

Licensing Committee

Tuesday 4 September 2012 at 10.00 am

**To be held at at the Town Hall,
Pinstone Street, Sheffield, S1 2HH**

The Press and Public are Welcome to Attend

Membership

Councillors John Robson (Chair), Clive Skelton (Deputy Chair), Jenny Armstrong, David Barker, Nikki Bond, Neale Gibson, George Lindars-Hammond, Ian Saunders, Nikki Sharpe, Geoff Smith, Stuart Wattam, Philip Wood, Vickie Priestley and Jillian Creasy

PUBLIC ACCESS TO THE MEETING

The Licensing Committee carries out a statutory licensing role, including licensing for taxis and public entertainment.

As a lot of the work of this Committee deals with individual cases, some meetings may not be open to members of the public.

A copy of the agenda and reports is available on the Council's website at www.sheffield.gov.uk. You can also see the reports to be discussed at the meeting if you call at the First Point Reception, Town Hall, Pinstone Street entrance. The Reception is open between 9.00 am and 5.00 pm, Monday to Thursday and between 9.00 am and 4.45 pm. on Friday, or you can ring on telephone no. 2734552.

You may not be allowed to see some reports because they contain confidential information. These items are usually marked * on the agenda.

If you would like to attend the meeting please report to the First Point Reception desk where you will be directed to the meeting room.

If you require any further information please contact Harry Clarke on 0114 273 6183 or email harry.clarke@sheffield.gov.uk.

FACILITIES

There are public toilets available, with wheelchair access, on the ground floor of the Town Hall. Induction loop facilities are available in meeting rooms.

Access for people with mobility difficulties can be obtained through the ramp on the side to the main Town Hall entrance.

**LICENSING COMMITTEE AGENDA
4 SEPTEMBER 2012**

Order of Business

- 1. Welcome and Housekeeping Arrangements**
- 2. Apologies for Absence**
- 3. Exclusion of Public and Press**
To identify items where resolutions may be moved to exclude the press and public
- 4. Declarations of Interest**
Members to declare any interests they have in the business to be considered at the meeting.
- 5. Minutes of Previous Meetings**
To approve the minutes of the meetings held on:-

11 June 2012
12 June 2012
14 June 2012
18 June 2012
19 June 2012
25 June 2012
2 July 2012
5 July 2012
12 July 2012
23 July 2012
24 July 2012
26 July 2012
30 July 2012
31 July 2012
2 August 2012
7 August 2012
9 August 2012
- 6. Private Hire and Hackney Carriage Licensing - Review and Response to the Law Commission's Consultation on Proposals for New Legislation on Private Hire and Hackney Carriage Law**
Report of the Chief Licensing Officer

ADVICE TO MEMBERS ON DECLARING INTERESTS AT MEETINGS

A new Standards regime was introduced on 1st July, 2012 by the Localism Act 2011. The new regime made changes to the way that your interests needed to be registered and declared. Prejudicial and personal interests no longer exist and they have been replaced by Disclosable Pecuniary Interests (DPIs).

The Act also required that provision is made for interests which are not Disclosable Pecuniary Interests and required the Council to introduce a new local Code of Conduct for Members. Provision has been made in the new Code for dealing with “personal” interests.

Guidance on declarations of interest, incorporating regulations published by the Government in relation to Disclosable Pecuniary Interests, has been circulated to you previously, and has been published on the Council’s website as a downloadable document at -<http://councillors.sheffield.gov.uk/councillors/register-of-councillors-interests>

If at all possible, you should try to identify any potential interest you may have before the meeting so that you and the person you ask for advice can fully consider all the circumstances before reaching a conclusion on what action you should take.

Further advice can be obtained from Lynne Bird, Director of Legal Services on 0114 2734018 or email lynne.bird@sheffield.gov.uk

MEETING OF THE LICENSING SUB-COMMITTEE

held Monday 11th June 2012

PRESENT: Councillors John Robson (Chair), Clive Skelton and Philip Wood

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1. **WELCOME AND HOUSEKEEPING ARRANGEMENTS**

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. **APOLOGIES FOR ABSENCE**

2.1 No apologies for absence were received.

3. **EXCLUSION OF THE PUBLIC AND PRESS**

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 44/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.3 The applicant in Case No. 45/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.4 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
44/12	Application for a first Hackney Carriage and Private Hire Driver's Licence	Grant a licence for the normal term of nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for

45/12 Application for a first
Hackney Carriage and
Private Hire Driver's
Licence

concern.

Grant a licence for the normal term of nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for concern.

MEETING OF THE LICENSING COMMITTEE

held 12th June 2012

PRESENT: Councillors John Robson (Chair), Jillian Creasy, Neale Gibson, Ian Saunders, Clive Skelton (Deputy Chair) and Stuart Wattam.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 Apologies for absence were received from Councillors Jenny Armstrong, Nikki Bond, Geoff Smith and Philip Wood.

3. EXCLUSION OF PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. MINUTES OF PREVIOUS MEETINGS

4.1 The minutes of the meetings of the Licensing Sub-Committee held on 23rd and 30th April, 2012, were approved as correct records.

5. PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING

5.1 Issuing of Dual Licences Review

5.1.1 The Chief Licensing Officer submitted a report on a review of the current policy of issuing joint Hackney Carriage and Private Hire Drivers Licences. The report indicated that the Committee had a policy which determined that the Council issued joint licences that allowed applicants to drive both hackney carriage and private hire vehicles, whichever was their choice, and that the policy had last been reviewed in October, 2008. The report also contained details of the present legal position and information on how other local authorities administered their respective licences.

5.1.2 Hafeas Rehman, Sheffield Taxi Trade Association, stated that the general view of drivers was that the Authority should continue to issue joint Hackney Carriage and Private Hire Drivers Licences.

5.1.3 In response to questions from Members of, and the Solicitor to, the Committee, Clive Stephenson, Principal Licensing Officer, stated that the major benefit of having separate licences was that it would make it easier for the Council to take action in terms of illegal plying for hire. He added that there was no requirement on drivers to have two separate plates if they drove both hackney carriage and private hire vehicles as the licence

related to the person and not to the vehicle. The Solicitor to the Committee stated that the Council was generally successful in terms of Court cases relating to illegal plying for hire, mainly on the basis that if the driver was found guilty, his or her insurance would be invalidated and they would receive six points on their licence.

- 5.1.4 RESOLVED: That members of the public be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business be transacted, if those persons were present, there would be a disclosure to them of exempt information described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.1.5 The Solicitor to the Committee reported orally, giving legal advice on various aspect of the report.
- 5.1.6 At this stage in the proceedings, the meeting was re-opened to members of the public.
- 5.1.7 RESOLVED: That in the light of the information contained in the report now submitted, and the representations now made, the Committee (a) agrees that the current arrangements should remain unchanged and that dual licences continue to be issued to drivers and (b) requests that the policy be reviewed again in three years' time, or earlier should there be any changes in legislation.

5.2 Illegal Plying for Hire Policy Review

- 5.2.1 The Chief Licensing Officer submitted a report on a review of the Council's practice relating to the prosecution of suspected offenders with regard to illegal plying for hire. Clive Stephenson reported that cases of illegal plying for hire were prevalent in the city a few years ago and the Council had established a policy in order to deal with this offence, which enabled the Council to prosecute if there was sufficient evidence. There would then be a requirement for the driver to have their licence reviewed by the Licensing Sub-Committee. He added that the present policy was operating successfully, specifically when cases were taken to Court.
- 5.2.2 Hafeas Rehman, Sheffield Taxi Trade Association, reported that problems of illegal plying for hire were re-emerging in the City and that there was a growing number of private hire drivers committing such offences. He raised specific concerns with regard to drivers coming into the City from other areas and illegally plying for hire, as well as private hire drivers ranking up. He stated that this action, particularly in the present economic situation, had the potential to cause an increase in problems of confrontation between drivers. He added that he welcomed the enforcement work being undertaken by the Council in connection with this.
- 5.2.3 In response, Clive Stephenson stated that he would ensure that officers looked into the issue of private hire drivers ranking up and ensure that officers were deployed in those areas where this was occurring. He stated

that, on the basis that the Council had no powers to check the network records in other authorities, it was very difficult to prove that drivers from other areas were committing the offence of illegally plying for hire. Problems where drivers from other areas came into the City and illegally plied for hire were further complicated in that it was often difficult to distinguish between private and hackney carriage vehicles.

- 5.2.4 In response to questions from Members of the Committee, Mr. Stephenson stated that there were particular problems of illegally plying for hire at the top of Chesterfield Road, mainly involving drivers from Chesterfield and North East Derbyshire. He stated that whilst a relatively small number of drivers were involved, if enforcement action was not undertaken, the number of cases would grow. The two main private hire companies in the City - Mercury and City - fully supported the Council's policy in terms of enforcement action against illegal plying for hire. In terms of educating the public, whilst officers had carried out work in this area in the past, such as talking to students during freshers week, there were financial restraints in terms of the level of action that could be undertaken. As well as problems in Chapeltown, City Road and Woodseats, the main areas in the City Centre where illegally plying for hire was prevalent was outside Embrace nightclub and on Carver Street.
- 5.2.5 RESOLVED: That members of the public be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.2.6 The Solicitor to the Committee reported orally, giving legal advice on various aspects of the report.
- 5.2.7 At this stage in the proceedings, the meeting was re-opened to members of the public.
- 5.2.8 RESOLVED: That the Committee (a) confirms that:-
- (i) because of the potentially serious consequences of the offence, illegal ply for hire offenders will be prosecuted (where there is considered to be sufficient evidence to secure a conviction and it is in the public interest to do so);
 - (ii) officers must endeavour to recover the costs of prosecutions from those convicted in order to reduce the financial burden on licensed drivers who were operating within the law;
 - (iii) officers refer any current licensed drivers to the Licensing Sub-Committee at the point that there is sufficient evidence for them to submit a file for legal proceedings to be brought against that driver;

- (iv) unless there are exceptional circumstances, offenders should be expected to have any licences they hold revoked and/or any application for a licence refused;
 - (v) it deems that this offence is a matter of public safety and any revocation of a licence would be done under Section 52 of the Road Safety Act 2006, which amends Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, and means any revocation would be with immediate effect;
 - (vi) the use of officers as covert passengers be endorsed as a method of enforcement and the Chief Licensing Officer be instructed to continue conducting enforcement action against this illegal activity; and
 - (vii) a copy of this report and the resulting resolution be made available to the Courts when relevant cases are being considered; and
- (b) requests the Chief Licensing Officer to devise a programme in terms of education/publicity, making reference to the Council's policy with regard to dealing with cases of illegally plying for hire, for circulation to drivers and members of the public, with such programme to be submitted to, and endorsed by, this Committee at a future meeting.

5.3 Enforcement Review

- 5.3.1 The Chief Licensing Officer submitted a report containing details of the enforcement activity undertaken by officers of the Taxi Licensing Section with regard to private hire and taxi licensing for the period 1st November 2011 to 29th February 2012. The report contained a description of, and reasoning behind, the enforcement activity undertaken, together with statistical information in terms of vehicle enforcement and driver checks. The report also contained details of those areas of the City which gave officers concern and set out details in respect of prosecution and cautions in connection with a variety of offences.
- 5.3.2 Hafeas Rehman, Sheffield Taxi Trade Association, commended the Council for the excellent enforcement work undertaken during this period. He referred to two of the areas of concern set out in the report, indicating that there were always likely to be problems at Rudyard Road as there was no official taxi rank and that the issues on Fulwood Road were mainly as a result of students arriving at and leaving the nightclub within the Halls of Residence. In respect of the offences listed, two of which related to a failure to carry assistance dogs, he stated that in his opinion, drivers should not be able to refuse to carry assistance dogs on religious grounds.
- 5.3.3 Mohammed Yasim, Yorkshire Professional Drivers Association, stated that he would also like to commend the Council for the excellent enforcement work undertaken. He indicated that it was only a small minority of drivers who caused problems and that he would continue to work closely with the

Council in an attempt to keep the number of driver incidents to a minimum. He expressed specific concerns regarding the carrying of assistance dogs and stated that, whilst drivers should not refuse to carry such dogs, he believed that operators should warn drivers at the time of booking the job if customers had a dog on the basis that it would assist the driver and stop any potential upset for customers. He also made reference to the issues on Rudyard Road, indicating that due to the increase in double yellow lines and other road markings, drivers were finding it difficult to park in the area.

- 5.3.4 In response to questions from Members of the Committee and the representatives from the Taxi Trade Associations, Clive Stephenson stated that there was no legal requirement on taxi companies to inform drivers, when booking jobs, that customers had assistance dogs, as drivers were legally bound to pick such customers up. Also, if drivers knew that a customer had a dog with them, they may choose not to take that job and there was a potential for the fare to remain live for some time. In the light of the increase in licensed premises in the City Centre, and the consequent increase in demand for taxis, officers were working closely with the trades and improving links with the licensed premises. Officers had looked at changing the location of the taxi rank on Carver Street and were aware of the ranking problems on Castle Street. He stressed that there was a need for more consideration to be given to the movement and ranking of taxis when premises licences were granted for new premises in the City Centre. In terms of the statistics regarding vehicle enforcement, he stated that, although the figures in terms of vehicle defects appeared high, there had been a reduction in the number of defects over the last four to five years. He also stated that officers had a long checklist, which increased the potential for there to be faults with vehicles.
- 5.3.5 Mohammed Yasim stated that, whilst it was the responsibility of drivers to check their vehicles, they could not be expected to know about every single fault as it may not be obvious or visible and that this was the reason why the figures appeared high. Hafeas Rehman added that the quality of Sheffield's taxis, in general, was very good in comparison to those in other areas of the country and stated that whilst it was not acceptable for a driver to have faults with their cars, the most important thing was that the faults were rectified at the earliest possible opportunity.
- 5.3.6 RESOLVED: That members of the public be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information described in paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.3.7 The Solicitor to the Committee reported orally, giving legal advice on various aspects of the report.
- 5.3.8 At this stage in the proceedings, the meeting was re-opened to members of the public.

5.3.9 RESOLVED: That the Committee:-

- (a) notes the contents of the report now submitted;
- (b) welcomes the partnership working between officers in the Taxi Licensing Section and the Taxi Trades Associations regarding the enforcement work undertaken in connection with the improvement in the quality of hackney carriage and private hire vehicles, as exemplified by the improvements as set out in the report; and
- (c) requests that information on proposed or enforcement action undertaken in respect of complaints of nuisance, including taxis parking on cycle lanes and other similar issues, be included as part of reports on enforcement activity submitted to future meetings of the Committee.

MEETING OF THE LICENSING SUB-COMMITTEE

held Thursday 14th June 2012

PRESENT: Councillors Clive Skelton (Deputy Chair), Ian Saunders and Philip Wood

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received.

3. LICENSING ACT 2003: REVIEW OF PREMISES LICENCE- D'BEERS, 66 CROOKES, SHEFFIELD, S10 1UG

3.1 The Chief Licensing Officer submitted a report to consider an application for the review of a premises licence, made under Section 51 of the Licensing Act 2003 in relation to the premises known as D'Beers, 66 Crookes, Sheffield, S10 1UG.

3.2 Present at the meeting were Benita Mumby (Licensing Officer, South Yorkshire Police), Julie Hague (Sheffield Safeguarding Children Board Licensing Project Manager), Neil Tyler (Owner, D'Beers), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and Gillian Capewell (Democratic Services).

3.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

3.4 Andy Ruston presented the report to the Sub-Committee and it was noted that the applicant for the review was South Yorkshire Police.

3.5 Ms. Mumby outlined the concerns of South Yorkshire Police (SYP) over the operation of the premises, which included six failed test purchases out of nine which had taken place since 2008 (five of which had been where Mr. Tyler had been serving). She commented that the premises management had consistently shown disregard for the conditions of the licence, and that the premises had undergone a period of suspension following a failed test purchase at the end of 2011. Ms. Mumby commented that, although there was no anti-social behaviour directly linked to the premises, it was essential to address the issue of persistent under-age alcohol sales.

3.6 It was noted that there had been a further failed test purchase on 10th

- March 2012, but that Mr. Tyler had not been serving on this occasion.
- 3.7 Ms. Hague then addressed the Sub-Committee, outlining the dangers associated with under-age drinking. She commented that she was extremely disappointed to be in this position today, as she had worked closely with Mr. Tyler over the past three years, and that staff working at D'Beers had attended courses and workshops that had been offered, but that this did not seem to have made any difference to the sales operation, as there had still been persistent test purchase failures. Ms. Hague added that Mr. Tyler had always been cooperative, affable and willing, but that the training and guidance she had offered did not seem to have worked with him, and levels of competence at the premises remained insufficient.
- 3.8 She stated that she would like to see some positive action take place in relation to the premises.
- 3.9 Mr. Tyler then addressed the Sub-Committee, stating that he fully agreed with everything that had been said so far at the meeting. He added that a former member of staff, Mr. Mason, who was responsible for the failed test purchase of 10th March 2012 no longer worked at the premises.
- 3.10 Mr. Tyler added that, ever since he had been responsible for the failed test purchase of 4th November 2011, he had not worked at the store in a retail capacity. He told the Sub-Committee that he completely acknowledged his incompetence at running a successful operation at the premises, and admitted that he was not as suited to the job as he thought he would be. He added that he was a qualified nurse, and that he was fully aware of the dangerous effects of alcohol on children. He stated that he had never intended to serve under-age persons and that he was extremely disappointed with the way things had turned out.
- 3.11 He added that he now intended to sell the business, and that the premises were currently in the hands of the Kings Business Transfer Body, as he felt that the business was no longer viable to operate.
- 3.12 Mr. Tyler added that he had not worked in a retail capacity in the shop for the last six months, but that he was still responsible for staff training, recruitment, deliveries and stock rotation.
- 3.13 With regard to the operation of the Challenge 25 scheme, Mr. Tyler stated that he had three either Challenge 21 or Challenge 25 signs within the retail area, but that he could not remember which scheme was in operation at the shop. He added that he employed a Designated Premises Supervisor (DPS) at the premises, but that this person did not work actually in store very often, as the DPS had moved house and now lived outside Sheffield. There was another member of staff who acted in a quasi-managerial role at the shop, although this person did not have a Personal Licence.
- 3.14 Mr. Tyler added that there was a fairly steady team of staff at the shop,

and that he had two members of staff who had joined the team recently. He had not sent these two new members of staff on training courses yet, as his intention was to sell the business as soon as possible.

- 3.15 With regard to the Court Summons received by Mr. Tyler, Mr. Tyler explained to the Sub-Committee that he had paid an £80 fine and accepted a 48 hour closure after the failed test purchase in November 2011, but he felt that there may have been an administrative error at the Courts as he had still received a Court Summons requiring his attendance at a hearing despite having accepted the fine and the closure order. He informed Members that he had hand delivered a letter to the Courts to explain the situation and the case had subsequently been dismissed. Ms. Mumby clarified that Mr. Tyler had been convicted of a more serious offence around this time, which is how the confusion may have arisen.
- 3.16 In summary, Ms. Mumby stated that the premises had been run in an irresponsible manner for the past three years, and urgent change was required. Ms. Hague added that she had tried everything possible to attempt to educate Mr. Tyler about his responsibilities as a licence holder, but that she remained extremely concerned that the interventions had not improved the operation at the premises. Mr. Tyler concluded that he deeply regretted his failings, and that he intended to sell the business as quickly as possible, and accept this as a personal financial loss.
- 3.17 Mr. Ruston then provided the Sub-Committee with the options available to them.
- 3.18 **RESOLVED:** That the public and press and attendees involved in the application for review be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 3.19 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 3.20 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 3.21 **RESOLVED:** That the Sub-Committee agrees to revoke the licence for the premises known as D'Beers, 66 Crookes, Sheffield, S10 1UG.
- 3.22 (The full reasons for this decision will be sent out in the notice of determination.)

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MEETING OF THE LICENSING SUB-COMMITTEE

held 18th June 2012

PRESENT: Councillors John Robson (Chair), Geoff Smith and Stuart Wattam.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received. Councillor Ian Saunders attended the meeting as a reserve Member, but was not required to stay.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 46/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.3 The licence holder in Case No. 47/12 was not able to attend the hearing.

4.4 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
46/12	Application for a new Hackney Carriage Vehicle Licence	In the light of the exceptional circumstances of the case, grant a licence for the normal term of 12 months.
47/12	Review of a Hackney Carriage and Private Hire Driver's Licence	In the light of the circumstances now reported orally by the Chief Licensing Officer, the Sub-

Committee agrees to ratify the decision taken by the Chief Licensing Officer, acting under delegated powers, to suspend the licence, with immediate effect, under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, as amended by Section 52 of the Road Safety Act 2006.

(NOTE: In accordance with Council Procedure Rule 26 of the Council's Constitution and the provisions of Section 100B(4)(b) of the Local Government Act 1972, as amended, the Chair decided that Case No.47/12 be considered as a matter of urgency in order for the case to be considered at the earliest possible opportunity, although it had not been possible to give five clear days' notice that the case was to be considered).

MEETING OF THE LICENSING SUB-COMMITTEE

held 19th June 2012

PRESENT: Councillors John Robson (Chair), Ian Saunders, Clive Skelton and Philip Wood.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 There were no apologies for absence received.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

4.1 City Centre Small Trading Stalls

4.1.1 The Chief Licensing Officer submitted a report to consider two applications for Street Trading Consents for small trading stalls in specific locations in the City Centre.

4.1.2 The report stated that the applications had been submitted in response to letters that had been sent out to existing and past traders, and it had been made a requirement that any application submitted should be made in accordance with the City Centre Qualitative Criteria for Small Trading Stalls, which was attached at Appendix "A" to the report.

4.1.3 Applications in respect of the invitation had been received from two applicants, who were interviewed by the Sub-Committee in turn, and presented their cases in respect of their proposals to trade in the City Centre.

4.1.4 **RESOLVED:** That the public and press and attendees involved in the applications be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

4.1.5 The Solicitor to the Sub-Committee reported orally, giving legal advice on

various aspects of the applications.

4.1.6 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

4.1.7 RESOLVED: That, after careful consideration of the applications now submitted, authority be given to the Chief Licensing Officer to grant Street Trading Consents for small trading stalls for a period of 12 months to Zocalo (Devonshire Green) and Motore Café (bottom of Howard Street), subject to the details regarding the proposed vehicles, and any accessories, and the precise location of the vehicles, being to the satisfaction of the Chief Licensing Officer, the Director of Development Services and the City Centre Manager.

4.2 **Street Trading Consent – Owler Lane**

4.2.1 The Chief Licensing Officer submitted a report to consider an application for the grant of a static Street Trading Consent on Owler Lane, Sheffield S4.

4.2.2 The applicant did not attend the meeting and the application was considered in his absence.

4.2.3 The report stated that objections to the application had been received from a number of local businesses. Jan Jude of the Page Hall Medical Centre and Richard Steele, Business Manager, Firvale Secondary School, were amongst the objectors and they attended the meeting to put forward their representations.

4.2.4 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

4.2.5 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.

4.2.6 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

4.2.7 RESOLVED: That the application for the grant of static Street Trading Consent now made in respect of a site on Owler Lane, Sheffield S4, be refused on the grounds that the application does not meet the Council's quality specification in that the vehicle and products offered would not contribute to the appearance of the area.

4.3 **Street Trading Consents – Endcliffe Park**

- 4.3.1 The Chief Licensing Officer submitted a report to consider applications for a Street Trading Consent in respect of the 2012-2017 Spring/Summer seasons in Endcliffe Park.
- 4.3.2 The report stated that the applications had been submitted in response to an advertisement in respect of the site in Endcliffe Park for ice cream concessions.
- 4.3.3 Applications in respect of the advertisement had been received from two applicants, who were interviewed by the Sub-Committee in turn, and presented their cases in respect of their proposals to trade in Endcliffe Park.
- 4.3.4 RESOLVED: That the public and press and attendees involved in the applications be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.3.5 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the applications.
- 4.3.6 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.3.7 RESOLVED: That, after careful consideration of the applications now submitted for a Street Trading Consent in respect of the 2012-17 spring/summer season in Endcliffe Park, authority be given for the Chief Licensing Officer to:-
- (a) grant a Street Trading Consent to Cuneo's Ice Cream; and
 - (b) refuse to grant a Street Trading Consent in respect of Granellis on the grounds that the Sub-Committee considered that the other application better met the Council's City-wide quality specification.

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MEETING OF THE LICENSING SUB-COMMITTEE

held 25th June 2012

PRESENT: Councillors Clive Skelton (Deputy Chair), David Barker and Ian Saunders

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received. Councillor Jillian Creasy attended the meeting as a reserve Member, but was not required to stay.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 47/12 attended the hearing and addressed the Sub-Committee.

4.3 The applicant in Case No. 48/12 attended the hearing and addressed the Sub-Committee.

4.4 The licence holder in Case No. 49/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.5 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
47/12	Application for a new Hackney Carriage and Private Hire Driver's Licence	Refuse to grant a licence, on the grounds that, in the light of the convictions and offences now reported, the Sub-Committee was

of the opinion that the applicant was not a fit and proper person to hold a licence.

- | | | |
|-------|--|--|
| 48/12 | Application for a first Hackney Carriage and Private Hire Driver's Licence | Grant a licence for the normal term of nine months and, on the first renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for concern. |
| 49/12 | Review of a Hackney Carriage and Private Hire Driver's Licence | Take no action, leaving the licence in place, but issue the licence holder with the strongest possible written warning as to his future conduct, and, should there be any further offences reported prior to the expiry of this current licence, bring the licence back to the Sub-Committee for a further review hearing. Should there be no further cause for concern, authority be given to renew the licence in accordance with normal procedures. |

MEETING OF THE LICENSING SUB-COMMITTEE

held 2nd July 2012

PRESENT: Councillors John Robson (Chair), Clive Skelton and Philip Wood.

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1. **WELCOME AND HOUSEKEEPING ARRANGEMENTS**

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. **APOLOGIES FOR ABSENCE**

2.1 No apologies for absence were received. Councillor Stuart Wattam attended the meeting as a reserve Member, but was not required to stay.

3. **EXCLUSION OF THE PUBLIC AND PRESS**

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. **HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING**

4.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 50/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.3 The applicant in Case No. 51/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.4 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
50/12	Application for a Private Hire Vehicle Licence	Grant a licence in the light of the exceptional circumstances now reported.
51/12	Application for a first Hackney Carriage and	(a) Grant a licence for the shorter term of six months and, on the first

Private Hire Driver's
Licence

renewal, authority be given to grant the applicant a 12 month licence and, on any subsequent renewal, an 18 month licence, subject to there being no further cause for concern and (b) the applicant be given a verbal warning as to his future conduct.

MEETING OF THE LICENSING SUB-COMMITTEE

held 5th July 2012

PRESENT: Councillors John Robson (Chair), David Barker, Neale Gibson and Ian Saunders

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. OBJECTION TO A TEMPORARY EVENT NOTICE - THE PLAZA, 68A SPITAL HILL, SHEFFIELD, S4 7LG

4.1 The Chief Licensing Officer submitted a report to consider a notice of objection submitted by South Yorkshire Police in respect of a Temporary Event Notice for 7th July, 2012, in respect of the premises known as The Plaza, 68a Spital Hill, Sheffield, S4 7LG.

4.2 Present at the meeting were Tinas Teklebrhan (Applicant), Solomon Gebremeskel and Fitsum Tesfazghi (accompanying the Applicant), Sergeant Craig Charlesworth and Benita Mumby (South Yorkshire Police, Objectors), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

4.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

4.4 Andy Ruston presented the report to the Sub-Committee and it was noted that the objection to the Temporary Event Notice was attached at Appendix 'B' to the report.

4.5 Sergeant Craig Charlesworth reported that the Police's objection to the Temporary Event Notice had been made on the grounds of crime and disorder and public safety. He stated that he had serious concerns regarding the applicant's ability to arrange a party at the premises and referred specifically to an incident at the premises on 30th October 2011, when someone was murdered at a similar event. The Police had met with

the applicant after the incident and it was obvious that there was a clear lack of understanding on the part of the applicant regarding her responsibilities in managing the premises, and she was advised to seek guidance from relevant Council officers. Mr Charlesworth referred to the Temporary Event Notice for the proposed party on 7th July 2012, indicating that in his opinion, there were insufficient safeguards to prevent potential incidents of crime and disorder, together with dangers to public safety. He referred specifically to the fact that there would be no professional door supervisors in attendance at the premises and stated that although incidents of crime and disorder in the Burngreave area had reduced slightly, the Police were concerned that this event may attract certain individuals who would cause trouble.

4.6 In response to questions from Members of the Sub-Committee and the applicant, Sergeant Charlesworth stated that the premises was situated in a row of shops and businesses known as The Plaza, and the main operating area of the premises was on the first floor which, as far as he was aware, comprised a café. He was not fully aware of any improvements which had been made following the closure of the premises after the incident on 30th October 2011, but the premises had received regular visits by local Police Community Safety Officers (PCSOs) and officers from the Police's Major Incidents Team. He stressed that the Police still had concerns regarding fire exits, poor lighting, the narrow staircase leading to the first floor, a lack of insurance and the fact that the applicant's husband, who was already in a vulnerable position following the previous incident at the premises, would have the responsibility of being the main door supervisor, without being a registered Security Industry Authority (SIA) door supervisor. In terms of the incident in October 2011, it was confirmed that the applicant was in charge of the premises at that time, although she had not applied for a Temporary Event Notice on that occasion. It was also confirmed that the murder had taken place inside the premises. Mr Charlesworth stated that although he did not personally visit the premises after it had reopened, following the incident in October 2011, a number of his colleagues had done so. There had been considerable communication between Police colleagues and Sergeant Charlesworth indicated that he had expected the applicant to contact him to discuss what systems needed to be put in place following the incident. The lack of such contact from the applicant had led him to believe that there was a lack of sufficient management of the premises. He also confirmed that he had not seen the new entrance door the applicant had fitted to the premises, but regardless of this, he was still not confident that the relevant measures were in place to enable the applicant to hold the party on 7th July 2012.

4.7 Tinas Teklebrhan stated that she was not aware that she needed to have applied for a Temporary Event Notice in respect of the event at the premises on 30th October 2011. She reported on the events which occurred on that day, including the involvement of her husband, who was acting as the door supervisor at the event. She stated that she had accepted that there was a need to improve things in terms of the operation of the premises, and had undertaken considerable refurbishment works,

installed CCTV cameras both inside and outside the premises, and had a new inter-locking door installed, which enabled people in the premises to see who was arriving. She confirmed that the premises were currently operating as a community centre, and not a café, and sold hot and cold drinks. In terms of contact with the Council, as recommended by the Police, Mrs Teklebrhan stated that she had tried to contact a Planning Officer for three months, but had received no response. She eventually made contact with them after they rang her back, following a conversation with Sergeant Craig Charlesworth. She confirmed that there was an adequate fire escape at the premises and stated that her husband would be willing to carry out any additional refurbishment works that were required. She considered the public safety of her customers as very important.

- 4.8 In response to questions from Members of, and the Solicitor to, the Sub-Committee and the objectors, Mrs Teklebrhan confirmed the improvements had been made to the premises since it had reopened after the incident on 30th October 2011, indicating that she was happy to take advice on any other further improvements required. She stated that the main entrance to the premises was on Spital Street and that there was a fire exit to the rear of the premises. She had taken on the operation of the premises on 1st June 2011. She would open the premises at approximately 9.30 am and close anytime between 9.00 and 11.00 pm. She would usually have up to 30 customers a day. Fitsum Tesfazghi stated that the proposed party on 7th July 2012, had been arranged for a number of former friends/students, a number of whom had attended the same school in their home country of Etria. The friends organised a party each year, with previous events being held in Leeds, London and Manchester. He stated that he knew about half of the people who attended the events as they went to the same school in Etria. Some of the guests had been invited on Facebook, with a number of them having replied to confirm whether or not they would be attending. They had based the figure of 30, in terms of people to be invited to the event, on numbers who had attended previous parties and Mr Tesfazghi confirmed that he would know or be familiar with all the people invited. He stated that anyone they didn't know would not be let in. Mrs Teklebrhan stated that there was a shutter door which fronted on to Spital Street, which was open at all times the premises were open, and there was a security door at the top of the stairs, which could be controlled by staff in the premises. The applicant, her husband and her son would be monitoring people who came into the premises for the party. The premises had not had the relevant Risk Assessment undertaken. In terms of the incident on 30th October 2011, Mrs Teklebrhan stated that on the basis that her husband was watching the alleged murderer very carefully after he had returned to the premises, he did not have enough time to contact the Police. She stated that if any trouble had started, she would have contacted the Police immediately, but as the incident had happened so quick, it did not give them time to ring the Police. In terms of dealing with any gatecrashers on 7th July 2012, she stated that they would be watching who was entering the premises using the CCTV camera, and would ensure that the door was locked if someone they didn't know or didn't want to let in

was trying to gain entry. People attending the party would only be able to gain entry and exit the main room through the security door, which would be controlled by the applicant and her family, so they would be able to keep a close check on who was coming and going. They would keep a record of the number of people in attendance. If any more than 30 people attend the event, it will be made clear to them that they will not be allowed to enter the premises. Mrs Teklebrhan would explain the fire safety arrangements to all people in attendance at the party on arrival. In terms of the fire exits, she stated that there was a wooden door, with an electronically-operated shutter door behind. She could not provide a clear explanation as to how the fire door would be opened if there was some problem with the electrics, although she did indicate that the fire door could be left open, which would mean that people would be able to access the premises through the door at all times during the event.

- 4.9 **RESOLVED:** That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 4.10 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 4.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 4.12 **RESOLVED:** That the Sub-Committee agrees that the applicant be issued with a counter notice in respect of the Temporary Event Notice for 7th July, 2012, in respect of the premises known as The Plaza, 68a Spital Hill, Sheffield, S4 7LG, as it considers it necessary on the grounds of public safety and the prevention of crime and disorder.

(The full reasons for the Sub-Committee's decision will be included in the written Notice of Determination).

MEETING OF THE LICENSING SUB-COMMITTEE

held 12th July 2012

PRESENT: Councillors John Robson (Chair), Neale Gibson
and Geoff Smith

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received. Councillor Vickie Priestley attended the meeting as a reserve Member, but was not required to stay.

3. LICENSING ACT 2003 - THE INDUSTRY CLUB LTD, UNIT 9-11, SMITHFIELD, SHALES Moor, SHEFFIELD, S3 7AR

3.1 The Chief Licensing Officer submitted a report to consider an application for a Premises License made under Section 17 of the Licensing Act 2003 in respect of the premises known as The Industry Club Ltd, Unit 9-11, Smithfield, Shalesmoor, Sheffield, S3 7AR.

3.2 Present at the meeting were Paul O'Donnell (Applicant), Lucy Adams and Benita Mumby (South Yorkshire Police – Objectors), Julie Hague (Sheffield Safeguarding Children Board – Objector), Neal Pates (Environmental Protection Service – Objector), Sean Gibbons and Shiva Prasad (Health Protection Service – Objectors), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

3.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

3.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from South Yorkshire Police, the Sheffield Safeguarding Children Board, Environmental Protection Service and Health Protection Service, and were attached at Appendices 'B', 'C', 'D' and 'E' to the report, respectively.

3.5 Detailed representations were made by all the objectors and the applicant and questions were raised by Members of the Sub-Committee, and prior to a decision being made, the applicant withdrew his application.

3.6 **RESOLVED:** That the withdrawal by the applicant of his application for a Premises Licence in respect of the premises The Industry Club Ltd., Unit 9-11, Smithfield, Shalesmoor, Sheffield, S3 7AR, be noted.

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MEETING OF THE LICENSING SUB-COMMITTEE

held 23rd July 2012

PRESENT: Councillors John Robson (Chair), Nikki Bond, Geoff Smith and Philip Wood.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

4.1 The Chief Licensing Officer submitted details in respect of three cases relating to Hackney Carriage and Private Hire Licensing.

4.2 The applicant in Case No. 52/12 attended the hearing with a representative and they both addressed the Sub-Committee.

4.3 The applicant in Case No. 53/12 attended the hearing and addressed the Sub-Committee.

4.4 The applicant in Case No. 54/12 attended the hearing and addressed the Sub-Committee.

4.5 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
52/12	Application for a first Hackney Carriage and Private Hire Driver's Licence	Refuse to grant a licence on the grounds that, in the light of the information now reported, the Sub-Committee considers that the

applicant is not a fit and proper person to hold a licence.

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| 53/12 | Review of a Hackney Carriage and Private Hire Driver's Licence | Agree that no further action be taken, thus leaving in place the officer warning regarding the actions of the driver now reported. |
| 54/12 | Review of a Hackney Carriage and Private Hire Driver's Licence | Defer a decision pending the applicant's Court case, effectively leaving the applicant's suspension in place. |

MEETING OF THE LICENSING SUB-COMMITTEE

held 24th July 2012

PRESENT: Councillors John Robson (Chair), David Barker
and Ian Saunders

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received. Councillor Geoff Smith attended the meeting as a reserve Member, but was not required to stay.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest.

5. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – STREET TRADING CONSENT SITE – BRAMALL LANE FOOTBALL GROUND, JOHN STREET (CONSENT NO. 57/FS)

5.1 The Chief Licensing Officer submitted a report to consider an application for the renewal of a Street Trading Consent at Bramall Lane Football Ground, John Street, Sheffield (Consent No. 57/FS).

5.2 Present at the meeting were Roger Stone and Linda Stone (Applicants), Ian Boyne (Objector), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from Ian Boyne, the letting agent for the premises next to the trading site.

5.5 In response to questions regarding the report, it was confirmed that the precise location of the trading site was on the corner of John Street and

- Shoreham Street, and that trading on the site would only take place during the football season, which ran from August to May the following year.
- 5.6 Roger Stone stated that he had traded in this area for 37 years, previously trading on the opposite side of John Street, and moving to the present site a few years ago. He parked the van up just before the road closes on match days, and the Police had no complaints about him doing this. He uses a silent generator, which had been purchased at considerable cost, which he argued cannot be heard by the occupier of the flat, which is located a few yards away from the van, and which is owned by the objector. Photographs showing the location of the van and its proximity to the shop premises and flat above were circulated at the hearing. The woman in the flat above the shop premises works in the shop, which sells sandwiches. She has never complained about the operation of the van to the applicant and he considers that they have a good relationship. He stated that when he finished trading, he would clear up any rubbish up to 100 yards down the road on John Street, as well as clearing rubbish from outside the shop premises. He had good relationships with the Council's Licensing and Highways Services, as well as the Police, and had never received any complaints about their operation from any of these authorities.
- 5.7 In response to questions from Members of, and the Solicitor to, the Sub-Committee, Mr Stone stated that he would set up for trading at around 11.30 am and leave by 5.45 pm. He had traded at this particular location for two football seasons. The shop premises next to the trading site was originally an off licence, but it closed and re-opened around two years ago as a sandwich shop. As part of regular enforcement exercises on match days, Licensing Officers had visited the van to inspect the generator, and had not deemed it a noise nuisance.
- 5.8 Ian Boyne, on behalf of the tenants of the shop and the tenant of the flat above, stated that the van was parked on double-yellow lines, often before the road had been closed, and caused serious obstructions to the junction of Shoreham Street and John Street. The unit was powered by a free-standing generator, which was positioned at the rear of the unit, and very close to the shop premises. The generator was very noisy and the strong fumes were easily detectable in both the shop and the flat. He stressed that he had no objection to the principle of the van, but was of the opinion that the van should be sited at a more appropriate location.
- 5.9 RESOLVED: That the public and press and attendees involved in the application be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.10 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.

- 5.11 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.12 RESOLVED: That the application to renew the Street Trading Consent on the site at Bramall Lane Football Ground, John Street, Sheffield (Consent No. 57/FS), be granted.

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MEETING OF THE LICENSING COMMITTEE

held 26th July 2012

PRESENT: Councillors John Robson (Chair), Nikki Bond, Jillian Creasy, Neale Gibson, Ian Saunders, Clive Skelton (Deputy Chair), Stuart Wattam and Philip Wood

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 Apologies for absence were received from Councillors Jenny Armstrong, David Barker, George Lindars-Hammond, Vickie Priestley and Nikki Sharpe.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest.

5. MINUTES OF PREVIOUS MEETINGS

5.1 The minutes of the meetings of (a) the Licensing Sub-Committee held on 10th, 14th, 15th, 16th, 21st and 29th May 2012 and 7th June 2012 and (b) the Licensing Committee held on 31st May 2012, be approved as correct records and, arising therefrom, (i) Councillor Jillian Creasy referred to the decision of the Licensing Committee at its meeting held on 31st May 2012, specifically relating to the establishment of a Task And Finish Multi-Agency Working Party to investigate the implications on the City of the Government Alcohol Strategy, expressing concern at the fact that she believed that she had been asked at that meeting to be a member of the Working Party, but it had since transpired that this was not the case and (ii) the Solicitor to the Committee referred to the decision of the Licensing Sub-Committee at its meeting held on 15th May 2012, relating to a review of a Premises Licence made in respect of Nisa Supermarket, 61-65 Barber Road, indicating that (A) since the decision, the premises had passed a further test purchase when the Premises Licence Holder was on the premises and (B) the Premises Licence Holder had appealed against the wording of the modified condition (b) (i) of the Premises Licence, as revised at the meeting on 15th May 2012, and it had been agreed that the

condition would now read as follows “When new staff (under two years service) are working at the premises, a person who has undertaken the Safeguarding Children training is to be on the premises at all times alcohol is for sale”, with all the other modified conditions remaining as recorded at the meeting.

5.2 In response to the concerns raised by Councillor Jillian Creasy, the Chair stated that he would contact Councillor Creasy to discuss this issue further.

5.3 The Committee noted the information now reported.

6. **LICENSING FEES REVIEW**

6.1 The Chief Licensing Officer submitted a report containing (a) a review of current licensing fees and (b) proposals to increase the fees in respect of Private Hire and Hackney Carriage Drivers and Vehicles, Animal Health, Street Trading and Motor Salvage Operations. The report also made reference to those systems where no increase in the fees had been proposed at the present time, together with details of those systems of which the fees were governed by the Secretary of State.

6.2 Steve Lonnia, Chief Licensing Officer, stressed that the increases in the licence fees were necessary mainly due to inflation and the increased costs of processing applications and that the level of the proposed increases had been set solely so as to enable the Licensing Service to recover its costs of processing applications. He also stressed that if a decision was made by the Committee to increase the fees in respect of Private Hire and Hackney Carriage Drivers and Vehicles, full consultation would then take place with the trades representatives.

6.3 In response to questions from Members of the Committee, it was reported that the large increase in the fees in terms of applications for licences to hold marriage and civil partnership ceremonies had been made due to changes in legislation in December, 2011, with the core reason being the responsibility of the Licensing Service to place an advert in the local press relating to the application. The proposed increase in fees regarding consents for street trading activities in the vicinity of Sheffield Wednesday and Sheffield United Football Grounds had been based on the cost of last year’s service and any likely increased costs in connection with this function this year was likely to result in further proposed increases the following year.

6.4 Hafeas Rehman, Sheffield Taxi Trade Association, stated that he objected to the proposed increase regarding Hackney Carriage vehicles and drivers, indicating that, although it was only a minor increase, he considered that drivers were being punished as opposed to the operators, which he did not consider fair. He also stated that he would have liked to have seen a full detailed breakdown of the costs of the service to give him the opportunity of commenting on such detail at this meeting, prior to a decision being

made.

- 6.5 Mohammed Yasim, Yorkshire Professional Drivers' Association, stated that he also objected to the proposed increase in the fees relating to Private Hire Drivers' Licences and also considered it unfair that drivers were having to pay the increased charges whereas the operators, particularly the two main operators in the City, who were earning considerable amounts of money, were not being asked to pay any increased charges.
- 6.6 In response, Steve Lonnia stated that officers spent a considerable amount of time dealing with issues or queries regarding Hackney Carriage and Private Hire vehicles and drivers in comparison to dealing with private operators and this was the reason behind the need to increase the fees.
- 6.7 RESOLVED: That the public and press and attendees be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 6.8 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the proposals in the report.
- 6.9 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees
- 6.10 RESOLVED: That (a) in the light of the information contained in the report now submitted and the representations now made, authority be given for the Chief Licensing Officer to increase the licensing fees and keep the remaining fees as they are currently, as detailed in the report now submitted; and
- (b) the Chief Licensing Officer be requested to make arrangements for formal consultation on the increase in the fees set out in Appendix 'A' to the report now submitted, relating to Hackney Carriage and Private Hire vehicles and drivers, with the taxi trade associations.

7. GAMBLING ACT 2005 – DRAFT STATEMENT OF PRINCIPLES

- 7.1 The Chief Licensing Officer submitted a report (a) informing Members of the results of the recently undertaken consultation exercise on the Gambling Act 2005 – Statement of Principles and (b) notifying Members of the changes made to the Act and seeking approval from the Committee on the draft revised Statement of Principles (Policy), drafted by the Licensing Authority in accordance with Section 349 of the Gambling Act 2005.
- 7.2 Steve Lonnia, Chief Licensing Officer, referred to the Draft Consultation Document, which had been sent to all Members of the Committee.

- 7.3 RESOLVED: That (a) the contents of the report now submitted, together with the Draft Consultation Document, be noted; and
- (b) approval be given to the revised Statement of Principles (Policy) document, for referral to the Cabinet and consequently, the Council, for approval.

MEETING OF THE LICENSING SUB-COMMITTEE

held 30th July 2012

PRESENT: Councillors John Robson (Chair), Neale Gibson, Nikki Sharpe and Clive Skelton

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 **RESOLVED:** That the public and press be excluded from the meeting before discussion takes place on the item of business to be considered on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest.

5. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING

5.1 The Chief Licensing Officer submitted details in respect of two cases relating to Hackney Carriage and Private Hire Licensing.

5.2 The applicants in Case No. 55/12 did not attend the hearing, but requested that the application and additional written representations be considered in their absence.

5.3 The applicant in Case No. 56/12 did not attend the hearing and the application and written representation was considered in his absence.

5.4 **RESOLVED:** That the cases now submitted be determined as follows:-

<u>Case No.</u>	<u>Licence Type</u>	<u>Decision</u>
55/12	Application for a new Hackney Carriage	Refuse to grant a licence under the current limitation policy on the

	Vehicle Licence	grounds that the applicants had failed to demonstrate that there are exceptional circumstances to deviate from that policy.
56/12	Application for a new Hackney Carriage Vehicle Licence	Grant a licence shorter than the normal term in line with the current Council policy on vehicle age on the grounds that the applicant has failed to demonstrate that there are exceptional circumstances to deviate from that policy.

MEETING OF THE LICENSING SUB-COMMITTEE

held 31st July 2012

PRESENT: Councillors John Robson (Chair), Nikki Sharpe and Clive Skelton.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received. Councillor Philip Wood attended the meeting as a reserve Member, but was not required to stay.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be made to exclude the public and press.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest

5. LICENSING ACT 2003 – DOG AND PARTRIDGE, 56 TRIPPET LANE, SHEFFIELD S1 4EL

5.1 The Chief Licensing Officer submitted a report to consider an application to vary a Premises Licence made under Section 34 of the Licensing Act 2003, in respect of the premises known as The Dog and Partridge, 56 Trippet Lane, Sheffield S1 4EL.

5.2 Present at the meeting were John Coen (Ford and Warren, Solicitors, for the Applicants), Tracey Jane Goodall (Designated Premises Supervisor) and her partner, Kevin Fletcher, Andrew Longley (Punch Taverns plc, Applicants), Louise Thomas (Environmental Protection Service), Councillor Rob Murphy (Objector), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from the Environmental Protection

Service, a local Councillor and local residents, as interested parties, and were attached at Appendices “D”, “E” and “F”, respectively, to the report, although none of the local residents were present at the meeting. It was also noted that the representations from Health and Safety had been withdrawn following the provision of an amended plan detailing the dance floor.

- 5.5 Louise Thomas stated that if the applicants were prepared to withdraw the element of the application relating to the increase in hours regarding regulated entertainment, she would be happy to withdraw her objections, on behalf of the Environmental Protection Service, to the application. In response, John Coen stated that the applicants would be happy to withdraw this element of the application.
- 5.6 Councillor Rob Murphy stated that his grounds of objection focused on the prevention of crime and disorder and the prevention of public nuisance and public safety. He stated that there were two large apartment blocks within the vicinity of the premises, with West Point being directly opposite and Anglo Works being approximately 50 yards further down Trippet Lane. He had been approached by a number of residents with regard to noise nuisance at the premises and a number of the residents, at his request, had contacted the “101” telephone number to report the nuisance. Whilst he welcomed the concession made by the applicants regarding the regulated entertainment, he still considered that the application to vary the premises licence should not be granted until such time the problems of noise nuisance had been addressed. He referred to specific problems being caused by customers drinking and smoking on the street outside the premises and indicated that there was only one entrance to the pub, which was on Trippet Lane, which therefore meant that residents of West Point suffered noise nuisance from customers leaving the premises in the early hours of the morning.
- 5.7 In response to questions from members of, and the Solicitor to, the Sub-Committee, and Mr. Coen, it was reported that, although there was a small lobby at the entrance to the premises, the main and inner doors did little to stop noise breakout. The Environmental Protection Service’s Night-Time Noise Team had received two telephone calls from residents complaining of noise nuisance, on 10th June and 15th July, 2012. Whilst there had been tables and chairs outside of the premises, on Trippet Lane, for some considerable time, it has only been fairly recently when complaints of noise nuisance had been made. This appeared to coincide with the change of the landlord of the premises. The complaints of noise nuisance outside the premises had been referred to the Council’s Highways and Planning Enforcement Services for them to investigate. Complaints had been received from three residents, during the last two months. Councillor Murphy confirmed that he was relaying the concerns of his constituents at this meeting and that he had expressed a willingness to attend the meeting to make representations on behalf of three complainants. He also confirmed that the withdrawal of that element of the application relating to the regulated entertainment would help to allay the residents’ concerns.

He was aware of the fact that there were a number of other licensed premises within the vicinity, but stated that none of the residents had raised any concerns with him in respect of these other premises. He could not recall the precise date when the complainants had contacted him, but he stated that he always suggested that they contact the "101" number. In terms of the number of apartments in the vicinity of the premises and the number of complaints he had received, Councillor Murphy accepted that there were a considerable number of residents who had no issues in terms of suffering noise nuisance from the premises.

- 5.8 John Coen, on behalf of the applicants, stated that the applicants were preparing to spend approximately £70,000 in terms of renovating the premises and that the main element of the proposed variation to the Premises Licence comprised an increase in the hours regarding the sale of alcohol on Friday and Saturday, by 30 minutes. He stated that Mr. Fletcher had taken on the lease of the premises eight weeks ago, and had approximately eight and a half years experience in the pub trade, previously managing two other public houses in the City Centre. The proposed activities in the premises were targeted at a 40+ year old age group and the operation would comprise 80% wet sales and 20% dry sales. In terms of complaints of noise nuisance, Mr. Coen made the point that, although there were a large number of apartments in the residential block directly opposite the premises, together with the block further down Trippet Lane, only three residents had complained of noise nuisance. He also confirmed that no complaints had been made to the licensee directly. He stated that there had been no representations from the Police, therefore crime and disorder was not considered to be a major issue. In terms of noise breakout, the licensee carried out regular checks in terms of noise levels during periods of regulated entertainment and he was happy to work with the Environmental Protection Service in connection with any continued monitoring.
- 5.9 In response to questions from Members of the Sub-Committee, it was stated that at the present time, there were no time limits as to when customers could stand outside the front of the premises, to smoke and drink. Steps were being taken to ascertain whether or not the premises held a pavement licence but, subject to the application being granted today, the applicants were willing to stop customers drinking outside, at the front of the premises, after 23:00 hours Sunday to Saturday. There were plans to add karaoke as a permitted activity with times to match those permitted for other forms of regulated entertainment.
- 5.10 **RESOLVED:** That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.12 The Solicitor to the Sub-Committee reported orally, giving legal advice on

various aspects of the application.

5.13 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

5.14 **RESOLVED:** That the Sub-Committee (a) agrees to grant a variation to the Premises Licence in respect of The Dog and Partridge, 56 Trippet Lane, Sheffield S1 4EL, subject to the amended application, operating schedule and to the additional conditions now made as follows:-

- (i) the consumption of alcohol in the external area is to cease at 23:00 hours seven days per week;
 - (ii) clear and legible notices shall be displayed at all exits, requesting that the public respect the needs of the local residents and to leave the premises and area quietly;
 - (iii) the lobby doors shall be closed, except for access and egress, when regulated entertainment is present in the premises; and
 - (iv) drinking vessels are to be prevented from being taken onto the dance floor; and
- (b) considered the request to remove a number of conditions and was satisfied that they were no longer necessary and as such, removed them from the licence.

(The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination).

MEETING OF THE LICENSING SUB-COMMITTEE

held 2nd August 2012

PRESENT: Councillors John Robson (Chair), Neale Gibson, Vickie Priestley and Clive Skelton.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest.

5. LICENSING ACT 2003 – THE YORK, 243-247 FULWOOD ROAD, SHEFFIELD S10 3BA

5.1 The Chief Licensing Officer submitted a report to consider an application to vary a Premises Licence made under Section 34 of the Licensing Act 2003, in respect of the premises known as The York, 243-247 Fulwood Road, Sheffield S10 3BA.

5.2 Present at the meeting were Alex Liddle (representing the Applicants), Councillor Jayne Dunn and Lee Kenny (Objectors), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and John Turner (Democratic Services).

5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

5.4 Andy Ruston presented the report to the Sub-Committee and it was noted that representations had been received from a local Councillor and a local resident and were attached at Appendices “C” and “D” to the report, respectively.

5.5 Councillor Jayne Dunn stated that although The York provided a beneficial amenity to Broomhill, and the management were always responsive and

sympathetic to the needs of the Broomhill community, she considered that the proposed extension of half an hour would have a detrimental effect on the quality of the area. She made reference to the opening hours of other public houses in the area, specifically to the problems of noise nuisance and anti-social behaviour presently linked to The South Sea Public House. Whilst she accepted that The York attracted a different clientele to those of the other pubs in the area, particularly The South Sea, she considered that the extension of hours would provide a potential for further noise nuisance, litter and alcohol-related anti-social behaviour, as well as causing additional problems for the Police. She made reference to the problems of car parking in the area and increases in pub opening times would be likely to increase the potential for accidents and injuries.

5.6 In response to questions from Members of the Sub-Committee and the representative of the applicants, Councillor Dunn stated that over the past few years, when the pubs opened until the early hours of the morning, there had been a lot of problems in terms of noise nuisance and alcohol-related anti-social behaviour in Broomhill. More recently, however, the public houses were closing earlier, and residents did not want the problems returning.

5.7 Lee Kenny, who was attending both as a resident and as Secretary of the Broomhill Action Neighbourhood Group (BANG), stated that she concurred with the views expressed by Councillor Dunn and indicated that she was concerned that an increase in the opening hours of The York, together with the late opening hours of a number of hot food take-aways in Broomhill, would exacerbate the problems of late night noise and potential for alcohol-related anti-social behaviour in the area. She stressed that the management of The York had put a significant amount of effort into developing good community relations and that representatives of BANG had met with the owners and management on a number of occasions to discuss the operation of the bar and how it impacted on the local community. She also stressed that the bar was a valued business in the Broomhill District Centre and that BANG was mainly objecting to the extension in terms of regulated entertainment and provision of hot food, and suggested a number of points for the Sub-Committee to consider in terms of its deliberation of the application. It had requested that there should be no late night cut-price drinks promotions, that there should be a "winding down" period before closing time which would hopefully encourage customers to finish their evening and leave the premises quietly and that the last food orders should be served well before closing time to enable customers to have more time to finish their food in a relaxed atmosphere. BANG considered that whilst it did not envisage that the proposed extension in terms of the sale of alcohol would create too many problems with the current management running the premises, it had concerns that if the management of the premises changed, they could change the style and operation, which would cause potential problems.

5.8 The Solicitor to the Sub-Committee explained the position regarding the change of management, indicating that the Police would have the

- opportunity of objecting to a change in the Designated Premises Supervisor and if they chose to do so, this would be considered by this Sub-Committee. Also, if there were problems with the operation of the premises, residents had the opportunity of requesting a review of the Premises Licence.
- 5.9 In response to questions from Members of the Sub-Committee, Lee Kenny stated that she had lived in Broomhill for 10 years and whilst there had been problems in terms of noise nuisance and alcohol-related anti-social behaviour linked to the operation of the public houses and takeaways in the area, considerable progress had been made, with the assistance and intervention of the Council and the Police, to improve the situation. She considered Broomhill to be a residential suburb and that the quality of life for its residents should be respected. Whilst there had been some issues in terms of underage drinking at the Balti King, there had been little problem in terms of noise nuisance at the restaurant.
- 5.10 Alex Liddle circulated a brochure, which formed the basis of his presentation in terms of the application to vary the Premises Licence. The brochure contained details of the applicant's management operation, plans for the restoration and development of the premises, menu options, responses to the objectors' representations and details of the location and opening hours of the other public houses in Broomhill. Following the comments of the objectors and Members of the Sub-Committee, Mr. Liddle stated that he was happy to remove the increase in hours in terms of the late night refreshment element of the application.
- 5.11 In response to questions from Members of the Sub-Committee and the objectors, Mr. Liddle stated that the applicants wished to stop serving hot food half an hour before closing time and that last orders in terms of the sale of alcohol would be 00:00 Sunday to Thursday and 00:30 hours Friday and Saturday.
- 5.12 **RESOLVED:** That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.13 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 5.14 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.15 **RESOLVED:** That the Sub-Committee agrees to grant the variation to the Premises Licence in respect of The York, 243-247 Fulwood Road, Sheffield S10 3BA, subject to the amended application, operating schedule and to the modified conditions now made as follows:-

- (a) Condition 2 – A colour CCTV system to the specification of South Yorkshire Police will be fitted, maintained and in use at all times whilst the premises are open. The CCTV images will be stored for 31 days and Police and authorised officers of the Council will be given access to images for purposes in connection with the detection of crime and disorder. Members of the management team will be trained in the use of the system. A copy of the specification dated January, 2010 will be available at all times for inspection of the Police and authorised officers;
- (b) Conditions 5 and 6 be removed and replaced with a new condition with the following wording “Clear and legible notices shall be displayed at all exits, requesting that the public respect the needs of the local residents and to leave the premises and area quietly”;
- (c) Condition 7 – the words “as set by the Environmental Protection Service” be added; and
- (d) Conditions 17 and 18 be removed.

(The full reasons for the Sub-Committee’s decision and the operating conditions will be included in the written Notice of Determination).

MEETING OF THE LICENSING SUB-COMMITTEE

held Tuesday 7th August 2012

PRESENT: Councillors John Robson (Chair), David Barker and Philip Wood

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 No items were identified where resolutions may be moved to exclude the public and press.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest

5. LICENSING ACT 2003 – COOPERATIVE, 849 ECCLESALL ROAD, SHEFFIELD, S11 8SD

5.1 The Chief Licensing Officer submitted a report to consider an application to vary a Premises Licence made under the Licensing Act 2003, in respect of the premises known as Co-operative, 849 Ecclesall Road, Sheffield, S11 8SD.

5.2 Present at the meeting were Richard Arnot (Solicitor for Cooperative, Wade Hadaway), Peter Cooper (Store Manager, Cooperative), Councillor Neale Gibson, Councillor Nikki Bond, Viv Lockwood, Annaliese Connelly, Ian McCollough and Bob Mellers (all from the Banner Cross Neighbourhood Group), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and Gillian Capewell (Committee Secretary).

5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.

5.4 The Licensing Officer presented the report to the Sub-Committee and it was noted that representations had been received from local residents, and were attached at Appendix C to the report.

- 5.5 Mr. Lockwood addressed the Sub-Committee, stating that the area around the Cooperative at Banner Cross was extremely residential, and there was currently only one other off-licence in the area (Rhythm and Booze), which was open until 2200 hours daily. There were also a few bistros and a public house (The Banner Cross) in the locality.
- 5.6 Mr. Lockwood stated that the Fretwell Downing building directly next to the Cooperative had now been vacated by the business and was to be turned into 23 new apartments.
- 5.7 Mr. Lockwood referred to a training manual entitled the 'Citrus' manual, which had been circulated prior to the hearing to all attendees by the Cooperative. He stated that, as he had worked as an Assistant Headteacher in the past, he was well aware that such documents could remain unread and 'gather dust', and remained largely 'useless' when it came to overriding human behaviour.
- 5.8 He believed that 'young girls' working on the tills would be flattered into selling alcohol to their peers if the store was to extend its hours selling alcohol, as these peers would be walking to school around the time of 0800 hours.
- 5.9 Mr. Lockwood stated that the store had a social duty to sell alcohol responsibly, and that there were currently large crates of beers and ciders stacked at the front of the store displaying prominent promotional prices.
- 5.10 He stated that he and the other members of the Banner Cross Neighbourhood Group (BCNG) had an affiliation with the ethics of the Cooperative movement and were disappointed that the Cooperative in fact seemed to be just like the other supermarkets; encouraging cheap alcohol sales. He went on to state that there was also a lack of transparency about the opening hours of the store, and that the hours were currently displayed in a small corner of the front door, and a member of staff had not known the hours when he had asked them.
- 5.11 Ms. Connelly then addressed the Sub-Committee, and wondered how robust the Challenge 25 scheme would be if under 18's were serving on tills. She then cited an anecdote where her partner had been sold alcohol and the cashier had needed a supervisor to approve the transaction on the till, but, as the store had been very busy, and the supervisor had not come, the cashier had then put the transaction through anyway.
- 5.12 Mr. Lockwood added that there was a large car park in front of Cooperative which was very dark in the evenings and could potentially encourage young people to hang around after hours.
- 5.13 Members asked Mr. Lockwood whether there was any evidence of antisocial behaviour linked to the premises, and he replied that there was not, but that he had not had ample time to contact the members of the BCNG to obtain everyone's input on this issue.

- 5.14 Mr. Lockwood stated that a great number of school children made their way up past the Cooperative in the early morning on their way to school, and that there were also existing problems with youths hanging around the area (not by the Cooperative, but at a quiet spot, further up the road).
- 5.15 Mr. Lockwood stated that the area had an extremely close community, and that a Banner Cross Festival had recently been held to celebrate the local traders and businesses in the area, as part of the 'Totally Locally' campaign.
- 5.16 Mr. Arnot then addressed the Sub-Committee. He stated that the Cooperative was the fifth largest retailer in the UK, and had an ever-increasing membership and growing brand awareness. He reported that Mr. Cooper had been Store Manager at the Cooperative (and in its previous incarnation as Somerfield) for five years.
- 5.17 Mr. Arnot emphasised that the Cooperative did not simply pay lip service to the training manuals which he had circulated, as proposed by Mr. Lockwood. Mr. Arnot stated that all policies and procedures were taken extremely seriously, as there were major implications for the store and the Cooperative brand if these were not adhered to.
- 5.18 Mr. Arnot explained that this particular Cooperative was a local convenience store, attracting a wide range of customers. Each region of the UK had its own Risk Manager, and their job was to ensure that all staff were fully trained on all policies and procedures. All new staff received four hours of starter training upon induction to the company, and they had to pass an exam at the end of this session, testing them upon health and safety, alcohol sales etc. This test had to be passed before any new member of staff could commence work. When they started, they were assigned a 'buddy' who was a more experienced member of staff to help guide them.
- 5.19 There was also a 'lockdown' in place, whereby new members of staff were not allowed to sell any age-restricted products until a supervisor was satisfied they were able to safely dispense these items. There were also two mandatory refresher training courses held for all staff every year.
- 5.20 CCTV cameras covered the whole store, and most of the car park, and systems were in place so that this CCTV footage could be easily accessed. The tills that were in place were extremely sophisticated and were more like computers. The tills were able to recognise all age-restricted product sales and they required the input of a supervisor in order to authorise certain transactions. The tills could produce electronic refusals registers on demand, and staff were required to input the age they believed a customer buying age-restricted products to be. A Challenge 25 system was in place and all staff were fully trained on how it operated and on its importance.

- 5.21 The layout and design of the store was such that the wines and spirits were in the furthest aisle away from the door, and this aisle had a dedicated member of staff attending to it. There were also promotional stacks of alcohol, such as beers or cider, nearer to the door, which were not easy to steal, as they were in large crates or boxes.
- 5.22 This particular store had seven dedicated Personal Licence Holders (PLHs), and the Cooperative was a nationally recognised trainer in the PLH qualification.
- 5.23 The car park was very well lit, and a long-standing arrangement was in place for staff and customers of the Napoleon's Casino opposite the store to use the car park after store hours. This meant that there was a constant surveillance of the site.
- 5.24 Mr. Arnot emphasised that the Cooperative had an excellent track record of not selling to underage persons, and that it did not need the revenue from such underage sales, as the Cooperative was an extremely successful and established brand. Mr. Arnot explained that the typical customer at the store was a middle-aged lady, and that the store ethos was to make all customers feel safe and welcome.
- 5.25 Mr. Arnot added that the reasoning behind applying to sell alcohol between the hours of 0600 and 0800 was so that the customers had the full range of products available to them at all times the store was open, for their convenience. He stated that a vast increase in alcohol sales at these new times was not envisaged. Mr. Arnot pointed out that there had been no representations from South Yorkshire Police regarding the application, and he was not aware of any 'bad press' surrounding the Cooperative with regard to underage alcohol sales; nor any failed test purchases.
- 5.26 Mr. Cooper then addressed the Sub-Committee, indicating that he had never heard of the BCNG, as they had not come to introduce themselves in store to him, nor had they highlighted any concerns to him personally. Mr. Cooper stated that the store prided itself on its community work and did a great deal of work currently with local charities. He stated that if the BCNG got in touch with him in future, he would like to help out with supplies for future community events, such as the Banner Cross fete described earlier in the meeting.
- 5.27 Ms. Connelly stated that she believed Mr. Arnot had not visited the store, to which he replied that he had. Ms. Connelly believed that the store should uphold its ethical values, and reach a compromise with local people with regard to the sale of alcohol at appropriate times. Mr. Arnot stated that this was not a local referendum, and that he did not see any reason why the store should not be able to sell alcohol between 0600 and 0800 hours, as it had an excellent track record, and now wished to fulfil the demand of its customers. He added that speculation upon 'what might happen' was not in itself evidence, and did not prove that the licence variation would cause any of the problems predicted by the BCNG.

- 5.28 The Licensing Officer then detailed the options open to the Sub-Committee.
- 5.29 **RESOLVED:** That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.30 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.
- 5.31 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.
- 5.32 **RESOLVED:** That the Sub-Committee agrees to grant the variation to the Premises Licence in respect of the premises known as The Co-operative, 849 Ecclesall Road, Sheffield, S11 8SD, in the terms requested.
- 5.33 (The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination).

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MEETING OF THE LICENSING SUB-COMMITTEE

held Thursday 9th August 2012

PRESENT: Councillors John Robson (Chair), Nikki Bond, Neale Gibson and Nikki Sharpe.

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1. WELCOME AND HOUSEKEEPING ARRANGEMENTS

1.1 The Chair welcomed attendees to the meeting and outlined basic housekeeping and fire safety arrangements.

2. APOLOGIES FOR ABSENCE

2.1 No apologies for absence were received. Councillor Nikki Bond attended as reserve Member, and stayed and participated for the duration of the meeting.

3. EXCLUSION OF THE PUBLIC AND PRESS

3.1 Inspector Simon Leake, South Yorkshire Police, made an application for certain parts of the hearing to be held in private.

3.2 **RESOLVED:** That the public and press be excluded from certain parts of the meeting, to be determined by the Chair, before discussion takes place on the particular elements of business to be considered, on the grounds that, if the public and press were present during the transaction of such business, there would be a disclosure to them of exempt information as described in paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.

4. DECLARATIONS OF INTEREST

4.1 There were no declarations of interest on items to be considered.

5. LICENSING ACT 2003 – REVIEW OF PREMISES LICENCE: PARSON CROSS HOTEL, DEERLANDS AVENUE, SHEFFIELD, S5 8AA

5.1 The Chief Licensing Officer submitted a report to consider an application for the review of a Premises Licence made under section 51 of the Licensing Act 2003, in respect of the premises known as the Parson Cross Hotel, Deerlands Avenue, Sheffield, S5 8AA.

5.2 Present at the meeting were Inspector Simon Leake (South Yorkshire Police), Sergeant Gayle Kirby (South Yorkshire Police), PC Chris Wilkinson (South Yorkshire Police), Lizzie Payne (South Yorkshire Police Licensing), Julie Hague (Licensing Project Manager, Safeguarding Children Board), Mohammed 'Tony' Shabere (Premises Licence Holder),

Liaqat Sharif (Representative of Mr. Shabere), Michael Hunt (Assistant Manager, Parson Cross Hotel), Andy Ruston (Licensing Officer), Marie-Claire Frankie (Solicitor to the Sub-Committee) and Gillian Capewell (Committee Secretary).

- 5.3 The Solicitor to the Sub-Committee outlined the procedure which would be followed during the hearing.
- 5.4 The Licensing Officer presented the report to the Sub-Committee and it was noted that the applicant for the review was South Yorkshire Police. The grounds for the review were based upon the following aspects of the 2003 Licensing Act objectives; prevention of crime and disorder, prevention of public nuisance, protection of children from harm and public safety. It was noted that the Licensing Authority had received representations from the Sheffield Safeguarding Children Board and the Premises Licence Holder.
- 5.5 Sergeant Kirby addressed the Sub-Committee, outlining the reasons why South Yorkshire Police had applied for this review. She detailed an extensive list of incidents and visits to the premises, which included reports of anti-social behaviour, drug taking, underage alcohol sales and fighting. It was noted that many of these incidents had been reported but 'no further action' had been taken, and therefore, no conclusive evidence could be drawn from them.
- 5.6 Inspector Leake commented that it was often the case that an incident of violence, for example, was reported at a premise, and then not concluded, as the person reporting the incident 'did not want to grass', as there could be repercussions for the individual. This happened on a regular basis across the City.
- 5.7 Sergeant Kirby conveyed a picture of the premises and the way in which it was operated. She reported that the premises were located in a socially deprived area of the City, and that alcohol-fuelled violence and football hooliganism was commonplace.
- 5.8 **RESOLVED:** That the public and press be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.9 Sergeant Kirby then showed Members CCTV footage of the public house at 1600 hours one recent weekday afternoon. The footage identified several under 16s and therefore was not appropriate to show in front of press and public.
- 5.10 The footage focussed upon the main access point to the premises (the front door), and showed youngsters moving pub furniture (i.e. chairs) in

- and out of the premises to sit on outside, as it was a sunny day. The clientele seemed to be mainly young people. There was also a child of about three years of age who was wandering in and out of the main door unsupervised throughout the footage.
- 5.11 The footage appeared to show the Designated Premises Supervisor (DPS), Naseem Akhtar, pass a green bottle (most like Carlsberg beer) to a young person at the bar, and take no money for the transaction. There was also a group of young people standing to the right hand side of the bar just off camera.
- 5.12 At this stage in the proceedings, the meeting was re-opened to the public and press.
- 5.13 Members asked Sergeant Kirby why her report had detailed incidents which had never been followed up or proven, to which she replied that the level of reported incidents at the premises painted a picture of the type of venue it was. She stated that many of the people who regularly drank there were 'anti-police' and were unlikely to make statements.
- 5.14 Sergeant Kirby added that the reason why incidents had been reported in the log which preceded Mr. Shabere's time as PLH was to indicate that there had been a pattern in place for many years, and that there had been no change in the types of incidents reported since he had taken over, and things had not improved.
- 5.15 Sergeant Kirby stated that South Yorkshire Police had an expectation that premises would work closely with them in order to identify any problems of anti-social behaviour, violence and drug-taking, and that many other licensed premises in the area did so very effectively. However, there was no proactive behaviour from the Parson Cross Hotel, and the Police were constantly having to instigate proceedings there.
- 5.16 Sergeant Kirby acknowledged that the Parson Cross Hotel had made a request for a Police drugs dog walk through of the pub, but that this request had been declined due to a lack of resources. Sergeant Kirby commented that a high level of Police staffing would be required for such an operation, due to the anti-Police nature of the pub's clientele, and that the time of year the request was made meant that a lot of staff were on annual leave.
- 5.17 Sergeant Kirby commented that she had never met Mr. Shabere before today's hearing, and that he did not seem to be very proactive on the running and management of the pub. These 'anti-police' regulars who had been alluded to earlier almost seemed to 'run the pub', and created a very tense 'aura' in the pub whenever the Police visited.
- 5.18 A photograph was also passed round and shown to Members which showed several young people sitting outside the pub on internal pub furniture, with Carlsberg bottles and empty pint glasses in front of them. It

- was clarified that several of the young people, and the young people in the CCTV footage, were known to the Police for various reasons.
- 5.19 It was noted that the pint glasses most likely had come from inside the pub, as the nearest pub was about half a mile away, and the Parson Cross Hotel was a fairly isolated estate pub.
- 5.20 Sergeant Kirby stated that the Parson Cross Hotel was a difficult pub to manage, with long-standing problems, which needed rectifying before the start of the football season in late August 2012.
- 5.21 Sergeant Kirby clarified that there had been no test purchase operations run at the pub recently, as the pub was deemed too dangerous at present for this kind of work; potentially putting the volunteer at risk. Sergeant Kirby added that the Police had requested sight of the pub's refusals log, but that this had not been produced on one specific occasion.
- 5.22 Mr. Sharif then questioned the evidence produced by the Police. Sergeant Kirby clarified that there had been no incidents reported at the pub since 20th June 2012. Sergeant Kirby stated that it was often the case that a premise with a pending review 'tightened things up' at this time. She stated there was still Police intelligence that there was a high level of serious crime and anti-social behaviour associated with the premises.
- 5.23 Mr. Sharif commented that Mr. Shabere had been in regular contact with PC Matt Stringer, who had been in charge of the area before the boundaries had been realigned and Sergeant Kirby had taken over. Sergeant Kirby stated that she had visited the premises six times since she had taken control of the area, but that she had not met Mr. Shabere on any of these occasions.
- 5.24 In response to a question from Mr. Sharif, Sergeant Kirby confirmed that she had not been in attendance at a meeting held on 20th December 2011 with the premises, as she had been off work during the month of December for personal reasons.
- 5.25 With regard to the attendance of Mr. Shabere and his staff on a Safeguarding Children course, Mr. Sharif refuted the suggestion that Mr. Shabere had not passed on the course details to his staff. Mr. Sharif stated that all staff had now attended the course, and that any missed appointments had not been intentional.
- 5.26 With regard to Sergeant Kirby's statement that every time she called Mr. Shabere he had been at Manchester airport, Sergeant Kirby clarified that she meant simply 'airport' and not specifically Manchester, and she confirmed that this had been the case every time she had tried to contact Mr. Shabere.
- 5.27 Sergeant Kirby confirmed that, often, when the Police arrived to deal with a situation at the pub, people dispersed almost immediately, making

- situations hard to manage, and information difficult to obtain.
- 5.28 Sergeant Kirby confirmed that the last test purchase operation at the premises (in 2011), had been passed successfully. This was prior to Mr. Shabere taking over at the premises.
- 5.29 Mr. Sharif clarified that Mr. Shabere had taken over the lease of the premises from Ms. Karina Solomon, and not from Mr. Vernon Solomon, as indicated in the report; Karina being the daughter of Vernon Solomon.
- 5.30 With regard to accessing the CCTV footage, Mr. Sharif confirmed that, although Ms. Akhtar had not been able to operate the system herself, Mr. Shabere had arranged for another friend to come and operate the system, which had occurred successfully, and the Police had been able to access the footage as required.
- 5.31 **RESOLVED:** That the public and press be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraphs 1 and 2 of Schedule 12A to the Local Government Act 1972, as amended.
- 5.32 PC Wilkinson then showed Members further CCTV footage of the venue. This time, the footage focused upon a football match day, and showed a large number of people in the public house, drinking, chanting and singing football songs. The pub was very busy, and there was a large group of young people playing pool, with others gathered around the pool table.
- 5.33 PC Wilkinson informed Members that his role was as a 'spotter', and his job was to identify individuals who were linked to football violence associated with Sheffield Wednesday football matches. He explained that the older football hooligans respected a 'code' and would only fight recognised hooligans from other teams. However, a new younger group who called themselves the 'Owls Crime Squad' did not respect this code, and fought anyone they saw fit. This made things extremely problematic on match days.
- 5.34 PC Wilkinson stated that the Parson Cross Hotel was used as a starting point on match days, and that fans and hooligans would gather there to get drunk and chant football songs. They would then walk to Hillsborough Corner in a 'show of strength', and intimidate other fans on the way.
- 5.35 PC Wilkinson identified the majority of the young people in the footage as being aged between 15 and 19 years of age. Many of the young people in the footage were known to him and his team for other offences.
- 5.36 PC Wilkinson added that two pubs near to Hillsborough stadium (the Gate and The Travellers) had recently closed down, and the Owls Crime Squad base had subsequently transferred to the Parson Cross Hotel. The

atmosphere in the Parson Cross Hotel during the footage was very loud and intimidating, and there seemed to be a great number of young people present in the premises. PC Wilkinson stated that the premises had an undercurrent of criminality, and was not an easy place for Police to enter, especially on match days. PC Wilkinson added that there was a high-risk football match scheduled for Saturday 25th August 2012 (Sheffield Wednesday v Millwall), and that the premises needed to be ready to handle the activity on that day. PC Wilkinson stated that there was an unacceptable level of incidents at the premises.

- 5.37 At this stage in the proceedings, the meeting was re-opened to the public and press.
- 5.38 In response to the footage shown and the level of incidents reported, Mr. Shabere stated that he believed there was a personal vendetta against him held by Mr. Solomon, as Mr. Solomon had been unhappy about Mr. Shabere taking over the licence in the first place. As a large number of incidents reported were anonymous, or not followed up, or were concluded with 'no further action taken', Mr. Shabere believed that many of the reports were false.
- 5.39 In response to a question from Members, Inspector Leake stated that it was the CCTV footage of the match day at the premises which had prompted the request for a review, due to the hostile environment at the pub and the large number of underage drinkers. Inspector Leake added that other premises in the locality had robust structures in place to deal with things such as football violence, whereas the Parson Cross Hotel did not, which is why violent gangs had selected it as their base.
- 5.40 Inspector Leake emphasised the need for proactive management of the premises. He commented that monthly meetings were currently taking place at present with the premises, which were a large drain on Police resources. The pub needed to be able to 'walk on its own two feet',
- 5.41 Members asked Inspector Leake what more he would do with the pub if resources were not an issue, and he replied that he would install UV lighting in the toilets to deter drug usage, and increase Police levels to patrol the pub. However, he emphasised that there were many things the PLH could do which did not involve a great deal of expenditure, such as taking a more proactive approach to the management of the premises.
- 5.42 PC Wilkinson stated that although the footage did not show any violence at the pub, the premises were a 'launch pad' for violence which occurred later on the day; before, during and after the match, and allowed the gangs to gather there with no repercussions.
- 5.43 Inspector Leake clarified that the number of incidents reported at the Parson Cross Hotel was significantly more than those reported at other pubs across the City. Inspector Leake commented that it was disappointing to note that the DPS was not present at the hearing. Inspector Leake

- believed that a clear break needed to be made between the premises and organised crime gangs.
- 5.44 Ms. Hague then addressed the Sub-Committee. She stated that there had been persistent problems since 2008 at the premises with regard to underage drinking. Various attempts had been made to support the management of the venue over the years, and there had never been a proactive approach to addressing the problems. She also provided some background about the effect of drinking on children and young people.
- 5.45 She outlined the problem of the lone toddler who was seen wandering around the premises unsupervised during the CCTV footage, adding that the DPS had had sight of the toddler, but had chosen not to intervene.
- 5.46 Ms. Hague acknowledged that the premises did display clearly the children's charter and that all the necessary signs and systems seemed to be in place, but that these systems were not operated and enforced by staff, and the children's charter was not adhered to. She also acknowledged that her contact with Mr. Shabere had always been positive, and that he had been cooperative when she had spoken to him. She also stated that all staff had attended the Safeguarding training. Ms. Hague added that a member of staff called Linda Bell had taken the lead on Safeguarding issues, as the DPS already had enough areas of responsibility.
- 5.47 Mr. Sharif stated that there had been a parent near to the three year old supervised child, but Ms. Hague said that she had not seen one, having viewed the full footage, and that the child was left on its own for far too long.
- 5.48 Ms. Hague acknowledged that one of the Safeguarding training letters had the wrong postcode on it, and she admitted it may never have reached the intended recipient.
- 5.49 Mr. Sharif then addressed the Sub-Committee. He stated that Mr. Shabere had taken over control of the pub on 15th December 2011. Mr. Shabere also owned a number of housing properties in the area. Mr. Shabere was a family man, and had eight grandchildren. He had also volunteered as a Special Constable for the Police in the past, and currently volunteered at the Fir Vale Youth Project. Mr. Shabere also owned and operated a children's nursery in Hull.
- 5.50 Mr. Sharif stated that although Mr. Shabere believed the four core Licensing objectives were being met, he and the DPS were willing to adapt and improve the way in which the premises were operated.
- 5.51 Mr. Sharif reiterated the personal vendetta which he believed was held against Mr. Shabere by Mr. Solomon, and how this had affected the business, with repeated anonymous calls to the Police.

- 5.52 Mr. Sharif stated that there was a drugs box in operation at the premises and this was kept sealed at all times. Mr. Shabere had made a recent attempt to join Licence Watch, but the dedicated officer for this had been on holiday when he had called.
- 5.53 Mr. Sharif stated that a great deal of the Police evidence had not been 'backed up', and he also added that there had been no incidents reported at the premises at all since 20th June 2012. Mr. Sharif reiterated that all staff at the premises had attended the Safeguarding training, and that a drugs dog walk through had been requested of South Yorkshire Police, but had not taken place due to the reasons already outlined.
- 5.54 Mr. Sharif reported that there were issues around employing SIA registered door staff, as had been suggested by the Police, due to financial restrictions from Mr. Shabere.
- 5.55 With regard to the photograph and footage which had been seen, Mr. Sharif stated that there was still no conclusive evidence of underage sales.
- 5.56 Mr. Sharif stated that Sergeant Kirby had been wrong about Mr. Shabere being 'at the airport' every time she had phoned him, This had, in fact, just been the one occasion when he had driven to Manchester airport to collect a friend.
- 5.57 Mr. Sharif referred to the questionnaires which were contained within the agenda pack. 300 of these had been distributed by Mr. Shabere and filled in by local people. They reflected a variety of different views about the premises. Mr. Shabere stated that he accepted the Police comments about the pub being seen as a launch pad for gangs, but he stated that he had never witnessed any violence or disorder at the premises. Mr. Shabere confirmed that he was happy to work with South Yorkshire Police to move things forward, as he wanted a successful business.
- 5.58 Mr. Shabere stated that he was not aware of the type of behaviour seen in the second piece of CCTV footage until he had seen it today, although he also stated that he did visit the pub regularly, around three times a week.
- 5.59 It was clarified that outdoor furniture had been removed from the front of the pub, following a recommendation by the Police, and that he intended to prevent people from taking furniture outside in future. When asked why the DPS was not in attendance at this hearing, Mr. Shabere stated that he did not realise she was expected to attend. Mr. Shabere stated that he believed the DPS was capable and responsible and that he trusted her with his business. Mr. Shabere clarified that this was the first public house he had operated.
- 5.60 Mr. Shabere admitted that the pool cues should have been locked away on the match day shown in the CCTV footage.
- 5.61 Mr. Shabere stated that he was confident that he could handle the venue

on the day of the football match scheduled for 25th August 2012, and that if he could not cope with the venue, he would voluntarily surrender his licence. Mr. Shabere stated that he intended to be present at the pub a great deal more from now on. Mr. Shabere then assured Members that he was capable of operating the pub and that he was determined to prove this. He added that he would provide greater support to the DPS in future. He admitted he could not change the people who lived in the area, but he could tighten up operations at the premises.

5.62 Mr. Shabere confirmed that staff at the pub were as follows; Naseem Akhtar (DPS), Mick Hunt (Assistant Manager), Carol Gambles (bartender) and Linda Ball (bartender).

5.63 It was noted that there were private rooms above the pub which were rented out, and there was a large function suite, which was currently closed and locked, pending refurbishment. With regard to the area round the back of the premises, Mr. Shabere stated that he had not attempted to put furniture out there as this would be 'a nightmare' to control.

5.64 Mr. Shabere admitted that the pool cues should have been locked away on a match day, and stated that he would ensure that this happened in future. Mr. Shabere stated that he wished for the pub to be family-friendly, and that he would take further advice from Ms. Hague in the future. Mr. Shabere clarified that, although Ms. Akhtar could not work the CCTV system, he had a friend who could come to the premises if requested, in order to operate it. Mr. Shabere accepted that the toddler in the CCTV footage had been on its own for an unacceptable length of time.

5.65 Mr. Hunt stated that he used to work for Sheffield Forgemasters, and that he had taken his PLH qualification there. Mr. Shabere was asked what he understood to be the Challenge 21 system, and he replied that if a customer looked 21, they should be asked for ID.

5.66 In summary, Inspector Leake stated that the Police wished to see a significant culture change at the premises, and that they wished to see an end to underage drinkers feeling comfortable in the venue. Ms. Hague stated that she wished to see systems and structures strongly enforced at the premises, in order to make it a safe environment for children and young people. Mr. Sharif stated that he believed no substantial evidence had been produced by South Yorkshire Police, although he accepted that there was room for improvement, with management willing to learn, adapt and improve. He believed the situation was not beyond resolution, and was willing to take advice where necessary.

5.67 The Licensing Officer then detailed the options open to the Sub-Committee.

5.68 **RESOLVED:** That the public and press and attendees involved in the hearing be excluded from the meeting before further discussion takes place on the grounds that, in view of the nature of the business to be

transacted, if those persons were present, there would be a disclosure to them of exempt information as described in Paragraph 5 of Schedule 12A to the Local Government Act 1972, as amended.

5.69 The Solicitor to the Sub-Committee reported orally, giving legal advice on various aspects of the application.

5.70 At this stage in the proceedings, the meeting was re-opened to the public and press and attendees.

5.71 **RESOLVED:** That the Sub-Committee agrees to remove the Designated Premises Supervisor, and to modify the conditions of the licence in respect of the premises known as the Parson Cross Hotel, Deerlands Avenue, Sheffield, S5 8AA, as follows;

(a) No licensable activities to take place at the premises for a period of three months.

The reason for this condition was to give the premises the clean break it required to allow there to be a culture change at the premises and for the premises to be able to operate stricter controls when it reopened, which were as follows;

- (i) No under 18s to be on the premises at any time
- (ii) Challenge 25 to be in operation
- (iii) Become a member of pub/licence watch and maintain regular attendance
- (iv) Staff must receive training which is refreshed annually and records kept of this training
- (v) No alcohol to be consumed in the outside area at any time
- (vi) No tables and chairs to be in the outside area
- (vii) Refusal log to be kept and available for inspection
- (viii) Drug box to the requirements of South Yorkshire Police to be in place at the premises
- (ix) On Sheffield Wednesday home match days, pool cues and balls will be locked away for the entire day, and
- (x) SIA registered door staff to be on each access door for Sheffield Wednesday home matches from opening until closing.

(Existing conditions 2, 4, 7 and 8 of Annex 2 are to be removed)

5.72 (The full reasons for the Sub-Committee's decision and the operating conditions will be included in the written Notice of Determination).



SHEFFIELD CITY COUNCIL Licensing Sub Committee

Report of: Chief Licensing Officer

Date: 4th September 2012

Subject: Private Hire and Hackney Carriage Licensing

Author of Report: Steve Lonnia, Chief Licensing Officer

Summary: Sheffield City Councils – Review and Response to the Law Commissions consultation on the proposals of new legislation for private hire and hackney carriage law.

Category of Report: OPEN

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Hackney Carriage and Private Hire Licensing

Law Commission – Consultation Paper – Taxi and Private Hire Licensing Legislation Reform.

1.0 Purpose

1.1 To formulate a response from Sheffield City Council to the questions raised by the law commission through its review of the current legislation and its intention to write new legislation for the taxi and private hire licensing.

2.0 Background

2.1 Central Government has instructed the Law Commission to review and consult on the current legislation that governs taxi and private hire licensing. Following the consultation the Law Commission have been asked to formulate a new piece legislation to replace the existing outdated legislation that applies to this area of licensing.

2.2 This is the biggest legislative reform that has ever been seen in the taxi and private hire sector. The current legislation is some of the oldest still used in courts and by Councils. The legislation will change and therefore we need to ensure that Sheffield City Council submits its views on the proposed changes.

2.3 The current legislation is one of the most challenged pieces of legislation and the Local Government (Miscellaneous Provisions) Act 1976 has many times been the subject of Crown and High Court Hearings. The opportunity to design a piece of legislation fit the 21st Century and beyond should not be overlooked.

2.4 This is your opportunity as a Licensing Committee to have a voice in the consultation process.

2.5 Sheffield City Council has been at the forefront in licensing and is known as a lead Authority rather than one that just follows others. The Council has set high standards for its licensees for a reason and any erosion of those standards should be challenged.

2.6 As part of the consultation the Law Commission produced a consultation document which has been circulated electronically to all members of this Committee on 18th May 2012.

2.7 As part of the 253 page document there are 73 provisional proposals and questions. The Chief Licensing Officer in consultation with Senior Officers and Legal Services has drafted responses to those proposals and questions attached as an appendix to this report.

2.8 A draft of this report was circulated to representatives of the trades associations at the scheduled consultation meeting.

2.9 The consultation paper has been available from the Law Commission from June 2012. The Law Commission has undertaken many road shows and meetings with interested parties, both trade and officers.

2.10 Any correspondence received in respect of this report is attached.

3.0 Financial implications

- 3.1 There is a multitude of ways that this may affect the Council. The new Legislation could introduce standard statutory fees for licenses. This may well be above or below what we as a Council currently charge.
- 3.2 Currently Councils cannot use any of the income from Driver licenses for enforcement or non administrative work of the service. This restricts currently the amount of enforcement undertaken and investment in the service beyond normal maintenance and upgrades of hard and software.
- 3.3 If the legislation allowed any surpluses to be re-invested into the Licensing service then this would be good news for the Council the service is currently self financing and would continue to be so if this was the case.

4.0 Recommendations and Outcomes

- 4.1 The Sub –Committee consider the report and accept the details of the response and allow the Chief Licensing officer to submit the contents of the attached response to the law commission as Sheffield City Councils response.
- 4.2 The Sub –Committee considers the contents of the response attached and makes changes to the response, stating the changes required and to if anything is to be added or excluded.
- 4.3 The Sub Committee decline the opportunity to respond as a Council.

Steven Lonnia
Chief Licensing Officer
Licensing Service
4th September 2012

Sheffield City Councils – response to law commission consultation paper on taxi and private hire law review.

Provisional Proposals

1.1 **CHAPTER 13 - OVERVIEW OF PROVISIONAL REFORM PROPOSALS**

Provisional proposal 1

Regulation should continue to distinguish between taxis, which can accept pre booked fares, be hailed on the street and wait at ranks, and private hire vehicles, which can only accept pre-booked fares.

- 1.2 Continuing to distinguish between Hackney Carriage and Private Hire would generally be welcomed by the Local Authority and also the trade in Sheffield. This would be particularly true of the Hackney Carriage trade. In a City like Sheffield where there is a clear distinction in the types / standards of vehicles that are allowed to be used currently as licensed vehicles this proposal would enable us to keep the status quo.
- 1.3 It is our view that the new legislation should be made to fit with the “Localism Principle” of delegating powers and decisions down to locally elected members and the communities. It should be up to the people of Sheffield to decide what types of vehicles, standards of drivers etc. they want to see in their city.
- 1.4 There would be little or no impact on Sheffield City Council with this proposal as it is the way that we administer taxi / private hire licensing currently. We would welcome this proposal being accepted and continued in the new legislation.

2. **CHAPTER 14 – REFORM OF DEFINITIONS AND SCOPE**

Provisional proposal 2

London should be included, with appropriate modifications, within the scope of reform.

- 2.1 It is our opinion that London should be included in the reforms if the reform is to create a national standard / piece of legislation this would surely be the common sense approach. This would help create consistency across the Country. However, there does need to be local choice to ensure that local authorities can shape your own city offer and the night time economy to suit and in turn achieve such awards as the Purple Flag. This would enable local authorities to create a safe and friendly environment within their city and a late night public transport service that can be trusted.
- 2.2 There would be no impact on Sheffield City Council with this proposal.

3 Provisional proposal 3

The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.

- 3.1 This would be a major change and it would bring all types of hire vehicles into the licensing regime, for example wedding and funeral cars and other novelty vehicles. It would cover all vehicles that carry 8 passengers or less for reward.
- 3.2 This proposal would have a significant impact on Sheffield City Council and would require us to consider major changes to our policies. We are not against this proposal but would like to see it involve some form of local choice. This could be achieved by including a different section in the Act for Wedding Cars / Funeral Cars allowing Local Authorities to adopt a slightly different approach / standards to these types of vehicle. This would give flexibility as well as local control.
- 3.3 Another impact that would need to be considered is the number of applications this could generate, the testing of vehicles and the administration work that would be involved. The new legislation may need a transitional period similar to what was given to businesses under the Licensing and Gambling Act's.
- 3.4 Local and national publicity / advice would need to be available for new customers and existing providers of such services that would find themselves subject to new regulation.
- 3.5 Advantages are that it would create a single piece of legislation governing all vehicles provided for hire with the services of a driver. It would also remove many of the grey areas in the current licensing regime.
- 3.6 There would be no overlap of providing a service with a smaller vehicle to replace a mini bus as is the current situation and allows people to circumvent the law. All drivers of such vehicles would be subject to enhanced checks and have to undertake a full application procedure.
- 3.7 Disadvantages are minor and are generally around how the legislation would be phased in and the timescales given to existing operators to move across to the new system.

4. Question 4.

Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?

- 4.1 There are both advantages and disadvantages to this suggestion. What we need to consider is what do the public want and what is the reason for control.
- 4.2 The people providing this service should still be subject to checks on whether they are fit and proper. They should also be required to have a medical to ensure they are fit to undertake this type of work and the vehicle / bike should be subject to inspection / tests for safety reasons.

This is essential for the service users, a licence given by the Local Authorities gives some reassurance to users.

- 4.3 Many people would welcome the idea of being transported around seaside resorts, city centres, places of interest by these smaller forms of transport. In the summer it would be extremely appealing to many visitors / tourists. However, we need to consider areas like Sheffield that are extremely hilly and have many steep roads. Perhaps the power for local authorities to restrict the areas in which these services can be provided / operate would be essential in the legislation.
- 4.4 We feel it is clear that pedicabs, and trikes etc. require some form of licence, registration and enforcement system. It seems sensible to include this in the review and once again we would suggest a separate section within the Act for this form of transport. Consideration will also need to be given to imposition of conditions on a licence in respect of displaying a licence plate on such vehicles similar to funeral and wedding cars.
- 4.5 There would be very little impact on the Council dependant upon the level of new applications, administration and enforcement. As detailed above regarding wedding and funeral cars there is a need for good publicity of the new requirements and a transitional period for us to engage with existing operators etc.
- 4.6 Another advantage to this proposal is that it would make it a lot clearer for the public and licensees what type of licenses they need for what type of service.
- 4.7 Disadvantages are minor and are generally around how the legislation would be phased in and the timescales given to existing operators to move across to the new system.

5. **Provisional proposal 5**

Public service vehicles should be expressly excluded from the definition of taxi and private hire vehicles; and taxi and private hire vehicles should only cover vehicles adapted to seat eight or fewer passengers.

- 5.1 This is an extremely grey area currently with the bus companies being allowed through a legal loophole to replace a minibus with over 8 seats with a vehicle with under 8 seats. These vehicles do not have the same checks as a private hire vehicles and the driver does not legally have to have any checks on their suitability as a driver to ensure their fit and properness. This seriously undermines the role of the local authority which is to ensure / promote "Public Safety" and we would strongly support any changes to the law / regulations to prevent this practice from happening. The proposal would be recommended by most local authorities and the trade as it would clear up the anomalies / conflict with the two pieces of legislation.
- 5.2 There would be very little impact on the council as this would iron out one of the grey areas of licensing which causes confusion to the public and local authority officers. The main impact would be that enforcement could take place on legal vehicles as they would no longer be able to hide behind or use the PSV licenses.

6. **Provisional proposal 6**

References to stage coaches charging separate fares should no-longer feature as an exclusion from the definition of taxis. (Page 166)

- 6.1 This is an extremely grey area we have stated in paragraph 5.1 / 5.2 above. When undertaking this practice these businesses charge separate fares and are able to run like a hackney carriage. This in real terms does not happen. Passengers get in the vehicle as a group of four people and pay a single fare of £8. (£2 per person). This is obviously incorrect as the driver would not charge a single passenger £2 for that same journey.
- 6.2 This is largely unenforceable and as a licensing authority we feel that this clause MUST NOT appear in any new legislation that is drafted. This is a rogue's ticket to provide a service without being properly licensed.
- 6.3 This would provide a massive positive impact for the council and passengers as this would remove an issue that causes confusion to the public and licensing officers.
- 6.4 Another positive impact on the licensing service would be that they could enforce this new legislation / regulation on such illegal vehicles and they could no longer hide behind and / or use the PSV licenses to use small vehicles or that the passengers were to pay separate fares.
- 6.5 This would be a major advantage as mentioned earlier it takes away any confusion about who needs a licence and where they need that licence from.

7. **Provisional proposal 7**

The Secretary of State should consider issuing statutory guidance to the Senior Traffic Commissioner about the licensing of limousines and other novelty vehicles to assist consistency.

- 7.1 In legal terms the issuing of guidance means nothing and it can not be relied upon in Court etc. Guidance is what it says, it is only guidance and not legislation that can be enforced. We have learnt in the past that guidance from a Government Department or Member of Parliament can be wrong and challenged in Court if a Council uses the guidance to make policies using only such guidance.
- 7.2 Stretch limousines as such remain in the jurisdiction of the traffic commissioners if the vehicles are manufactured to carry more than 8 passengers. What we need to prevent is vehicles under 8 passenger seats being used under the traffic commissioners regulation if proposal 5 above is to be implemented.

7.3 There is no impact on the Council as this would be guidance to the TC and not to the Council. There is the option of bringing the licensing of stretch limousines under the same piece of legislation as with wedding cars etc. and incorporate in a separate section of the Act so it becomes law. We feel that this would be much more beneficial and improve public safety in this area.

8. **Provisional proposal 8**

The concept of “in the course of a business of carrying passengers” should be used to limit the scope of taxi and private hire licensing so as to exclude genuine volunteers as well as activities where transport is ancillary to the overall service.

8.1 This would mean the exclusion from the need for licenses from the volunteer sector, and such schemes that now fall under private hire such as hire firms that pick you up, pet ambulances, home helps and childminders and many others that are out there.

8.2 There is no real negative impact on the Council with this proposal as we have not been over active on the enforcement of this particular area. It is not seen as a priority and has not been seen to be in the public interest to pursue such matters.

9. **Question 9**

How, if at all, should the regulation of taxis and private hire deal with:

(a) carpooling; and

(b) members clubs?

9.1 Carpooling is an area that may well in some instances fall within the current area of private hire legislation especially if the driver of the car receives some remuneration for being the driver that day. So it would be a benefit to all if this area was taken out of the legislation and become clearly defined for all what is required from a Carpool to exempt them from requiring a licence.

9.2 Members clubs – this really depends on what the members clubs are for, and why they are set up for in the first instance.

9.3 The example of “Women Only” (e.g Pink Ladies) vehicles and drivers should remain a licensing matter and they require a private hire operators licence, and the vehicles and drivers should be licensed by the local authority as with any other private hire vehicle.

9.4 Members clubs that aid communities for instance where the members help other members, and assist the vulnerable and disabled may well benefit from being exempted. However, once again it would need to be clearly defined within the legislation.

10 **Provisional proposal 10**

The power of the Secretary of State and Welsh Ministers to set national standards should be flexible enough to allow them to make exclusions from the taxi and private hire licensing regimes.

- 10.1 This would mean the Secretary of State setting a national standard for drivers and vehicles thus affecting the ability of a local council to set its own standards. We would be totally against this proposal, as it would be moving away from localism and the principle of local people / elected members deciding what they want locally. We would support this idea if the Minister were only to set minimum standards with powers given within the legislation to Local Authorities to enhance those standards. The legislation would need to give strong legal support to those authorities who choose to set higher standards than the national minimum. Without that legal provision it would leave them open to challenge and more importantly potentially place the public at risk.
- 10.2 We believe this would have a significant impact on Sheffield City Council and its ability to have local standards, conditions and specifications. We have worked really hard over recent years in partnership with trade to improve standards and to enhance the trades reputation. Together we have produced what we think is a high quality public transport service for residents and visitors to our city.
- 10.3 Although, a lot will depend on the standards that come into force nationally if the standards are set lower than what we currently have in Sheffield we would foresee major problems. Particularly, if there were no legal powers for us as a local authority to impose higher standards. This would significantly increase the risk to the public using this service.

11 **Provisional proposal 11**

Weddings and funerals should no-longer be expressly excluded from private hire licensing through primary legislation.

- 11.1 Although this has previously been answered earlier in our response. We would like to re-iterate that this can only be a positive and give our support to including wedding cars, funeral cars, pedicabs, and trikes etc. within the legislation. These forms of transport require some form of licence, registration and enforcement system. It seems sensible to include them in this review and once again we would suggest a separate section / provisions within the Act for this form of transport.

12 **Question 12**

Would there be merits in reintroducing the contract exemption, by means of the Secretary of State and Welsh Ministers' exercise of the power to set national standards? If so, what modifications could be made to help avoid abuse?

- 12.1 We believe there is no merit for introducing exemptions to the new legislation in this format.

- 12.2 We believe an exemption of this kind would be open to abuse and at this particular point in time it serves no purpose. If an individual is offering a service of this kind then they should be required to obtain a licence. It is our belief that there are no modifications that would not be open to challenge and all that exemptions would do is waste time and money on legal challenge and contested issues.
- 12.3 The reform of this legislation is to iron out the problems of challenges in court and the badly written legislation. Any introduction of exemptions such as this will just lead to more time spent in court on appeals, judicial reviews and prosecutions. The legislation should be clear for local authorities, licensees and the public. Keep it simple, if you offer a service of a car and driver and you should have to be licensed.

13 **Provisional proposal 13**

Regulation of the way taxis and private hire vehicles can engage with the public should not be limited to “streets”.

- 13.1 In simple terms this would mean that anybody or any company offering a service from private land would all be caught by the same legislation. This would mean that places such as Airports, Shopping Centres, and Bus Stations would now be caught by the legislation thus the plying for hire laws that the council struggle to prove in these areas would become clearer.
- 13.2 This would allow the Council to prosecute illegal plying for hire on “private land” that currently is a legal minefield.

14 **Question 14**

Is there a case for making special provision in respect of taxi and private hire regulation at airports? In particular, where concessionary agreements are in place should airports be obliged to allow a shuttle service for passengers who have pre-booked with other providers, or to the closest taxi rank?

- 14.1 This is a question that really doesn't affect Sheffield as the airport no longer exists. However, it would affect us if the Railway Companies or Shopping Centres entered into agreements with Private Hire companies to provide services from their premises or land.
- 14.2 It would be extremely difficult for the Council to enforce the law against someone who provided a shuttle service for people not wishing to use the “agreed services”. It also asks the question of who would be responsible for the enforcement of such a service and who would be liable for the costs.
- 14.3 What parameters would be set to the shuttle service these would have to be strict and adhered to, 1 per hour – is that good enough, 1 every 10 minutes etc. What is the “green effect” to this proposal of having one form of transport to take people to another form of transport? How much would it be used?
- 14.4 Currently this is not a major problem. It would be easier for a Council to enforce a public service area to have a hackney rank in a safe and prominent place within the conurbation, thus allowing hackney carriages to ply their trade free of charge.

15. **Provisional proposal 15**

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include:

(a) references to ranking and hailing;

(b) a non-exhaustive list of factors indicating plying for hire; and

(c) appropriate accommodation of the legitimate activities of private hire vehicles

- 15.1 To have a statutory footing for the offence of “plying for hire” would be beneficial. However, there are currently easy factors that point to illegal plying for hire, if you are on a street and you make yourself and a vehicle available for immediate hire then that is plying for hire.
- 15.2 If you are to maintain a two tier system then the penalties for this need to be much higher and need to be vigorously enforced across the country. This becomes much more important if the option of limitation is removed as this means that the driver has made a choice of which area they wish to work and has not been forced into private hire as there are no Hackney Carriage Vehicle licences available.
- 15.3 Having legitimate activities for private hire must not lead to a “cheaters charter” and allow companies and single private hire drivers, to bend the rules. The law must be watertight, rigorous and tough and not leave loopholes for exploitation.
- 15.4 We would support the use of new technology to be allowed when bookings are made with a private hire operator.
- 15.5 The booking of a single vehicle should not be allowed within the confines of that vehicle. This would mean that the booking could not be made on site or in the vehicle with the driver. The booking would have to be by which ever means is made available at the trading address/office of the operator. If that link then sends a message to a driver who is in the vicinity of the booking then that is fine and should be allowed.
- 15.6 This is an opportunity to make the proposed legislation clearer, and bring it up to date in terms of language used and technology available to Society today. Internet bookings, phone apps etc should be allowed in the acceptance of a booking we need to move with the times. Information retention should form part of the conditions of a licence granted to any private hire operator. Therefore, as part of this review we should be looking at the introduction of statutory conditions for operators to assist in the promotion of consistency across the country. However, there should always be the power for local authorities to set their own local conditions as well.
- 15.7 If this is done correctly then there should be only a positive impact on the local authority. Clearer legislation would aid proper regulation and control and make it easier to bring prosecutions for a plying for hire offence.
- 15.8 In a two tier systems this part of the legislation needs to be robust and is a major concern for the hackney carriage trade.

16. Provisional proposal 16

The concepts of hailing and ranking should not cover technological means of engaging taxi services.

- 16.1 This has been covered in adequately in the above paragraphs. We need to move the legislation forward in to the modern era and incorporate new technology. As local authorities and regulators we should not hold back legitimate businesses who wish to move forward with technology.

17. Question 17

Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?

- 17.1 This is a difficult one as the Scottish system of “arrangements made in a public place” is not known. We feel it is preferable to look at fresh new legislation and are always concerned when it is proposed to cut and paste from other legislation that we don’t know.
- 17.2 This is an area that would be new and the overall affect on the local authority is unknown. This may well make the enforcement of any offences or misdemeanours easier. You will be aware that it is always in the writing of the legislation that the real impact of such measures will show.

18 Provisional proposal 18

The concept of compellability, which applies exclusively to taxis, should be retained.

- 18.1 This should be kept for Hackney Carriage Drivers and should be slightly altered to remove the “cannot reasonably refuse” wording from the Act.
- 18.2 The word reasonably can be interpreted in many ways and should not be in the legislation. The word should be removed to leave “cannot refuse a fare on any grounds other than”. We feel it should list the reasons for refusal. We are aware that this would take some organising and the wording would have to be robust to allow no room for misinterpretation of what is required of the driver.
- 18.3 The Council may need to revisit their bye laws in respect of Hackney Carriages and the refusal of fares if the legislation changes. It may be that the legislation just supersedes the need for byelaws and the council would only need to adopt the new legislation. This will not be answered until the formal legal process begins and the new legislation starts to take shape.

19. Provisional proposal 19

Pre-booking would continue to be the only way of engaging a private hire vehicle and cover all technological modes of engaging cars. This is without prejudice to the continued ability of taxis to be pre-booked.

- 19.1 We fully support this approach it is the sensible option if we are to maintain a two tier system.
- 19.2 We would suggest that it states “that taxis that are pre-booked must then follow the law with regards to a private hire operator and they must keep written records of pre bookings, pick up points, passenger names, fare and destination”. We feel that this would allow local authorities to monitor and control taxis working as private hire vehicles.
- 19.3 We feel that there is an argument for taxis to keep written/electronic records of all their work as an “operator of a business”. For journeys from ranks and flag downs the records need not have the passenger name and would only require pick up point, time and drop off point plus the cost of the fare. The Local Authority, Police and / or Inland Revenue should have access on request to these records.

20. **Provisional proposal 20**

Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.

- 20.1 This is already permitted, vehicles can be used for social, domestic and pleasure. The difference is that they still have to be driven by someone licensed to drive a taxi or private hire vehicle.
- 20.2 If this proposal is of the view that non licensed drivers are permitted to drive a vehicle if it is not “working” then we are totally against this proposal entering the new legislation. This would cause an unknown amount of work and conflict and it would be open to interpretation. It would be an open door to unlicensed drivers (criminals, sex offenders etc.) to drive a licensed vehicle. The stated case law from Benson v Boyce has to be the way to forward and must remain in place.
- 20.3 There are many scenarios where if this proposal was allowed, drivers would abuse the system. It would be nearly impossible to evidence a prosecution against unlicensed drivers. Would it be enough for a simple letter from the owner to remove the offence. The legislation needs to be made more robust and prevent circumvention of the law. We in Sheffield feel that this would be a backward step.
- 20.4 To allow licensed vehicles to be driven by unlicensed drivers may cause significant confusion especially if for all intents and purposes they still look like a licensed vehicle (stickers / plate etc.). Police and Local Authority Officers would never know when a vehicle is working as a licensed vehicle or it is not!! This would enable an easy way of avoiding an offence.
- 20.5 Workloads would increase for local authorities as the simple matter of complaints would need much more intense investigation just to ascertain whether firstly the vehicle was being used as a licensed vehicle at that time. If not the complaint could not be taken further, what proof would we need to say it was not being used professionally. It would be totally unhelpful for the public and users of licensed vehicles. The drivers would use this as a get of jail card for complaints.

- 20.6 This would also affect Road Traffic Regulations would an unlicensed driver in a licensed vehicle be allowed to use the bus and tram gates? How would anyone know whether the vehicle is being used in a professional capacity at the time and therefore cannot use the bus lane. Authorities would have to issue tickets to all licensed vehicles just to make sure that the driver was using the vehicle professionally and it was not his wife doing the shopping and beating the queue. What would be acceptable as proof that it was being used professionally?
- 20.7 There would also be confusion on insurance matters. The certificate would contradict itself it would list unlicensed drivers who can only drive for the purpose of social domestic and pleasure but it would have to cover the licensed driver to perform their duties within that licence.
- 20.8 If it was decided that all visual aspects of the licensed vehicle were removed as its identity of being licensed, exterior and interior plates, door signs, roof signs (if applicable), and any other identifying features. It may also require that the legislation states that if the plates are removed from the vehicle for this purpose they are returned to the local Authority for "safekeeping" where a record can then be made and the return of the plates can again be monitored.
- 20.9 However all in all it is our view that this proposal is removed and not taken any further.

21. **Provisional proposal 21**

The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.

- 21.1 As we have stated previously in our response this means nothing legally. It has been proven and tested in Courts that guidance when issued is just that guidance and not law.
- 21.2 The impact would be minimal if the Council continued in its current way of only using guidance as that and not setting any policy purely on what the guidance says, having full and frank consultation and open discussion on policy is the way forward with guidance in the background to the discussions.

22. **Provisional proposal 22**

Reformed legislation should refer to "taxis" and "private hire vehicles" respectively. References to "hackney carriages" should be abandoned.

- 22.1 The word Taxis has become synonymous with any small vehicles that takes passengers for a fare. The removal of the phrase "Hackney Carriages" would cause more confusion for the public.
- 22.2 It is our opinion that the phrase "Hackney Carriage" should remain in all legislation and correspondence etc.

23. **Question 23**

Should private hire vehicles be able to use terms such as "taxi" or "cab" in advertising provided they are only used in combination with terms like "prebooked" and did not otherwise lead to customer confusion?

- 23.1 I believe that the word taxi especially on private hire vehicles is confusing to the public. This is paramount on vehicles of the same make and model that are used around the country as both private hire and hackney carriages. In Sheffield this may be less of a problem but the main sign on a hackney carriage in our City is the illuminated orange sign that says TAXI on it, we also have those words on the sides of our “eurocabs” to help distinguish them from private hire vehicles of similar appearance. Cab is a different aspect and again this is down to the perception of the public and to the public as a cab is a cab etc what ever system that vehicle is operating under.
- 23.2 It is our view that we should be making it easier for the public to understand and therefore suggest that the word “taxi” and “cab” should not be allowed in this scenario.

24 **CHAPTER 15 – A REFORMED REGULATORY FRAMEWORK**

Provisional proposal 24

Taxi and private hire services should each be subject to national safety requirements.

- 24.1 Looking at the consultation paper from the law commission this is slightly misleading as it relates to general matters and not physical safety matters it talks about setting national standards for hackney carriage vehicles, but allows for additional higher standards that may be imposed by the local council. It mentions that the Council would retain the ability to set fares.
- 24.2 Minimum standards are fine but can set dangerous precedents. Any minimum standard must be backed up within the legislation so that it protects the Local Authorities that wish to have higher standards for what ever reason they choose. There would have to be no appeal provision in the legislation against a Council who have democratically decided that the standards they require on a local level. We must keep the local powers for local people to decide what they want in their area
- 24.3 Local standards should be well advertised and documented and reviewed on a regular basis (3 years) for reasonableness, and adapt to changes in manufacturing of vehicles, safety features, economic and green issues.
- 24.4 If minimum standards were introduced then the Council may have to review all its specifications and also any policies on the age limits, emissions, vehicle test regimes, and also testing of applicants.
- 24.5 If Councils set higher standards as allowed by the legislation then if the legislation is weak and does not specifically protect a Council from a challenge on those higher standards then the Council may face many legal challenges to its vehicle standards, or policies. It may be in certain cases that it is a judicial review that is needed and not a magistrates court appeal. This will depend on the legislation and how it is written. Judicial reviews cost far more than a magistrates court appeal. Once a decision by a Court finds that the Local Standards are “too high” (unreasonable) then that would affect all other vehicle applications and specifications from that day onward.

25. **Provisional proposal 25**

National safety standards, as applied to taxi services, should only be minimum Standards

- 25.1 This has been answered in the above paragraphs. Any national standard has to be a minimum standard and we MUST maintain the option of local choice.
- 25.2 Standards that are not minimum standards will mean that many local authorities across the Country will suffer a severe reduction in local standards and public safety.
- 25.3 We support the possible introduction of national minimum standards but only if there are powers within the legislation to increase those standards locally to achieve what is required locally by elected members and local people.

26 **Provisional proposal 26**

National safety standards, as applied to private hire services, should be mandatory standards

- 26.1 We are totally against this proposal as it would mean that a local authority would lose local control. We must ensure that powers are devolved locally. It is essential that locally elected members and the residents of Sheffield are allowed to decide the standards we want in Sheffield.

According to the paper this will cover all aspects of private hire both operators and drivers.

- 26.2 In Sheffield this would lead to a significant reduction in standards and public safety including the possible loss of our locally set training standards for applicants. It may also lead to losing parts of the application process such as topographical test for private hire drivers.
- 26.3 This would to me mean that hackney drivers would appear to be the elite of drivers and the perception of a private hire driver would be second rate drivers that are not of the right standard to become a "real taxi" driver. We would propose that you should be looking at higher standards rather than down grading the work undertaken locally by authorities and trades.
- 26.4 This would lead to a two tier system for drivers as well as vehicles. It would involve a major amount of work on software packages. We would require a two tier monitoring system that would clearly define the private hire drivers from hackney carriage drivers.
- 26.5 You would also need to look at allowing conditions to be put on a hackney drivers licence as currently this is not legal right to you cannot have conditions on a hcv drivers licence. These currently have to be governed by byelaws.

27. **Provisional proposal 27**

Private hire services would not be subject to standards except those related to safety. Requirements such as topographical knowledge would no-longer apply to private hire drivers.

- 27.1 “See above” the same principals apply on this proposal as proposal 26. This is a major lowering of standards for drivers, and considering that the applicants would not be required to undertake any test prior to getting into a vehicle should never be permitted. Members of the public who use these vehicles want some assurance that the driver knows what they are doing.

28. **Question 28**

Should local standard-setting for private hire services be specifically retained in respect of vehicle signage? Are there other areas where local standards for private hire vehicles are valuable?

- 28.1 The simple answer is yes. The current situation is that a council may place conditions on a private hire vehicle licence stating what type, size and location any signs appear on or in the vehicle.
- 28.2 We do not support any proposal that removes local control for local people. This would extremely detrimental to a city like Sheffield that has worked extremely hard to maintain high standards and to work in partnership with the trade. The localism principle must be maintained throughout the new legislation.
- 28.3 This change would make it very hard to locate and identify vehicles when on enforcement duties. Also if you mix this with proposal 20 by allowing any driver to drive when not being used a licensed vehicle it will lead to the vehicle being unidentifiable to officers or the public.
- 28.4 City and Towns with event venues or airports would suffer even more as they may not identify out of town vehicles that may be there on legitimate business, and unlicensed vehicles that may arrive for pick ups or set downs.
- 28.5 It is essential to maintain the ability for local authorities to set local standards.

29 **Question 29**

What practical obstacles might there be to setting common national safety standards for both taxis and private hire vehicles?

- 29.1 This would be virtually impossible there are so many different standards around the country. These are set to meet local needs, national standards can not achieve this on their own.
- 29.2 A minimum standard would either be too high or too low for many different Authorities and would cause major problems within those Authorities. This would just be unworkable and unsatisfactory.
- 29.3 I must reiterate what I have said several times in this response. National minimum standards would be acceptable as long as the

legislation gave power within the legislation to local authorities to set their own higher local standards.

30 **Question 30**

Should national conditions in respect of driver safety be different for taxi services compared with private hire services?

- 30.1 It is commonsense that these should be different if the vehicles they use are different. If a hackney carriage is a purpose built one as we have in Sheffield then the specification and local conditions can aid driver safety by use of partitions, intercoms, lighting and signage these are all part of the specification of a vehicle that is purpose built as a hackney carriage.
- 30.2 In private hire vehicles imposing standard conditions across the large spectrum of vehicles is extremely difficult and would be impossible to have a single national driver safety condition that would cover all eventualities.

32 **Provisional proposal 31**

The powers of the Secretary of State and Welsh Ministers to set standards for taxis and private hire vehicles should only cover conditions relating to safety.

- 32.1 This again is confusing as what is meant by safety and safety of whom, the driver, operator or passengers or all three.
- 33.2 We do not support this proposal if there was a safety issue but the Secretary of State had not set a standard for that particular issue then that would lead to confusion. Drivers would then put anything in the vehicle or the issue would be ignored, and the licensing service would be powerless to do anything about it.
- 33.3 Once again the power and benefit for local standards and local decisions is clear to see.

34 **Provisional proposal 32**

The powers of the Secretary of State and Welsh Ministers to set national safety standards should be subject to a statutory consultation requirement.

- 34.1 If it is decided to impose National Standards then yes they should be subject to an extensive consultation process.
- 34.2 As stated in proposal 31 above we are against this proposal.

33. **Question 33**

What would be the best approach for determining the content of national safety standards? In particular should the statutory requirement to consult refer to a technical advisory panel?

- 33.1 A technical advisory panel, however, this would depend who is invited to be on that panel and what legal sway the panel will have.

34 **Provisional proposal 34**

Licensing authorities should retain the power to set standards locally for taxis provided above the minimum national standards.)

- 34.1 This is a must to retain the high standard of vehicles expected by members of the public / users of this service. We fully support this proposal. The power to set higher standards must be included in the main body of the legislation to provide the proper legal powers..
- 34.2 The Law Commission need to be referred to and look at the localism bill where it is the Governments intention to bring a lot of areas of regulation back to the local people to administer. Not being able to retain a power to set your own local standards would fly in the face of this idealism of local control.

35 **Question 35**

Should there be statutory limits to licensing authorities' ability to set local taxi standards?

- 35.1 Guidance to local authorities is always beneficial and that is clear to see from the use of the guidance issued under the Licensing Act and Gambling Act respectively. We would propose that government do not use words such as reasonable as this is always confusing to both applicants and elected members. Such wording also results in legal challenges over what one person
- 35.2 Guidance notes on what can be considered in local terms as an enhancement to the National Standards would be beneficial to local authorities.

36 **Question 36**

Should licensing authorities retain the power to impose individual conditions on taxi and private hire drivers or operators?

- 36.1 Yes without a doubt. Any erosion of this power would lead to the local authorities having no powers at all over the drivers they licence.
- 36.2 There are no powers currently to impose conditions on a hackney carriage driver's licence. The Hackney Carriage drivers are governed by bye laws. This is an area we feel should change under these new proposals. We would propose that the new legislation allows local authorities to impose individual conditions on ALL types of license that we issue.
- 36.3 This would enable authorities to impose conditions on hackney carriage drivers licences, that could be different to that of a private hire drivers licence and vice versa. Licence specific conditions to deal with individual issues that arise at different times. There are conditions needed on individual licences, for example a driver who commits certain misdemeanours could have added conditions, such as presenting documents within certain periods, keeping records of journeys etc.

37 **LICENSING AUTHORITIES WORKING TOGETHER**

Question 37

Should the powers and duties of licensing authorities to cooperate be on a statutory footing or is it best left to local arrangements?

- 37.1 This is an excellent idea and promotes partnership working across local authorities. We feel that this should be formulated in the way like that of a police officer whose powers are nationwide although they work in a specific area / police force.
- 37.2 The power of a licensing officer should be the same. An officer should be able to deal with any PHV, HCV and Driver whether they are the issuing Authority or not. We would propose that this is worded in a way to allow an Authorised Officer of a Council to be able to approach and deal with vehicles and drivers that are not licensed by their particular Council but only whilst in their own Council boundaries. This would mean that “out of town” vehicles and drivers could be inspected and spoken to and action taken if needed by officers of the Authority that the vehicle and driver are in at the time.
- 37.3 If national minimum standards for vehicles are formulated then the officer should have the power to suspend a vehicle licence if in their opinion the vehicle falls below the minimum national standard. This can then be reported to the issuing Authority for them to deal with.
- 37.4 Having a statutory footing places a responsibility on all authorities to deal with the issues responsibly and should remove the issue where some authorities do not regard taxi licensing as a priority and put no real effort in to enforcement or administration. A statutory duty to do so and to accommodate the requests and actions of other Authorities places a responsibility upon them.

38 **Provisional proposal 38**

Neighbouring licensing authorities should have the option of combining areas for the purposes of taxi standard setting.

- 38.1 This is a sensible proposal in this modern and difficult era of financing services. The option of shared service may be of significant benefit to many local authorities. This would be of particular benefit in rural areas where there is a number of authorities that cover a wide area but have little or no taxi, private hire services.
- 38.2 You will need to guard against the culture and belief that it is just an option for the larger authorities to take over smaller neighbouring authorities.
- 38.3 This is where local standards are essential and to have the ability in the legislation for local authorities to introduce standards higher than the National Standard.

39 **Provisional proposal 39**

Licensing authorities should have the option to create, or remove, taxi zones within their area.

- 39.1 This is something that we have never had in Sheffield and something that officers and elected members in Sheffield have not experienced.
- 39.2 If the lifting of limitation on the number of HCV a Council may licence is recommended by this review then I believe the ending of zones should also be part of the review. If limits are a bar to someone earning a living then “barring” that person from a certain area of an Authority then must fall into the same category and is a similar argument against restriction of trade.
- 39.3 Enforcement of zones is tricky and relies on the knowledge of officers and has a knock on effect that there may be the need for plate and licence colour schemes to show which areas and zones a hcv can operate in.
- 39.4 We would propose that taxi zones should are not introduced into the new legislation and that Local Authorities must remove existing zones.

40. **Question 40**

Would it be useful for licensing authorities to have the power to issue peak time licences which may only be used at certain times of day as prescribed by the licensing authority?

- 40.1 Enforcement of this type of licence is extremely difficult, when is a person at work, when is that person doing a personal pick up of friends and family.
- 40.2 We are against including any powers in the new legislation to issue peak time licences. We believe in allowing the trade decide when and where they want to work and numbers of licences will control them selves.

41 **Provisional proposal 41**

Private hire operators should no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by a particular licensing authority

- 41.1 The operator’s conditions would have to be altered to make them keep proper records of any vehicle and driver they use within their business and I believe that should be whether the vehicle is a hackney or private hire vehicle.
- 41.2 If this was to happen it will be open to significant abuse by operators who will use unlicensed drivers and vehicles and claim that they are licensed within other areas.
- 41.3 This proposal would be complicated further if drivers decided to work for more than one operator, what signage are the obliged to show and when? Who do they report to, who do the public complain to if a job is completed by a Barnsley driver but was taken by a Sheffield Operator?

- 41.4 Local Authorities may well compete for the business of licensing operators especially if they are allowed to use non locally licensed vehicles, and especially if the fee for an operators licence differs greatly from one authority to another.
- 41.5 It is opinion that this should not be part of the new legislation as it raises more questions than answers and would create a major problem with control and enforcement.
- 41.6 We would propose that operators can only operate vehicles and drivers from the authority in which they are licensed and based. We would like to see stricter controls in this area not a relaxation.

42. **Provisional proposal 42**

We do not propose to introduce a “return to area” requirement in respect of out of- area drop offs.

- 42.1 Not a problem with this proposal currently in Sheffield have no return to area/base policies or conditions.
- 42.2 As with other parts of this review this becomes more complicated if other proposals go forward, especially proposal 41 above allowing drivers to work for another areas operators.

43 **Provisional proposal 43**

Licensing authorities should retain the ability to regulate maximum taxi fares. Licensing authorities should not have the power to regulate private hire fares.

- 43.1 This raises many issues, there are differing opinions on this across the spectrum of local authorities, officers, trades and service users. If we are to regulate the number of hackney carriages then I can see the need to regulate the maximum fares that can be charged by a driver and the need for a meter to reflect this within the vehicles.
- 43.2 This particular issue of fares is probably one of those areas that come under the comment of “because we have always done it that way”. Council’s do not and can not set maximum fares for private hire vehicles, operators and drivers to charge and why not because its the belief that market forces will protect the public from rising prices as there is no limit on the number of private hire vehicles that can be licensed or the number of private hire operators that can be licensed.
- 43.3 If there is no limit allowed on hackney carriages then why not treat them as we do the private hire provision and allow them to set there own fares, that are advertised in the vehicle or on the near side window facing outwards.
- 43.4 There is nothing to prevent hackney carriages drivers or an operator of multiple vehicles advertising the fact that they are the cheaper vehicles and under cutting the opposition. This of course could cause confusion, conflict and ill feeling on the ranks when the customer chooses as is currently their right the hackney that is the cheapest rather than the one at the front of the rank.

- 43.5 We feel that a more suitable proposal would be to have a maximum fare by mileage that all vehicles (private hire and hackney carriage) that are used for the purpose of hire and reward can charge within a local Authority area and that the maximum fee is set by that Local Authority.
- 43.6 This would be less confusing for the travelling public as they could find out the cost of travel in the City via the internet, this would also allow for better provision of information to the Inland Revenue on what earnings a driver may earn for the mileage they do. They would then have to prove that they charge less than the maximum allowed to not pay the full tax on journeys they have carried out for a fare.
- 43.7 It would still leave operators the ability to charge less if they wish and ultimately they would be judged on customer service alone rather than price.

44 **Question 44**

Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys? (Page 200)

- 44.1 We believe the simple answer to this is no, if the meter fare is fixed then there is no need to charge extra. The fares are decided democratically and are set to provide a suitable income to the driver and should always be considered in an open meeting and advertised to the general public where a right of objection is allowed. This takes into consideration the financial implications, running costs and overheads of a driver.
- 44.2 There is no difference with a pre-booked journey, if limitation is lifted then there is going to be more and more hackney carriages working on a radio circuit and being used as private hire vehicles.
- 44.3 If the proposal to allow immediate pre-booking as per proposal 19 and considering pre booking by technology, what is then classed as pre-booked could a hackney carriage vehicle at a rank be considered pre-booked by the customer in the queue at that rank, the driver is guaranteed a fare they just dont know where to?
- 44.4 It also raises the question of whether a taxi marshal can be considered a booking agent for the hackney carriage vehicle therefore the driver in both these cases could charge more than the metered fare!
- 44.5 We feel that it should remain a legal requirement and become a legal requirement in the new legislation that where a meter is fixed in a vehicle then the driver has to use the meter for any journey that is for reward where ever that journey commences and finishes, and the fares charged have to be that on the meter and set by the Authority that issued the licence for the vehicle and calibrated that meter when the vehicle was tested by them.

45 **CHAPTER 16 – REFORM OF DRIVER, VEHICLE AND OPERATOR LICENSING**

Question 45

Should national driver safety standards such as the requirement to be a “fit and proper person” be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions?

- 45.1 We are of the opinion that the standards for fit and properness should be set out in the primary legislation and should be of a high standard. We have set high standards for our drivers to attain in Sheffield and would not like to see any erosion of these standards and would be happy for the Country to follow Sheffield’s lead.
- 45.2 Any primary legislation that covers this should include the details of training levels required to have been achieved prior to making an application to any local authority and these should be transferable skill sets to allow migration of drivers.
- 45.3 This is the chance to actually remove the wording fit and proper and replace with a better wording that sets out what is meant by being fit and proper and what an applicant has to do to prove his/her fit and properness to be eligible to be licensed for such work.
- 45.4 The secretary of state should have the powers to amend the conditions and requirement where and when necessary to meet new requirements and economic or other developments that may change, over a period of time. They need to be able to act on new legislation, European law that may impinge on the current legislation.

46 **Provisional proposal 46**

Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself. (Page 204)

- 46.1 This is the current situation there is no fit and proper test that can be seen in current law that allows the refusal or revocation of any vehicle licence on the grounds that the person who owns the licence is deemed unfit.
- 46.2 Our view is vehicle owners and licence holders should be fit and proper or what ever is deemed appropriate in the new legislation to replace the wording fit and proper.
- 46.3 A local council should have the power to refuse, suspend or revoke vehicle licenses on the grounds that the proprietor or licensee is deemed unfit to hold such a licence. In many city’s there are vehicle owners/licensees that hold no other licenses, due to their offences. These people should be able to be brought to account or refused licenses if in the past they have committed misdemeanours or breached conditions of licence.

- 46.4 There is a lot of money made in this area and not permitting checks on the individual will allow and increase the amount of criminals that enter the trade and bring the trade down as a legitimate business, money laundering would be easy with no checks on people within the business.

47 **Question 47**

Should national vehicle safety standards be either:

(a) set out in primary legislation; or

(b) included within the Secretary of State and Welsh Ministers' general powers to set national safety conditions?

- 47.1 It is essential that these be included within the general powers of the Secretary of State to allow a quick response to changing vehicle specifications and modifications which may impinge on set standards for vehicles.
- 47.2 We would like to reiterate that these should always be minimum standards set and allow higher local standards to be set above the minimum if necessary by local authorities.

48 **Provisional proposal 48**

Operator licensing should be retained as mandatory in respect of private hire vehicles.

- 48.1 Yes it is essential with regards to public safety that we maintain control of private hire operators. We would also want to retain the fit and properness test for operators.
- 48.2 They may wish to allow transfers of an operator licence which is currently not possible under the legislation. Any person who wishes to have a licence transferred in to their name should have to comply fully with the fit and proper criteria as above.
- 48.3 This may cause problems with monopolies allowing the bigger companies to buy out the smaller competition. However, this does already happen.

49 **Question 49**

Should operator licensing be extended to cover taxi radio circuits and if so on what basis?

- 49.1 Our view is yes they should. If a hackney is to be allowed as is the current situation to undertake private hire work then whilst doing that work they should have to adhere to all private hire rules and regulations.
- 49.2 They would have to document which work they carried out as a private hire vehicle, keep records of journeys, bookings dates and times customer names and pick up and destinations. This would allow Local Authorities to deal with complaints and give the passengers better protection.

- 49.3 If we are to have a cover all law then any operator or vehicle & driver hire services should have to be licensed and traceable, and should have to comply with set standards that they have to maintain what ever type of vehicle they wish to use for the work.
- 49.4 There is really no difference to the work that a private hire operator does to that of a hackney carriage operator for the purpose of pre-booked work.
- 49.5 We fully support this option for the reasons of passenger/public safety and complaint investigation.

50 **Provisional proposal 50**

The definition of operators should not be extended in order to include intermediaries.

- 50.1 This is a difficult question as intermediaries are many things to many people and can be touts by another name.
- 50.2 If there are new technology developments that helps a persons business then we cannot see a reason why this type of system should not be included, such as internet bookings etc. Why would the internet provider need to be included in the operators licence or legislation, as long as the operator declares on his application the way in which they will engage in bookings and the results and records are open to inspection by Authorised Officers.
- 50.3 This would allow partnerships to develop between providers possibly from city to city and would aid such things as door to door services for train, air and possibly ferry/cruise services. Where a company adds a service for its customers and takes a booking for a vehicle and driver that is provided by a local operator with whom they have a business partnership, this at present would be and is making a provision for a booking and would require the primary service provider to have a operators licence within the area of where the booking was made. (Call centre).
- 50.4 A person who acts on street for vehicles should be part of the operator business and should be identifiable to the public as to what and who they are representing. This has to be there to protect the public and allow fair trade amongst the providers of any taxi service.
- 50.5 It should still remain against the law for any person to tout for private hire and hackney carriage services.

51 **Question 51**

Should "fit and proper" criteria in respect of operators be retained?

- 51.1 We have answered this in our answer to proposal 48. Fit and proper should be maintained and improved upon in terms of explanation of what is meant by fit and proper.

- 51.2 This should include mandatory restrictions on people found unfit in any area to hold a licence to apply or hold a licence in England and Wales. It should be a criminal offence to withhold information or to apply for a licence if you have been subject to a revocation of a licence within the last 10 years.
- 51.3 Bankruptcy and Business history should also be considered in the fit and proper testing of applicants. The business of private hire operators and hackney operators has to be legitimate and customers should be confident in using these services as much as when using a garage, or any other professional service.
- 51.4 The service of providing transport in this way should not been seen as it currently is that it is which is run by undesirables, crooks and people of low moral fibre.

52 **Provisional proposal 52**

Operators should be expressly permitted to sub-contract services.

- 52.1 In the 21st Century and how business is opening borders I cannot see why this is not allowed. However, it must be contained within certain parameters.
- 52.2 The customer should be fully aware prior to the completion of the booking that the operator is sub-contracting to another licensed operator. The customer should also be aware at the outset of who that operator is, where they are based and should have the right to cancel if they do not wish to have the sub contractor provide that service at no cost to themselves.
- 52.3 The Operator should keep a list of sub contractors they use and must keep records of the licence details of the sub-contractor and make these available on request to an authorise officer or police constable from any Authority with an interest in that booking. Failure to keep such records should constitute an offence.

53 **Question 53**

Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply.

- 53.1 Our view is yes and this is answered above. There is no difference between that of a "single vehicle" private hire operator to a single hackney carriage driver using his vehicle for the purposes of private hire.
- 53.2 We believe that all hackney carriage drivers should be required to keep a record of all journeys they do for reward. Such records should have the pick up point, drop off point and cost of journey (metered fare). It would not have to include name of passenger or amount of payment if that is different to the fare on the meter such a tips etc..
- 53.3 This would allow for better controls of vehicles and investigation of complaints. It would also allow the inland revenue to receive more appropriate information and therefore impose the relevant tax for the work undertaken. This would also protect the driver from receiving un expected tax bills which use a current average system.

- 53.4 It would be extremely beneficial if meters had the ability to record journeys and costs so these could be used to rectify this area of concern.
- 53.5 There are meter's on the market that allow printed receipts and produces daily takings and readings, similar to a cash register. We feel that this would be a positive step forward to impose a mandatory condition in the legislation to install such meters.

54 CHAPTER 17 – REFORMING QUANTITY CONTROLS

Provisional proposal 54

Licensing authorities should no longer have the power to restrict taxi numbers.

- 54.1 This is very emotive subject amongst both the trade, licensing officers and elected members that have to regulate the trade. It is also seen in some areas as a very political hot potato that no one wants to touch.
- 54.2 To look at this objectively we must not take into consideration the consequences of any decision on the welfare and earning power of current licence holders. Therefore, looking at the facts alone, quantity controls by local authorities are not common place. There are very few if any other pieces of legislation that allow local authorities to control the numbers of a certain type of business. This particular government are looking to remove barriers to business and the start up of businesses and we have to remember that a hackney carriage vehicle is a business.
- 54.3 We have to consider why do we control the numbers of hackney carriages within the local area? We do not control the numbers of private hire vehicles. There are many of questions asked and never really answered on this subject. However, the general principle behind the proposal is that market forces will dictate the numbers.
- 54.4 When finalising the proposals it may be worth considering similar powers to those given in other recent legislation around saturation policies.
- 54.5 Another argument on this issue is that now we are in the 21st Century the idea that an area of work "profession" is protected in such a way. Such protecting of income and jobs can not be fair in these modern times and this is the true effect of limitation.
- 54.6 We also have to consider the question of why should taxi driving be a closed shop for owners and licensees which in turn causes a black market. This becomes difficult for people to overcome to get into the business creating cartels of licences/vehicles and plates/licences that have been on vehicles for a long time being worth thousands of pounds to the owner.
- 54.7 What are the benefits to a Council if limitation is removed, it has already been proved that it improves the quality of vehicles on the road and it also brings an improvement in passenger facilities and safety standards. Generally the newer vehicles are better on emissions and therefore better on the environment.

- 54.8 Hackney carriages are small individual businesses but unlike a static businesses they need to have somewhere in the city for their vehicles to go and trade from. Can local authorities provide enough spaces at ranks and safe places to install new taxi ranks.
- 54.9 When you consider buildings that are available to accommodate businesses, once they are filled then no more businesses can be accommodated, we don't just keep building more premises. It is a totally different consideration for hackney carriages, however, we only have limited space for vehicles on the roads, parking / waiting and ranking areas are very limited within City Centres. Adding more ranks is not a real answer to this as they currently take a long time set up and there is a shifting population within areas and some ranks are rendered unused as places close or trends move.
- 54.10 There is also the Green issues as more and more vehicles added to the mix brings with it the problems of emissions and growing environmental problems. Councils now have to manage emissions and are legally bound to try and reduce emissions and bring their carbon emissions down year on year.
- 54.11 We are in a position of considering the two sides of an argument and it will be no different for those that ultimately consider the new legislation. If limitation is to be allowed why limit only Hackney Carriages, is this not bias? Should private hire vehicles be subject to limitation? If green and space issues are the major points of concern for limitation then surely limitation should cover both types of vehicle.

55 **Question 55**

What problems (temporary or permanent) might arise if licensing authorities lost the ability to restrict numbers?

- 55.1 There would be an initial surge of applications and a significant increase in hackney carriage vehicles, which would in turn cause an initial increase in workloads.
- 55.2 Many of the issues are covered in our answer to question 54 above.

56 **Question 56**

Should transitional measures be put in place, such as staggered entry to the taxi trade over a scheduled period of time, if quantity restrictions are removed?

- 56.1 If the restrictions on numbers are lifted then undoubtedly there should be some transitional period for this. We would also like to see national conditions on the age and type of vehicle that can be used. For example, London Type Taxi Cabs, Wheelchair Accessible Vehicles only, under 5 years of age or less.
- 56.2 It would also be beneficial if the new legislation imposed restrictions on individuals having multiple ownership of vehicles ending the cartels. If this was agreed then we would need to regulate who and how transfers of licenses can be monitored.

- 56.3 Currently there is no legislation that covers who a hackney carriage licence can be transferred to and this needs to be dealt with in the areas mentioned before in this consultation that brings in the fit and proper tests for licensees. This should cover vehicle licence transfers as well.

57 **CHAPTER 18 – TAXI AND PRIVATE HIRE REFORM AND EQUALITY**

Question 57

Should there be a separate licence category for wheelchair accessible vehicles? This could involve:

(1) a duty on the licensee to give priority to disabled passengers; and

(2) a duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.

- 57.1 Our view is there is not a need to have a separate licence category.
- 57.2 The conditions of a drivers licence should have some reference to the carriage of passengers with disabilities and the service that any person should expect, this should be part of the legislation as it is now, and it is illegal for a driver to discriminate against people with disabilities as we all are aware.
- 57.3 The new legislation should support the Equalities Act regarding accountability of drivers who discriminate against people with disabilities.
- 57.4 There should be a moral duty on any Authority to provide adequate provision for disabled passengers and to make provisions for the loading and unloading of wheelchair passengers at ranks.
- 57.5 Legislation should place a duty on all Councils to consider the need for access of taxis when considering major building projects especially those of a commercial nature. Too many buildings especially within the leisure industry which attract taxis never consider this when the initial plans are submitted for planning consent. Legislation should allow Councils to dictate the need for “taxi spaces/ranks” to be incorporated into any new commercial and leisure development.

58 **Question 58**

Should licensing authorities offer lower licence fees for vehicles which meet certain accessibility standards?

- 58.1 We view that this would be a problem and illegal currently. We can only charge a fee to recover the cost of administration and grant of a licence.
- 58.2 Local Authorities could face legal challenge if they were to have different levels of fees dependant upon the type of vehicle you want to licence. It would generally take the same amount of administration issue a licence for a WAV or non WAV and therefore you would be over charging which is illegal for the non WAV.

58.3 We believe that the new legislation should incorporate the allowance for local authorities to recover costs beyond the basic administration and grant of licences. Local authorities should have remits to offer inducements for such matters of new vehicles for old, low emissions vehicles, wheelchair accessible vehicles etc.

58.4 If the legislation changed the way the Councils can recover costs and what they can recover costs for, Then yes we do think that being able to offer incentives would be a good idea and help to improve the licence fleet.

59 **Question 59**

Do you have any other suggestions for increasing the availability of accessible vehicles, and catering for the different needs of disabled passengers?

59.1 The problem that many areas face with this is the lack of private hire vehicles that are wheelchair accessible, there are many areas that have WAV vehicles as hackneys that are available for instant hire at ranks, and flagged downs.

59.2 In areas like Sheffield where we have 100% WAV hackney carriage fleet. However, there is little or no private hire vehicles available with wheelchair access. Therefore disabled users have to pre plan their travel arrangements they cannot decide at the last minute to head out, and phone a private hire vehicle operator.

59.3 There may be some way of adding a condition into a private hire operators licence condition that they have to offer disabled access vehicles as part of their service. This could either be hackney carriages that are on the radio circuit or private hire vehicles that are wheelchair accessible.

59.4 If question 58 is answered and the law changes to allow incentives then these could also be offered to private hire vehicles and their owners to encourage them to purchase and use WAV private hire vehicles.

60 **Provisional proposal 60**

We do not propose to introduce national quotas of wheelchair accessible vehicles.

60.1 We have known for many years that quotas of this nature would not be workable and would never come into force. These matters can be tackled in other ways and have been mentioned before in this response. Things like minimum standard of entry vehicles and making any vehicle that now enters the hackney carriage trade should be a WAV, again there is resistance to this especially in areas that have mixed fleet of hackneys.

61 **Provisional proposal 61**

National standards for drivers of both taxis and private hire vehicles should include recognised disability awareness training.

61.1 In Sheffield we have introduced this and have a BTEC course as standard entry level in to our trade we would see this as a must to be taken up Nationally, pre entry training for the trade should be become mandatory.

61.2 Training is either weak or non existent in this area of work. The standard of training is hit and miss and the trade needs to have a nationally recognised certificate which is transferable, and is the minimum needed to make an application for a licence anywhere in the Country.

62 **Provisional proposal 62**

In order to better address concerns about discrimination, taxis and private hire vehicles should be required to display information about how to complain to the licensing authority.

62.1 This is something we already do in Sheffield and bringing it in as a national standard would be a huge step forward. The enforcement side of this needs some teeth, such as failure to display such information should have some consequences for the licensee.

63 **Question 63**

What would be the best way of addressing the problem of taxis ignoring disabled passengers seeking to hail them? Could an obligation to stop, if reasonable and safe to do so, in specified circumstances, help?

63.1 This would need strong legislation with some teeth to deal with the offenders. Proof of failing to stop would be the hardest thing to resolve. Drivers conditions need to reflect that and therefore we need as mentioned before the ability to place conditions on a hackney carriage drivers licence as well as those of a private hire driver.

64 **CHAPTER 19 – REFORMING ENFORCEMENT**

Question 64

Should authorised licensing officers have the power to stop licensed vehicles?

64.1 We fully support this proposal and it is something that licensing officers in appropriate circumstances and in marked vehicles or uniforms should have the power to do.

64.2 Officer safety would have to remain the priority of the employer. But with licensed vehicles an authorised officer should have the same power as that of a police officer.

64.3 This power should be for any licensed vehicle wherever that vehicle is licensed from.

65 **Question 65**

What more could be done to address touting? Touting refers to the offence “in a public place, to solicit persons to hire vehicles to carry them as passengers”.

- 65.1 Touting is currently the only arrest able offence within the legislation and this power with the police should remain.
- 65.2 This though is contradictory if you lessen the conditions on private hire operators and what they are allowed to do, and where they are allowed to advertise. Would a person handing out flyers advertising the instant access to a private hire vehicle be a TOUT would a person walking with mortar board type advert on them – would that be touting.
- 65.3 There doesn't appear to much more that can be done to address this problem accept maybe making it legal but with very tough conditions and then making the penalties for offences or non compliance with the conditions tough and meaningful.
- 65.4 If you make it legal then making a tout were identification badges and uniforms make them advertise the costs of the service up front prior to users getting in the vehicles. This works abroad at airports and train stations, it may be the way forward here. It would also be beneficial to the local authority as they could administer the system and make charges for a touts (booking agents) licence.

66 **Question 66**

Would it be desirable and practicable to introduce powers to impound vehicles acting in breach of taxi and private hire licensing rules?

- 66.1 This may be desirable only on strict guidelines similar to those for clamping companies. There needs to be defined reasons for impounding or clamping of licensed vehicles. This has to include the identification of the driver, and must include the road worthiness of the vehicle.
- 66.2 As a Council we have to consider where these vehicles would be kept whilst impounded. Impounding vehicles is a costly exercise and the local authority would need to be able to recover fully the cost of impounding a vehicle entails, also they should be allowed to recover an administration charge.
- 66.3 There would also need to be something in place to dispose of vehicles that remain impounded and unclaimed, some time limits need to be set on the length of time a Council has to “save” a vehicle for collection by its licensee.

67. **Question 67**

Should licensing authorities make greater use of fixed penalty schemes and if so how?

- 67.1 There are currently no schemes available to officers in taxi and private hire licensing.

67.2 Introduction of fixed penalty schemes would be welcomed only if the monies recovered by the notice stayed within the licensing service and particularly stay within the taxi licensing services and used to off set the need to raise fee's year on year. This would mean that the misdemeanours by others would aid the law abiding drivers and licensees in helping keeping costs down.

67.3 There would need to be national guidelines of the charges for a fixed penalty notice.

67.4 The appeals procedure and the procedures and penalties for none payment or refusal to accept a fixed penalty need to be set out in the legislation.

68 **Provisional proposal 68**

Enforcement officers should have the powers to enforce against vehicles, drivers and operators licensed in other licensing areas.

68.1 We have identified this area of concern earlier in this report many times. Licensing officers powers should be the same as a police officer in and their powers are transferable across boundaries and city borders. And especially when the officers is within their own authorities boundaries they should be allowed to enforce national standards and powers over "out of town" licensed vehicles.

68.2 If proposal 67 is adopted, then the fixed penalty notice issued should be of a national standard (similar to the police FP for driving offences), This then can be sent by the issuing officer to the Authority who issued the licence to the driver or vehicle and they can then deal with the matter, the monies would remain with the licence authority that issued the ticket as they have completed the enforcement.

69. **Question 69**

Should cross-border enforcement powers extend to suspensions and revocation of licences? If so what would be the best way of achieving this?

69.1 Our officers have stated that this is something that would be welcomed and must be introduced by new legislation. The best way of achieving this is to have national minimum standards and then if a vehicle or driver was below the national minimum standard an officer could take action and suspend a licence until at least the minimum standard was achieved. Another way would be for a driver or the vehicle to be duty bound to carry the appropriate standards document issued to them by the licensing authority.

69.2 The officer should then be obliged by the legislation to make a full report to the issuing licensing authority of the reason for suspension.

69.3 This should be done in a uniformed way around the Country and maybe the introduction of national suspension notices similar to the VOSA prohibition notice could be introduced.

69.4 The power to revoke a licence that you have not issued is not needed.

- 69.5 The immediate suspension and report to the issuing authority should be enough and the issuing authority should retain the only power of revocation.
- 69.6 If this is part of the legislation it should also introduce the power of an officer to remove identifying features from the vehicle such as the licence plate, this could be then returned with the report of the incident to the issuing authority.
- 69.7 This is needed for areas that have large entertainment venues, race courses, airports, festivals, sporting arenas, anywhere that would attract a customer base from outside of the region or city.

70 **CHAPTER 20 – REFORM OF HEARINGS AND APPEALS**

Provisional proposal 70

The right to appeal against decisions to refuse to grant or renew, suspend or revoke a taxi or private hire licence should be limited to the applicant or, as appropriate, holder of the relevant licence.

- 70.1 We agree that this is a sensible approach to this. At present the appeal is open to any aggrieved party, which can mean literally any citizen of the city making an appeal against a decision.
- 70.2 This is a little known process and does not get well used. Appeals are usually by the aggrieved person and in Sheffield there has not been an appeal on refusal, grant or renewal by any one other than the applicant in the last 15 years.
- 70.3 This would remove the right of appeal against a decision to renew as the applicant would have achieved their goal of gaining a licence and it would remove the right of a person who was aggrieved by that renewal appealing against the Councils decision.
- 70.4 The appeal against conditions imposed on the grant of a licence would need to remain.

71 **Provisional proposal 71**

The first stage in the appeal process throughout England and Wales, in respect of refusals, suspensions or revocations should be to require the local licensing authority to reconsider its decision.

- 71.1 Our view is that this would be a complete waste of time, unless all authorities had to delegate powers to officers to allow them to refuse, and revoke licences. This is currently not the case in most Councils and is not the case in Sheffield the right of refusal and revocation remains with an independent licensing committee.

Most authorities have a second tier usually elected members who have the delegated authority from full council to administer licensing duties. If this came in and powers were not delegated to officers, it would mean the duplication of duties and re-hearings.

- 71.2 Some areas may not have enough Councillors to provide a new committee to revisit the original decision.

- 71.3 Timescales would have to be imposed as to not allow Council to leave decision open and the applicant waiting unreasonable times for a decision.
- 71.4 Would the appeal be a full re-hearing of the original hearing, would new evidence be allowed at the appeal as is the case currently?

72 **Provisional proposal 72**

Appeals should continue to be heard in the magistrates' court.

- 72.1 If delegated powers are not granted to high ranking officers then yes appeals should stay with the Magistrates Court. The new legislation should state that the applicant should have to prove that the Council on the evidence present made an error in judgement, and a wrong decision.
- 72.2 Magistrates should if undecided always side with the original judgement of the Authority. The onus should always be on the applicant to prove that they are fit and proper (or what ever new description is uses) and not on the Council to have to show why they think they are not fit and proper.
- 72.3 Maybe the introduction of the appellant has to supply further or new evidence in their favour before a magistrates court would be able to overturn an original decision by elected members (not officers). The onus would then be on the applicant to supply something to the Court and not just "appeal" ?

73 **Question 73**

Should there be an onward right of appeal to the Crown Court?

- 73.1 Our view is that you have to think about this very carefully as the easy answer is to say no the appeal process should end at the Magistrates Court stage. You have to remember that officers and an Authority can and have used this appeal process for own purposes. When this has been used in Sheffield more case have been proved and won than lost. It is a very expensive way to go and is used very lightly by both parties.
- 73.2 You have to consider that Magistrates are lay people and may have no real understanding of licensing matters when considering the appeal.
- 73.3 This may depend on many things how many levels of appeals will there be, If you have Officer, Committee and then Magistrates Decision that have all agreed and made the same decision is there a need for a further level of Appeal.
- 73.4 If as is currently the case (2 levels) then there may be a case for keeping that extra level.
- 73.5 This also depends on how robust and watertight the new legislation will be to allow Councils to make decision on applicants which would leave them with little opportunity of winning an appeal.

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