Licensing Act 2003)	O	S	100.00	100.00	100.00	100.00
Renewal of Permit	O	S	200.00	200.00	200.00	200.00
Annual Fee for Permit	O	S	50.00	50.00	50.00	50.00
Application to Vary Club Permit	O	S	100.00	100.00	100.00	100.00
Copy of Permit	O	S	15.00	15.00	15.00	15.00

Other

Temporary Use Notice (TUN)	O	S	500.00	500.00	500.00	500.00
Occasional Use Notice (OUN)	O	S	0.00	0.00	0.00	0.00
Copy of Premises Licence	O	D	25.00	25.00	25.00	25.00
Notification of Change of Circumstances for Premises Licence	O	D	50.00	50.00	50.00	50.00
Copy of Notice	O	S	25.00	25.00	25.00	25.00

**PLANNING AND LICENSING  
FEES & CHARGES SCHEDULE FROM 1 APRIL 2023**

DESCRIPTION OF CHARGE	VAT	FEE	CHARGES		CHARGES	
			April 2022-March 2023 Excl VAT	Inc VAT	April 2023-March 2024 Excl VAT	Inc VAT

**SERVICE AREA: LICENSING**

**CHARGING AREA: Licence Fees**

Licensing Act 2003

Premises - Band A (None to £4,300)

Premises Licences - New Application and Variation	O	S	100.00	100.00	100.00	100.00
Premises Licences - Annual Charge	O	S	70.00	70.00	70.00	70.00
CON 29R including LLC1	O	S	100.00	100.00	100.00	100.00
Club Premises Certificates - Annual Charge	O	S	70.00	70.00	70.00	70.00

Premises - Band B (£4,301 to £33,000)

Premises Licences - New Application and Variation	O	S	190.00	190.00	190.00	190.00
Premises Licences - Annual Charge	O	S	180.00	180.00	180.00	180.00
Club Premises Certificates - New Application and Variation	O	S	190.00	190.00	190.00	190.00
Club Premises Certificates - Annual Charge	O	S	180.00	180.00	180.00	180.00

Premises - Band C (£33,001 to £87,000)

Premises Licences - New Application and Variation	O	S	315.00	315.00	315.00	315.00
Premises Licences - Annual Charge	O	S	295.00	295.00	295.00	295.00
Club Premises Certificates - New Application and Variation	O	S	315.00	315.00	315.00	315.00
Club Premises Certificates - Annual Charge	O	S	295.00	295.00	295.00	295.00

Premises - Band D (£87,001 to £125,000)

Premises Licences - New Application and Variation	O	S	450.00	450.00	450.00	450.00
Premises Licences - Annual Charge	O	S	320.00	320.00	320.00	320.00
Club Premises Certificates - New Application and Variation	O	S	450.00	450.00	450.00	450.00
Club Premises Certificates - Annual Charge	O	S	320.00	320.00	320.00	320.00

Premises - Band E (£125,001 plus)

Premises Licences - New Application and Variation	O	S	635.00	635.00	635.00	635.00
Premises Licences - Annual Charge	O	S	350.00	350.00	350.00	350.00
Club Premises Certificates - New Application and Variation	O	S	635.00	635.00	635.00	635.00
Club Premises Certificates - Annual Charge	O	S	350.00	350.00	350.00	350.00

Additional Fees (based on number in attendance at any one time)

Additional Premises Licence Fee:

5,000 to 9,999	O	S	1,000.00	1,000.00	1,000.00	1,000.00
10,000 to 14,999	O	S	2,000.00	2,000.00	2,000.00	2,000.00
15,000 to 19,999	O	S	4,000.00	4,000.00	4,000.00	4,000.00
20,000 to 29,999	O	S	8,000.00	8,000.00	8,000.00	8,000.00
30,000 to 39,999	O	S	16,000.00	16,000.00	16,000.00	16,000.00
40,000 to 49,999	O	S	24,000.00	24,000.00	24,000.00	24,000.00
50,000 to 59,999	O	S	32,000.00	32,000.00	32,000.00	32,000.00
60,000 to 69,999	O	S	40,000.00	40,000.00	40,000.00	40,000.00
70,000 to 79,999	O	S	48,000.00	48,000.00	48,000.00	48,000.00
80,000 to 89,999	O	S	56,000.00	56,000.00	56,000.00	56,000.00
90,000 and over	O	S	64,000.00	64,000.00	64,000.00	64,000.00

Additional Annual Fee Payable (if applicable):

5,000 to 9,999	O	S	500.00	500.00	500.00	500.00
10,000 to 14,999	O	S	1,000.00	1,000.00	1,000.00	1,000.00
15,000 to 19,999	O	S	2,000.00	2,000.00	2,000.00	2,000.00
20,000 to 29,999	O	S	4,000.00	4,000.00	4,000.00	4,000.00
30,000 to 39,999	O	S	8,000.00	8,000.00	8,000.00	8,000.00
40,000 to 49,999	O	S	12,000.00	12,000.00	12,000.00	12,000.00
50,000 to 59,999	O	S	16,000.00	16,000.00	16,000.00	16,000.00
60,000 to 69,999	O	S	20,000.00	20,000.00	20,000.00	20,000.00
70,000 to 79,999	O	S	24,000.00	24,000.00	24,000.00	24,000.00
80,000 to 89,999	O	S	28,000.00	28,000.00	28,000.00	28,000.00
90,000 and over	O	S	32,000.00	32,000.00	32,000.00	32,000.00



**PLANNING AND LICENSING  
FEES & CHARGES SCHEDULE FROM 1 APRIL 2023**

DESCRIPTION OF CHARGE	VAT	FEE	CHARGES		CHARGES	
			April 2022-March 2023 Excl VAT	Inc VAT	April 2023-March 2024 Excl VAT	Inc VAT

**SERVICE AREA: LICENSING**

**CHARGING AREA: Licence Fees**

Licensing Act 2003 (cont.)

Other Fees

Application for the grant or renewal of a personal licence	O	S	37.00	37.00	37.00	37.00
CON 29R including LLC1	O	S	21.00	21.00	21.00	21.00
Theft, loss etc of premises licence or summary	O	S	10.50	10.50	10.50	10.50
Application for a provisional statement where premises being built etc	O	S	315.00	315.00	315.00	315.00
Notification of change of name or address	O	S	10.50	10.50	10.50	10.50
Application to vary licence to specify individual as premises supervisor	O	S	23.00	23.00	23.00	23.00
Application for transfer of premises licence	O	S	23.00	23.00	23.00	23.00
Interim authority notice following death etc.of licence holder	O	S	23.00	23.00	23.00	23.00
Theft, loss etc.of certificate or summary	O	S	10.50	10.50	10.50	10.50
Notification of change of name or alteration of rules of club	O	S	10.50	10.50	10.50	10.50
Change of relevant registered address of club	O	S	10.50	10.50	10.50	10.50
Theft, loss etc.of temporary event notice	O	S	10.50	10.50	10.50	10.50
Theft, loss etc.of personal licence	O	S	10.50	10.50	10.50	10.50
Duty to notify change of name or address	O	S	10.50	10.50	10.50	10.50
Right of freeholder etc.to be notified of licensing matters	O	S	21.00	21.00	21.00	21.00
Application to vary premises licence at community premises to include alternative licence condition	O	S	23.00	23.00	23.00	23.00
Application for minor variation	O	S	89.00	89.00	89.00	89.00

**PLANNING AND LICENSING  
FEES & CHARGES SCHEDULE FROM 1 APRIL 2023**

DESCRIPTION OF CHARGE	VAT	FEE	CHARGES		CHARGES	
			April 2022-March 2023 Excl VAT	Inc VAT	April 2023-March 2024 Excl VAT	Inc VAT

**SERVICE AREA: LICENSING**

**CHARGING AREA: Licence Fees**

Taxi

Vehicle Licence - Hackney Carriage

Vehicle Licence - including Plate	O	S	243.00	243.00	296.00	296.00
Vehicle Replacement	O	S	75.00	75.00	80.00	80.00

Vehicle Licence - Private Hire

Vehicle Licence - including Plate	O	S	225.00	225.00	274.00	274.00
Vehicle Replacement	O	S	75.00	75.00	80.00	80.00

Vehicle Inspections - Hackney Carriage and Private Hire

Vehicle Inspection	O	S	47.00	47.00		
Trailer Inspections - Non Braked	O	S	15.00	15.00		
Trailer Inspections - Braked	O	S	23.00	23.00		
Re-Inspection	O	S	12.50	12.50		
Re-Inspection 2	O	S	47.00	47.00		

Drivers Licence - Hackney Carriage and Private Hire

Combined Driver New - 1 year (Excludes DBS)	O	S	145.00	145.00	160.00	160.00
Combined Driver Renewal - 1 year (Excludes DBS )	O	S	128.00	128.00	143.00	143.00
Combined Driver New - 3 years (Excludes DBS)	O	S	404.00	404.00	404.00	404.00
Combined Driver Renewal - 3 years (Excludes DBS)	O	S	354.00	354.00	354.00	354.00
Private Hire Driver New - 1 year (Excludes DBS)	O	S			160.00	160.00
Private Hire Driver Renewal - 1 year (Excludes DBS )	O	S			143.00	143.00
Private Hire Driver New - 3 years (Excludes DBS)	O	S			404.00	404.00
Private Hire Driver Renewal - 3 years (Excludes DBS)	O	S			354.00	354.00
Hackney Carriage Driver New - 1 year (Excludes DBS)	O	S			160.00	160.00
Hackney Carriage Driver Renewal - 1 year (Excludes DBS )	O	S			143.00	143.00
Hackney Carriage Driver New - 3 years (Excludes DBS)	O	S			404.00	404.00
Hackney Carriage Driver Renewal - 3 years (Excludes DBS)	O	S			354.00	354.00
Disclosure and Barring Service (DBS) Check (new to update service)	O	S	52.00	52.00	52.00	52.00
Disclosure and Barring Service (DBS) Check (update service lapsed)	O	S	85.00	85.00	85.00	85.00
Driver and Vehicle Licensing Agency (DVLA) Check outside of an application	O	S	5.00	5.00	5.00	5.00
Re-Test - Knowledge Test	O	S	35.00	35.00	35.00	35.00

Replacements

ID	O	S	6.00	6.00	6.00	6.00
PHV Cards	O	S	6.00	6.00	6.00	6.00
Tariff Cards	O	S	6.00	6.00	6.00	6.00
Replacement Plates	O	S	12.00	12.00	12.00	12.00
Replacement Door Signs (pair)	O	S	15.00	15.00	15.00	15.00
Plate Platforms	O	S	6.00	6.00	6.00	6.00

Private Hire Operators

Single Vehicle Operators Licence - 5 years	O	S	325.00	325.00	374.00	374.00
Operator Licence - 2 to 5 Vehicles - 5 years	O	S	1,085.00	1,085.00	1,248.00	1,248.00
Operator Licence - more than 5 Vehicles - 5 years	O	S	1,345.00	1,345.00	1,547.00	1,547.00

# Appendix B

Driver Licences			Mixture of 3 Year and 1 Year Licences									
			2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	
			£	£	£	£	£	£	£	£	£	
			ACTUAL	ACTUAL	ACTUAL	Actual	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	
Total Costs			46,141	41,651	31,045	34,633	37,577	38,704	39,865	41,061	42,293	
<b>TOTAL EXPENDITURE</b>			<b>46,141</b>	<b>41,651</b>	<b>31,045</b>	<b>34,633</b>	<b>37,577</b>	<b>38,704</b>	<b>39,865</b>	<b>41,061</b>	<b>42,293</b>	
		No of Licences	Current Fee	Proposed Fee								
		£	£	ACTUAL	ACTUAL	ACTUAL	Actual	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE	ESTIMATE
<b>Income 2016/17</b>												
	New 3 Year Licence	25	300.00	2,500								
	Renewed 3 year Licence	124	240.00	9,920								
	ADJ TO MATCH FIN SYSTEM			2,181								
<b>Total Income for 2016/17</b>			<b>149</b>	<b>14,601</b>								
<b>Income 2017/18</b>												
	New 3 Year Licence (Current Fee)	21	300.00	456.00	2,100	2,100						
	Renewed 3 year Licence (Current Fee)	24	240.00	406.00	1,920	1,920						
	New 3 Year Licence (New Fee)	1	300.00	456.00	152	152						
	Renewed 3 year Licence (New Fee)	3	240.00	406.00	406	406						
	Other income (CRB/DVLA etc) - to cover 3 years			818	818							
<b>Total Income for 2017/18</b>			<b>49</b>	<b>5,396</b>	<b>5,396</b>	<b>0</b>	<b>0</b>					
<b>Income 2018/19</b>												
	New 3 Year Licence	11	456.00	1,672	1,672	1,672						
	Renewed 3 Year Licence	139	406.00	18,814	18,814	18,814						
	Renewed 1 Year Licence	8	145.00	1,160								
	New 1 Year Licence	2	162.00	324								
	Other income		119.00	40	40	40						
<b>Total Income for 2018/19</b>			<b>160</b>	<b>22,009</b>	<b>20,525</b>	<b>20,525</b>	<b>0</b>					
<b>Income 2019/20</b>												
	New 3 Year Licence	6	456.00		912	912	912					
	Renewed 3 Year Licence	56	406.00		7,579	7,579	7,579					
	New 1 Year Licence	24	162.00		3,888							
	Renewed 1 Year Licence	68	145.00		9,860							
	Other income		-9.00		-3	-3	-3					
<b>Total Income for 2019/20</b>			<b>154</b>	<b>0</b>	<b>22,236</b>	<b>8,488</b>	<b>8,488</b>					
<b>Income 2020/21</b>												
	New 3 Year Licence	2	456.00			304	304	304				
	Renewed 3 Year Licence	14	406.00			1,895	1,895	1,895				
	New 1 Year Licence	3	162.00			486						
	Renewed 1 Year Licence	75	145.00			10,875						
	Other income		-1,501.50			-501	-501	-501				
<b>Total Income for 2020/21</b>			<b>94</b>	<b>0</b>	<b>0</b>	<b>13,059</b>	<b>1,698</b>	<b>1,698</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>Income 2021/22</b>												
	New 3 Year Licence	2	404.00				269	387	387	0		
	Renewed 3 Year Licence	66	354.00				7,788	7,906	7,906	0		
	New 1 Year Licence	10	145.00				1,450	0	0	0		
	Renewed 1 Year Licence	107	128.00				13,696	0	0	0		
	DBS Fee - update	124	52.00				6,448	0	0	0		
	DBS Fee - service lapsed	0	85.00				0	0	0	0		
<b>Total income for 2021/22</b>			<b>309</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>29,651</b>	<b>8,293</b>	<b>8,293</b>	<b>0</b>	<b>0</b>	
<b>Income 2022/23 - ongoing - assume 3 year licence phased out</b>												
	New 3 Year Licence	3	404.00					404	404	404		
	Renewed 3 Year Licence - 109 mixed Lic from uniforni	43	354.00					5,074	5,074	5,074		
	New 1 Year Licence	15	145.00					2,175	0	0		
	Renewed 1 Year Licence	70	128.00					8,960				
	DBS Fee - update	92	52.00					4,784	0	0		
	DBS Fee - service lapsed		85.00					0	0	0		
<b>Total Income</b>			<b>223</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>21,397</b>	<b>5,478</b>	<b>5,478</b>	<b>0</b>	
<b>Income 2023/24 - assume 3 year licence phased out</b>												
	New 3 Year Licence	3	404.00						404	404	404	
	Renewed 3 Year Licence	66	354.00						7,788	7,788	7,788	
	New 1 Year Licence	11	160.00						1,760			
	Renewed 1 Year Licence	86	143.00						12,298			
	DBS Fee - update	100	52.00						5,200			
	DBS Fee - service lapsed		85.00									
<b>Total Income</b>			<b>266</b>						<b>27,450</b>	<b>8,192</b>	<b>8,192</b>	
<b>Income 2024/25 - assume 3 year licence phased out</b>												
	New 3 Year Licence	3	404.00							404	404	404
	Renewed 3 Year Licence	56	354.00							6,608	6,608	6,608
	New 1 Year Licence	11	160.00							1,760		
	Renewed 1 Year Licence	86	143.00							12,298		
	DBS Fee - update	105	52.00							5,460		
	DBS Fee - service lapsed		85.00									
<b>Total Income</b>			<b>261</b>							<b>26,530</b>		
<b>OTHER INCOME/ADJ (inc CRB / DVLA CHECKS &amp; Refunds)</b>				<b>0</b>	<b>0</b>	<b>-17</b>	<b>-580</b>	<b>0</b>	<b>0</b>	<b>0</b>		
<b>TOTAL INCOME</b>				<b>42,006</b>	<b>48,157</b>	<b>42,055</b>	<b>39,257</b>	<b>31,388</b>	<b>41,221</b>	<b>40,200</b>		
Less Costs from Row 8				-46,141	-41,651	-31,045	-34,633	-37,577	-38,704	-39,865	-41,061	-42,293
<b>Surplus / (Deficit)</b>			<b>Deficit (-)</b>	<b>-4,134</b>	<b>6,506</b>	<b>11,010</b>	<b>4,624</b>	<b>-6,189</b>	<b>2,517</b>	<b>335</b>		
<b>Reserves</b>												
Brought Forward			<b>Deficit (-)</b>	-24,574	-28,708	-22,203	-11,193	-6,569	-12,758	-10,241	-9,906	
Surplus/(Deficit)				-4,134	6,506	11,010	4,624	-6,189	2,517	335		
Carry Forward				-28,708	-22,203	-11,193	-6,569	-12,758	-10,241	-9,906		

Vehicle Licences							2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
							£	£	£	£	£	£	£	£
Total Costs							78,886	95,941	83,313	68,555	54,677	59,325	61,104	62,938
							<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ACTUAL</b>	<b>ESTIMATE</b>	<b>ESTIMATE</b>	<b>ESTIMATE</b>
<b>TOTAL EXPENDITURE</b>							<b>78,886</b>	<b>95,941</b>	<b>83,313</b>	<b>68,555</b>	<b>54,677</b>	<b>59,325</b>	<b>61,104</b>	<b>62,938</b>
	No of Licences	Current Fee		Proposed Fee	Yearly ongoing									
<b>Private hire</b>														
Licence	N/A		23/24											
Licence	24	225.00	274.00	225.00	24	8,550	6,975	7,650	5,850	5,850	5,400	6,576	5,400	
Replacement vehicle	10	75.00		75.00	10	1,050	1,425	1,125	375	750	750	750	750	
Inspection (ceased 20/21? No 102)	0	47.00		47.00	0	4,230	3,854	3,196	1,222	0	0	0	0	
Re-Tests No 15)	0	12.50		12.50	0	113	50	125	63	0	0	0	0	
<b>Hackney carriage</b>														
Licence	165	243.00	296.00	243.00	165	59,778	59,535	56,862	47,871	43,011	40,095	57,720	57,720	
Replacement vehicle	35	75.00		75.00	35	3,750	4,875	3,900	1,350	2,550	2,625	2,625	2,625	
Inspection (ceased 20/21? (656)	0	47.00		47.00	0	25,380	23,030	23,218	9,447	0	0	0	0	
Re-Tests (81)	0	12.50		12.50	0	700	350	963	488	0	0	0	0	
Door Signs x 2	50	15.00		15.00	50					1,080	750	750	750	
Trailer Inspections Non Braked	0	23.00		23.00	0					0	0	0	0	
Plates	7	12.00		12.00	7					84	84	84	84	
Door signs (single £7.50)	8	7.50		7.50	8					60	60	60	60	
Cards	0	6.00		6.00	0					24	0	0	0	
<b>Income Adj to match Finance System</b>							1,746	2,200	1,654	-1,097	1,211	0	0	0
<b>TOTAL INCOME</b>							<b>105,297</b>	<b>102,294</b>	<b>98,693</b>	<b>65,568</b>	<b>54,620</b>	<b>49,764</b>	<b>68,565</b>	<b>67,389</b>
<b>Surplus / (Deficit)</b>							<b>26,411</b>	<b>6,353</b>	<b>15,380</b>	<b>-2,987</b>	<b>-57</b>	<b>-9,561</b>	<b>7,461</b>	<b>4,451</b>
<b>Reserve</b>							2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Brought Forward							(33,828)	(7,418)	(1,064)	14,316	11,329	11,272	1,712	9,172
Surplus/(Deficit)							26,411	6,353	15,380	-2,987	-57	-9,561	7,461	4,451
Carry Forward							(7,418)	(1,064)	14,316	11,329	11,272	1,712	9,172	13,624



2 to 5 Vehicles	0	£1,085							0	0					
Over 5 Vehicles	0	£1,345							0	0					
<b>Total Income 2022/23</b>				0	0	0	0	0	260	260	260	260	260	0	0
<b>Income 2023/24</b>															
Single	5	£325								374	374	374	374	374	0
2 to 5 Vehicles	1	£1,085	Due 28/29							250	250	250	250	250	0
Over 5 Vehicles	1	£1,345	Due 28/29							309	309	309	309	309	0
<b>Total Income 2023/24</b>				0	0	0	0	0	0	933	933	933	933	933	0
<b>Income 2024/25</b>															
Single	5	£325									374	374	374	374	374
2 to 5 Vehicles	0	£1,085	Due 28/29												
Over 5 Vehicles	0	£1,345	Due 28/29												
<b>Total Income 2024/25</b>				0	0	0	0	0	0	0	374	374	374	374	374
<b>Income 2025/26</b>															
Single	5	£325										374	374	374	374
2 to 5 Vehicles	0	£1,085	Due 28/29												
Over 5 Vehicles	0	£1,345	Due 28/29												
<b>Total Income 2025/26</b>				0	0	0	0	0	0	0	0	374	374	374	374
<b>Income 2026/27</b>															
Single	5	£325											374	374	374
2 to 5 Vehicles	0	£1,085	Due 28/29												
Over 5 Vehicles	0	£1,345	Due 28/29												
<b>Total Income 2026/27</b>				0	0	0	0	0	0	0	0	0	374	374	374
<b>Income 2027/28</b>															
Single	5	£325												374	374
2 to 5 Vehicles	0	£1,085	Due 28/29												
Over 5 Vehicles	0	£1,345	Due 28/29												
<b>Total Income 2027/28</b>				0	0	0	0	0	0	0	0	0	0	374	374
<b>Income 2028/29</b>															
Single	5	£325													374
2 to 5 Vehicles	1	£1,085													250
Over 5 Vehicles	1	£1,345													309
<b>Total Income 2028/29</b>				0	0	0	0	0	0	0	0	0	0	0	933
<b>TOTAL INCOME</b>				1,033	1,844	2,373	2,742	2,294	2,229	2,351	2,196	2,201	2,315	2,429	2,429
<b>Expenditure</b>				-1,706	-2,270	-2,093	-2,075	-2,122	-2,302	-2,371	-2,442	-2,515	-2,591	-2,669	-2,749
<b>Surplus/(Deficit)</b>		Deficit (-)		-673	-427	279	667	172	-73	-20	-246	-314	-276	-240	-320
<b>Reserves</b>				2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29
Brought Forward				-10,735	-11,408	-11,835	-11,555	-10,889	-10,717	-10,789	-10,809	- 11,056	- 11,370	- 11,646	- 11,885
Surplus/(Deficit)				-673	-427	279	667	172	-73	-20	-246	- 314	- 276	- 240	- 320
Carry Forward				-11,408	-11,835	-11,555	-10,889	-10,717	-10,789	-10,809	-11,056	- 11,370	- 11,646	- 11,885	- 12,205

Breakdown Accumulated Reserve Position as at 31st March 2022

Linked to both G754 Recharges and Direct Costs sheet

21/22 (-Surplus)/Deficit	Drivers Account	Vehicles Account	Operators Account	Total
	10.00%	19.00%	0.75%	
<b>Reserve Accumulated Total as at 31st March 2021</b>	6,568.44	-11,271.89	10,716.11	6,012.66
<b>Expenditure:</b>				
Employees Related Expenses	17,494.00	33,238.60	1,312.05	52,044.65
Supplies and Services:				
Printing, Stationery & Office Expenditure	60.00	3,114.00	4.50	3,178.50
CRB Checks	7,147.00	0.00	0.00	7,147.00
DVLA Checks	1,000.00	0.00	0.00	1,000.00
Communications & Computing	462.90	879.51	34.72	1,377.13
Inspection Costs	0.00	0.00	0.00	0.00
Training costs (members)	100.00	190.00	7.50	297.50
Other Fees & Services	412.00	228.00	9.00	649.00
Subscriptions	80.00	152.00	6.00	238.00
Refunds / Other	0.00	0.00	0.00	0.00
Recharges from Other Services:				
Communications	137.66	261.56	10.32	409.54
Executive Board	333.96	634.53	25.05	993.53
Corporate Support	151.75	288.32	11.38	451.44
Corporate Finance	1,455.84	2,766.10	109.19	4,331.13
Human Resources	405.95	771.31	30.45	1,207.71
ICT	2,399.46	4,558.98	179.96	7,138.40
Digital Services	387.34	735.95	29.05	1,152.34
Legal Services & Data Protection	862.89	1,639.50	64.72	2,567.11
Payroll	84.38	160.32	6.33	251.03
Customer Contact Centre	1,611.67	3,062.17	120.88	4,794.71
Corporate Enforcement	265.21	503.89	19.89	788.98
Transformation	193.96	368.52	14.55	577.02
Depot Management & Admin (Office Accommodation)	864.08	1,641.75	64.81	2,570.64
Corporate Health & Safety	30.10	57.19	2.26	89.54
Environmental Health & Licensing Admin	2,929.52	5,566.09	219.71	8,715.32
Income:				
Fees & Charges	-41,500.00	-50,000.00	-2,229.00	-93,729.00
<b>(-Surplus)/Deficit Total for 21/22</b>	<b>-2,630.33</b>	10,818.27	53.30	8,241.24
<b>Reserve Accumulated Total as at 31st March 2022</b>	3,938.10	-453.62	10,769.41	14,253.90

Other Licensing	TOTAL
70.25%	
0.00	6,012.66
122,895.35	174,940.00
421.50	3,600.00
0.00	7,147.00
0.00	1,000.00
3,251.87	4,629.00
1,600.00	1,600.00
702.50	1,000.00
1,843.00	2,492.00
562.00	800.00
0.00	0.00
967.08	1,376.62
2,346.08	3,339.61
1,066.02	1,517.46
10,227.30	14,558.43
2,851.82	4,059.53
16,856.22	23,994.62
2,721.07	3,873.41
6,061.82	8,628.93
592.76	843.79
11,321.97	16,116.68
1,863.07	2,652.05
1,362.55	
6,070.16	8,640.80
211.45	300.99
20,579.87	29,295.19
-104,805.00	-198,534.00
111,570.44	119,811.68
0.00	14,253.90

<u>Ref</u>	<u>st Cen</u>	<u>Cost Centre Name</u>	<u>Account</u>	<u>Account Name</u>	<u>Budgets or Forecast 2022/23</u>	<u>Taxi Drivers</u> 10.00%	<u>Taxi Vehicles</u> 19.00%	<u>Operators</u> 0.75%	<u>Other Licensing</u> 70.25%
B	G754	LICENSING TEAM & SUPPORT	B 10100	SALARIES - BASIC (PERM)	97,990.00	9,799.00	18,618.10	734.93	68,837.98
B	G754	LICENSING TEAM & SUPPORT	B 10120	SALARIES - OVERTIME	2,400.00	240.00	456.00	18.00	1,686.00
B	G754	LICENSING TEAM & SUPPORT	B 10200	NATIONAL INSURANCE - SALARIES	10,520.00	1,052.00	1,998.80	78.90	7,390.30
B	G754	LICENSING TEAM & SUPPORT	B 10240	National Insurance Class1A	-100.00	10.00	19.00	0.75	70.25
B	G754	LICENSING TEAM & SUPPORT	B 10300	PENSION - SALARIES	20,600.00	2,060.00	3,914.00	154.50	14,471.50
B	G754	LICENSING TEAM & SUPPORT	B 10500	EMPLOYEE PAYROLL ALLOWANCES	3,130.00	313.00	594.70	23.48	2,198.83
B	G754	LICENSING TEAM & SUPPORT	B 11200	TRAINING EXPENSES	1,500.00	150.00	285.00	11.25	1,053.75
B	G754	LICENSING TEAM & SUPPORT	B 40090	PURCHASES - CLEANING	-	-	-	-	-
B	G754	LICENSING TEAM & SUPPORT	B 34000	TRAVELLING ALLOWANCE - GENERAL	300.00	30.00	57.00	2.25	210.75
B	G754	LICENSING TEAM & SUPPORT	B 40000	PURCHASES - GENERAL EQUIPMENT	500.00	50.00	95.00	3.75	351.25
B	G754	LICENSING TEAM & SUPPORT	B 42000	PROTECTIVE CLOTHING	200.00	20.00	38.00	1.50	140.50
B	G754	LICENSING TEAM & SUPPORT	B 43010	BOOKS/CDS	0.00	-	-	-	-
B	G754	LICENSING TEAM & SUPPORT	B 43040	PRINTING MATERIALS	100.00	10.00	19.00	0.75	70.25
B	G754	LICENSING TEAM & SUPPORT	B 44000	LEGAL FEES	1,000.00	100.00	190.00	7.50	702.50
B	G754	LICENSING TEAM & SUPPORT	B 45230	COMPUTER SOFTWARE LICENCES	0.00	-	-	-	-
B	G754	LICENSING TEAM & SUPPORT	B 45240	COMPUTER MAINTENANCE	0.00	-	-	-	-
B	G754	LICENSING TEAM & SUPPORT	B 45280	SOFTWARE SUPPORT & MAINTENANCE	4,629.00	462.90	879.51	34.72	3,251.87
B	G754	LICENSING TEAM & SUPPORT	B 46230	MEMBERS - TRAINING	1,000.00	100.00	190.00	7.50	702.50
B	G754	LICENSING TEAM & SUPPORT	B 46310	CONFERENCE EXPENSES - OFFICERS	0.00	-	-	-	-
B	G754	LICENSING TEAM & SUPPORT	B 48200	SUBSCRIPTIONS	800.00	80.00	152.00	6.00	562.00
B	G754	LICENSING TEAM & SUPPORT	B 51000	CONTRACTED SERVICES	38,600.00	3,860.00	7,334.00	289.50	27,116.50
B	G754	LICENSING TEAM & SUPPORT	B 70240	Communications	1,376.62	137.66	261.56	10.32	967.08
B	G754	LICENSING TEAM & SUPPORT	B 70000	Executive Board	3,339.61	333.96	634.53	25.05	2,346.08
B	G754	LICENSING TEAM & SUPPORT	B 70010	Corporate Support	1,517.46	151.75	288.32	11.38	1,066.02
B	G754	LICENSING TEAM & SUPPORT	B 70040	Corporate Finance	14,558.43	1,455.84	2,766.10	109.19	10,227.30
B	G754	LICENSING TEAM & SUPPORT	B 70070	Human Resources	4,059.53	405.95	771.31	30.45	2,851.82
B	G754	LICENSING TEAM & SUPPORT	B 70080	ICT	23,994.62	2,399.46	4,558.98	179.96	16,856.22
B	G754	LICENSING TEAM & SUPPORT	B 70320	Digital Services Team	3,873.41	387.34	735.95	29.05	2,721.07
B	G754	LICENSING TEAM & SUPPORT	B 70100	Legal Services & Data Protection	8,628.93	862.89	1,639.50	64.72	6,061.82
B	G754	LICENSING TEAM & SUPPORT	B 70120	Payroll	843.79	84.38	160.32	6.33	592.76
B	G754	LICENSING TEAM & SUPPORT	B 70180	Customer Contact Centre	16,116.68	1,611.67	3,062.17	120.88	11,321.97
B	G754	LICENSING TEAM & SUPPORT	B 70330	Corporate Enforcement	2,652.05	265.21	503.89	19.89	1,863.07
B	G754	LICENSING TEAM & SUPPORT	B 70130	Transformation	1,939.57	193.96	368.52	14.55	1,362.55
B	G754	LICENSING TEAM & SUPPORT	B 70030	Depot Management & Admin (Office Accor	8,640.80	864.08	1,641.75	64.81	6,070.16
B	G754	LICENSING TEAM & SUPPORT	B 70350	Corporate Health & Safety	300.99	30.10	57.19	2.26	211.45
B	G754	LICENSING TEAM & SUPPORT	B 70250	Environmental Health & Licensing Admin	29,295.19	2,929.52	5,566.09	219.71	20,579.87
<b>Total Net Costs</b>					<b>304,306.68</b>	<b>30,430.67</b>	<b>57,818.27</b>	<b>2,282.30</b>	<b>213,775.44</b>

als:



eFin	Cost Centre	Cost Centre Name	Account	Account Name	Costs 2022/23	Taxi Drivers G319 100.00%	Taxi Vehicles G320 100.00%	Operators G321 100.00%	Other Licensing 100.00%
B	G320	TAXI VEHICLES ACCOUNT	B 43040	PRINTING MATERIALS	3,000.00		3,000.00		
B	G320	TAXI VEHICLES ACCOUNT	B 40010	PURCHASES	0.00		0.00		
B	G320	TAXI VEHICLES ACCOUNT	B 49000	MISCELLANEOUS	0.00		0.00		
B	G316	TAXI NON-RECOVERABLE	B 44000	LEGAL FEES	1,000.00				1,000.00
B	G319	TAXI DRIVERS ACCOUNT	B 44050	CRB CHECKS	7,147.00	7,147.00			
B	G319	TAXI DRIVERS ACCOUNT	B 44060	DVLA CHECKS	1,000.00	1,000.00			
B	G319	TAXI DRIVERS ACCOUNT	B 48420	REFUNDS	0.00		0.00		
B	G319	TAXI DRIVERS ACCOUNT	B 44900	OTHER FEES & SERVICES	292.00	292.00			
B	G304	LICENSING ACT 2003	B 48420	REFUNDS	0.00				0.00
B	G304	LICENSING ACT 2003	B 49020	BAD DEBTS PROVISION	0.00				0.00
B	G305	GAMBLING ACT 2005	B 49020	BAD DEBTS PROVISION	0.00				0.00
B	G306	STREET LICENSING	B 49020	BAD DEBTS PROVISION	0.00				0.00
B	G308	ANIMAL & P.HEALTH LICENSING	B 44140	KENNEL & VET FEES	1,600.00				1,600.00
B	G320	TAXI VEHICLES ACCOUNT	B 44900	OTHER FEES & SERVICES			0.00		
B	G320	TAXI VEHICLES ACCOUNT	B 48420	REFUNDS	0.00		0.00		
B	G319	TAXI DRIVERS ACCOUNT	B 45230	COMPUTER SOFTWARE LICENCES	0.00	0.00			
B	G304	LICENSING ACT 2003	B 92320	INCOME - LICENCES GENERAL	-65,000.00				-65,000.00
B	G305	GAMBLING ACT 2005	B 92320	INCOME - LICENCES GENERAL	-7,590.00				-7,590.00
B	G306	STREET LICENSING	B 92320	INCOME - LICENCES GENERAL	-19,000.00				-19,000.00
B	G307	OTHER GRANTS	B 90150	OTHER MHCL GRANTS	-819.00				-819.00
B	G307	OTHER LICENCES - MISC	B 92320	INCOME - LICENCES GENERAL	-4,681.00				-4,681.00
B	G308	ANIMAL & P.HEALTH LICENSING	B 92320	INCOME - LICENCES GENERAL	-6,000.00				-6,000.00
B	G332	SCRAP METAL DEALERS ACT 2013	B 92320	INCOME - LICENCES GENERAL	-1,715.00				-1,715.00
B	G319	TAXI DRIVERS ACCOUNT	B 92330	INCOME - TAXI LICENSING	-41,500.00	-41,500.00			
B	G320	TAXI VEHICLES ACCOUNT	B 90500	OTHER GOVERNMENT GRANTS	0.00		0.00		
B	G320	TAXI VEHICLES ACCOUNT	B 92330	INCOME - TAXI LICENSING	-50,000.00		-50,000.00		
B	G321	TAXI OPERATORS ACCOUNT	B 92330	INCOME - TAXI LICENSING	-2,229.00			-2,229.00	
<b>Totals:</b>									
Total Costs					14,039.00	8,439.00	3,000.00	0.00	2,600.00
Total Income (-)					-198,534.00	-41,500.00	-50,000.00	-2,229.00	-104,805.00

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<b>Committee(s):</b> Licensing Committee	<b>Date:</b> 20 December 2022
<b>Subject:</b> Street Trading	<b>Wards Affected:</b> All
<b>Report of:</b> Paul Adams – Licensing Manager	<b>Public</b>
<b>Report Author/s:</b> Name: Paul Adams, Licensing Manager Telephone: 01277312503 E-mail: paul.adams@brentwood.gov.uk	<b>For Decision</b>

## Summary

Brentwood Borough Council has a street Trading Licence Scheme that covers the High Street, Brentwood, and an associated Policy. This report introduces a revised policy for consideration before consultation, which looks to extend the scheme to include the whole borough with a combination of street trading licence and street trading consent schemes.

## Recommendation(s)

**Members are asked to:**

- R1. Agree to begin the statutory consultation for the proposal to extend the street trading provisions across the whole borough of Brentwood, and**
- R2. Agrees for the revised Street Trading Policy as attached at Appendix B to go out for public consultation.**
- R.3 For the results of both consultations to be reported back to this committee for consideration.**

## Main Report

### **1. Introduction and Background.**

- 1.1. Brentwood Borough Council in 2012 has adopted powers in under the Local Government (Miscellaneous Provisions) Act 1982 so that any person selling articles in the 'street' must obtain a street trading licence from the Council.
- 1.2. In the legislation 'street' is defined as any road, footway or other area to which the public have access without having to pay an entrance fee
- 1.3. Under the legislation the Council must make a resolution designating which areas in the district street trading consent applies to. Brentwood Borough Council's current resolution relates to the High Street, Brentwood, between Wilson's Corner and the junction with Kings Road/Weald Road, including all

forecourts, roads, footways or other areas adjacent to the roads listed for 10 metres to which the public have access by fact and without payment. No other parts of the Borough of Brentwood are included in the scheme.

- 1.4. Brentwood Borough Council has a Street Trading and Markets Policy which explains the Council's approach for managing street trading and the process for applications and making decisions. This policy was published in September 2012 and is attached as **Appendix A**.

## **2. Issue, Options and Analysis of Options**

- 2.1. There are several street traders that are operating across the borough from both static locations and by mobile operators (such as ice cream vans) that are not able to be regulated by the street trading. While most of the static traders have been there for several years, they are not subject to any controls or require permission to trade from those locations. Currently any new traders can set up and trade without any regulation or permission.
- 2.2. We have seen recently a few new traders, particularly mobile traders, turn up across the borough and cause complaint or other issues from their trading locations, such as at King Johns playing fields. Without the street trading provisions being applied to the whole borough there are limitations on the measures that can be taken to ensure that they are regulated and that the locations are suitable and safe to do so.
- 2.3. A revised Street Trading policy has been developed which makes provision for the street trading scheme to be extended across the whole borough. This will see the existing Brentwood High Street remain as a Licensed Street, which allows for the better regulation of the Market. It is proposed that the rest of the borough would become a Consent Street, which would allow for any street trading activity to be regulated and controlled. The revised policy can be seen at **Appendix B**.
- 2.4. To extend the street trading provision across the whole borough, the statutory requirements contained in the Local Government (Miscellaneous Provisions) Act 1982 must be complied with, which provides:
  - (1) A district council may by resolution designate any street in their district
    - (a) a prohibited street;
    - (b) a licence street; or
    - (c) a consent street.
  - (2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

- (3) A council shall not pass such a resolution unless—
- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area;
  - (b) they have served a copy of the notice—
    - (i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and
    - (ii) on any highway authority responsible for that street; and
  - (c) where sub-paragraph (4) below applies, they have obtained the necessary consent.
- (4) This sub-paragraph applies—
- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
  - (b) where the resolution designates as a licence street any street maintained by a highway authority;
- and in sub-paragraph (3) above “necessary consent” means—
- (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and
  - (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

### **3. Reasons for Recommendation**

- 3.1. The extension of the street trading scheme requires a new resolution to be passed, which will require the statutory requirements to be met as in 2.4.
- 3.2. The revised policy requires consultation, and the results of both consultations will be reported to and considered by this committee.

### **4. Consultation**

- 4.1. Consultation will be carried out in line with the requirements of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2. In addition to the statutory requirements, the revised policy will be consulted on with all current licence holders, the market operator, known traders currently in the borough that may likely be impacted by the extension of the scheme.

### **5. References to Corporate Plan**

5.1. None.

## **Implications**

### **Financial Implications**

**Name/Title: Tim Willis, Interim Director of Resources**

**Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk**

There are no direct financial implications for Brentwood Council arising from this report.

### **Legal Implications**

**Name & Title: Andrew Hunkin, Interim Director of People & Governance and Monitoring Officer**

**Tel & Email: 01277 312500/andrew.hunkin@brentwood.rochford.gov.uk**

The Local Government (Miscellaneous Provisions) Act 1982 prescribes the procedure for the adoption or amendment of street trading provisions. The report details the procedure that must be followed.

### **Economic Implications**

**Name/Title: Phil Drane, Director of Place**

**Tel/Email: 01277 312610/phil.drane@brentwood.rochford.gov.uk**

There are no direct financial implications for Brentwood Borough Council arising from this report.

### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager**

**Tel/Email: 01277 312500/kim.anderson@brentwood.gov.uk**

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

**Health & Wellbeing Implications**

**Name/Title:** Jo Cory, Corporate Health & Wellbeing Officer

**Tel/Email:** 01277 312500/jo.corey@brentwood.gov.uk

There are no direct Health or Wellbeing implications arising from this report.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None.

**Background Papers**

None.

**Appendices to this report**

**Appendix A** – Existing Street Trading Policy – September 2012.

**Appendix B** – Reviewed Policy

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## Street Trading and Market Policy

### Introduction

This is the first review of the Street Trading and Market Policy, which was originally published in September 2012.

Brentwood Borough Council introduced Street Trading into the High Street Brentwood in 2012, with the intention of creating a vibrant atmosphere for residents, local businesses, visitors and shoppers. The aim was to provide residents and shoppers with alternative products including specialist and niche items. The Brentwood High Street Market has expanded since its introduction from one day per week to two, in addition to which, enquiries are increasing received relating to other areas of the Borough. This policy has therefore been updated in order to continue to support Street Trading within Brentwood High Street whilst supporting the overall needs of the Town Centre, but also to support trading in other parts of the Borough if and when such other areas are adopted for Street Trading Purposes.

### Objectives

- To support the local economy, businesses and retailers by increasing footfall to the High Street.
- To attract new visitors, residents and shoppers to the High Street.
- To create a welcoming atmosphere for visitors, residents and shoppers.
- To provide an opportunity to trade for local businesses.
- To complement existing retailers and businesses on the High Street.
- To provide a diverse and/or alternative offer of products to residents, visitors and shoppers.

### Street Trading Designations

Brentwood Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate the High Street, Brentwood, between Wilson's Corner and the junction with Kings Road/Weald Road as Licence Streets for the purposes of Street Trading. The licensed area includes all forecourts, roads, footways or other areas adjacent to the roads listed for a distance of 10 metres to which the public have access by fact and without payment.

January 2016

From time to time, the Council may determine to resolve to designate other areas of the borough for the purpose of Street Trading, or to prohibit Street Trading in specified areas. In such cases details of these areas will be published on the Council website, advertised as required by legislation and added as an appendix to this policy.

The designation of the High Street and any future areas of the borough as may be determined from time to time, allows street trading to be controlled so as to limit disturbance and obstruction that might otherwise be caused to local shoppers and traders. Street Trading Licences are issued with conditions which specify the date, time, location and type of stall as well as defining certain requirements and parameters relating to the operation of the stall. Such conditions may be standard in that they apply to all licence holders or may be specific to an individual stall or trader.

Street trading in a designated Licence Street without the necessary Street Trading Licence is an offence which can result in a fine of up to £1000.

Further information about Street Trading Licences can be obtained from the Licensing Section. Please call 01277 312500. Alternatively, email [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk)

## Location

The markets will take place only on the street trading pitch locations indicated on the plan included as Appendix 1 of this policy, for which there is provision for up to 23 stalls. Typically trading will occur on both sides of the High Street between properties 39 – 51 High Street.

Planning Permission has been granted for markets to take place where stalls are situated at a minimum distance of 2.5metres from all shop fronts and a minimum of 2 metres from the carriageway.

On every occasion licence holders must ensure that a sufficient gap is left between stalls/pitches and between stalls/pitches and street furniture to enable unrestricted and unfettered wheelchair, pushchair or pedestrian movement. This gap should normally be a minimum of 1.8 metres.

All individual pitches are for a maximum size of 3m x 3m and no double pitches will be allowed where street furniture or wheelchair, pushchair or pedestrian movement are impeded by the placement of a stall.

Should such an occasion arise the licence holder/stallholder will be required to reduce the size of their stall. Any failure to do so after having first been warned may result in revocation or suspension of the Street Trading Licence, refusal to renew a Street trading Licence and/ prosecution for having breached the licence conditions.

If the market should be located near to a turning circle, disabled bays and overrun areas, a minimum of 0.5 metres should be provided between these areas and the stalls.

January 2016

Planning permission has not been granted for the turning circle on the High Street.

## Street Trading Categories:

1. Brentwood Market
2. General Street Trading
3. Lighting Up Brentwood

### 1. Brentwood Markets

- 1.1 Planning Permission has been granted for markets to take place on designated areas of Brentwood High Street for 7 days per week. Markets are typically held on Fridays and Saturdays on sections of Brentwood High Street and more specifically the large paved area from 39 - 51 High Street. The Council has the right to operate markets 7 days per week; however the Council will only operate a full Market on designated market days and on one-off special occasions and events.
- 1.2 All traders (with the exception of the long standing High Street Fruit and Vegetable Stall) wishing to operate on any Market day may only do so through the Market Operator as may be appointed from time to time by the Council. Any traders wishing to operate on non Market days must make application direct to the licensing team and such applications will be considered in line with the Standard conditions and this policy on the individual merit of the application and on a case by case basis.
- 1.3 Traders at Markets operated by third party market operators will need to meet the criteria of the market operator which can be obtained through the market operator. Traders will also require a Street Trading Licence issued by Brentwood Borough Council. Conditions of the Licence are described in the criteria set out below.
- 1.4 All applicants will be expected to submit an application in which they will provide name and address contact details and also land line and mobile telephone numbers and an e-mail contact address if this is held by the applicant. For further details about the application process see Section 3 of this policy document shown below.

### Fees:

The fee for an application for a Street Trading Licence where a third party market operator has been instructed by Brentwood Borough Council to operate a market will be paid to the Council by the Market operator, however, the applicant must pay the relevant fee plus Market operator costs direct to the Market Operator.

Failure of any trader to pay the appropriate fee to the Market operator or failure to pay the appropriate licence fee to the Council (whether that failure is by the applicant or the Market Operator) may result in disqualification from the Market of that stall(s) until such time as the fees are paid.

## 2. Individual Street Trading Stalls

2.1 From time to time Brentwood Borough Council may issue Licences to individual traders either on non market days or at one-off special events throughout the year. In such circumstances the Council will consider applications in their own right and on their own merits.

### 2.2 Fees:

An application for a Street Trading Licence must be accompanied by the appropriate fee as may be varied by the Council from time to time. Details of all current fees are attached to this policy as appendix A.

### 2.3 Payments

The Stall holder shall pay the full amount stipulated when submitting the application (or with the booking form in advance for the Lighting up event) for the full specified trading period. Unpaid sums will result in refusal to grant a licence, or where a licence may have been granted and sums subsequently fall due such outstanding monies shall be recoverable by way of a common debt and subject to the Council's Debt Recovery policy. Failure to pay may lead to court action where stall holders could be asked to pay the Council's costs.

### 2.4 Exemption

The fruit stall which has been trading outside the location of 71-73 High Street Brentwood for a number of years. The stall holder currently has an existing agreement with Brentwood Borough Council in terms of location and fee agreed prior to the introduction of this policy; however these may be subject to change in the future. It was agreed in 2013 that when this stall is required to move, provision will be made at a point closer or adjacent to the weekly market.

## 3. Lighting Up Brentwood

The Council reserves the right to host the Lighting Up Brentwood Event annually on any day of the week. Fees for this event will be subject to a separate fee structure. For further information contact the Council's Community Safety Team by e-mail at [lightingup@brentwood.gov.uk](mailto:lightingup@brentwood.gov.uk).

There will be no market on the day of the Lighting up Brentwood event. If possible the Council may offer an alternative day for the market. Individual stall holders may apply for a Street Trading Licence directly with Brentwood Borough Council for the Lighting up Brentwood event and fees will be payable direct to the lighting up team, who will ensure that all licence fees are paid from the fee they receive direct to the licensing team, where appropriate..

### Criteria for a Street Trading Licence

#### 3. General Terms

- 3.1 An application for a Street Trading Licence or the renewal of such a Licence shall be made in writing to Brentwood Borough Council for individual Street Trading and shall be accompanied by all required documentation and the appropriate fee. However, where a market operator that has been instructed by Brentwood Borough Council to operate the markets in Brentwood the fee will be paid to the Council in accordance with paragraph 1 (above) by the Market operator.
- 3.2 The applicant shall:
- (a) State his/her full name and address;
  - (b) State the street in which, days on which and times between which the trader desires to trade;
  - (c) Give a full description of articles in which the trader desires to trade and the description of any stall or container which the trader desires to use in connection with the trade in those articles;
  - (d) Submit two photographs of themselves with their application.
  - (e) Detail any convictions received in the preceding 10 years and/or any convictions received at any time which are unspent under provision of the Rehabilitation of Offenders Act. (applicants MUST check with the licensing team if they are unsure of the status of any prior conviction received).
- 3.3 A Street Trading Licence shall not be granted:
- (a) To a person under the age of 17 years; or
  - (b) For any trading in a Highway in relation to which a control order under section 7 of the Local Government (Miscellaneous provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply; and
  - (c) May not be granted to any person that holds a current conviction.
- 3.4 Subject to sub-paragraph (3.3) above, it shall be the duty of the Council to grant an application for a Street Trading Licence or the renewal of such a Licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (3.5) below.

3.5 The Council may refuse an application on any of the following grounds:

- (a) That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street;
- (b) That there are already enough traders trading in the street from shops or otherwise in the exact goods in which the applicant desires to trade. NB: Goods that are high demand products and/or with a reasonably short shelf life e.g. Bread, cakes and other perishables are less likely to be refused although the Council reserves the right to make judgement on all matters on a case by case basis;
- (c) That the applicant is unsuitable to hold the Licence by reason of having been convicted of an offence or for any other reason;
- (d) That the applicant has at any time been granted a Street Trading Licence by the Council and has persistently refused or neglected to pay fees or charges due for the licence or any associated services in his/her capacity as Licence-holder;
- (e) Where the street trading may damage the structure or surface of the street;
- (f) Where the appearance or quality of the trading equipment or structure/stall in use is not compatible with the character of the area in which it is proposed to be situated.
- (g) That the applicant has without reasonable excuse failed to avail him or herself to a reasonable extent of a previous Street Trading Licence.
- (h) Where the applicant has at any time been granted a Street Trading Consent or Licence and has persistently contravened conditions of the policy.

3.6 A Street Trading Licence shall specify:

- (a) The street in which, days on which and times between which the Licence- holder is permitted to trade; and
- (b) The description of articles in which he is permitted to trade.

3.7 If the Council determines that a Licence-holder is to confine his/her trading to a particular place in the street, his/her Street Trading Licence shall specify that place.

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- 3.8 Matters that fall to be specified in a Street Trading Licence by virtue of sub-paragraph (3.6) or (3.7) above are referred to in this Schedule as the “principal terms” of the Licence.
- 3.9 When granting or renewing a Street Trading Licence, the Council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the Licence) as appear to them to be reasonable.
- 3.10 Without prejudice to the generality of sub-paragraph (3.9) above, the subsidiary terms of a Licence may include conditions:
- (a) Specifying the size and type of any stall or container which the Licence-holder may use for trading.
  - (b) The items for sale could offend members of the public or businesses.
  - (c) The items for sale are not in keeping with the Council’s policy and objectives for street trading, in providing quality specialist markets including the sale of alternative and niche products.
- 3.11 The Street Trading Licence requires:
- (a) That the licence shall be displayed during all hours of trading and available for inspection by any authorised officer of the Council or by any Police officer upon request; and
  - (b) Prohibiting the leaving of refuse by the Licence-holder.
- 3.12 A Street Trading Licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the Licence, for that period.
- 3.13 If the Council resolve that the whole or part of a Licence Street shall be designated a Prohibited Street, then, on the designation taking effect, any Street Trading Licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.
- 3.14 The Council may at any time revoke a Street Trading Licence if they consider that:
- (a) owing to circumstances which have arisen since the grant or renewal of the Licence, there is not enough space in the street for the Licence holder to engage in the trading permitted by the Licence without causing undue interference or inconvenience to persons using the street;
  - (b) the Licence holder is unsuitable to hold the Licence by reason of having been convicted of an offence or for any other reason;
  - (c) since the licence was granted the licence holder has persistently refused or neglected to pay fees or charges due for the licence or any associated services in his/her capacity as Licence-holder;

- (d) since the grant or renewal of the Licence, the Licence holder has without reasonable excuse failed to avail him or herself of the Licence to a reasonable extent.
- 3.15 If the council consider that they have grounds for revoking a licence by virtue of sub-paragraph (3.14)(a) or (d) above, they may, instead of revoking it, vary its principal terms:
- (a) By reducing the number of days or the period in any one day during which the Licence holder is permitted to trade; or
  - (b) By restricting the descriptions of goods in which he is permitted to trade.
- 3.16 A Licence holder may at any time surrender his/her Licence to the council and it shall then cease to be valid.
- 3.17 The Council may charge such fees as they consider reasonable for the grant or renewal of a Street Trading Licence.
- 3.18 The Council may determine different fees for different types of Licence, in particular, but without prejudice to the generality of this sub-paragraph, by:
- (a) reducing the number of days or the period in any one day during which the Licence-holder is permitted to trade; or
  - (b) restricting the descriptions of goods in which he is permitted to trade.
  - (c) restricting the duration of the Licence.
  - (d) altering the street in which it authorises trading; and
  - (e) amending the descriptions of articles in which the holder is authorised to trade.
- 3.19 The Council require that applications for the grant or renewal of Licences shall be accompanied by the full fee as the Council may require, to be repaid by the Council to the applicant if the application is refused.
- 3.20 The Council may recover from a Licence holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as Licence holder.
- 3.21 The Council reserves the right to use the Licence fees to advertise and promote the market as a reasonable cost incurred in providing the service for market stallholders.
- 3.22 The stall shall be kept in the space allocated by the Council from time to time and the stallholder must keep the avenues adjoining the stall clear and free from refuse and litter.



3.23 Traders will need to supply their own stall and will be given a pitch approximately 3m x 3m. Stalls must be of high quality and safety is paramount. Stalls must be robust and withstand winds and therefore stalls will require weights. The size and positioning of the stall must be such that it does not contravene the restrictions specified in these conditions. In respect of markets, all stalls need to be compatible in size, style and colour and the appearance of the market must be attractive and consistent in nature. The arbiter of this standard will be the Council at all times.

#### 4. Stall Requirements

4.1 All stalls need to be:-

Provided in full compliance with the legal standards laid down by the Health and Safety at Work etc Act 1974 and all regulations made there under. Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) Only placed on firm level ground.
- b) Erected by competent persons with experience of such, pitched and secured firmly in order to prevent any possibility of overturn.
- c) Where connected in any way to a generator, that generator to be sited externally along with any fuel supply and pipe work to it and to fully comply with all relevant provisions of electrical safety acts and regulations.
- d) Electrical cables and wires must be placed so as to prevent tripping hazards. In the first instance these should always be placed away from any pedestrian areas. It is not permissible to cover cables and wires even with a bespoke rubber mat or duck tape as these may also present a tripping hazard. Cables and wires may however be suspended and at a height of no less than 198 centimetres above the ground below so that pedestrians may walk safely beneath. Additional support via a 'catenary wire' must be provided where electrical cables are suspended so as to prevent electrical short circuit.
- e) All electrical circuitry must be weather resistant, and so placed and maintained to prevent electrical short circuit and danger from electrical shock.
- f) Where supported by guy ropes, those ropes and ground pegs to be positioned in such a way that they cannot be inadvertently tripped over and do not extend into any designated public walk-ways or traffic routes.
- g) Where used to contain any cooking apparatus that the apparatus is placed in such a way within the confines of the stall such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- h) Where used to contain any heating apparatus that the apparatus is placed in such a way within the confines of the tent/marquee such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- i) Provided where necessary with suitable apparatus to extinguish fire.

- j) To be pitched in such a way that the public may exit quickly through unimpeded and clear signed exits.
- k) Where containing any gas cylinders, that those gas cylinders (LPG) should be stored / used in the fully upright position at all times. The cylinders should where necessary be tethered in that position to a rigid supporting structure to prevent the possibility of being inadvertently moved or overturned. are either laid down or tethered to a rigid supporting structure to prevent falling/overturn.
- l) Flame and fire retardant material must be used in the construction of the individual stalls. Stall holders are reminded that their stall will come under the requirements of the Regulatory Reform (Fire Safety) Order 2005 and the person/company/business responsible for the stall will be required under this order to undertake a fire risk assessment. The significant findings of that assessment are to be recorded. The completed assessment must be maintained available for inspection by the Fire & Rescue Service/Event Organiser or Council Officers at all times. The assessment will take into consideration amongst other issues most of those identified under Section 4.1 of the Policy for Market Stall and Street Trading activities.
- m) Residual Current Devices and Residual Current Circuit Breakers (RCD's/RCCB's) to be placed as appropriate within all mains electrical provision to prevent all exposed metal components from becoming electrically energised.
- n) Where any gas system is provided that it complies with the Gas Safety (Installation and Use) Regulations 1998 Section 35 and has been certificated by an appropriately qualified Gas Safe Engineer.
- o) No fire hydrant indicator plate or fire hydrant pavement cover shall be obstructed, or access to it restricted at anytime by the activities of the stall holder(s)

4.2 The Stall shall only be used for the sale of goods specified.

4.3 The Stall shall only be used by the Stallholder and his employees. The Stallholder shall not do or allow anything to be done which may cause or be a nuisance or annoyance to any member of the public or which may be detrimental to the efficient operation of the Market.

4.4 Traders must not set up before 7am Monday to Friday or before 8am on Saturday and Sunday. Traders must remove vehicles from the market site by 8am on Monday and Friday and by 9am on Saturday and Sunday. Traders must continue trading until 5pm on all market days and will not be able to begin loading before 5pm on market days.

4.5 Stallholders will be expected to treat their colleagues and all visitors and residents with respect.

4.6 No traders' vehicles will be placed on the Market site, other than for loading and unloading at the times permitted under paragraph 4.4 of this policy.

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4.7 It is the Council's intention to ensure that the market is well presented and adequately stocked to be attractive to potential customers and in support of the town centre. A high quality standard is required of all traders' presentations and merchandising and in pursuit of this the Council will set quality standards. Poor presentation could lead to termination of the right to trade.

4.8 A Street Trading Licence does not convey any other approvals that may be necessary under the Food Hygiene regulations, Planning legislation or other appropriate legislation.

4.9 All food traders need:

Where the stall is used for the sale or offering of food, that it complies in full with all relevant provisions of the Food Safety Act, and EC Regulation 852/2004.

Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) To have registered the business under food law with the local authority in which they reside overnight or trade.
- b) A copy of the food registration certificate to be available for inspection.
- c) The food business to be 'broadly compliant with food hygiene law relative to its last inspection (i.e. a score of no more than 10 with regard to any of the three compliance areas, namely: -hygiene, structure and management).
- d) Food handlers to have received commensurate food hygiene training relative to their role within the business and this to be demonstrable in the form of certificates or records.
- e) To have evidence of a demonstrable food safety management system on site. This may take the form of an SFBB manual or similar to show adequate records of opening and closing checks.
- f) Traders selling hot and cold food will need to supply proof of the relevant food hygiene training certificate before you can apply for a Licence to sell food.

4.10 If you don't have a certificate you need to make your own arrangements to attend food hygiene training. You can find out more about training from Brentwood Environmental Health on 01277 312504. You'll also need to register your business with Environmental Health with you own local Council.

4.11 The Stall shall be kept in an orderly manner, clean and free from litter. No heating or lighting apparatus shall be installed without the permission of the Markets Manager.

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- 4.12 No electrical connections must be made by stall holders to any public or utility equipment. Only generators or gas cylinder equipment that are compliant with paragraph 4.1 c), j), i) and m) are permissible.
- 4.13 Stalls, produce or products will only be allowed to be left out or stored overnight in the High Street town centre pavement area for markets lasting more than one day such as a continental or themed markets for example at the discretion of the Council and on the strict proviso that they are securely guarded all night and that they will not be left out in adverse or inappropriate conditions such as high winds etc. Ordinarily all stalls, produce or products must be removed and cleared away at the end of each trading day.
- 4.14 The Stallholder shall:
- (i) Indemnify the Council against all costs, demands, claims proceedings and actions incurred by the Council relating to or arising out of the use of the space allocated by the Council.
  - (ii) Obtain and maintain Public Liability Insurance with a minimum indemnity limit of £5,000,000 (five million pounds) and shall produce to the Council evidence of such insurance with the application to trade.

## 5. Guidance on products

- 5.1 The Council operates a fair system and welcomes all applications.
- 5.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that Council's may refuse an application on the following grounds:

That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;

The Government has recently issued guidance that states that restricting certain types of trading may fall foul of competition laws and therefore suggests that schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 should not generally be applied. However, it is the view of this Council that the Market has been introduced for a specific purpose and that schedule 4 has not to date been repealed. Therefore some trading may still be refused if the Council believes that there is a surplus of certain products already available whether on the Market or in local shops. Whilst there is flexibility within this policy and each case will be considered on merit this restriction will normally only apply to branded goods or goods that are unsuitable for a Market environment. Final determination will lie with the Council.

- 5.3 Healthy competition is good for the town, however, the objective of the market is to compliment and enhance the offering provided by the shop traders in the town.
- 5.4 The Act allows the Council to attach such further conditions as appear to be reasonable. Each application will be considered in its own right and on its own individual merits. In this respect the Council has produced some guidance on the types of products which may be refused in order to be in keeping with the character of the Council and of the town centre and which as part of the Council's policy may also form part of the licence conditions. These are:
- a) To allow one type of product, or class of products to be sold by any individual trader.
- b) To ordinarily refuse products not in keeping with the character of the High Street or the objectives of providing specialist and niche products this could include for example:
- Products of a sexual content
  - Trailer vehicles
  - Cooked food of burgers, hotdogs, chips, pizza and fast food
  - Cleaning products where they contain potentially harmful chemicals e.g bleach
  - Products promoting the use of drugs or tobacco related products
  - Individual Branded products found in local supermarkets and shops, including household items, make-up and health products
  - Designer or recognised brand label clothing, footwear or accessories
  - Funfair type products; donuts and candyfloss
  - Knives and other weaponry
- 5.5 There are a sufficient amount of shop traders already selling cut flowers, fruit and vegetables, hot drinks such as tea and coffee, therefore the Council is likely to refuse such items in the current climate, as legitimised by the Local Government (Miscellaneous Provisions) Act 1982.
- 5.6 Each application will however be considered in its own right and on its own merits. This means that some licences may be issued where it would be normal to refuse the application under provision of paragraphs 3.5, 5.2 and 5.4 if the applicant is able to demonstrate good reason for the Council to divert from policy in the individual circumstances of that application.

#### Car Parking Information for Traders

The height restriction for all car parks in Brentwood is as follows:

6M Length

2.1M High

2.3M Width

Blue badge holders may only park free of charge in Brentwood Borough Council surface car parks that are pay and display and do not have barrier access.

Season ticket holder only car parks are not to be used for casual parking and no vehicles are allowed to remain overnight in any of the car parks.

The nearest overnight camping ground is situated at Warren Lane Doddinghurst, Kelvedon Hatch, Brentwood CM15 OJG. The telephone number is 01277 372773. The site is open March to November and there are 90 pitches available. It is dog friendly and has electric hook –ups, hard standing, gas refills, disabled facilities, showers and toilet block, washing up facilities, laundry room, chemical disposal and internet access. This site is approximately two miles from Brentwood so it is convenient for traders.

Please note that this information is provided without prejudice to assist traders and is not intended to be an endorsement of the site or its services by Brentwood Borough Council and is only accurate to the time the information was included in the policy in August 2012. Brentwood Borough Council accepts no responsibility for any of the above information that might not be accurate in the future.

## STREET TRADING POLICY

Local Authorities (LAs) have a legal discretion to regulate street trading in their administrative area.

### Purpose of the policy

This policy is to control street trading across the Brentwood Borough Council by means of a combination of street trading consent and licence schemes, whereby specific streets will be prohibited from any street trading at any time and the remaining streets will become either licensed streets or consent streets. Trading from designated streets is also prohibited unless the trader has applied for and received a consent or licence to trade from Brentwood Borough Council. Any such street trading permission will contain restrictions on the location and permitted times for trading, type of goods sold and contain clear conditions which must be adhered to in order for the trader to obtain and retain the permission. The conditions are to protect public safety, promote public health and reduce nuisance to neighbouring properties. These will be attached to any permissions given.

### Definitions

**“Street Trading”** is defined in paragraph 1 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 – hereinafter called “the Act” – as

“The selling or exposing or offering for sale of any article (including a living thing) in a street”.

**Street** The above Act defines the term “street” as including:

“Any road, footway, beach or other area to which the public have access without payment”; and a service area as defined in section 329 of the Highways Act 1980”.

Any part of a street is a “street” for the purposes of the Act.

### Exemptions:

The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

1. a pedlar trading under the authority of a pedlar’s certificate granted under the Pedlar’s Act 1871;
2. anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;
3. trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
4. trading as a news vendor;
5. trading carried out at premises used as a petrol filling station or used as a shop or in a street adjoining premises so used and as part of the business of that shop;
6. selling things or offering or exposing them for sale as a roundsman.

## **Designation**

Brentwood Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate the whole borough as either Licensed or Consent Streets for the purposes of Street Trading. The licensed area includes all forecourts, roads, footways, or other areas to which the public have access by fact and without payment.

From time to time, the Council may determine to resolve to designate other areas of the borough for the purpose of Street Trading, or to prohibit Street Trading in specified areas. In such cases details of these areas will be published on the Council website, advertised as required by legislation and included in this policy.

### **Prohibited Streets**

If a street is designated as a “Prohibited Street” then street trading is a criminal offence under The Local Government (Miscellaneous Provisions) Act 1982.

Streets will be designated as prohibited where it is anticipated that such trading would cause:

- noise or nuisance to residents living in the locality,
- would reduce public safety to persons crossing or using the street or to road users.

The following streets have been designated as Prohibited Street:

**XXXXXXXXXXXX**

### **Licensed Streets**

If a street is designated as a “Licensed Street” then street trading without a licence is a criminal offence under The Local Government (Miscellaneous Provisions) Act 1982.

The following street(s) have been designated as Licensed Street:

- High Street, Brentwood, between Wilson’s Corner and the junction with Kings Road/Weald Road. The licensed area includes all forecourts, roads, footways or other areas adjacent to the roads listed for a distance of 10 metres to which the public have access by fact and without payment.

### **Consent Streets**

If a street is designated as a “Consent Street” then street trading without a consent is a criminal offence under The Local Government (Miscellaneous Provisions) Act 1982.



When granting or renewing a consent, the council may attach any reasonable condition; furthermore, the council can, at any time, vary the conditions attached to the consent. Any such variations will be notified in writing to the named person in receipt of the consent to trade and will take effect immediately or on the date of the notification letter.

There is no right of appeal against any council decision made in regard of a street trading consent.

The following street(s) have been designated as Consent Street:

All streets other than those that are Prohibited Streets or Licensed Streets as provided above.

### **Considerations when assessing an application for a Street Trading Consent**

#### **Public safety**

The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction. Where any proposed trading is within 50 metres of a school entrance, the council will seek the views of the school.

#### **Prevention of crime and disorder**

The proposed activity should not increase the risk of crime and disorder. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.

#### **Prevention of public nuisance**

The proposed activity should not increase the risk of nuisance from noise, refuse, vermin, fumes and odours.

#### **Suitability of the Location**

That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street.

Where the street trading may damage the structure or surface of the street;

Where the appearance or quality of the trading equipment or structure/stall in use is not compatible with the character of the area in which it is proposed to be situated.

#### **Suitability of the trading unit**

This should be of a good quality design, safe construction and add to the quality of the street scene. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed.

#### **Suitability of the applicant**

The applicant must provide a Basic DBS check that is no more than 3 months old (Or 12 months old if the applicant is already the holder of another street trading consent/licence that is still in force and a Basic DBS has been provided for that application).

A policy with regards to the suitability of applicant is attached as **Appendix 2**. In addition to the criminal suitability of the applicant consideration will be given to complaints or other matters related to behaviour or compliance with consent conditions or relevant legislation. Any of these matters may result in a consent being refused, revoked, or not renewed or additional conditions added.

### **Suitability of employees**

An employee is defined as those working or providing a service associated with the consent.

The applicant/consent holder will be required to ensure that any person that is employed to work on the stall associated with the consent is suitable to do so in relation to their behaviour and or previous convictions.

### **Number of Street Trading Consents/Licences issued**

Consents or Licences may not be issued where Brentwood Borough Council considers that sufficient street traders already exist in that locality and that additional traders may cause risks to public safety or nuisance to the occupants of neighbouring properties.

Consents or Licences may not be issued where Brentwood Borough Council considers that there are already enough traders trading in the street from shops or otherwise in the exact goods in which the applicant desires to trade.

### **Duration of Consents and Licences**

Street Trading Consents and Licences will normally be issued for one year from the date of grant for new applications or from the date of renewal for existing holders.

A Street Trading Consent and Licences cannot be issued for more than one year.

### **Types of Consent or Licence**

The following types of consent can be issued:

- Static – Is for a trader that will trade from the same site on each occasion for the duration of the consent or licence.
- Mobile – Traders with a mobile consent or licence must not trade from the vicinity of any one location for more than 1 hour in any one day.

### **Planning Permission**

The land from which you intend to trade may require planning permission for such use. It is your responsibility to check with the Council's planning department prior to applying for a Licence/Consent.

### **Fees**

All fees must be paid in advance. A copy of the current fees can be found on the council's website.

The following Street Trading activities have been deemed by Brentwood Borough Council to **not** require the payment of fees to the Council:

1. Non-commercial car boot sales.
2. Fetes, carnivals and similar community based not for profit run events.

### **Conditions and enforcement**

Standard conditions (attached at **Appendix 1**) will be attached to every Consent and Licence, detailing the holder's responsibility to maintain public safety, prevent nuisance and preserve the amenity of the locality.

Additional conditions may also be attached limiting the days and hours when street trading is permitted, the goods which may be sold, the size of the trading unit or pitch or any other relevant matter.

Failure to comply with these conditions may lead to revocation or non-renewal of the consent.

The following are offences under the above Local Government (Miscellaneous Provisions) Act 1982 and will be considered for prosecution:

1. Street trading in a prohibited street,
2. Street trading in a Consent Street without a relevant Consent to Trade,
3. Street trading with a Consent to Trade, but not complying with the times or location stated within the Consent to Trade.

All decisions regarding enforcement action will be made in accordance with the Licensing Departments Enforcement Policy of Brentwood Borough Council.

The Council may at any time revoke a Street Trading Licence or consent if they consider that:

- (a) owing to circumstances which have arisen since the grant or renewal of the Licence/Consent, there is not enough space in the street for the holder to engage in the trading permitted by the Licence/Consent without causing undue interference or inconvenience to persons using the street;
- (b) the holder is unsuitable to hold the Licence/Consent by reason of having been convicted of an offence or for any other reason;

- (c) since the Licence/Consent was granted the licence holder has persistently refused or neglected to pay fees or charges due for the licence or any associated services in his/her capacity as Licence/Consent holder.
- (d) since the grant or renewal of the Licence/Consent, the holder has without reasonable excuse failed to avail him or herself of the Licence/Consent to a reasonable extent.

If the council consider that they have grounds for revoking a Licence/Consent by virtue of the above, they may, instead of revoking it, vary its principal terms:

- (a) By reducing the number of days or the period in any one day during which the holder is permitted to trade; or
- (b) By restricting the descriptions of goods in which they are permitted to trade.

A Licence holder may at any time surrender their Licence/Consent to the Council and it shall then cease to be valid.

## **Applications**

An application for a Street Trading Licence/Consent or the renewal of such a Licence/Consent shall be made in writing to Brentwood Borough Council.

The applicant shall provide:

- Fully completed application form,
- Copies of public liability insurance or evidence of the proposed insurance,
- A Basic DBS certificate not more than 3 months old (or 12 months in line with this policy),
- A passport style photograph of the applicant,
- Details of all staff either paid or voluntary that will be engaged in relation to the consent,
- Details of proposed vehicle, trailer or stall, including photographs where relevant.
- Any MOT, vehicle insurance etc or other documentation associated with vehicles used in association with the application.
- The appropriate fee.

However, where a market operator that has been instructed by Brentwood Borough Council to operate the markets in Brentwood the fee will be paid to the Council by the Market operator. The Market Operator will be responsible for ensuring that the Street Trading (Market) application form is completed by each individual trader selling on the market.

Prospective applicants are most strongly advised to seek the necessary permissions, consents and, where appropriate, planning permissions before making a commitment to any financial outlay and before applying for the Street Trading Licence/Consent.

## **Renewal**

The consent holder must apply to the Council for a renewal at least 30 days prior to the date of the current Licence/Consent expiry. If an application for renewal is not received by the expiry date, the Licence/Consent will lapse

## **Brentwood High Street Market**

The market will take place only on the street trading pitch locations indicated on the plan included as **Appendix 3** of this policy, for which there is provision for up to 23 stalls. Typically trading will occur on both sides of the High Street between properties 39 – 51 High Street.

Planning Permission has been granted for markets to take place on designated areas of Brentwood High Street for 7 days per week. Markets are typically held on Fridays and Saturdays. The Council has the right to operate markets 7 days per week; however the Council will only operate a full Market on designated market days and on one-off special occasions and events.

On every occasion licence holder must ensure that a sufficient gap is left between stalls/pitches and between stalls/pitches and street furniture to enable unrestricted and unfettered wheelchair, pushchair or pedestrian movement. This gap should normally be a minimum of 1.8 metres.

All individual pitches are for a maximum size of 3m x 3m and no double pitches will be allowed where street furniture or wheelchair, pushchair or pedestrian movement are impeded by the placement of a stall.

Should such an occasion arise the licence holder/stallholder will be required to reduce the size of their stall. Any failure to do so after having first been warned may result in revocation or suspension of the Street Trading Licence, refusal to renew a Street trading Licence and/ prosecution for having breached the licence conditions.

All traders (with the exception of the long-standing High-Street Fruit and Vegetable Stall) wishing to operate on any Market Day may only do so through the Market Operator as may be appointed from time to time by the Council. Any traders wishing to operate on non-Market days must make application direct to the licensing team and such applications will be considered in line with the Standard conditions and this policy on the individual merit of the application and on a case-by-case basis.

Traders at Markets operated by third party market operators will need to meet the criteria of the market operator which can be obtained through the market operator. Traders will also require a Street Trading Licence issued by Brentwood Borough Council. Conditions of the Licence are described in the criteria set in **Appendix 4**.

All stall holders will be expected to submit a street trading market application.

Traders will need to supply their own stall and will be given a pitch approximately 3m x 3m. Stalls must be of high quality and safety is paramount. Stalls must be robust and withstand winds and therefore stalls will require weights.

The size and positioning of the stall must be such that it does not contravene the restrictions specified in these conditions. In respect of markets, all stalls need to be

compatible in size, style and colour and the appearance of the market must be attractive and consistent in nature. The arbiter of this standard will be always the Council.

Traders must not set up before 7am Monday to Friday or before 8am on Saturday and Sunday. Traders must remove vehicles from the market site by 8am on Monday and Friday and by 9am on Saturday and Sunday. Traders must continue trading until 5pm on all market days and will not be able to begin loading before 5pm on market days.

Stalls, produce or products will only be allowed to be left out or stored overnight in the High Street town centre pavement area for markets lasting more than one day such as a continental or themed markets for example at the discretion of the Council and on the strict proviso that they are securely guarded all night and that they will not be left out in adverse or inappropriate conditions such as high winds etc. Ordinarily all stalls, produce or products must be removed and cleared away at the end of each trading day.

### **Guidance on products**

The Council operates a fair system and welcomes all applications. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that Council's may refuse an application on the following grounds:

That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade.

The Government has issued guidance that states that restricting certain types of trading may fall foul of competition laws and therefore suggests that schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 should not generally be applied. However, it is the view of this Council that the Market has been introduced for a specific purpose and that schedule 4 has not to date been repealed. Therefore, some trading may still be refused if the Council believes that there is a surplus of certain products already available whether on the Market or in local shops. Whilst there is flexibility within this policy and each case will be considered on merit this restriction will normally only apply to branded goods or goods that are unsuitable for a Market environment. Final determination will lie with the Council.

Healthy competition is good for the town; however, the objective of the market is to complement and enhance the offering provided by the shop traders in the town.

The Act allows the Council to attach such further conditions as appear to be reasonable. Each application will be considered in its own right and on its own individual merits. In this respect the Council has produced some guidance on the types of products which may be refused in order to be in keeping with the character of the Council and of the town centre and which as part of the Council's policy may also form part of the licence conditions. These are:

a) To allow one type of product, or class of products to be sold by any individual trader.

b) To ordinarily refuse products not in keeping with the character of the High Street or the objectives of providing specialist and niche products this could include for example:

- Products of a sexual content
- Products promoting the use of drugs or tobacco related products
- Funfair type products; donuts and candyfloss
- Knives and other weaponry

Each application will however be considered in its own right and on its own merits.



Appendix 1.

## **GENERAL CONDITIONS FOR STREET TRADING CONSENTS/LICENSES (not Markets)**

The Council will not grant a Street Trading Licence/Consent to persons under the age of 17 years and no person employed by a Holder to assist them in the street trading shall be under the age of 16 years.

**The consent granted is specific to the person it is issued to and is non-transferable.**

No trading stall, vehicle etc. is permitted to remain at the locality in question outside the permitted hours. It must be removed at the end of each trading day and not returned until the agreed trading commencement hours the following day without the landowners written consent

### **Planning Permission**

The land from which you intend to trade may require planning permission for such use. It is your responsibility to check with the Council's planning department prior to applying for a Licence/Consent.

### **Location of static trading units**

Static units must not trade from any area other than the site defined in their Licence/Consent to Trade. If the holder wishes to move the trading unit to another site, they must apply for a new Licence/Consent to trade.

### **Goods sold from the trading vehicle**

The Licence/Consent holder can only sell goods identified in the Licence/Consent to Trade. If they wish to sell different or additional goods, they must apply for a new Licence/Consent to trade.

### **Trading Times**

The holder shall not trade within the Brentwood borough outside the time and days permitted by the Licence/Consent.

### **Legal requirements of the trading unit**

The mobile vehicle, stall, barrow etc. must always comply with the requirements of the Food Safety Act 1990, Food Hygiene (England) Regulations 2006 and the Health and Safety at Work etc. Act 1974 and any other relevant public safety legislation.

Traders that are permitted to trade at any time between 11.00pm and 5.00am must also be licensed under the Licensing Act 2003 if providing late night refreshment.

### **Sanitary Provision**

The Licence/Consent holder when operating on a static site shall have access to suitable and sufficient sanitary (toilet) facilities for both the holder, and any persons employed in the street trading activity.

### **Private and Brentwood Borough Council Land**

You must provide written confirmation of permission obtained from Brentwood Borough Council or the private landowner for the land where the stall/vehicle is to trade from.

Possession of a street trading Licence/Consent does not, in any way, override parking restrictions or other traffic regulations for either the Licence/Consent holder or their customers.

### **Change of home address**

The Licence/Consent holder must inform the Council of a change in their home address during the period of the consent within seven days of such a change taking place.

### **Trading Unit Identification Plates**

All vehicles, stalls, carts or other devices used for street trading will be required whilst trading to display a trading unit identification plate. The plate is issued by the Council and remains the Council's property throughout the duration of the Licence/Consent. The plate should be displayed in a prominent position on the trading unit, so that it is clearly visible to members of the public using the trading unit.

The trading unit identification plate must be returned to the Council if the Holder ceases to trade and surrenders the Licence/Consent.

### **Condition of the stall/vehicle**

The Licence/Consent holder must ensure that the appearance of the stall/vehicle is of a high standard and the structure and procedures comply with all relevant legal requirements, in particular the Food Safety Act 1990, the Health and Safety at Work etc. Act 1974, the Food Hygiene (England) Regulations 2006, the Environmental Protection Act 1990 and associated regulations.

The holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Licence/Consent and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.

### **Behaviour**

The Licence/Consent holder shall at all times be clean and respectable in his dress and person and behave in a civil, orderly and courteous manner.

Trading shall not take place in such a manner as to cause nuisance or annoyance to persons whether using the street or otherwise.

### **Mobile Consents**

A mobile vehicle shall not remain on any one site for more than one hour in any twenty-four-hour period.

### **Ice Cream Van Chimes**

The Licence/Consent holder must comply with the provisions of the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982, that is: it is an **offence** to sound the chimes so as to cause annoyance. Do NOT sound the chimes:

1. For longer than 4 seconds at a time – use an automatic cut out device.
2. More often than once every 3 minutes.
3. When the vehicle is stationary,
4. Except on approach to a selling point,
5. When in sight of another ice-cream van which is trading,
6. When within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and any other recognised days of worship),
7. More often than once every 2 hours in the same street,
8. Louder than 80 dB(A) at 7.5 metres distance from the vehicle,
9. As loudly in quiet areas or narrow streets as elsewhere.

It is also an Offence under the Control of Pollution Act 1974 to sound chimes:

1. Before 12 noon and after 1900 hours,
2. At any time, in a way which gives reasonable cause of annoyance.

### **Refuse**

The Licence/Consent holder shall in no circumstances, deposit litter, rubbish or refuse in the street, but shall at all relevant times provide adequate and proper containers for the disposal of such refuse from his vehicle and customers and shall encourage his customers to use those containers. The consent holder shall tidy up, clear up and clean up all refuse, litter etc. before leaving the locality and take the refuse and containers with him/her.

The Licence/Consent holder must ensure that waste liquids arising at the stall are not disposed of into any highway channel, gully or manhole or in any other manner likely to cause pollution of any surface water channel.

All refuse generated by the business must be taken to a licensed waste disposal site. Consent Holders must identify their method of waste disposal at the time of application and keep records of their waste arrangements, which must be made readily available to authorised officers from Brentwood Borough Council on request.

### **Access by Council and Police Officers**

Licence/Consent holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

### **Street Trading Consents/Licences**

The conditions attached to all Street Trading Licence/Consent stipulate that a holder cannot assign, let, sell, rent or otherwise part with his interest or possession of a Street Trading Licence/Consent.

If a holder or their employee is requested to move the stall/vehicle by an authorised Council Officer, a Police Officer, an Officer of the Essex Fire or Ambulance Service, he/shall shall immediately comply with that request.

The Council may vary the conditions attached to the Licence/Consent at any time.

### **Price List**

All Licence/Consent holders must clearly display a price list for the goods on offer for sale.

### **Insurance**

All Licence/Consent holders shall have and maintain an insurance policy against public liability and third party risks.

A minimum insurance cover of £2 million shall be obtained by the holder and shall cover the operator's vehicle or stall and any additional equipment under his control such as generators etc.

The insurance certificate or cover note shall be produced to the Licensing Team before the Street Trading Licence/Consent is issued and at any other time on demand during the currency of the Consent.

### **Renewal**

The consent holder must apply to the Council for a renewal at least 30 days prior to the date of the current Licence/Consent expiry. If an application for renewal is not received by the expiry date, the Licence/Consent will lapse. It is a criminal offence to engage in street trading without holding a current consent.

## Appendix 4.

### Stall Requirements

All stalls need to be:-

Provided in full compliance with the legal standards laid down by the Health and Safety at Work etc Act 1974 and all regulations made there under. Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) Only placed on firm level ground.
- b) Erected by competent persons with experience of such, pitched and secured firmly in order to prevent any possibility of overturn.
- c) Where connected in any way to a generator, that generator to be sited externally along with any fuel supply and pipe work to it and to fully comply with all relevant provisions of electrical safety acts and regulations.
- d) Electrical cables and wires must be placed so as to prevent tripping hazards. In the first instance these should always be placed away from any pedestrian areas. It is not permissible to cover cables and wires even with a bespoke rubber mat or duct tape as these may also present a tripping hazard. Cables and wires may however be suspended and at a height of no less than 198 centimetres above the ground below so that pedestrians may walk safely beneath. Additional support via a 'catenary wire' must be provided where electrical cables are suspended so as to prevent electrical short circuit.
- e) All electrical circuitry must be weather resistant, and so placed and maintained to prevent electrical short circuit and danger from electrical shock.
- f) Where supported by guy ropes, those ropes and ground pegs to be positioned in such a way that they cannot be inadvertently tripped over and do not extend into any designated public walk-ways or traffic routes.
- g) Where used to contain any cooking apparatus that the apparatus is placed in such a way within the confines of the stall such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- h) Where used to contain any heating apparatus that the apparatus is placed in such a way within the confines of the tent/marquee such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- i) Provided where necessary with suitable apparatus to extinguish fire.
- j) To be pitched in such a way that the public may exit quickly through unimpeded and clear signed exits.
- k) Where containing any gas cylinders, that those gas cylinders (LPG) should be stored / used in the fully upright position at all times. The cylinders should where necessary be tethered in that position to a rigid supporting structure to prevent the possibility of being inadvertently moved or overturned. are either laid down or tethered to a rigid supporting structure to prevent falling/overturn.
- l) Flame and fire-retardant material must be used in the construction of the individual stalls. Stall holders are reminded that their stall will come under the requirements of the Regulatory Reform (Fire Safety) Order 2005 and the person/company/business responsible for the stall will be required under this order to undertake a fire risk assessment. The significant findings of that assessment are to be recorded. The completed assessment must be

maintained available for inspection by the Fire & Rescue Service/Event Organiser or Council Officers at all times. The assessment will take into consideration amongst other issues most of those identified under Section 4.1 of the Policy for Market Stall and Street Trading activities.

- m) Residual Current Devices and Residual Current Circuit Breakers (RCD's/RCCB's) to be placed as appropriate within all mains electrical provision to prevent all exposed metal components from becoming electrically energised.
- n) Where any gas system is provided that it complies with the Gas Safety (Installation and Use) Regulations 1998 Section 35 and has been certificated by an appropriately qualified Gas Safe Engineer.
- o) No fire hydrant indicator plate or fire hydrant pavement cover shall be obstructed, or access to it restricted at any time by the activities of the stall holder(s)

The Stall shall only be used for the sale of goods specified.

The Stall shall only be used by the Stallholder and his employees. The Stallholder shall not do or allow anything to be done which may cause or be a nuisance or annoyance to any member of the public or which may be detrimental to the efficient operation of the Market.

Traders must not set up before 7am Monday to Friday or before 8am on Saturday and Sunday. Traders must remove vehicles from the market site by 8am on Monday and Friday and by 9am on Saturday and Sunday. Traders must continue trading until 5pm on all market days and will not be able to begin loading before 5pm on market days.

Stallholders will be expected to treat their colleagues and all visitors and residents with respect.

No traders' vehicles will be placed on the Market site, other than for loading and unloading at the times permitted under paragraph 4.4 of this policy.

It is the Council's intention to ensure that the market is well presented and adequately stocked to be attractive to potential customers and in support of the town centre. A high quality standard is required of all traders' presentations and merchandising and in pursuit of this the Council will set quality standards. Poor presentation could lead to termination of the right to trade.

A Street Trading Licence does not convey any other approvals that may be necessary under the Food Hygiene regulations, Planning legislation or other appropriate legislation.

The Stall shall be kept in an orderly manner, clean and free from litter. No heating or lighting apparatus shall be installed without the permission of the market operator.

No electrical connections must be made by stall holders to any public or utility equipment. Only generators or gas cylinder equipment that are compliant with the above are permissible.

Stalls, produce or products will only be allowed to be left out or stored overnight in the High Street town centre pavement area for markets lasting more than one day such as a continental or themed markets for example at the discretion of the Council and on the strict proviso that they are securely guarded all night and that they will not be left out in adverse or inappropriate conditions such as high winds etc. Ordinarily all stalls, produce or products must be removed and cleared away at the end of each trading day.

The Stallholder shall:

- (i) Indemnify the Council against all costs, demands, claims proceedings and actions incurred by the Council relating to or arising out of the use of the space allocated by the Council.
- (ii) Obtain and maintain Public Liability Insurance with a minimum indemnity limit of £5,000,000 (five million pounds) and shall produce to the Council evidence of such insurance with the application to trade.

### **Food Traders**

Where the stall is used for the sale or offering of food, that it complies in full with all relevant provisions of the Food Safety Act, and EC Regulation 852/2004.

Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) To have registered the business under food law with the local authority in which they reside overnight or trade.
- b) A copy of the food registration certificate to be available for inspection.
- c) The food business to be 'broadly compliant with food hygiene law relative to its last inspection (i.e., a score of no more than 10 with regard to any of the three compliance areas, namely: -hygiene, structure and management).

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<b>Committee(s):</b> Licensing Committee	<b>Date:</b> 20 December 2022
<b>Subject:</b> Taxi Licensing Policy	<b>Wards Affected:</b> All
<b>Report of:</b> Paul Adams – Licensing Manager	<b>Public</b>
<b>Report Author/s:</b> Name: Paul Adams, Licensing Manager Telephone: 01277312503 E-mail: paul.adams@brentwood.gov.uk	<b>For Decision</b>

## Summary

The DFT have published the Statutory Taxi and Private Hire Vehicle Standards which sets out the minimum standards for licensing authorities to apply with regards to certain aspects of taxi licensing. A policy has been developed that brings together the Council's existing policies and procedures into one policy document, reviewing areas of existing policy to ensure that the minimum standards are met. This report considers the consultation responses and proposes a final policy version ready for adoption.

## Recommendation(s)

**Members are asked to:**

- R1. Considers the consultations response as in Appendix B along with the officer comments in Appendix C; and**
- R2. Agrees the Taxi Licensing Policy as attached at Appendix A be adopted and to come into effect from the 1<sup>st</sup> February 2023.**

## Main Report

### **1. Introduction and Background.**

1.1. In July 2020, the Department for Transport published its Statutory Taxi and Private Hire Vehicle Standards which sets out the minimum standards for licensing authorities to apply with regards to certain aspects of taxi licensing.

1.2. The main aspects of the standards are:

- Administering the licensing regime including a local licensing policy.
- Decision making including training of decision makers.
- Gathering and sharing information. Including the use of the Disclosure and Barring Service (DBS) checking process, and sharing of information with other licensing authorities

- Fit and proper test including relevance of criminal convictions
  - Minimum requirements for driver licensing.
  - Criminality checks for vehicle licence holders
  - CCTV in vehicles
  - Criminality checks for operator licences
  - Operator record keeping requirements
- 1.3. Brentwood Borough Council has several policies, procedures and conditions that relate to the licensing of Hackney Carriage Vehicles and Drivers, Private Hire Vehicles, Drivers and Operators.
- 1.4. In order to meet the recommendation that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on Taxi and Private Hire vehicle licensing. A single policy document titled Hackney Carriage and Private Hire Licensing Policy has been created, attached as **Appendix A**.
- 1.5. This policy updates the existing Driver Pre-Licensing Conditions, Hackney Carriage and Private Hire Licence Conditions, Policy Statement on the Processing of Applications for Combined Hackney Carriage and Private Hire Vehicle Drivers Licences, Policy Statement regarding the relevance of convictions, and Operator Licence Conditions.
- 1.6. This policy incorporates the existing vehicle licence conditions which will be subject to a further review next year after the expected publication of further DFT national guidance which was consulted on earlier this year.

## 2. **Issue, Options and Analysis of Options**

- 2.1. The Council as a Licensing Authority must comply with the National Standards unless it has good reason not to do so. In order to meet the recommendation that all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing the existing policies and procedures have been updated to reflect the requirements of the national standard.
- 2.2. Changes to Council policy will come into immediate effect for new licence applicants once the policy is adopted. Changes to suitability criteria around criminal convictions will also be applied with immediate effect to existing licence holders. Changes around training requirements and record keeping will be applied to existing licence holders, with a reasonable period for implementation relevant to the requirements imposed.
- 2.3. Following consultation, one response was received which is attached as **Appendix B** for consideration.

- 2.4. Consideration of the representation has been given by officers and amendments have been made to the policy based on the comments received. **Appendix C** details the officer response to each of the points made.

### **3. Reasons for Recommendation**

- 3.1. The Policy has been revised by officers following the comments received.
- 3.2. After consideration of the consultation comments, the policy may be amended if the committee feels necessary.

### **4. Consultation**

- 4.1. Consultation on the proposed policy has been undertaken. All Hackney Carriage and Private Hire Drivers, Proprietors and Operators licensed by Brentwood Borough Council have been written to inviting them to view the draft policy, and to make any comments.
- 4.2. The draft policy has also been published on the Council's website.
- 4.3. The consultation period ran for 6 weeks and concluded on the 16 September 2022.

### **5. References to Corporate Plan**

- 5.1. None.

## **Implications**

### **Financial Implications**

**Name/Title: Tim Willis, Interim Director of Resources**

**Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk**

There are no direct financial implications for Brentwood Council arising from this report.

### **Legal Implications**

**Name & Title: Andrew Hunkin, Interim Director of People & Governance and Monitoring Officer**

**Tel & Email: 01277 312500/andrew.hunkin@brentwood.rochford.gov.uk**

The granting of Licences is a legal function of the authority and the introduction of the national standards by the Department of Transport must be applied to the Council's policies and procedures unless there is good reason no to do so.

## **Economic Implications**

**Name/Title: Phil Drane, Director of Place**

**Tel/Email: 01277 312610/phil.drane@brentwood.rochford.gov.uk**

There are no direct financial implications for Brentwood Borough Council arising from this report.

## **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager**

**Tel/Email: 01277 312500/kim.anderson@brentwood.gov.uk**

The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:

- a. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
- b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
- c. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

## **Health & Wellbeing Implications**

**Name/Title: Jo Cory, Corporate Health & Wellbeing Officer**

**Tel/Email: 01277 312500/jo.corey@brentwood.gov.uk**

There are no direct Health or Wellbeing implications arising from this report.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None.

## **Background Papers**

None.

## **Appendices to this report**

**Appendix A** – Taxi Licensing Policy

**Appendix B** – Consultation response

**Appendix C** – Officer response to consultation comments.



# **Hackney Carriage and Private Hire Licensing Policy**

**1 February 2023 – 31 January 2028**

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## 1. Introduction

- 1.1. The overriding aim of Brentwood Borough Council when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, is the protection of the public and others who use, or can be affected by, Hackney Carriage and Private Hire services.
- 1.2. This policy brings together, into one cohesive document, all previous policy and procedures on all aspects Hackney Carriage and Private Hire Licensing in Brentwood Borough.
- 1.3. Each case will always be considered on its merits having regards to this policy. Brentwood Borough Council will only depart from this policy where it considers appropriate to do so.
- 1.4. This policy came into effect on the 1 February 2023 and will be reviewed every 5 years, or sooner should there be a significant issue in Borough, or reason to consider all or part of this policy.
- 1.5. This policy has been developed with regards to the Department for Transport Statutory Taxi and Private Hire Vehicle Standards and other relevant guidance. Consultation on this policy has been undertaken with both the Hackney Carriage and Private Hire trade; and with groups that are likely to be the trade's customers, such as groups representing disabled people, organisations with a wider transport interest etc. a full list of those that were consulted is attached as Appendix H.
- 1.6. This policy will come into immediate effect for new licence applicants. For existing licence holders, the suitability criteria around criminal convictions will be applied with immediate effect, along with the conditions of licences. Changes of training requirements and record keeping will be applied to existing licence holders, with a reasonable period for implementation relevant to the requirements imposed. Where this is the case the time frame given will be stated in this policy against the requirement.

## 2. Delegation of Decision Making Powers

- 2.1. 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.
- 2.2. Brentwood Borough Council's Scheme of Delegation is attached as Appendix H
- 2.3. All Hackney Carriage and Private Hire matters under the Council Constitution are dealt with by the Council's Licensing Committee or by its Licensing Sub-Committee. The Brentwood Borough Council Constitution is published on the [Council's website](#).
- 2.4. All individuals that determine whether a licence is issued will be required to undertake sufficient training. This includes Members and Officers. This training will at least meet the

minimum requirements of the DFT standards. Member training requirements and obligations are contained within the Council Constitution.

### 3. Failure to Disclose Information

- 3.1. Withholding information when submitting an application may be interpreted as deception and may lead to refusal of the application for this reason alone.
- 3.2. Failure to notify the Licensing Department of any arrest, conviction, caution or other relevant matter during the duration of the licence in accordance with a licence condition or bylaw, may also be treated as deception and may lead to refusal/revocation/suspension of a licence for this reason alone.

### 4. Complaints against licence holders

- 4.1. Complaints about licence holders will be recorded on the Council's database. All complaints will be investigated, and appropriate action taken, which may include, no further action, a written warning, referral to a licensing sub-committee for consideration, or suspension or revocation of the licence.
- 4.2. A pattern of complaints about a licence holder may be sufficient on the balance of probabilities to take more formal action than an individual complaint may warrant alone.
- 4.3. Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to conviction may also include matters that amount to criminal behaviour, but which have not resulted in a conviction.



## 5. Driver Licences

### 5.1. Overview

- 5.1.1. For the safety and protection of the public, any person that drives a Private Hire or Hackney Carriage Vehicle that is licensed by Brentwood Borough Council, must hold the relevant driver's licence that is also issued by Brentwood Borough Council.
- 5.1.2. For the purposes of this policy the term "driver's licence" will refer to a Hackney Carriage or Private Hire Driver's licence, or a Combined licence where the holder is entitled to drive both types of vehicles.
- 5.1.3. Drivers cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59).
- 5.1.4. In determining if a person is "fit and proper", this authority will consider the updated expression "safe and suitable" and will largely apply the test:  
  
'Would you (as a member of the licensing committee or other person charged with the ability to grant a driver's licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?'
- 5.1.5. Failure to comply with any pre licensing requirement or condition of the licence may be grounds for refusal of application or revocation of the licence for that reason alone.

### 5.2. Duration of Licences

- 5.2.1. A Driver's licence will normally be issued for a three-year duration.
- 5.2.2. Any shorter duration will only be issued if it is appropriate in the specific circumstances of the case, such as when the applicant has requested a one-year licence or where required, which may include but is not limited to the licence holder's leave to remain in the UK is time-limited.

### 5.3. Pre-Licensing Requirements

- 5.3.1. To qualify for a driver's licence, you must:
  - Hold a full DVLA or equivalent driver's licence for at least 2 years.
  - Have the right to work in the UK.
  - Complete the tax check requirements for taxi and private hire drivers.
  - Submit a fully completed application form.
  - Be subject to an Enhanced DBS check
  - Sign up to the DBS update service (after the initial DBS check has been completed).

- If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom then criminal records information or a 'Certificate of Good Character' from overseas must also be provided.
- Have been checked against the National Anti-Fraud Network (NAFN) database on refusals and revocations of Hackney Carriage and Private Hire licence.
- Have met the Council's Medical Fitness Criteria which is in line with the DVLA Group 2 standard.
- Have met the Council's Safeguarding and Child Sexual Exploitation Awareness Training criteria.
- Have passed the Council's Knowledge Test.
- Have met the Council's approved disability awareness training requirements.
- Have met the Council's Language proficiency requirements.
- Have paid the licence fee (please see current fees list).

#### 5.4. Disclosure and Barring Service (DBS) Check

- 5.4.1. An enhanced DBS check must include a check of the children and adult barred Lists (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2).
- 5.4.2. Licence holders should maintain their DBS Certificate through the DBS Update service continuously through the duration of their licence, failure to do so is likely to lead to the immediate suspension of the licence.
- 5.4.3. Existing licence holders will need to undertake a new enhanced DBS check and maintain their DBS Certificate within 6 months from the implementation of this policy, or at the next renewal of their licence if that is sooner.
- 5.4.4. The DBS update service can be registered for upon application for the enhance DBS check as in 5.4.1, or within 30 days of the certificate being issued. Failure to register for the update service is likely to lead to the immediate suspension of the licence and will require the payment of a further fee.
- 5.4.5. Applicants that are already registered for the DBS update service, must submit the original DBS Certificate, that is associated with the update service registration, and that certificate must have been issued in line with the checks required in 5.4.1 above.
- 5.4.6. Manual DBS certificates in rare circumstances are issued by the DBS when an automated DBS certificate cannot be issued. Unfortunately, manual certificates cannot be used to join the DBS Update Service and they cannot be added to an existing Update Service subscription. If a manual certificate is used after an Update Service subscription has been paid for, a refund will be issued by the DBS.
- 5.4.7. Where an applicant has been issued with a manual certificate, a Enhanced DBS check will be undertaken every 6 months, with no additional cost to the licence holder. Failure to reapply for a DBS when requested by the Licensing Department, may result in the immediate suspension of the licence.

#### 5.5. Assessment of Previous Convictions

- 5.5.1. The criteria for determining whether an individual should be granted or retain a Hackney Carriage driver's licence are identical to the criteria for a Private Hire driver's licence, the two are considered together.
- 5.5.2. Appendix A sets out the council's criteria for assessing previous convictions for all driver applications and licence holders.

## 5.6. Tax Check Requirements.

- 5.6.1. The HMRC Tax Check requirement does not apply on first application, unless the applicant has held the same licence with the Council or any other local authority within the past 12 months.
- 5.6.2. For renewal applications and applicants that have held the same licence with the Council or any other local authority within the past 12 months, a licence will not be issued without a satisfactory tax check code being provided.

## 5.7. Previous Refusals and Revocations of Hackney Carriage and Private Hire Licences

- 5.7.1. A check of the National Anti-Fraud Network (NAFN) database on refusals and revocations of Hackney Carriage and Private Hire licence (NR3 database) will be made for every licence application.
- 5.7.2. The applicant will also be required to disclose if they hold or have previously held a licence with another authority, and if they have had an application for a licence refused, revoked or suspended by any other licensing authority.
- 5.7.3. Where an applicant has a previous refusal, suspension or revocation by another authority, contact will be made with the relevant licensing authority to seek further information. If information is disclosed, this information will be taken into account in determining the applicant's fitness to be licensed.
- 5.7.4. Brentwood Borough Council's policy on how we use the NR3 Database can be found at Appendix F

## 5.8. Medical Fitness Criteria

- 5.8.1. Up to the age of 70 years, drivers will be required to undergo a medical examination to DVLA Group 2 standards as to their fitness to drive, every three years, or any lesser period that the examining doctor may decide.
- 5.8.2. Those drivers suffering from known and notified medical disorders and those over 70 years of age, will be required to undergo a medical examination to Group 2 standards annually, or any lesser period that the examining doctor may decide.
- 5.8.3. All medical examinations will be at the expense of the individual driver. The Council reserves the right in accordance with the Local Government (Miscellaneous Provisions) Act 1976 to require an applicant or driver to undertake an independent medical examination to DVLA Group 2 standards at such clinic or hospital as the Council may direct.
- 5.8.4. All medical examinations must be undertaken at one of the Council's agreed medical examination providers as in Appendix B

## 5.9. Safeguarding and Child Sexual Exploitation Awareness Training

- 5.9.1. All new applicants must have undergone the council's approved Safeguarding and Child Sexual Exploitation Awareness Training before a licence is granted.

- 5.9.2. Licence holders must undertake the Council's approved refresher training where required every 3 years.
- 5.9.3. The Council's approved Safeguarding and Child Sexual Exploitation Awareness Training courses and providers are detailed in Appendix C.
- 5.9.4. The cost of this training is not included in the licence fee and must be paid by the applicant or licence holder direct to the training provider.

#### 5.10. Disability Awareness Training

- 5.10.1. All new applicants must have undergone the council's approved Disability Awareness Training before a licence is granted.
- 5.10.2. Licence holders must undertake the Council's approved refresher training where required every 3 years.
- 5.10.3. The Council's approved Disability Awareness Training courses and providers are detailed in Appendix D.
- 5.10.4. The cost of this training is not included in the licence fee and must be paid by the applicant or licence holder direct to the training provider.

#### 5.11. Language Proficiency Requirements

- 5.11.1. All new applicants must undertake the Council's language proficiency assessment before a licence will be granted. This assessment will cover both oral and written English language skills.
- 5.11.2. Existing licence holders will need to undertake this assessment within 12 months from the implementation of this policy, or at the next renewal of the licence if that is sooner.
- 5.11.3. The Council's approved language proficiency assessment process and providers are detailed in Appendix E.
- 5.11.4. The cost of this training is not included in the licence fee and must be paid by the applicant or licence holder direct to the training provider.

#### 5.12. Knowledge Test

- 5.12.1. The Council's Knowledge Test is an electronic test that covers different sections as set out in Appendix G.
- 5.12.2. An application fee allows a maximum of 4 attempts at the knowledge test.
- 5.12.3. There is a fee for additional tests that must be paid for before the test is taken.
- 5.12.4. If you are not successful on a particular test, you will only be expected to answer questions on the sections you did not previously pass.

#### 5.13. Conditions

5.13.1. The non-compliance with a licence condition may lead to revocation or suspension of a licence for this reason alone.

#### 5.14. Private Hire Driver Conditions

5.14.1. A licence holder, on changing his address, shall notify the Council of such change within seven days by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk)

5.14.2. Any of the following events in respect of licence holder must be reported by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk) within 48 hours giving full details:

- a) Any charge or conviction
- b) Any caution (issued by the Police or any other agency)
- c) An arrest and release for any offence (whether or not charged)
- d) Issue of any fixed penalty notice for any matter;
- e) Any harassment or other form of warning or order within the criminal law, including Anti-Social Behaviour Orders or similar.
- f) Following any conviction or the issue of a fixed penalty notice which results in penalty points being endorsed on the licence holder's DVLA licence.

5.14.3. A driver shall at all times when working, wear their badge on their person so that it is clearly visible.

5.14.4. No person shall, being the driver of a Private Hire Vehicle, without reasonable excuse:

- a) Refuse to attend the needs of, or refuse assistance to any person with a disability, whether or not they are the user of a wheelchair.
- b) Refuse to permit the carriage of a dog used as a guide dog for a blind or partially sighted person, a hearing dog for those otherwise impaired, or an assistance dog.
- c) No person shall, being the driver of a Private Hire Vehicle, charge for carrying a guide dog, hearing dog or assistance dog, or for the carriage of a wheelchair.

5.14.5. A driver shall not refuse to carry fewer persons than the number marked on the plate.

5.14.6. If a driver carries a hirer to a certain place and the hirer asks the driver to wait, the driver may ask for his fare for driving there and ask also for a deposit against the waiting time. After accepting such a deposit, the driver shall not drive away without the consent of the hirer.

5.14.7. The driver of a Private Hire Vehicle who shall have agreed or shall have been hired to be in attendance with the vehicle at an appointed time and place shall:

- a) Unless delayed or prevented by some sufficient cause, punctually attend with such vehicle at the appointed time and place.
- b) When picking up the hirer, make his presence known in person and shall not attract the hirer's attention by sounding their horn, shouting or making any other disturbing noise.

5.14.8. A driver shall:

- a) Convey a reasonable quantity of luggage;
- b) Afford reasonable assistance in loading and unloading such luggage.

5.14.9. If the Private Hire Vehicle is fitted with a meter, the driver shall, at the commencement of the journey, activate the meter so that the word “HIRED” is clearly visible and shall keep the meter operating until the termination of the hiring. “Commencement of the journey” means (Subject to the Equalities Act 2010):

- a) When the hirer enters the vehicle;
- b) When the driver has attended at an appointed place and has made their presence known to the hirer.
- c) When the driver has presented themselves at an appointed place at a specified time.

The requirement not to charge a disabled person extra means that a meter should not be activated before, or left running, whilst the driver performs duties required by the Equality Act 2010.

5.14.10. The driver of a Private Hire Vehicle shall at all times when the vehicle is hired:

- a) Take all reasonable precautions to ensure the safety of persons travelling in, entering or alighting from their vehicle;
- b) Be clean, respectable, of smart appearance and act with civility towards all persons and shall comply with the reasonable requirements of the hirer(s).

5.14.11. The driver of a Private Hire Vehicle, when hired to drive to any particular destination shall, subject to any directions given by the hirer, proceed to that destination by the shortest available route.

5.14.12. Once a Private Hire Vehicle has been hired, a driver shall not carry anyone else during that hire, without the explicit consent of the first hirer.

5.14.13. The driver shall not demand from any hirer of a Private Hire Vehicle a fare greater than that agreed with the Operator or, if the vehicle is fitted with a taximeter and there has been no previous agreement as to the fare, the fare shown on the face of the taximeter.

5.14.14. The driver of a Private Hire Vehicle shall, immediately after the termination of the hiring, search the vehicle for any property, which may have been accidentally left therein. On finding any property left in his vehicle, a driver shall carry it as soon as possible and in any case within 72 hours, to the Brentwood Borough Council, Town Hall, Ingrave Rd, Brentwood CM15 8AY, and deposit it there.

## 5.15. [Hackney Carriage Bylaws - Drivers](#)

5.15.1. For the purpose of this consultation there are no changes proposed to the Hackney Carriage Bylaws. The existing documents will be added to this policy document for completeness.

## 6. Private Hire Operator Policy and Conditions

### 6.1. Overview

- 6.1.1. For the safety and protection of the public, Private Hire Operators within Brentwood must have a licence issued by Brentwood Borough Council. The licence permits you to accept bookings for Private Hire work.
- 6.1.2. If you intend to take bookings from an operating base situated outside Brentwood, you must apply for an Operator's licence from the appropriate local council.
- 6.1.3. 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 licence 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.
- 6.1.4. 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.
- 6.1.5. Failure to comply with any condition of the licence may be grounds for revocation of the licence for that reason alone.



## 6.2. Duration of Licences

- 6.2.1. An Operator licence will normally be issued for a five year duration.
- 6.2.2. Any shorter duration will only be issued if it is appropriate in the specific circumstances of the case, when the licensee has request it or where required, which may include but is not limited to the licence holder's leave to remain in the UK is time-limited.

## 6.3. Suitability of applicant/licence holder

- 6.3.1. Where a Private Hire Vehicle Operator licence is applied for by a company or partnership; the 'fit and proper' test will be applied to each of the directors or partners in that company or partnership.
- 6.3.2. The Council will consider whether an applicant or licence holder with a conviction for offences provided in Appendix A, other than those relating to driving, meet the 'fit and proper' threshold.
- 6.3.3. Refusal to licence 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 Private Hire Vehicle Operator licence; this decision will 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.

## 6.4. Pre Licensing Requirements

- 6.4.1. To apply for a Private Hire Operator licence you need to submit the following:
  - A completed application form
  - Have the right to work in the UK.
  - A basic disclosure from the DBS (unless the applicant is also a licensed driver with Brentwood Borough Council)
  - If any applicant has, from the age of 10 years, has spent six continuous months or more living outside the United Kingdom then criminal records information or a 'Certificate of Good Character' from overseas must also be provided.
  - The fee (please see current fees list)

## 6.5. Conditions

- 6.5.1. Existing licence holders will need to be compliant with all the below condition within 6 months from the implementation of this policy, or at the next renewal of the licence if that is sooner.

### 6.5.2. General Conditions

- 6.5.2.1. The licence holder must not permit the display of the word "Taxi", "Cab" or "Hackney Carriage" on any Private Hire Vehicles operated by them.

6.5.2.2. The Licence holder must notify in writing any change of address of the licence holder or the address of the operating centre by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk) immediately within 48hrs of the change.

#### 6.5.3. [Criminality Checks/reporting Convictions and Other Relevant Matters](#)

6.5.3.1. The licence holder must complete a basic disclosure from the DBS annually (unless the licence holder is also a licensed driver with Brentwood Borough Council - Should the individual cease to hold a driver licence a basic certificate will be required immediately)

6.5.3.2. Any of the following events in respect of licence holder, director or partner must be reported by email to [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk) within 48 hours giving full details:

- Any conviction (criminal or driving matter)
- Any caution (issued by the Police or any other agency)
- An arrest and release for any offence (whether or not charged)
- Issue of any fixed penalty notice for any matter;
- Any harassment or other form of warning or order within the criminal law, including Anti-Social Behaviour Orders or similar

#### 6.6. [Booking and Dispatch Staff](#)

6.6.1. An up-to-date register of all staff that take bookings or dispatch vehicles must be kept. This record shall be produced on request to any Authorised Officer of the Council or to any Constable for inspection.

6.6.2. When being added to the register, all individuals must have provided a recently issued (within 3 months) Basic DBS. This should be compatible with the Operator's policy on employing ex-offenders. Alternatively the Operator could use a 'responsible organisation' to request the check on their behalf.

6.6.3. 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.

6.6.4. Individuals that take bookings and/or dispatch vehicles for an Operator must be required, as part of their employment contract, to advise the Operator of any convictions while they are employed in this role.

6.6.5. 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.

6.6.6. Operators may outsource booking and dispatch functions, however Operators have an obligation to protect children and vulnerable adults and they must evidence that comparable protections are applied by the company to which they outsource these functions.

6.6.7. Operators or applicants for a licence must provide to the Licensing Authority, 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 Operator's licence, those with a conviction for offences provided in the annex to this document (Appendix A – 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.

## 6.7. Record Keeping

6.7.1. Operators must 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

6.7.2. Records must be retained for a minimum of twelve months

## 6.8. Use of passenger carrying vehicles (PCV) licensed drivers

6.8.1. 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 is not permitted without the informed consent of the booker. 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.

## 7. Vehicle Licences

### 7.1. Overview

7.1.1. The objective of vehicle licensing is to protect the public, who trust that vehicles dispatched are above all else safe. It is important therefore that Brentwood Borough Council is assured that those granted a vehicle licence 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 used to carry passengers are properly licensed and so maintain the safety benefits of the licence regime.

### 7.2. Duration of Licences

7.2.1. A Vehicle Licence will only be issued for a one-year duration.

### 7.3. Suitability of the Applicant/Licence Holder

7.3.1. Where a Private Hire Vehicle Operator licence is applied for by a company or partnership; the 'fit and proper' test will be applied to each of the directors or partners in that company or partnership.

7.3.2. The Council will consider whether an applicant or licence holder with a conviction for offences provided in Appendix A, other than those relating to driving, meet the 'fit and proper' threshold.

7.3.3. Refusal to licence 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 licence; this decision will 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.

### 7.4. Pre Licensing Requirements

7.4.1. To apply for a Vehicle licence, you need to submit the following:

- A completed application form
- A basic disclosure from the DBS issued in the last 12 months (unless the applicant is also a licensed driver with Brentwood Borough Council)
- If any applicant has, from the age of 10 years, has spent six continuous months or more living outside the United Kingdom then criminal records information or a 'Certificate of Good Character' from overseas must also be provided.
- The fee (please see current fees list)

- The original V5C vehicle registration certificate (logbook), which must be in the applicant's name and current address.
- Proof of ownership by means of bill of sale or hire purchase agreement.
- A current MOT test certificate.
- A valid vehicle test sheet issued by Brentwood Borough Council approved testing garage
- A valid insurance certificate.
- The old licence plate and window card (if renewing the licence)
- If the vehicle is hired or leased, proof of hire the contract must be provided which must clearly state that that the vehicle will be used as a licensed vehicle. In these circumstances the logbook may remain in the name of the organisation providing hire.

7.4.2. Existing licence holders will need to comply with the above basic disclosure requirement within 6 months from the implementation of this policy, or at the next renewal of the licence if that is sooner.

7.5. [Hackney Carriage Vehicle Pre- Licence Standards.](#)

7.5.1. For the purpose of this consultation there are no changes proposed to the existing vehicle specification or conditions. These will be subject to review later this year. The existing documents will be added to this policy document for completeness.

## 7.6. Hackney Carriage Vehicle Licence Conditions

- 7.6.1. For the purpose of this consultation there are no changes proposed to the existing vehicle specification or conditions. These will be subject to review later this year. The existing documents will be added to this policy document for completeness.

## 7.7. Private Hire Vehicle Pre-Licensing Standards

- 7.7.1. The For the purpose of this consultation there are no changes proposed to the existing vehicle specification or conditions. These will be subject to review later this year. The existing documents will be added to this policy document for completeness.

## Appendix A – Assessment of Previous Convictions

1. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.
2. Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" may also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
3. In the case of any new applicant who has been charged with any offence and is awaiting trial and / or sentencing, the determination will be deferred until the trial and / or sentencing has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
4. 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.

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. Motoring convictions.

Hackney Carriage and Private Hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.



A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.

A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

10. 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.

11. Using a hand-held device whilst driving.

Where an applicant has a conviction for using a held-hand mobile telephone or a handheld 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.

12. Hackney Carriage and Private Hire offences.

Where an applicant has a conviction for an offence concerned with or connected to Hackney Carriage or Private Hire (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

13. Vehicle use offences.

Where an applicant has a conviction for any offence which involved the use of a vehicle (including Hackney Carriages and Private Hire Vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## Appendix B- Agreed Medical Examination Providers

The following medical providers are approved by the Council to undertake a medical examination to the group 2 standards for licence holders and applicants.

- The GP surgery at which the applicant /licence holder is registered.
- Cotswold Medicals
- Just Health
- D4Drivers
- Where any of the above options are not available, any medical provider with the written consent of the Council's Licensing Manager.

## Appendix C - Approved Safeguarding and Child Sexual Exploitation Awareness Training

The following courses and providers are approved by the Council to satisfy the licensing requirements for the Safeguarding and Child Sexual Exploitation Awareness Training licence holders and applicants.

- Thurrock Council's Safeguarding and Child Sexual Exploitation Awareness Training for Taxi Drivers
- The Blue Lamp Trust Taxi Safeguarding <https://www.bluelamptrust.org.uk/safeguarding/>

## Appendix D - Approved Disability Awareness Training courses and providers

The following courses and providers are approved by the Council to satisfy the licensing requirements for the Disability Awareness Training.

- The Blue Lamp Trust Disability Awareness Course <https://www.bluelamptrust.org.uk/disability-classroom-course/>

## Appendix E– Approved Language Proficiency Assessment providers

Documentary evidence of a qualification (whether or not the qualification was obtained in the United Kingdom) on the basis of which the Council is satisfied that the applicant's level of proficiency in the English language is equivalent to level B1 on the CEFR or above, or;

A certificate from one of the Council's Secure English Language Test (SELT) providers confirming that the applicant's level of proficiency in the English language is at level B1 on the Common European Framework of Reference for Languages: ("CEFR").

### Examples of suitable evidence

This is a list of examples of suitable evidence you can supply to prove you meet the requirement. The list is not exhaustive. The subject of the qualification does not matter as long as it was taught in English.

- UK GCSE/O level (or equivalent) certificate at grades A\* to G
- UK AS-Level/A level certificate
- UK NVQ\*/BTEC/City & Guilds qualification, along with confirmation from the awarding body that the qualification provided is equivalent to GCSE or above (for example, a Blue Badge Guide qualification)
- UK BA Hons, BSc Hons degree or higher i.e. master's, PhD
- UK HNC/HND qualification
- SELT certificate at B1 level or higher, issued by Trinity College London or IELTS showing proficiency in reading, writing, speaking and listening

### Replacement certificates

There are four accredited Ofqual awarding organisations offering GCSEs in England: AQA, OCR, Pearson and WJEC. There are also others for the rest of the UK. Replacement certificates are available from those organisations. A certified confirmation of results from the relevant awarding body will be acceptable.

### Language requirement

There are currently two approved interim English language test providers: Trinity College London and IELTS (International English Language Test System).

Trinity College London's ISE I qualification will be accepted as evidence of meeting the English language requirement. [Find out more about Trinity, and how you can book the ISE I language test.](#)

IELTS Academic and General Training tests are both accepted as evidence of meeting the new English language requirement. [Find out more about IELTS, and how you can book their tests.](#)

## Appendix F - Policy on the NR3 Database

This policy will be inserted and is not part of this consultation.

<https://www.brentwood.gov.uk/pdf/1609202016212500000.pdf>

## Appendix G - Knowledge Test

The Knowledge test is a multiple choice electronic test that is split into 6 sections, and consists of 55 questions lasting for a maximum of 50 minutes.

	Topic	Description	Pass mark
1	<b>Highway code</b> 10 questions	Questions relate to things like speed limits, stopping distances, pedestrian crossings, parking and are similar to questions asked on the DVLA theory test.	All 10
2	<b>Road signs</b> 5 questions	Road signs that you need to recognise.	All: 5
3	<b>Places of interest</b> 10 questions	Landmarks such as pubs, clubs, restaurants, schools, churches, and public buildings you need to be aware of.	Hackney Carriage: 9 Private Hire: 7
4	<b>Routes</b> 15 questions for Hackney Carriage drivers only	You'll be expected to select the shortest route between 2 places in the borough. It'll be assumed that there are no roadworks, blockages or anything to stop you going by the direct route. You should note things like roundabouts, no entry signs and one-way streets when giving your answer.	Hackney Carriage: 13 Private Hire: not taken
5	<b>Conditions and law</b> 10 questions	Conditions relate to both Hackney Carriages and Private Hire Vehicles and drivers.	All: 10
6	<b>Numeracy</b> 5 questions	Questions relate to the cost of fares and the change you must give the customer.	All

## Appendix H – Scheme of Delegation

The Authority discharges its functions as described within the Council’s Constitution. Licensing matters relating to this policy are discharged through the Licensing Committee and the Licensing Sub Committee with delegations to officers for certain functions. Restrictions on the exercise of delegated functions are detailed in the scheme of delegation below.

The full terms of reference for the various committees, the arrangements for delegation and officer functions are detailed in the [Council’s Constitution](#) which is published on the Council’s website.

Licensing Function	Licensing Sub Committee	Licensing Manager	Licensing Officer
Grant of licence where there is no reason for refusal.	✓	✓	✓
Refusal or Grant of a licence where there may be reasons for refusal, such as; applications where any pre-licensing conditions are not met; matters falling outside policy guidance; matters giving rise to serious concern that the granting or the continuation of the licence may undermine public safety.	✓		
Suspension of a licence	✓	✓	✓
Revocation of a licence	✓	✓	
Revocation/Refusal where the applicant/licence holders does not hold a DVLA driving licence.		✓	
Agreement to depart form policy where policy allows officer discretion.		✓	

## Appendix J – List of Consultees for this policy

- Hackney Carriage Licence Holders
- Private Hire Licence Holders
- Local Area Access Groups
- Public consultation via Brentwood Borough Council website.

Licensing Team  
Brentwood Borough Council  
Town Hall  
Ingrave Road  
Brentwood  
Essex  
CM15 8AY

Our Ref: DBW / Treble Twenty  
Your Ref:  
Date: 16 September 2022  
Please ask for: David Wilson

**Sent by email only to:**  
**licensing@brentwood.gov.uk**

Dear Sir or Madam,

**Consultation Response of Treble Twenty Cars & Couriers Ltd  
in relation to the Brentwood Borough Council consultation  
in respect of its draft Hackney Carriage and Private Hire Licensing Policy  
for the period 1 October 2022 to 30 September 2027**

I act on behalf of Treble Twenty Cars & Couriers Ltd (“Treble Twenty” or “my client”) whose head office is at Unit 3, Kings Eight, St James Road, Brentwood, Essex CM14 4LF.

Treble Twenty is one of the longest established, largest, and most respected hackney carriage and private hire companies in Brentwood.

This letter and the accompanying table constitute the whole of my client’s consultation response to the Council’s consultation in respect of its draft Hackney Carriage and Private Hire Licensing Policy for the period 1 October 2022 to 30 September 2027.

The matters set out in the accompanying table are no less important than those detailed within this letter; I just thought a table was the better way of presenting those matters that required less comment to be made on my client’s behalf.

Before raising matters of concern, my client and I would like to start by taking this opportunity to congratulate the Council for producing a short and simple policy document, which nonetheless covers all the substantive matters identified in the Department for Transport Statutory Taxi and Private Hire Vehicle Standards 2020 (“DFT Statutory Standards”).

In essence, the policy consists of 15 pages (excluding cover, contents and appendices) whereas the equivalent policy of another local authority consisted of 134 pages (also

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**Director:**

David B Wilson Cert HELL, MIoL, MBII.tp

excluding cover, contents, blank pages, and appendices), much of which was unnecessarily duplicitous.

Regrettably, it may be that, as a result of a desire to produce a short, simple and clear policy document, some matters that should also have been included, were not.

For ease of reference, in both this letter and the accompanying table, I shall identify the part of the policy on which I am to comment by referencing the section number (and if it might assist, the section heading) or appendix letter (and, if necessary, paragraph number).

In respect of duplicitous items in this letter and the accompanying table, I apologise, but unfortunately this seemed to be necessary for the purposes of completeness and clarity.

## **1. Introduction and Appendix A**

The impression is given that, save for “exceptional circumstances”, the policy, as a whole, and specifically in relation to the assessment of previous convictions and suitability generally, will be applied inflexibly as if it were the “Rule Book” and supersedes the law.

The Council is respectfully reminded of the High Court judgment in *Pinnington v Transport for London* [2013] EWHC 3656 (Admin) in which Andrews J (as she was then) held at paragraph 17 that, although policy considerations are important, a policy has to be applied with a proper approach to the statutory test, ie is the applicant / licence holder a fit and proper person. In essence, a policy might help a decision-maker to decide whether a person meets the statutory test or not, but not meeting the policy does not automatically mean a person is not a fit and proper person to hold a hackney carriage or private hire licence.

At paragraph 20, the judge went on to hold that to restrict departure from policy only when “exceptional circumstances” were established was to “set the bar too high”. It might instead be said that the circumstances would have to be unusual or rare, although it would probably provide decision-makers with better guidance by saying that “policy may be departed from in appropriate cases, having due regard to all the circumstances of the case”.

In relation to convictions, at paragraph 22, the judge held that the mere existence of a conviction and sentence, in and of themselves, were not enough to justify a conclusion that a person is not a fit and proper person to be licensed. The judge went on to explain that a conviction should be the end point for a decision-maker, but the starting point for their considerations as to what were the circumstances.

For example, in the *Pinnington v Transport for London* case, Mr Pinnington had a recent conviction for possession of cannabis plants which, applying the policy, precluded him from the grant of a new London Cab driver’s licence. However, to state the circumstances briefly: Mr Pinnington was caught by the police disposing of his late father’s dead and dying cannabis plants in bin bags in rural Essex, something that he had agreed to do for his father, as he had not wanted his family to get into trouble for possession of the cannabis plants he had grown and used medicinally.

Applying the policy rigidly would mean that the conviction alone meant Mr Pinnington was not a fit and proper person, but applying the statutory test to the extenuating



circumstances giving rise to the conviction, the High Court held that he was a fit and proper person, a decision the Council might rightly think should have been reached by Transport for London and the magistrates' court.

Although my client is of the view that the Council has approached such matters in this way in the past, and expected it would continue to do so in the future, the failure to express these matters in the policy is, of course, a matter for concern.

Indeed, in relation to "failure to Disclose Information" at section 3 of the policy, the Council makes clear that a failure to disclose information will be treated as dishonest, describing same as "deception". A failure to provide information can result from many innocent reasons, such as misunderstanding a question; believing a conviction to have been filtered and not disclosable; or mis-remembering and giving incorrect dates or details of a conviction. Whilst such matters may cause further work for the Council and be a source of irritation, not every case of failing to provide information will be intentional and dishonest.

There is also a failure to address the position in relation to the standard and burden of proof, although it might be inferred that the Council recognises that the civil burden of proof / the balance of probability is to be applied.

In connection with hackney carriage and private hire licensing matters, as with alcohol and entertainment licensing under the Licensing Act 2003, the Court of Appeal held, in *R (on the application of Hope & Glory Public House Ltd) v City of Westminster Magistrates' Court & Ors* [2011] EWCA Civ 31, at paragraph 41, that a council performs an administrative function in a quasi-judicial like manner, whilst not strictly being judicial or quasi-judicial when determining a licensing matter.

Further in this regard, it should also be noted and referenced in the policy that:

- When considering the fitness and propriety of an applicant or licence-holder, a council is entitled to consider hearsay evidence: *McCool v Rushcliffe Borough Council* [1998] 3 All ER 889, [1999] LGR 365, QBD.
- Need not hear live evidence, ie it may rely on written statements and documents alone: *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199.
- Should determine a matter to the civil burden of proof (balance of probability) with the burden of proof resting on the applicant: *R v Crown Court at Maidstone ex parte Olson* [1992] COD 496, 136 Sol Jo LB 174.
- Once licensed, the burden of proof shifts onto the council, which may only suspend or revoke a licence when satisfied the licence-holder is no longer a fit and proper person: *Kaivanpor v Director of Public Prosecutions* [2015] EWHC 4127 (Admin).
- When considering an application or disciplinary action, a council must fully consider the available information, afford the applicant / licence holder an opportunity to state their case, and exercise their judgment and discretion, as identified by Singh J (as he was then) in *R (on the application of Singh) v*

Cardiff City Council [2012] EWHC 1852 (Admin): Reigate & Banstead Borough Council v Pawlowski [2017] EWHC 1764 (Admin).

- Exercise judgment to determine if a person continues to be a fit and proper person to hold a licence and then, if they do not, consider whether to exercise discretion to allow them to retain the licence: R (on the application of Singh) v Cardiff City Council [2012] EWHC 1852 (Admin), as referred to above.

The policy generally, but specifically in relation to Appendix A, fails to acknowledge that there is often a wide range of possibilities and does not make reasonable or necessary provisions for these very different circumstances. In this regard, please refer to the comments in the accompanying take in relation to 4.3., 4.4., 4.6., 4.9. & 4.11, and 4.10. of Appendix A.

Although this letter and the table may be regarded as being forthright in some of their assertions, my client sincerely hopes the Council will heed the warnings and requests set out herein and in the attached table, because these are matters of importance to the hackney carriage and private hire trades generally.

I would be grateful if this letter and accompanying table could be acknowledged as soon as possible.

I would also be grateful if I could be advised of the date, time and venue for the meeting of the Licensing Committee when the policy is to be further considered and advised if I might be allowed to address the Committee on these matters in person or remotely.

Thank you in anticipation of your and the Committee's careful consideration of my client's consultation response.

Yours faithfully,



**David B Wilson**

Licensing Consultant

Consulting Editor, Paterson's Licensing Acts 2015-23

Contributing Author and Consulting Editorial Board Member, LexisPSL

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<b>Consultation response of Treble Twenty Cars &amp; Couriers Ltd</b>	
<b>Reference(s)</b>	<b>Representation</b>
1.	See accompanying letter.
2.	The section heading “Decision Making” might be better replaced with “Delegation of decision-making powers”, as the section deals with who makes decisions, not how they make decisions.
3.	The use of the word “can” in 3.1 and “will” in 3.2 give the impression that a failure to disclose information will be regarded as being deception and that, as a result, an application will be refused, or a licence revoked. In both instances, the word “may” would demonstrate that dishonesty is not the only conclusion that could be reached on particular facts.
4.3	Although probably stylistic, the use of the phrase “can and will” serves again to create the impression that a particular approach will be taken, when it is hoped the Council really only meant to convey that it “will” take such matters into account, not that a particular conclusion would result.
5.1.4	The Council is deviating from the statutory test, as addressed extensively in the accompanying letter. The test is prescribed by statute, not set or defined by policy. If the Council insists upon applying a definition that has not been made by the courts, it would be prudent for the Council to do so by stating the statutory test to be applied and then explaining that the Council will seek to apply the statutory test in the way it describes.
5.2.2	The word “request” should be “requested”.
5.3.1	<p>Whilst it is acknowledged that it is difficult to secure motor insurance for a licensed hackney carriage or private hire vehicle driver under 21 years of age, because the costs are prohibitive, by imposing the age limit and requirement to have held a DVLA or equivalent driving licence for at least 3 years, the Council is being directly and indirectly declinatory on the grounds of age, a protected characteristic under the Equality Act 2010, section 5. As the Council, as a public sector body, is subject to the section 149 Public Sector Equality Duty, which requires the Council to exercise its functions to “eliminate discrimination”, it is particularly disappointing and concerning that the Council has adopted such an approach. If the Council is in any doubt as to its position, it is respectfully urged to seek advice from the Equalities &amp; Human Rights Commission.</p> <p>In relation to the requirement to complete the tax check requirement, it would be useful if it were made clear that this does not apply on first application, unless the applicant has held the same licence with the Council or any other local authority within the past 12 months.</p>

	<p>The Council has not advised that it is possible to sign up to the DBS update service on application for the certificate, although it is accepted that it is easier to sign up after the certificate has been issued.</p> <p>The Council has also not addressed the situation in relation to those individuals to whom the DBS issues a manually produced certificate, as it is not possible to sign up to the update service in respect of these certificates. Having previously suggested it would be able to automate the issue of all certificates within a couple of years, the DBS has more recently revealed that it is not going to be possible to do so and that it will, in the circumstances, refund fees to those individuals who have to repeatedly apply for new certificates. The Council is asked to verify the position with the DBS and to include up-to-date information about manual certificates in its policy.</p>
5.4.2	<p>This links to 5.3.1 above in relation to manual DBS certificates and the inability to subscribe to the DBS update service in relation to such a certificate. The Council must adopt a more flexible approach in relation to those individuals to whom manual certificates are issued by the DBS, because almost as soon as one has been issued, they will be required to apply for another.</p> <p>Whilst the responsibility to maintain the subscription to the DBS update service is the driver's, the Council will appreciate that some drivers rarely use or check their emails and will, therefore, overlook any email from the DBS advising that the card registered for payment of the annual update service fee has expired or been declined and inviting them to register another card. This is, I am afraid, a national problem, which affects drivers and councils alike, which would be best addressed by the DBS changing the way in which payment can be made. Many councils are in favour of charging drivers the subscription fee as part of the licence fee and then paying the fees over to the DBS. It might help to eradicate this problem, if the Council were to raise this issue directly with the DBS and to join forces with other councils by raising this with the LGA (Local Government Association).</p>
5.4.3 5.10.2 6.5.1 7.4.2	<p>The Council asserts that existing licence holders will have to comply with new policy requirements within a specified period of time following the implementation of the policy (6 months for subscription to the DBS update service at 5.4.3; 12 months for language proficiency requirements at 5.10.2; 6 months for operators in relation to new conditions pursuant to 6.5.1; and 6 months for vehicle licence holders in relation to the requirement for a Basic DBS check at 7.4.2). However, once issued, the Council has no power to vary or amend the conditions attached to a licence. To do so, or to attempt to do so, would unlawfully frustrate parliamentary intention, which was held to be unlawful by the House of Lords (as it was then) in <i>Padfield &amp; Ord v Minister of</i></p>

	<p>Agriculture, Fisheries &amp; Food, &amp; Ors [1968] AC 997, [1968] 1 All ER 694, [1968] 2 WLR 924.</p> <p>The Council can ask licence holders to cooperate and might take a dim view of those who do not do so, but whether such a failure, in and of itself, would genuinely call into question whether a person was no longer a fit and proper person is perhaps unlikely, applying and considering the approach of the High Court in <i>Pinnington v Transport for London</i>, as referred to extensively in the accompanying letter.</p>
5.5.1	<p>The sentence might be re-written to more simply express that “The criteria for determining whether an individual should be granted or permitted to retain a hackney carriage and / or private hire driver’s licence are the same.”</p>
5.7.1 & 5.7.2	<p>The DVLA Group 2 medical standard provides for an initial medical assessment on application and then at 45 and every 5 years thereafter to age 65 after which tests are required annually.</p> <p>The Council’s proposals do not, contrary to the assertions made in the policy, adopt the DVLA Group 2 medical standard.</p> <p>To reduce the frequency for undertaking medical examinations from 5 years to 3 years, without any justification or material evidence to justify such a requirement, is a breach of the Regulators’ Code (BRDO 14/705), which requires regulators, such as the Council, to make evidence-based decisions and not to impose unnecessary regulatory burdens, least of all those that increase costs on those they regulate.</p> <p>The DFT Statutory Standards advocate the adoption of the DVLA Group 2 medical standards, as do the 2010 DFT Best Practice Guidance and the 2022 draft DFT Best Practice Guidance. None of these governmental guidance documents recommend the adoption of a hybrid arrangement for medical examinations.</p> <p>The Council could, as part of the driver application process, require all applicants for new / renewal licences to agree to submit to medical examinations in accordance with the DVLA Group 2 medical standard and it could also attach a condition to that effect to private hire driver licences. It is not necessary to require medical examination every 3 years just because the maximum duration the Council may issue a driver’s licence for is 3 years.</p>
5.7.3	<p>Whilst it is accepted that, by virtue of the Local Government (Miscellaneous Provisions) Act 1976, section 57(2)(a)(i) &amp; (ii), a council can require medical examinations as the Council asserts, this power applies only in connection with the consideration of an application for a driver’s licence.</p>

	Regrettably, there is no equivalent statutory power to require licence holders to submit to medical examinations, so the Council will have to look to achieve this by requiring drivers to agree at application to notify the Council of any changes to their medical fitness to drive, and to attach conditions to private hire driver licences.
5.11	Unless the Council has material evidence to justify imposing a limit on the number of attempts an applicant may make to pass the knowledge test, the Regulators' Code would prevent the Council from imposing an arbitrary limit. In the circumstances, the Council is asked to remove the proposed limit, especially at this time when there is a national shortage of drivers and a decreasing pool of candidates, as the unemployment levels have hit a 40-year low.
5.12.1 6.1.5	<p>As referred to in the accompanying letter and in relation to 5.4.3 &amp; 5.10.2 above, to suspend or revoke a licence for non-compliance, in and of itself, might well be unlawful. However, it is noted that the Council qualifies this assertion with the word "may" and it is assumed that suspension or revocation is unlikely to be the sole reason for suspension or revocation.</p> <p>For example, if a condition required a driver to have a medical examination at intervals specified by the DVLA Group 2 medical standards and they did not do so, because they had cataracts, the Council would be likely to revoke the licence because the driver was medically unfit to drive due to the cataracts, not because they had failed to comply with the condition of their licence requiring them to submit to a medical examination.</p>
5.13 6.5.2	It is respectfully suggested that the private hire driver conditions (at 5.13) and the private hire operator conditions (at 6.5.2 to 6.8.1) should not be included in the body of the policy, but be appended to it.
5.13.5	<p>The wording of this condition, relating to passenger carrying capacity, seems not quite to reflect what the Council intends.</p> <p>The condition prohibits a driver from refusing to carry "fewer persons than the number specified on the plate", which seems inadvertently to mean that a driver can refuse to carry the number of persons specified on the plate!</p> <p>It might, therefore, be prudent to express the condition as, "A driver shall not carry more persons than the number marked on the plate."</p>
5.13.9	The wording of this condition seems to encourage drivers to commit criminal offences in relation to the carriage of disabled people by permitting drivers to charge before a disabled person gets into their vehicle.

	<p>Until 28 June 2022, this would only have applied to drivers of designated wheelchair accessible vehicles who were not entitled to charge more as a result of having to comply with statutory duties in relation to the carriage of a person in a wheelchair. However, the provisions of the Equality Act 2010 were amended with effect from the aforementioned date by the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.</p> <p>The Council is respectfully referred to the amended version of the 2010 Act and the statutory guidance issued by the DFT, which is available online at:  <a href="https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users/access-to-taxis-and-private-hire-vehicles-for-disabled-users--2">https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users/access-to-taxis-and-private-hire-vehicles-for-disabled-users--2</a></p>
5.3.14	<p>It is assumed that the requirement for drivers to deliver found lost property to Thurrock Council at Civic Offices, New Road, Grays is an error, and that the Council's own address should have been specified.</p> <p>If this was not an error and the Council genuinely proposes requiring drivers to deliver found lost property to the Civic Offices of another council, this would be a further regulatory burden the Council was seeking to impose in breach of the Regulators' Code. The Council is respectfully asked to amend this condition of licence accordingly.</p>
5.14 7.5.1 7.6.1 7.7.1	<p>It is agreed that the hackney carriage byelaws; hackney carriage vehicle pre-licence standards; hackney carriage vehicle licence conditions; and the private hire vehicle pre-licensing standards should be appended to the policy.</p>
6.3 7.3.1	<p>Whilst it is anticipated that references to company or partnership are intended to convey that an application for an operator's licence or a vehicle licence may be made by a company or partnership, as well as by an individual, that is not expressly stated and, as a result, it appears an application may only be made by a company or a partnership.</p>
6.5.3.2	<p>The list of matters to be notified is different to that at 5.13.2 and does not accurately describe each. For example, the DFT Statutory Standards refers to "arrest and release" whereas this condition incorrectly refers to arrest, whether or not charged.</p>
7.4.1	<p>Can the Council please amend the requirement in relation to a Basic DBS check for a vehicle licence to only require it to have been issued in the previous 12 months? Otherwise, anyone who owns more than one vehicle might be required to obtain as many as 12 Basic DBS certificates a year if, for example, a certificate were only accepted for one month from the date of issue.</p>

Appendix A	The comments in relation to the policy expressed in the accompanying letter also expressly relate to policy in relation to the fitness and propriety of applicants and licence holders.
Appendix A, 3.	After each of the times the word “trial” appears, it is suggested that the words “and / or sentencing” should be added to make clear that the Council would also want to know what sentence were passed, if an applicant were to be convicted of an offence.
Appendix A, 4.1.	Contrary to the section heading of “crimes resulting in death”, this section also refers to “serious injury” without defining what that term means or differentiating such matters from 4.3., which is concerned with “offences involving violence against the person”. To further complicate matters, the term “serious injury” is not one known to the criminal law in relation to offences against the person. In the circumstances, to avoid the risk of offences falling into two categories of offences without any rational way of determining whether an offence should fall into one category or the other, the Council is asked to simplify this section by removing the reference to “serious injury” so that this section is concerned only with “crimes resulting in death”, as per the section heading.
Appendix A, 4.3.	<p>Offences involving violence against the person covers a very wide range of actions and offences. At the lowest end of the range, there is common assault which does not actually require there to be actual violence, so someone throwing a punch and missing is guilty of common assault, as is someone spitting at another, again irrespective of whether the spit makes contact with the intended victim. At the other end of the range there are offences of intentionally causing grievous bodily harm (“GBH”) and attempted murder. See the CPS Guidance at:</p> <p><a href="https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard">https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard</a>.</p> <p>With the greatest of respect to the Department for Transport that has promulgated these standards, it is preposterous to suggest that offences at both ends of the spectrum should be treated the same. Ten years is grossly excessive for a common assault and may be grossly inadequate for someone convicted of GBH or attempted murder. The Council is asked to reconsider this provision and to apply its own common-sense approach.</p>
Appendix A, 4.4.	The same sentiment as expressed above in relation to 4.3. applies equally to possession of weapons. At the lower end of the range there is the person, who fearing they are about to be attacked by a rowdy group of youths, picks up a tree branch from the ground in order to defend themselves, should it become necessary to do so. At the other end of the scale, there is the person who is armed with an illegally possessed gun. The Council is asked to reconsider this provision and to apply its own common-sense approach.
Appendix A, 4.6.	Again, the same sentiment as expressed above in relation to 4.3. applies equally to offences of dishonesty. At the lower end of the range there is the homeless person who steals food because they are hungry. And at the top end of the range there are the likes of



	<p>the Brink's Mat robbers who stole £26,000,000 of gold in 1983. The Council is asked to reconsider this provision and to apply its own common-sense approach.</p>
Appendix A, 4.7.	<p>For the purposes of more clearly separating the provisions in relation to drug dealing and drug possession, the Council is asked to separate this one paragraph into two paragraphs, each starting with "Where an applicant . . .".</p>
Appendix A, 4.9. Appendix A, 4.11.	<p>Although the offence of using a hand-held device whilst driving has been addressed separately at 4.11, I include same in the comments to be made generally in relation to motoring convictions.</p> <p>A licensed hackney carriage or private hire vehicle driver probably drives 4-6 times the annual mileage of the average motorist in a year.</p> <p>That is relevant when considering the frequency and pattern of offending, because a licensed driver who commits two speeding offences 12 months apart will have driven the same distance that an average motorist would drive in 4-6 years. In the circumstances, if these speeding offences had been committed by an average motorist with the same mileage driven between them, the penalty points imposed for the first offence would have been long since expired and removed from the average motorists driving record.</p> <p>To describe speeding and other minor road traffic offences as an occupational hazard would, of course, be to downplay the potential seriousness of such offences, but if a driver does commit three such offences to accrue 7 or more live penalty points, maybe, rather than to punish the driver, the Council could source a driver improvement course, which the driver could be required to undertake at their own expense. This would hopefully help the driver to break the pattern of offending and become a safer and better driver, which would be a benefit to all road users, not just the driver and his passengers.</p>
Appendix A, 4.10.	<p>Although drink or drug driving is not to be encouraged or condoned, as has been made clear in the national media, there is currently a wave of drug spiking taking place across the country, although drink spiking has been commonplace for decades, generally being intended as a joke amongst a group of friends. In any event, however spiking may arise, a person spiked who drives is still guilty of an offence, even though they were unaware they had been spiked and were incapable of driving. This is because these offences are what are known as "absolute offences", which simply means a person is guilty of the offence if they did the act alleged, even if they were unaware of this and lacked mens rea, the criminal intent to commit the offence. As extensively addressed in the accompanying letter, the policy proceeds on the basis that every situation is black and white and that guilty is guilty, and that the consequences should always be the same. Hopefully,</p>

	<p>the examples set out here at 4.3., 4.4., 4.6., 4.9. &amp; 4.11., and 4.10 serve to illustrate the need for the Council to make some changes and to apply its own common-sense to these matters and the wider policy generally.</p>
<p>Appendix G</p>	<p>The Council's proposal to lower standards for private hire vehicle drivers is a concern to my client, as I am sure it would be to the travelling public, if they were aware of the proposals.</p> <p>Whilst there is only one mark difference in the pass mark for the 'Highway Code' section, there can be no good reason why an applicant for a private hire vehicle driver's licence should be allowed to have a lower standard of knowledge in this key area of testing. Drivers that do not know the Highway Code are bound to be more likely to commit motoring offences and to put fare-paying passengers and other road users at greater risk of being involved in an accident.</p> <p>Furthermore, the removal of the 'Routes' section of the test and the lowering of the pass mark for the 'Places of Interest' section of the test for applicants for a private hire vehicle driver's licence will serve only to undermine and devalue the appropriately high standards the Council has maintained for years. In the eyes of the travelling public, the knowledge and competence of existing and future private hire drivers will be regarded as being second-rate to hackney carriage drivers if the proposed dilution of standards for passing the knowledge test are reduced.</p> <p>The knowledge test is appropriately hard to pass, but that is why my client advocates scrapping the limit on the number of attempts a candidate can have to pass the test. Please see comments above in relation to 5.11.</p> <p>Finally, at 6, for the sake of completeness, alongside "All" in the pass mark column could be added ": 5" to adopt a consistent style the provision of information in relation to the other elements of the test.</p>
<p>Appendix H</p>	<p>The second category in the table, which may only be determined by a Licensing Sub Committee, should also expressly state that the Licensing Sub Committee may attach additional conditions and / or amended conditions to a licence, subject to there being such a power to attach conditions to a licence.</p> <p>It is not clear in what circumstances the Licensing Manager may be called to determine the position in relation to an applicant / licence holder not holding a DVLA driving licence (category 5 of the table), but should this be concerned with non-DVLA driving licences, maybe the Licensing Manager should also have the power to grant a licence, not just to revoke or refuse a licence.</p>

	<p>The last category might better refer to the “Power to depart from policy” rather than the “Agreement to depart from policy”, there being no indication of any such agreement. Furthermore, should the reference to “officer” be deleted and the power also delegated to the Licensing Sub Committee, so as to make clear that both may depart from policy in appropriate cases?</p>
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Policy Section	Consultation Response	Officer comments/amendments
1.3 Appendix A	See attached letter: Introduction and Appendix A	Amend Policy to remove: This will normally happen where Brentwood Council considers that there are exceptional circumstances which warrant a different decision.  No amendments to appendix A.
	See attached letter: There is also a failure to address the position in relation to the standard and burden of proof, although it might be inferred that the Council recognises that the civil burden of proof / the balance of probability is to be applied.	No proposed amendment to policy.
2.	The section heading "Decision Making" might be better replaced with "Delegation of decision-making powers", as the section deals with who makes decisions, not how they make decisions.	Amend heading to: Delegation of decision-making powers
3.1 3.2	The use of the word "can" in 3.1 and "will" in 3.2 give the impression that a failure to disclose information will be regarded as being deception and that, as a result, an application will be refused, or a licence revoked. In both instances, the word "may" would demonstrate that dishonesty is not the only conclusion that could be reached on particular facts.	Amend Policy: 3.1 Withholding information when submitting an application <b>may</b> be interpreted as deception and may lead to refusal of the application for this reason alone.  3.2 Failure to notify the Licensing Department of any arrest, conviction, caution or other relevant matter during the duration of the licence in accordance with a licence condition or bylaw, <b>may</b> also be treated as deception and may lead to refusal/revocation/suspension of a licence for this reason alone.
4.3	Although probably stylistic, the use of the phrase "can and will" serves again to create the impression that a particular approach will be taken, when it is hoped the Council really only meant to convey that it "will" take such matters into account, not that a particular conclusion would result.	No proposed amendment to policy.

5.1.4	The Council is deviating from the statutory test, as addressed extensively in the accompanying letter. The test is prescribed by statute, not set or defined by policy. If the Council insists upon applying a definition that has not been made by the courts, it would be prudent for the Council to do so by stating the statutory test to be applied and then explaining that the Council will seek to apply the statutory test in the way it describes.	<p>No proposed amendments are suggested. This is a reflection of the Statutory Guidance which provides:</p> <p>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:</p> <p>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?</p> <p>5.13 If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.</p>
5.2.2	The word “request” should be “requested”.	<p>Amend Policy:</p> <p>Any shorter duration will only be issued if it is appropriate in the specific circumstances of the case, such as when the applicant has <b>requested</b> a one-year licence or where required, which may include but is not limited to the licence holder's leave to remain in the UK is time-limited</p>
5.3.1	Whilst it is acknowledged that it is difficult to secure motor insurance for a licensed hackney carriage or private hire vehicle driver under 21 years of age, because the costs are prohibitive, by imposing the age limit and requirement to have held a DVLA or equivalent driving licence for at least 3 years, the Council is being directly and indirectly declinatory on the grounds of age, a protected characteristic under the Equality Act 2010, section 5. As the Council, as a public sector body, is subject to the section 149 Public Sector Equality Duty, which requires the Council to exercise its functions to “eliminate discrimination”, it is particularly disappointing and concerning that the Council has adopted such an	<p>Remove the requirements to be at least 21 years of age.</p> <p>Amend the requirement to have held a DVLA or equivalent driving licence for at least 3 years to 2 years.</p> <p>The reason for the amendment reflects the DVLA rule for new drivers that a licence will be cancelled (revoked) if a new driver gets 6 or more points within 2 years of passing their test.</p> <p>Amended to include:</p>

	<p>approach. If the Council is in any doubt as to its position, it is respectfully urged to seek advice from the Equalities &amp; Human Rights Commission.</p> <p>In relation to the requirement to complete the tax check requirement, it would be useful if it were made clear that this does not apply on first application, unless the applicant has held the same licence with the Council or any other local authority within the past 12 months.</p> <p>The Council has not advised that it is possible to sign up to the DBS update service on application for the certificate, although it is accepted that it is easier to sign up after the certificate has been issued.</p> <p>The Council has also not addressed the situation in relation to those individuals to whom the DBS issues a manually produced certificate, as it is not possible to sign up to the update service in respect of these certificates. Having previously suggested it would be able to automate the issue of all certificates within a couple of years, the DBS has more recently revealed that it is not going to be possible to do so and that it will, in the circumstances, refund fees to those individuals who have to repeatedly apply for new certificates. The Council is asked to verify the position with the DBS and to include up-to-date information about manual certificates in its policy.</p>	<p>5.6.1. The HMRC Tax Check requirement does not apply on first application, unless the applicant has held the same licence with the Council or any other local authority within the past 12 months.</p> <p>5.6.2. For renewal applications and applicants that have held the same licence with the Council or any other local authority within the past 12 months, a licence will not be issued without a satisfactory tax check code being provided.</p> <p>Include:</p> <p>5.4.4. The DBS update service can be registered for upon application for the enhance DBS check as in 5.4.1, or within 30 days of the certificate being issued. Failure to register for the update service is likely to lead to the immediate suspension of the licence and will require the payment of a further fee.</p> <p>5.4.5. Applicants that are already registered for the DBS update service, must submit the original DBS Certificate, that is associated with the update service registration, and that certificate must have been issued in line with the checks required in 5.4.1 above.</p> <p>5.4.7. Where an applicant has been issued with a manual certificate, a Enhanced DBS check will be undertaken every 6 months, with no additional cost to the licence holder. Failure to reapply for a DBS when requested by the Licensing Department, may result in the immediate suspension of the licence.</p>
5.3.1	<p>This links to 5.3.1 above in relation to manual DBS certificates and the inability to subscribe to the DBS update service in relation to such a certificate. The Council must adopt a more flexible approach in relation to those individuals to whom manual certificates are</p>	<p>There are no proposals to include the DBS update service fee in the licence fee. It will remain the responsibility of the licence holder to ensure that they keep their account up to date.</p>

	<p>issued by the DBS, because almost as soon as one has been issued, they will be required to apply for another. Whilst the responsibility to maintain the subscription to the DBS update service is the driver's, the Council will appreciate that some drivers rarely use or check their emails and will, therefore, overlook any email from the DBS advising that the card registered for payment of the annual update service fee has expired or been declined and inviting them to register another card. This is, I am afraid, a national problem, which affects drivers and councils alike, which would be best addressed by the DBS changing the way in which payment can be made. Many councils are in favour of charging drivers the subscription fee as part of the licence fee and then paying the fees over to the DBS. It might help to eradicate this problem, if the Council were to raise this issue directly with the DBS and to join forces with other councils by raising this with the LGA (Local Government Association).</p>	
<p>5.4.3 5.10.2 6.5.1 7.4.2</p>	<p>The Council asserts that existing licence holders will have to comply with new policy requirements within a specified period of time following the implementation of the policy (6 months for subscription to the DBS update service at 5.4.3; 12 months for language proficiency requirements at 5.10.2; 6 months for operators in relation to new conditions pursuant to 6.5.1; and 6 months for vehicle licence holders in relation to the requirement for a Basic DBS check at 7.4.2). However, once issued, the Council has no power to vary or amend the conditions attached to a licence. To do so, or to attempt to do so, would unlawfully frustrate parliamentary intention, which was held to be unlawful by the House of Lords (as it was then) in <i>Padfield &amp; Ord v Minister of Agriculture, Fisheries &amp; Food, &amp; Ors</i> [1968] AC 997, [1968] 1 All ER 694, [1968] 2 WLR 924. The Council can ask licence holders to cooperate and might take a dim view of those who do not do so, but whether such a failure, in and of itself, would genuinely call into question whether a person was no longer a fit and proper</p>	<p>No proposed amendments.</p>



	person is perhaps unlikely, applying and considering the approach of the High Court in <i>Pinnington v Transport for London</i> , as referred to extensively in the accompanying letter.	
5.5.1	The sentence might be re-written to more simply express that “The criteria for determining whether an individual should be granted or permitted to retain a hackney carriage and / or private hire driver’s licence are the same.”	No proposed amendments.
5.7.1(5.8.1) 5.7.2(5.8.2)	The DVLA Group 2 medical standard provides for an initial medical assessment on application and then at 45 and every 5 years thereafter to age 65 after which tests are required annually. The Council’s proposals do not, contrary to the assertions made in the policy, adopt the DVLA Group 2 medical standard. To reduce the frequency for undertaking medical examinations from 5 years to 3 years, without any justification or material evidence to justify such a requirement, is a breach of the Regulators’ Code (BRDO 14/705), which requires regulators, such as the Council, to make evidence-based decisions and not to impose unnecessary regulatory burdens, least of all those that increase costs on those they regulate. The DFT Statutory Standards advocate the adoption of the DVLA Group 2 medical standards, as do the 2010 DFT Best Practice Guidance and the 2022 draft DFT Best Practice Guidance. None of these governmental guidance documents recommend the adoption of a hybrid arrangement for medical examinations. The Council could, as part of the driver application process, require all applicants for new / renewal licences to agree to submit to medical examinations in accordance with the DVLA Group 2 medical standard and it could also attach a condition to that effect to private hire driver licences. It is not necessary to require medical examination every 3 years just because the maximum duration the Council may issue a driver’s licence for is 3 years.	Amend Policy:  Up to the age of 70 years, drivers will be required to undergo a medical examination to DVLA Group 2 standards as to their fitness to drive, every five years, or any lesser period that the examining doctor may decide.
5.7.3 (5.8.3)	Whilst it is accepted that, by virtue of the Local Government (Miscellaneous Provisions) Act 1976, section 57(2)(a)(i) & (ii), a council can require medical examinations as the Council asserts,	No proposed amendments to policy.

	<p>this power applies only in connection with the consideration of an application for a driver's licence. Regrettably, there is no equivalent statutory power to require licence holders to submit to medical examinations, so the Council will have to look to achieve this by requiring drivers to agree at application to notify the Council of any changes to their medical fitness to drive, and to attach conditions to private hire driver licences.</p>	
5.11 (5.12)	<p>Unless the Council has material evidence to justify imposing a limit on the number of attempts an applicant may make to pass the knowledge test, the Regulators' Code would prevent the Council from imposing an arbitrary limit. In the circumstances, the Council is asked to remove the proposed limit, especially at this time when there is a national shortage of drivers and a decreasing pool of candidates, as the unemployment levels have hit a 40-year low.</p>	<p>The limit only relates to the number of tests that are included in the application fee. There are no restrictions on the number of tests that can be attempted subject to payment of the additional fee.</p>
5.12.1 (5.13.1) 6.1.5	<p>As referred to in the accompanying letter and in relation to 5.4.3 &amp; 5.10.2 above, to suspend or revoke a licence for non-compliance, in and of itself, might well be unlawful. However, it is noted that the Council qualifies this assertion with the word "may" and it is assumed that suspension or revocation is unlikely to be the sole reason for suspension or revocation. For example, if a condition required a driver to have a medical examination at intervals specified by the DVLA Group 2 medical standards and they did not do so, because they had cataracts, the Council would be likely to revoke the licence because the driver was medically unfit to drive due to the cataracts, not because they had failed to comply with the condition of their licence requiring them to submit to a medical examination.</p>	<p>No proposed amendments.</p>
5.13 (5.14) 6.5.2	<p>It is respectfully suggested that the private hire driver conditions (at 5.13) and the private hire operator conditions (at 6.5.2 to 6.8.1) should not be included in the body of the policy, but be appended to it.</p>	<p>No proposed amendments.</p>
5.13.5 (5.14.5)	<p>The wording of this condition, relating to passenger carrying capacity, seems not quite to reflect what the Council intends. The</p>	<p>No proposed amendments.</p>

	condition prohibits a driver from refusing to carry “fewer persons than the number specified on the plate”, which seems inadvertently to mean that a driver can refuse to carry the number of persons specified on the plate! It might, therefore, be prudent to express the condition as, “A driver shall not carry more persons than the number marked on the plate.”	
5.13.9 (5.14.9)	The wording of this condition seems to encourage drivers to commit criminal offences in relation to the carriage of disabled people by permitting drivers to charge before a disabled person gets into their vehicle. Until 28 June 2022, this would only have applied to drivers of designated wheelchair accessible vehicles who were not entitled to charge more as a result of having to comply with statutory duties in relation to the carriage of a person in a wheelchair. However, the provisions of the Equality Act 2010 were amended with effect from the aforementioned date by the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022. The Council is respectfully referred to the amended version of the 2010 Act and the statutory guidance issued by the DFT, which is available online at: <a href="https://www.gov.uk/government/publications/access-to-taxis-andprivate-hire-vehicles-for-disabled-users/access-to-taxis-andprivate-hire-vehicles-for-disabled-users--2">https://www.gov.uk/government/publications/access-to-taxis-andprivate-hire-vehicles-for-disabled-users/access-to-taxis-andprivate-hire-vehicles-for-disabled-users--2</a>	Have added: The requirement not to charge a disabled person extra means that a meter should not be activated before, or left running, whilst the driver performs duties required by the Equality Act 2010.
5.13.14 (5.14.14)	It is assumed that the requirement for drivers to deliver found lost property to Thurrock Council at Civic Offices, New Road, Grays is an error, and that the Council’s own address should have been specified. If this was not an error and the Council genuinely proposes requiring drivers to deliver found lost property to the Civic Offices of another council, this would be a further regulatory burden the Council was seeking to impose in breach of the Regulators’ Code. The Council is respectfully asked to amend this condition of licence accordingly.	Amended to say: Brentwood Borough Council, Town Hall, Ingrave Rd, Brentwood CM15 8AY
5.14 (5.15) 7.5.1 7.6.1	It is agreed that the hackney carriage byelaws; hackney carriage vehicle pre-licence standards; hackney carriage vehicle licence	No proposed amendments.

7.7.1	conditions; and the private hire vehicle pre-licensing standards should be appended to the policy.	
6.3 7.3.1	Whilst it is anticipated that references to company or partnership are intended to convey that an application for an operator's licence or a vehicle licence may be made by a company or partnership, as well as by an individual, that is not expressly stated and, as a result, it appears an application may only be made by a company or a partnership.	Amend to: Where a Private Hire Vehicle Operator licence is applied for by a company or partnership; the 'fit and proper' test will be applied to each of the directors or partners in that company or partnership.
6.5.3.2	The list of matters to be notified is different to that at 5.13.2 (5.14.2) and does not accurately describe each. For example, the DFT Statutory Standards refers to "arrest and release" whereas this condition incorrectly refers to arrest, whether or not charged.	Amended to: Any of the following events in respect of licence holder, director or partner must be reported by email to <a href="mailto:licensing@brentwood.gov.uk">licensing@brentwood.gov.uk</a> within 48 hours giving full details: <ul style="list-style-type: none"> <li>• Any conviction (criminal or driving matter)</li> <li>• Any caution (issued by the Police or any other agency)</li> <li>• An arrest and release for any offence (whether or not charged)</li> <li>• Issue of any fixed penalty notice for any matter;</li> <li>• Any harassment or other form of warning or order within the criminal law, including Anti-Social Behaviour Orders or similar</li> </ul>
7.4.1	Can the Council please amend the requirement in relation to a Basic DBS check for a vehicle licence to only require it to have been issued in the previous 12 months? Otherwise, anyone who owns more than one vehicle might be required to obtain as many as 12 Basic DBS certificates a year if, for example, a certificate were only accepted for one month from the date of issue.	Amended to:  A basic disclosure from the DBS issued in the last 12 months (unless the applicant is also a licensed driver with Brentwood Borough Council)

Appendix A	The comments in relation to the policy expressed in the accompanying letter also expressly relate to policy in relation to the fitness and propriety of applicants and licence holders.	No proposed amendments.
Appendix A,3	After each of the times the word “trial” appears, it is suggested that the words “and / or sentencing” should be added to make clear that the Council would also want to know what sentence were passed, if an applicant were to be convicted of an offence.	Amend to:  In the case of any new applicant who has been charged with any offence and is awaiting trial and / or sentencing, the determination will be deferred until the trial and / or sentencing has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
Appendix A, 4.1	Contrary to the section heading of “crimes resulting in death”, this section also refers to “serious injury” without defining what that term means or differentiating such matters from 4.3., which is concerned with “offences involving violence against the person”. To further complicate matters, the term “serious injury” is not one known to the criminal law in relation to offences against the person. In the circumstances, to avoid the risk of offences falling into two categories of offences without any rational way of determining whether an offence should fall into one category or the other, the Council is asked to simplify this section by removing the reference to “serious injury” so that this section is concerned only with “crimes resulting in death”, as per the section heading.	No proposed amendments. This is a reflection of the wording in the National Guidance.
Appendix A, 4.3	Offences involving violence against the person covers a very wide range of actions and offences. At the lowest end of the range, there is common assault which does not actually require there to be actual violence, so someone throwing a punch and missing is guilty of common assault, as is someone spitting at another, again irrespective of whether the spit makes contact with the intended victim. At the other end of the range there are offences of intentionally causing grievous bodily harm (“GBH”) and attempted murder. See the CPS Guidance at: <a href="https://www.cps.gov.uk/legal-guidance/offences-against-personincorporating-charging-standard">https://www.cps.gov.uk/legal-guidance/offences-against-personincorporating-charging-standard</a> .	No proposed amendments. This is a reflection of the wording in the National Guidance.  Each case can and will be judged on its own merits.

	<p>With the greatest of respect to the Department for Transport that has promulgated these standards, it is preposterous to suggest that offences at both ends of the spectrum should be treated the same. Ten years is grossly excessive for a common assault and may be grossly inadequate for someone convicted of GBH or attempted murder. The Council is asked to reconsider this provision and to apply its own common-sense approach.</p>	
Appendix A, 4.4	<p>The same sentiment as expressed above in relation to 4.3. applies equally to possession of weapons. At the lower end of the range there is the person, who fearing they are about to be attacked by a rowdy group of youths, picks up a tree branch from the ground in order to defend themselves, should it become necessary to do so. At the other end of the scale, there is the person who is armed with an illegally possessed gun. The Council is asked to reconsider this provision and to apply its own common-sense approach.</p>	<p>No proposed amendments. This is a reflection of the wording in the National Guidance.</p> <p>Each case can and will be judged on its own merits.</p>
Appendix A, 4.6	<p>Again, the same sentiment as expressed above in relation to 4.3. applies equally to offences of dishonesty. At the lower end of the range there is the homeless person who steals food because they are hungry. And at the top end of the range there are the likes of the Brink's Mat robbers who stole £26,000,000 of gold in 1983. The Council is asked to reconsider this provision and to apply its own common-sense approach.</p>	<p>No proposed amendments. This is a reflection of the wording in the National Guidance.</p> <p>Each case can and will be judged on its own merits.</p>
Appendix A, 4.7.	<p>For the purposes of more clearly separating the provisions in relation to drug dealing and drug possession, the Council is asked to separate this one paragraph into two paragraphs, each starting with "Where an applicant . . .".</p>	<p>Amended to:</p> <p>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.</p> <p>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</p>

		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.
Appendix A, 4.9. Appendix A, 4.11.	Although the offence of using a hand-held device whilst driving has been addressed separately at 4.11, I include same in the comments to be made generally in relation to motoring convictions. A licensed hackney carriage or private hire vehicle driver probably drives 4-6 times the annual mileage of the average motorist in a year. That is relevant when considering the frequency and pattern of offending, because a licensed driver who commits two speeding offences 12 months apart will have driven the same distance that an average motorist would drive in 4-6 years. In the circumstances, if these speeding offences had been committed by an average motorist with the same mileage driven between them, the penalty points imposed for the first offence would have been long since expired and removed from the average motorists driving record. To describe speeding and other minor road traffic offences as an occupational hazard would, of course, be to downplay the potential seriousness of such offences, but if a driver does commit three such offences to accrue 7 or more live penalty points, maybe, rather than to punish the driver, the Council could source a driver improvement course, which the driver could be required to undertake at their own expense. This would hopefully help the driver to break the pattern of offending and become a safer and better driver, which would be a benefit to all road users, not just the driver and his passengers.	No proposed amendments. This is a reflection of the wording in the National Guidance.
Appendix A, 4.10	Although drink or drug driving is not to be encouraged or condoned, as has been made clear in the national media, there is currently a wave of drug spiking taking place across the country, although drink spiking has been commonplace for decades, generally being intended as a joke amongst a group of friends. In any event, however spiking may arise, a person spiked who drives is still guilty of an offence, even though they were unaware they	No proposed amendments. This is a reflection of the wording in the National Guidance.  Each case can and will be judged on its own merits.

	<p>had been spiked and were incapable of driving. This is because these offences are what are known as “absolute offences”, which simply means a person is guilty of the offence if they did the act alleged, even if they were unaware of this and lacked mens rea, the criminal intent to commit the offence. As extensively addressed in the accompanying letter, the policy proceeds on the basis that every situation is black and white and that guilty is guilty, and that the consequences should always be the same. Hopefully, the examples set out here at 4.3., 4.4., 4.6., 4.9. &amp; 4.11., and 4.10 serve to illustrate the need for the Council to make some changes and to apply its own common-sense to these matters and the wider policy generally.</p>	
Appendix G	<p>The Council’s proposal to lower standards for private hire vehicle drivers is a concern to my client, as I am sure it would be to the travelling public, if they were aware of the proposals. Whilst there is only one mark difference in the pass mark for the ‘Highway Code’ section, there can be no good reason why an applicant for a private hire vehicle driver’s licence should be allowed to have a lower standard of knowledge in this key area of testing. Drivers that do not know the Highway Code are bound to be more likely to commit motoring offences and to put fare-paying passengers and other road users at greater risk of being involved in an accident. Furthermore, the removal of the ‘Routes’ section of the test and the lowering of the pass mark for the ‘Places of Interest’ section of the test for applicants for a private hire vehicle driver’s licence will serve only to undermine and devalue the appropriately high standards the Council has maintained for years. In the eyes of the travelling public, the knowledge and competence of existing and future private hire drivers will be regarded as being second-rate to hackney carriage drivers if the proposed dilution of standards for passing the knowledge test are reduced. The knowledge test is appropriately hard to pass, but that is why my client advocates scrapping the limit on the number of attempts a candidate can</p>	<p>The Highway code section has been adjusted to require the same pass mark for all licence types.</p>



	<p>have to pass the test. Please see comments above in relation to 5.11. Finally, at 6, for the sake of completeness, alongside “All” in the pass mark column could be added “: 5” to adopt a consistent style the provision of information in relation to the other elements of the test.</p>	
<p>Appendix H</p>	<p>The second category in the table, which may only be determined by a Licensing Sub Committee, should also expressly state that the Licensing Sub Committee may attach additional conditions and / or amended conditions to a licence, subject to there being such a power to attach conditions to a licence. It is not clear in what circumstances the Licensing Manager may be called to determine the position in relation to an applicant / licence holder not holding a DVLA driving licence (category 5 of the table), but should this be concerned with non-DVLA driving licences, maybe the Licensing Manager should also have the power to grant a licence, not just to revoke or refuse a licence. The last category might better refer to the “Power to depart from policy” rather than the “Agreement to depart from policy”, there being no indication of any such agreement. Furthermore, should the reference to “officer” be deleted and the power also delegated to the Licensing Sub Committee, so as to make clear that both may depart from policy in appropriate cases?</p>	<p>In relation to the second category in the table, this is covered by the reports that accompany applications that are determined by a sub committee.</p> <p>The policy has been amended to read : Power to depart form policy where policy allows officer discretion.</p>

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## **Members Interests**

Members of the Council must declare any pecuniary or non-pecuniary interests and the nature of the interest at the beginning of an agenda item and that, on declaring a pecuniary interest, they are required to leave the Chamber.

- **What are pecuniary interests?**

A person's pecuniary interests are their business interests (for example their employment trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and asset including land and property).

- **Do I have any disclosable pecuniary interests?**

You have a disclosable pecuniary interest if you, your spouse or civil partner, or a person you are living with as a spouse or civil partner have a disclosable pecuniary interest set out in the Council's Members' Code of Conduct.

- **What does having a disclosable pecuniary interest stop me doing?**

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not :

- participate in any discussion of the business at the meeting, of if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business or,
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

- **Other Pecuniary Interests**

Other Pecuniary Interests are also set out in the Members' Code of Conduct and apply only to you as a Member.

If you have an Other Pecuniary Interest in an item of business on the agenda then you must disclose that interest and withdraw from the room while that business is being considered

- **Non-Pecuniary Interests**

Non –pecuniary interests are set out in the Council's Code of Conduct and apply to you as a Member and also to relevant persons where the decision might reasonably be regarded as affecting their wellbeing.

A 'relevant person' is your spouse or civil partner, or a person you are living with as a spouse or civil partner

If you have a non-pecuniary interest in any business of the Authority and you are present at a meeting of the Authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest whether or not such interest is registered on your Register of Interests or for which you have made a pending notification.

## **Terms of Reference Licensing**

- (a) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Licensing Act 2003.
- (b) Except in relation to the statement of Licensing Policy, to discharge all functions conferred upon the council as licensing authority under the Gambling Act 2005.
- (c) To determine all fees and charges relevant to matters disposed by the Planning and Licensing Committee.
- (d) To exercise all other functions relating to licensing and registration including
  - i. Trading Requirements
  - ii. All functions relating to hackney carriage drivers and vehicles and private hire drivers vehicles and operators
  - iii. Animal Welfare and Security
  - iv. Skin Piercing, Acupuncture, Electrolysis and Tattooing
  - v. Sex establishments (including Sex Entertainment Venues (SEV))
  - vi. Pavement Permits
  - vii. Charitable Collections
  - viii. Camping, Caravan Sites and Mobile Homes
  - ix. Scrap Metal
  - x. Game Dealers
- (e) Any other matters relating to licensing as may be referred to the committee for consideration.
- (f) To hear and determine licensing applications and appeals where objections and /or representations have been received in relation to any of the above functions.
- (g) To manage and monitor the budgets in respect of licensing and vehicle licensing.

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