



Licensing Committee

18 June 2014

Time 10.00 am **Public Meeting?** YES **Type of meeting** Regulatory
Venue Committee Room 1 - Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Membership

Chair Cllr Bishan Dass (Lab)
Vice-chair Cllr Alan Bolshaw (Lab)

Labour	Conservative	Liberal Democrat
Cllr Greg Brackenridge	Cllr Mark Evans	
Cllr Ian Claymore	Cllr Patricia Patten	
Cllr Craig Collingswood	Cllr Paul Singh	
Cllr Susan Constable		
Cllr Harman Banger		
Cllr Milkinderpal Jaspal		
Cllr Rita Potter		

Quorum for this meeting is three Councillors.

Information for the Public

If you have any queries about this meeting, please contact the democratic support team:

Contact Linda Banbury, Democratic Support Officer
Tel/Email Email: linda.banbury@wolverhampton.gov.uk Tel: 01902 555040
Address Democratic Support, Civic Centre, 2nd floor, St Peter's Square,
Wolverhampton WV1 1RL

Copies of other agendas and reports are available from:

Website <http://wolverhampton.cmis.uk.com/decisionmaking>
Email democratic.support@wolverhampton.gov.uk
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Some items are discussed in private because of their confidential or commercial nature. These reports are not available to the public.

Agenda

Part 1 – items open to the press and public

Item No. *Title*

BUSINESS ITEMS

- 1 **Apologies for absence**
- 2 **Minutes of previous meetings** (Pages 1 - 20)
(a) To approve the minutes of the meeting held on 26 March 2014.

(b) To approve and adopt the minutes of the meetings of the Licensing Sub-Committee held on 26 March, 2, 16 and 30 April 2014
- 3 **Declarations of interest**
- 4 **Matters arising**
- 5 **Schedule of outstanding minutes** (Pages 21 - 22)

DECISION ITEMS

- 6 **Review of decision making 2014/15** (Pages 23 - 46)
To endorse and approve the proposed decision making process and delegations in relation to category 2 and 3 decision making to the Strategic Director for Education and Enterprise.
- 7 **Hackney Carriage and Private Hire vehicle testing at VOSA registered garages** (Pages 47 - 50)
To make permanent the current pilot scheme relating to the use of VOSA garages for and to agree the payment of an approval fee
- 8 **City centre street trading designation of licensed streets** (Pages 51 - 54)
To approve commencement of the statutory process to designate the streets within the ring road of the city centre as licensed street



Licensing Committee

Minutes – 26 March 2014

Attendance

Members of the Committee

Cllr Bishan Dass (chair)
Cllr Alan Bolshaw
Cllr Craig Collingswood
Cllr Mark Evans
Cllr Neville Patten
Cllr John Rowley

Cllr Harman Banger
Cllr Ian Claymore
Cllr Susan Constable
Cllr Keith Inston
Cllr Rita Potter

Employees

Sarah Hardwick	Senior Solicitor (Delivery)
Dan O'Brien	Section leader, Environmental Health (Education and Enterprise)
Andy Jervis	Head of Regulatory Services (Education and Enterprise)
Colin Parr	Licensing Manager (Education and Enterprise)
Linda Banbury	Democratic Support Officer (Delivery)

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- | | | |
|----|--|---|
| 1. | Apologies for absence
An apology for absence was submitted on behalf of Councillor Patricia Patten. | - |
| 2. | Declarations of interest
No interests were declared. | - |
| 3. | Minutes
Resolved:
(a) That the minutes of the meeting held on 26 February 2014 be approved as a correct record.

(b) That the minutes of the meetings of the Licensing Sub-Committee held on 26 and 28 February 2014 be | - |

approved as a correct record and adopted.

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4. **Matters arising**

Pursuant to item 4 of the meeting of the Sub-Committee on 26 February 2014, Colin Parr advised that an appeal against the revocation of a Hackney Carriage Vehicle Licence had been dismissed by the Magistrates' Court the previous week. There were three more appeal cases outstanding which related to conduct issues and the outcome would be reported to the Committee in due course.

Colin Parr

Colin Parr referred to an issue which had arisen in regard to the length of particular Licensing Act hearings. He advised that the hearings procedures were to be revised to include suggested timings for speeches by the individual parties which, whilst not binding upon the parties, should assist in concluding the hearings in a timely manner. Discussion took place in regard to instances where the applicants might require the services of an interpreter and the Committee agreed that, whilst the Council could make such arrangements, the cost should be borne by the applicant.

Colin Parr/
Linda
Banbury

5. **Schedule of outstanding minutes**

A report was presented, which set out a schedule of outstanding minutes, together with an indication of when individual reports would be submitted for consideration.

Linda
Banbury

Resolved:

That the report be received.

DECISION ITEMS

6. **Health and Safety Statutory Plan**

Dan O'Brien

A report was presented, which outlined the Council's health and safety plan for 2014/15. The Committee acknowledged the status of the Health and Safety Statutory Plan, in light of the health and Safety Commission guidance issued under Section 18 of the Health and Safety at Work etc. Act 1974. They further made a formal commitment to improving health and safety outcomes and to 'sensible risk management' as detailed in paragraph 2.6 of the report.

Resolved:

(a) That the Council's continued commitment and participation in the development of the HSE's Strategic partnership be endorsed.

(b) That a further report be submitted in the event that the ongoing structure of Regulatory Services results in significant changes to the health and safety work programme of statutory plan.

7. **Scrap Metal Dealers Act 2013**

A report was submitted, which provided information on the key provisions of the Act and the outcome of the local implementation arrangements.

It was acknowledged that the Act had been brought in to deal with metal thefts and the financial integrity of metal dealers. However, if the local problems related to nuisance there was alternative legislation in place to deal with these issues. It was noted also that the legislation was very new and that no case law existed as yet.

Resolved:

(a) That the report be received.

Colin Parr

(b) That a further report be presented when case law is available, in order to consider what additional mechanisms might be implemented to deal with local issues relating to scrap metal dealing not currently covered in the legislation.

8. **Consultation on the relaxation of licensing hours during the FIFA World Cup 2014**

Colin Parr

A copy of the Home Office consultation in regard to the relaxation of licensing hours during the FIFA World Cup 2014 had been circulated with the agenda papers. The consultation period was for two weeks only with responses being required by 26 March. The draft response, which had been drawn up following consultation with the Responsible Authorities Forum and Community Safety Partnership, had been emailed to Councillors prior to the meeting.

The Committee noted the responses which would be forwarded to the Home Office that afternoon.

Part 2 – exempt items

Nil

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Licensing Sub-Committee

Minutes – 26 March 2014

Attendance

Members of the Sub-Committee

Cllr Bishan Dass (chair)
Cllr Alan Bolshaw
Cllr Mark Evans

Employees Education and Enterprise

Marise Astley	Compliance Officer
Jayne Freeman-Evans	Section Leader (Environmental Health)
Elaine Moreton	Section Leader (Licensing)

Delivery

Sarah Hardwick	Senior Solicitor
Linda Banbury	Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- | | | |
|----|--|---|
| 1. | Apologies for Absence
There were no apologies for absence. | - |
| 2. | Declarations of interest
No interests were declared. | - |

DECISION ITEMS

EXCLUSION OF PRESS AND PUBLIC

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| 3. | Exclusion of press and public
Resolved:
That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it | |
|----|---|--|

involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act.

Part 2 – exempt items, closed to the press and public

4. Review of a private hire vehicle driver's licence

The chair welcomed everyone to the meeting, introductions were made and he outlined the procedure to be followed.

Mr Qaidi was in attendance at the meeting accompanied by his representative, Mr Nolan, in connection the review of his Licence. Mr Nolan expressed concern that Mr Qaidi had been denied the opportunity to test the evidence given that the witnesses were not in attendance at the meeting. He was aware of the right of appeal against the decision made by the Sub-Committee to the Magistrates' Court, but believed that without the opportunity to question the witnesses today, Mr Qaidi would not receive a fair hearing. The Solicitor advised that the Sub-Committee were not obliged to call witnesses and that the only test that applied in this case was whether Mr Qaidi was a fit and proper person to hold a licence. The Sub-Committee would consider all the information before them, both written and oral and were able to examine hearsay evidence and attach appropriate weight to the written statements.

The Section Leader (Licensing) outlined the report, which had been circulated to all parties in advance of the meeting.

Mr Nolan indicated that all the written evidence was refuted by Mr Qaidi. Mr Qaidi addressed each witness statement separately, concluding that all the witness statements and those of the Environmental Services officers were inaccurate. With regard to the witness statement of CB, Mr Qaidi indicated that he could not recall the journey in question as it occurred in December. On a point of clarification, Jayne Freeman-Evans advised that a summary of the interview with Mr Qaidi had been taken in accordance with normal practice in regard to breaches of conditions.

The Section Leader (Licensing) drew attention to correspondence received from the Children's Safeguarding Service containing general comments in regard to one of the witness statements. It was agreed that it would not be appropriate to introduce this additional information at this stage.

Mr Nolan was afforded the opportunity to make a final statement on behalf of Mr Qaidi. He believed that this was an extraordinary case and that Mr Qaidi should have been given the opportunity to provide a formal statement under PACE conditions. He further believed that they were isolated incidents and that suspension, rather than revocation, would be the appropriate action for the Sub-Committee to take.

The Section Leader (Licensing), Mr Nolan and Mr Qaidi withdrew from the meeting to enable the Sub-Committee to reach their decision. The Sub-Committee considered all the evidence presented at the meeting and the Solicitor advised them of the options open to them in determining the review.

The parties returned to the meeting and the Solicitor advised them of the decision of the Sub-Committee as follows:

Resolved:

That, the Sub-Committee considered all the evidence before them, both written and oral, and were satisfied that hearsay could be introduced. They attached the appropriate weight to the written statements.

Elaine
Moreton/
Linda
Banbury

The Sub-Committee were satisfied that there were sufficient similarities between the evidence of Zoe Bird, Charlie Buckley and Emma Jones to believe what they said.

The only test which applies in this case is whether you are a fit and proper person to hold a Private Hire Vehicle Driver's Licence. The Sub-Committee were concerned about public safety and the transporting of vulnerable persons, by Mr Qaidi going forward. In the circumstances the Sub-Committee do not believe that you are a fit and proper person and, therefore, in accordance with Section 61 (1)(b) and (2B) of the Local Government (Miscellaneous Provisions) Act 1976, have resolved to revoke your Private Hire Vehicle Driver's Licence with immediate effect in the interests of public safety. This decision is also made in accordance with paragraphs 2.2.1, 2.2.2 and 5.1.22 of the guidelines relating to relevance of convictions and breaches of licence conditions agreed by the Licence Committee on 25 July 2012.

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Licensing Sub-Committee

Minutes – 2 April 2014

Attendance

Members of the Sub-Committee

Cllr Alan Bolshaw (chair)
Cllr Harman Banger
Cllr Patricia Patten

Employees

Sarah Hardwick	Senior Solicitor
Rob Edge	Section Leader (Licensing)
Linda Banbury	Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- Apologies for Absence**
There were no apologies for absence.
- Declarations of interest**
No interests were declared.

DECISION ITEMS

- Licensing Act 2003 – Application for review of a premises licence in respect of the Kings Arms, 434-435 Dudley Road, Blakenhall, Wolverhampton**
In attendance
For the premises
Mr D N Chand - Premises Licence Holder
Mr A Dhanda – Leaseholder

Applicant for review
Sergeant A S Reeves
and PC L Davies - West Midlands Police

Responsible Authorities

Jayne Freeman-Evans - Environmental Health (Commercial)

An apology was submitted on behalf of Elaine Moreton - Licensing Authority.

The chair introduced the parties and outlined the procedure to be followed at the meeting.

The Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance.

Sergeant Reeves outlined the application for review of the premises licence as detailed at Appendix 3 to the report of Licensing Services, which had been brought in the interests of the promotion of the prevention of crime and disorder and protection of public safety licensing objectives. He acknowledged that the issues relating to the electrical and gas meters and employment of persons who were not allowed to work in the United Kingdom were not the responsibility of the current Premises Licence holder. However, visits to the premises during March had suggested that alcohol may have been sold outside the allocated licensing hours and it had still not been possible to obtain the requested CCTV footage. The Police had been informed that the events, which took place after the licensed hours, on 16, 22 and 28 March were private parties, although no prior notification had been received advising of the functions. The continuation of problems at the premises led to the belief of the Police that the licence should be revoked.

During the period of questioning and on a point of clarification, Jayne Freeman-Evans advised that multi-agency visits had been undertaken to various premises for a number of years. Western Power Electrical had made a specific request to accompany the agencies on the visit to the Kings Arms.

Sergeant Reeves supplied the Solicitor with suggested licence conditions relating to working tills and the CCTV system.

At this juncture the Premises Licence Holder presented his case, supported by the leaseholder, Mr Dhanda advised that the CCTV was now in working order and till receipts were available, adding that the events mentioned by the Sergeant were private parties. Mr Chand outlined the changes to be made to the premises including refurbishment and a change of clientele.

Responding to questions, Mr Chand advised that he intended to spend more time at the premises in the future, when his other business allowed and was currently seeking business premises in the area. He added that Mr Dhanda and his younger brother currently staffed the Kings Arms. He confirmed that the premises would be incorporating food into the offer to customers. He further advised that he had approximately five years' experience in the licensed trade and had worked in a premises in Telford. Mr Dhanda indicated that he was aware that the premises had had issues in the past, but was not aware of the extent of the problems prior to meeting with the Police. He advised that recordable CCTV footage had been available since 27 March and working tills, showing dates and times, had been available from the first day of trading. He advised that the Police would have been able to view the footage from 27 March if they had returned to do so after midnight.

All parties were afforded the opportunity to make a closing statement.

EXCLUSION OF PRESS AND PUBLIC

4. Exclusion of press and public

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act.

All parties, with the exception of the Council's Solicitor and Democratic Support Officer, withdrew from the meeting at this point.

Part 2 – exempt items, closed to the press and public

5. Deliberations and decisions

The Sub-Committee discussed the issues which had been raised during consideration of the premises licence review and the Solicitor advised them of the options open to them in determining the application.

6. Re-Admission of Press and Public

Resolved:

That the press and public be readmitted to the meeting.

Part 1 – items open to the press and public

9. Announcement of Decision

The parties returned to the meeting and the Solicitor read out the decision of the Sub-Committee as follows:

An application has been made by the West Midlands Police for a review of the premises licence in respect of the Kings Arms, 434-435 Dudley Road, Blakenhall, Wolverhampton. At this hearing to review the premises licence, the Licensing Sub-Committee has listened carefully to all the representations made by the persons who have spoken at the hearings. They have considered all the evidence presented and have found the following facts:

Rob Edge/
Linda
Banbury

1. There is a long history of problems with the premises.
2. On 11 January 2014 two Asian males were discovered at the premises who were not allowed to work in the United Kingdom.
[Paragraph 11.27 of the Section 182 guidance provides that certain criminal activity that may arise at the premises should be treated particularly seriously; this includes employing persons unlawfully in the United Kingdom]
3. Electrical and gas meters have been tampered with at the premises and a gas leak was evident on one occasion.
4. There is evidence that alcohol has been served outside licensing hours.

The Sub-Committee accept, however, that 2 and 3 above occurred prior to the current Premises Licence Holder and Designated Premises Supervisor taking control of the premises, are satisfied that there is no current criminal activity of this nature and have therefore disregarded them.

However, the Sub-Committee note that on 16 March, 22 March and 28 March 2014 events took place at the premises and evidence of police suggests that alcohol may have been sold outside the allocated licensing hours.

Based upon the above and having regard to the application and relevant representations made, the Sub-Committee have decided it is appropriate to modify the conditions of the licence permanently.

The modified conditions are as follows:

1. There must be working tills at the premises with time analogy.

2. (i) A CCTV system with recording equipment shall be installed and maintained at the premises, including entry and exit points. It is also to include all bar areas to cover serving across the bar as well as covering the main public areas inside and outside the premises. The beer garden is a main public area, as well as both open areas near to both bars and the rear area next to the kitchen.
- (ii) Images/recordings to be downloaded in a suitable format and provided to any member of a Responsible Authority upon request and without any undue delay.
- (iii) Images/recordings must be of evidential quality, showing the correct time and date and be kept for at least 31 days.
- (iv) At least one member of staff to be on duty who is trained to download the CCTV system should any member of a Responsible Authority make a request.

The above actions are considered necessary and proportionate action for the promotion of the prevention of crime and disorder licensing objective.

An appeal may be made to the Magistrates' Court against the decision by the applicant, the holder of the premises licence, or any other person who made a relevant representation, within 21 days from the date of receipt of written notice of this decision.

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Licensing Sub-Committee

Minutes – 16 April 2014

Attendance

Members of the Sub-Committee

Cllr Bishan Dass (chair)
Cllr Ian Claymore
Cllr Keith Inston

Employees

Rob Edge	Section Leader (Licensing)
Robert Marshall	Solicitor
Linda Banbury	Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- Apologies for Absence**
There were no apologies for absence.
- Declarations of interest**
No interests were declared.

DECISION ITEMS

- Licensing Act 2003 – Application for a premises licence in respect of ZiZi Restaurant, 72-73 Darlington Street, Wolverhampton**
In attendance
For the premises
Mr M Nanakshenas
Responsible Authorities
Sergeant A S Reeves – West Midlands Police
Sarah Stiles - Environmental Health (Commercial)
Elaine Moreton - Licensing Authority

The chair introduced the parties and outlined the procedure to be

followed at the meeting.

The Section Leader (Licensing) outlined the report submitted to the meeting and circulated to all parties in advance.

Mr Namakshena indicated that the venue was to be a sixty seater, fine dining, Italian family restaurant. He indicated that he was a qualified chef with in excess of thirty years' experience in the trade.

Responding to questions, he advised that he had met with representative of the Police and Environmental and had agreed to a revised set of conditions to be included at Section M of the application to promote the licensing objectives. In addition, last orders for food would cease at 10.30pm. He further advised that he had now obtained a Personal Licence.

Sergeant Reeves confirmed that the premise was situated in the Cumulative Impact Zone and historically had caused problems of crime and disorder. However, he was assured that the proposed conditions would assist in meeting the licensing objectives and supported the granting of the licence in these terms. Elaine Moreton and Sarah Stiles echoed the view of the Police and welcomed the restaurant which should assist in enhancing the city centre. The Sub-Committee endorsed this sentiment.

All parties were afforded the opportunity to make a closing statement.

EXCLUSION OF PRESS AND PUBLIC

4. Exclusion of press and public

Resolved:

That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act.

All parties, with the exception of the Council's Solicitor and Democratic Support Officer, withdrew from the meeting at this point.

Part 2 – exempt items, closed to the press and public

5. **Deliberations and decisions**

The Sub-Committee discussed the issues which had been raised during consideration of the premises licence application and the Solicitor advised them of the options open to them in determining the application.

6. **Re-Admission of Press and Public**

Resolved:

That the press and public be readmitted to the meeting.

Part 1 – items open to the press and public

9. **Announcement of Decision**

The parties returned to the meeting and the Chair advised the parties of the following decision of the Sub-Committee:

Rob Edge/
Linda
Banbury

The Sub-Committee have taken note of all the written concerns raised in respect of Zi Zi Restaurant, 72-73 Darlington Street, Wolverhampton and have listened to the arguments of those who have spoken at the hearing.

Having considered the views of all concerned, the Sub-Committee have acknowledged that the premise is located within the Cumulative Impact Zone. However, they are satisfied that the applicant has produced sufficient evidence to rebut the presumption that a licence should not be granted. In the circumstances, the Sub-Committee have decided to grant the premises licence as applied for subject to the following conditions, as agreed between the applicant and Responsible Authorities, which will replace those detailed at Section M of the application:

Prevention of crime and disorder

1. A CCTV system with recording equipment shall be installed and maintained at the premises, including exit and entry points.
2. Images/recordings to be downloaded in a suitable format and provided to any member of a Responsible Authority upon request and without any undue delay.
3. Images/recordings must be of evidential quality, showing the correct time and date and be kept for at least 28 days.
4. At least one member of staff to be on duty who is trained to download the CCTV system should any member of a Responsible Authority make a request.
5. Last orders for food to cease at 10.30pm.
6. Only patrons who have ordered a meal and are seated can be served alcohol.

Public safety

1. No glass drinking vessels or glass bottles to be permitted / allowed outside the premises to the front of the premises.

Prevention of public nuisance

1. Noise or vibration will not emanate from the premises so as to cause persons in the vicinity to be unreasonably disturbed. This includes the smoking area to the rear of the premises.

Protection of children from harm

1. All staff will be trained in 'Challenge 25' and all appropriate identification checks will be undertaken by all staff to ensure no sale of alcohol is made to underage persons.

Finally, such conditions as are specified on/or are consistent with the operating schedule will be attached to the licence, together with any mandatory conditions required by the Act.

All parties have a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.



Licensing Sub-Committee

Minutes – 30 April 2014

Attendance

Members of the Sub-Committee

Cllr Bishan Dass (chair)
Cllr Alan Bolshaw
Cllr Mark Evans

Employees

Education and Enterprise

Elaine Moreton Section Leader (Licensing)

Delivery

Sarah Hardwick Senior Solicitor
Linda Banbury Democratic Support Officer

Part 1 – items open to the press and public

<i>Item No.</i>	<i>Title</i>	<i>Action</i>
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BUSINESS ITEMS

- | | | |
|----|--|---|
| 1. | Apologies for Absence
There were no apologies for absence. | - |
| 2. | Declarations of interest
No interests were declared. | - |

DECISION ITEMS

EXCLUSION OF PRESS AND PUBLIC

- | | | |
|----|---|--|
| 3. | Exclusion of press and public
Resolved:
That in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business as it involves the likely disclosure of exempt information falling within paragraph 3 of Schedule 12A of the Act. | |
|----|---|--|

Part 2 – exempt items, closed to the press and public

4. **Application for a private hire vehicle driver's licence**

The chair welcomed everyone to the meeting, introductions were made and he outlined the procedure to be followed.

Mr Abdul was in attendance at the meeting in connection with his application for a private hire vehicle driver's licence and responded to questions as appropriate.

The Section Leader (Licensing) outlined the report, which had been circulated to all parties in advance of the meeting.

Mr Abdul was afforded the opportunity to make a final statement.

The Section Leader (Licensing) and Mr Abdul withdrew from the meeting to enable the Sub-Committee to reach their decision. The Sub-Committee considered all the evidence presented at the meeting and the Solicitor advised them of the options open to them in determining the application.

The parties returned to the meeting and the Chair advised the parties of the decision of the Sub-Committee as follows:

(a) The Sub-Committee noted in particular the criminal offence of Mr Abdul in 2004 and the fact that the Council's guidelines relating to Relevance of Convictions and Breaches of Licence conditions state, under section 5.1.9 (sexual offences), that a new licence will not normally be granted. In the circumstances the Sub-Committee do not believe that Mr Abdul is a fit and proper person and, therefore, in accordance with Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and guideline 5.1.9, have resolved to not to grant the application for a Private Hire Vehicle Driver's Licence.

Elaine
Moreton/
Linda
Banbury

(b) The applicant has a right of appeal to the Magistrates' Court within 21 days of receipt of this decision.



Licensing Committee

18 June 2014

Report Title

Schedule of Outstanding Minutes

Originating service

Delivery/Democratic Support

Accountable employee

Linda Banbury
Tel
Email

Democratic Support Officer
01902 55(5040)
linda.banbury@wolverhampton.gov.uk

Recommendation for noting:

The Committee is asked to note the report

	Subject	Date of Meeting and Minute No.	Decision	Comments
1.	Future of Hackney Carriage Services	13.02.13 38(c)	Further review of Hackney Carriage provision to take place in 2016	Report to July 2016 meeting
2.	Hackney Carriage and Private Hire Vehicle Testing at VOSA Registered Garages	17.04.13 61(f)	Report to be presented in twelve months on impact of proposals in regard to vehicle testing	Report to this meeting
3.	City Centre Pubwatch Scheme	22.05.13 2	Update to be presented on outcome of customer research	Report to future meeting
4.	Review of Decision Making	22.05.13 6(d)	Annual delegation report to be presented	Report to this meeting
5.	Scrap Metal Dealers Act	25.09.13 8	Progress report to be presented in six months	Report to this meeting
6.	Wolverhampton Alcohol Strategy 2011-2015	18.12.13 6	Further update to be presented	Report to future meeting



Licensing Committee

18 June 2014

Report Title	Review of Decision Making 2014/2015	
Accountable Strategic Director	Tim Johnson Education and Enterprise	
Originating service	Licensing Services	
Accountable employee	Name	Colin Parr
	Tel	01902 550105
	Email	colin.parr@wolverhampton.gov.uk

Recommendations:

The Licensing Committee are recommended to:

- (i) Endorse and approve the proposals in section 2 of this report relating to category 2 decisions.
- (ii) Endorse and approve the proposals in section 2 of this report relating to category 3 decisions.
- (iii) Delegate category 3 decision making powers to the Strategic Director for Education and Enterprise.
- (iv) Note the schedule attached at Appendix 1 to this report which includes further proposed delegations from the Strategic Director for Education and Enterprise to officers.
- (v) Receive annual delegation update reports at the beginning of the municipal year.

1.0 Purpose of report

- 1.1 To seek the endorsement and approval of a proposed decision making process and for proposed delegations in relation to category 2 and 3 decision making powers to the Strategic Director for Education and Enterprise.
- 1.2 To draw Councillors' attention to the delegations document attached at Appendix 1 which includes proposed delegations from the Director to officers within Education and Enterprise.

2.0 Background

- 2.1 The Licensing Committee has responsibility for a wide range of licensing functions. These relate principally to the issue of licences, permits, consents and their enforcement.
- 2.2 Councillors will be most familiar with premises applications made under the Licensing Act 2003 and a variety of taxi related matters. However, there are many other matters that are only occasionally brought to Councillors' attention for consideration e.g. sex establishments.
- 2.3 The licensing system is configured to allow the proper discharge of functions and operates through the Licensing Committee either taking decisions themselves or through the delegation of decisions to officers.
- 2.4 The aim of the delegation scheme is the achievement of a proper balance of responsibilities to enable the service to be delivered in an efficient and effective manner.
- 2.5 The current Committee approval arrangements categorise decisions into three categories. See table below.

Current decision making progress

Category	Who takes the decision?	Type of decision
1	Full Committee	Policy matters and those which have significant political, financial implications including fees and charges or service delivery issues.
2	Sub Committee	Contentious applications. Suspensions and Licence revocations not in accordance with revised criteria, responsibility for any function as prescribed by statute.
3	Delegated to Officers	Determination of consents, permits registrations, licence applications and reviews in accordance with agreed policies.

3.0 Delegation of category 2 and 3 decisions

- 3.1 On 30 May 2012 the Licensing Committee considered a report on the review of decision making.
- 3.2 This report set out a review process for officer delegations.
- 3.3 Licensing Services produced a policy document which included a list of current and proposed delegation to officers for a range of decisions.
- 3.4 The Licensing Committee confirmed and endorsed category 2 and category 3 decisions and the continuation of the existing regime of officer delegations and approved delegation of category 3 decisions, to the Strategic Director for Education and Enterprise. This ensured the ongoing delivery of routine, non-contentious licensing functions in accordance with agreed policies and procedures.
- 3.5 Councillors agreed that an updated delegation report be presented to Licensing Committee on an annual basis to the first meeting of the municipal year.
- 3.6 Licensing Committee are asked to endorse and approve the delegation of category 3 decision making to the Strategic Director for Education and Enterprise.
- 3.7 The delegations document attached at Appendix 1 has been updated throughout the year and includes proposed delegations from the Director to officers within Education and Enterprise.
- 3.8 Should Councillors agree with recommendations within this report the proposed delegations document will be authorised by the Strategic Director for Education and Enterprise.

4.0 Legal implications

- 4.1 The Licensing Authorities (Functions and Responsibilities) (England) Regulations 2000 Schedule 1 specifies a range of functions which are not to be an executive responsibility and this includes licensing and registration functions.
- 4.2 The Licensing Committee has been appointed to exercise the Council's functions relating to the processing, determination and management of licensing. Specific powers and duties are listed in the Council's constitution and some can be delegated to officers.
- 4.3 One of the main principles of the constitution is the need to be able to ascertain who is responsible for any decision made by or on behalf of the Council and this is particularly so for officer delegations which must be comprehensive. [SH/05062014/F]

5.0 Financial implications

- 5.1 The proposals contained in this report can be met from the approved licensing revenue budgets 2014/15 and should generate efficiencies in the utilisation of both Councillor and officer resources. [TK/29052014/P]

6.0 Equal opportunities implications

- 6.1 The agreement of criteria relating to officer decisions will be subject to equality analysis to ensure the proposals are in accordance with the Council's Equal Opportunities Policy and the requirements of the Human Rights Act 1998.

7.0 Environmental implications

- 7.1 Many of the functions for which the Committee has responsibility have a bearing on environmental issues.

8.0 Schedule of background papers

Licensing Committee – 30 May 2012, 22 May 2013 - Review of decision making.

Licensing Committee – Committee/Sub-Committee/Officer Delegations

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Licensing Act 2003			
Premises Licence/Club Premises Certificate – New/Variation Application/ Provisional Statement	No representations – Licensing Officer Representations resolved by conditions added to Licence – Licensing Sub-Committee, endorse to negate hearing Representations Not Resolved – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Premises Licence/Club Premises Certificate – Review Application	Licensing Sub-Committee	Licensing Committee 30/05/2012	
Temporary Event Notice – Standard	Acknowledge Receipt – Licensing Officer Representations/Service of Counter Notice – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Temporary Event Notice - Standard Agree hearing is not required where TEN modified	Section Leader Licensing, in consultation with Chair, Vice Chair or Shadow Chair of Licensing Committee	Licensing Committee 30/05/2012	
Temporary Event Notice – Late	Section Leader Licensing	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Licensing Act 2003 continued/...			
Minor Variations – Grant/Reject Applications in accordance with Legislative Reform Orders 2009	Section Leader, Licensing	Licensing Committee 30/05/2012	
Personal Licence - Application	No Representations – Licensing Officer Representations – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Designated Premises Supervisor – Variation	No Representations – Licensing Officer Representations – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Application Transfer Premises Licence/ Club Premises Certificate	No Representations – Licensing Officer Representations – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Application for Interim Authority	No Representations – Licensing Officer Representations – Licensing Sub-Committee	Licensing Committee 30/05/2012	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Licensing Act 2003 continued/...			
Decision to object when Local Authority is a Consultee and not the relevant authority considering the application	Licensing Sub-Committee	Licensing Committee 30/05/2012	
Licensing Act 2003 Fees and Charges	Secretary of State (Subject to revisions resulting from the Police Reform and Social Responsibility Act 2011)	Licensing Committee 30/05/2012	
Statement of Licensing Policy	Full Council	Licensing Committee 30/05/2012	
Decision on whether a complaint is relevant, Frivolous, Vexatious etc	Section Leader, Licensing	Licensing Committee 30/05/2012	
Power to suspend Premises Licence/Club Premises Certificate for non payment of annual fee	Section Leader, Licensing	Licensing Committee 30/05/2012	
To authorise Licensing Authority as a Responsible Authority	Licensing Manager/Section Leader, Licensing	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Gambling Act 2005			
New/Variations/Provisional Statements Applications	No Representations – Licensing Officer Representations Not Withdrawn – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Transfer of Premises Licence	No Representations – Licensing Officer Representations from Gambling Commission – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Premises Licence/Suspension/Revocation	Licensing Sub-Committee	Licensing Committee 30/05/2012	
Temporary Use Notice	No Representations – Section Leader, Licensing Representations – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Occasional Use Notice	No Representations – Officers	Licensing Committee 30/05/2012	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Gambling Act 2005 continued/...			
Application Club Gaming/Club Machine Permit	No Representations – Licensing Officer Representations Not Withdrawn – Licensing Sub-Committee	Licensing Committee 30/05/2012	
Cancellation of Club Gaming/Club Machine Permit	Section Leader, Licensing/Licensing Officer	Licensing Committee 30/05/2012	
Alcohol Licensed Premises Gaming Machine Permit – Notification	Licensing Officer	Licensing Committee 30/05/2012	
Cancellation Licensed Premises Gaming Machine Permits	Section Leader, Licensing/Licensing Officer	Licensing Committee 30/05/2012	
Small Society Lotteries New/Renewal	Licensing Officer	Licensing Committee 30/05/2012	
Gambling Act Fees and Charges	Licensing Committee up to Maximum Limit set by Secretary of State	Licensing Committee 30/05/2012	
Statement of Gambling Policy	Full Council	Licensing Committee 30/05/2012	
To authorise the Local Authority as a responsible authority	Licensing Manager/Section Leader, Licensing	Licensing Committee 30/05/2012	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation (s)
Street Trading			
Pitches – Create, Relocate or Deletion Review of Decision	Licensing Manager in consultation with Highways/Landscape Services Head of Regulatory Services	Licensing Committee 14/11/2012	Section Leader, Licensing Licensing Manager
Consents – Grant, Renewal, Revocation Review of Decision	Licensing Manager in consultation with Highways/Landscape Services Head of Regulatory Services	Licensing Committee 14/11/2012	Section Leader, Licensing Licensing Manager
Private Land Consents – Grant Revocation of Consent	Licensing Officer Licensing Manager	Licensing Committee 22/5/2013 Licensing Committee 30/5/2012	
Temporary/Street Trading Occasional Consents	Section Leader, Licensing	Licensing Committee 30/05/2012	Licensing Officer
Change of Tradeline	Section Leader, Licensing	Licensing Committee 30/05/2012	
Transfer of Street Trading Consent Subject to Consent Conditions Review of Decision	Section Leader, Licensing Licensing Manager	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation (s)
Street Trading continued /...			
Street Tradings Fees and Charges	Licensing Committee	Licensing Committee 30/05/2012	
Change of Unit Design - Approval			Licensing Manager

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Hackney Carriage & Private Hire			
New Applications – Hackney Carriage/Private Hire Vehicle Driver’s Licence	Clear of guidelines – Licensing Officer	Licensing Committee 30/05/2012	
	Not clear of guidelines – Head of Regulatory Service/Licensing Manager and Service Managers within Regulatory Service/Section Leader, Licensing/Licensing Sub-Committee	Licensing Committee 25/07/2012	Licensing Manager / Section Leaders, Licensing Licensing Sub-Committee
New Applications - Private Hire Vehicle Operators Licence	Clear of guidelines – Licensing Officer	Licensing Committee 30/05/2012	Licensing Manager / Section Leaders, Licensing Licensing Sub-Committee
	Not clear of guidelines – Head of Regulatory Service/Licensing Manager and Service Managers within Regulatory Service/Section Leader, Licensing/Licensing Sub-Committee	Licensing Committee 25/07/2012	Licensing Manager / Section Leaders, Licensing Licensing Sub-Committee
Renewal Applications Hackney Carriage/Private Hire Vehicle Drivers Licences/Operators Licence	Clear of guidelines - Licensing Officer	Licensing Committee 30/05/2012	
Reviews/Reviews Prior to Renewal – Hackney Carriage/Private Hire Vehicle Drivers/Operators Licence	Head of Regulatory Service/Licensing Manager and Service Managers within Regulatory Service/Licensing Sub-Committee	Licensing Committee 25/07/2012	Licensing Manager / Section Leaders / Licensing Sub-Committee
New/Renewal Hackney Carriage/Private Hire Vehicle Applications	Subject to Criteria - Licensing Officer	Licensing Committee 30/05/2012	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Hackney Carriage & Private Hire continued /...			
Hackney Carriage Exceptional Condition Criteria	Licensing Officer, in accordance with approved Policy Appeal to Licensing Manager	Licensing Committee 20/11/13	
Hackney Carriage/Private Hire Fees and Charges	Licensing Committee	Licensing Committee 30/05/2012	
Advertising on/in Hackney Carriages	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
Reviews/Reviews Prior to Renewal – Hackney Carriage/Private Hire Vehicle Drivers Immediate Suspensions	Head of Regulatory Service/Licensing Manager and Service Managers within Regulatory Service/Licensing Sub-Committee		Licensing Manager / Section Leaders, Licensing
(a) “All Over”	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
(b) Tip Up Seats	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
(c) Doors	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
(d) Rear Window	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Hackney Carriage & Private Hire continued /...			
Advertising on/in Private Hire Vehicles	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
(a) Rear Window	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
(b) Rear Doors and Rear Wings	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
Private Hire Vehicle Identification Plate Exemption Policy	Licensing Manager/Section Leader, Licensing in line with agreed policy	Licensing Committee 30/05/2012	
Limousines/Applications for Private Hire Vehicles	Licensing Manager/Section Leader, Licensing	Licensing Committee 30/05/2012	
Novelty Vehicles Applications for Private Hire Vehicles, Fire Engines etc	Licensing Manager/Licensing Sub-Committee	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Hackney Carriage & Private Hire continued /...			
Approval of Hackney Carriage – Types	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
Approval of Hackney Carriage Fares	Licensing Committee	Licensing Committee 30/05/2012	
Digital Advertising in Hackney Carriage/Private Hire Vehicle	Section Leader, Licensing, in accordance with approved policy	Licensing Committee 30/05/2012	
Hackney Carriage/Private Hire Vehicles – Section 68 Notices Suspension/Removal of Suspension for Non-Mechanical Tests	Licensing Manager/ Section Leader, Licensing Section Leaders - Environmental Health Compliance Officers - Environmental Health (Commercial)	Strategic Director Education & Enterprise 3/12/2012 Licensing Committee 22/5/2013	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Hackney Carriage & Private Hire continued /...			
VOSA MOT Testing Facilities for Hackney Carriage/Private Hire Vehicles Mechanical Safety checks. Approval/Revocation/Attachment of Conditions	Licensing Manager	Licensing Committee 17/04/2013	
Review of Decision	Licensing Sub-Committee		
Non-Mechanical compliance check of Hackney Carriage and Private Hire Vehicles - Approval	Licensing Officers	Licensing Committee 17/04/2013	
Review of Decision.	Section Leader – Licensing		
Private Hire Exceptional Condition Criteria	Licensing Officer, in accordance with approved Policy Appeal to Licensing Manager	Licensing Committee 20/11/2013	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
Scrap Metal			
Scrap Metal Licence Site/Collectors Applications	No representations - Licensing Officer	Licensing Committee 25/9/2013	Section Leader Licensing
	Representations		
Scrap Metal Licence Site/Collectors Refusal	Licensing Manager	Licensing Committee 25/9/2013	
Scrap Metal Licence Site/Collectors Review/Revocation	Licensing Manager	Licensing Committee 25/9/2013	
Scrap Metal Licence Site/Collectors Variation	Licensing Manager	Licensing Committee 25/9/2013	No representations - Licensing Officer
	Representations		Section Leader Licensing
Scrap Metal Site Issue of Closure Notice - Application to Magistrates for Closure Order / Termination of Order	Head of Regulatory Service/Licensing Manager and Service Managers within Regulatory Service	Licensing Committee 25/9/2013	Licensing Manager / Section Leader Licensing
Scrap Metal Licence Authorisation of Prosecution Proceeding	Assistant Director for Regeneration or Head of Regulatory Service	Licensing Committee 25/9/2013	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
General			
Sex Establishment Licence Shops/Cinema/Sexual Entertainment Venues New Applications	All Cases - Licensing Sub-Committee	Licensing Committee 30/05/2012	
Sex Establishment Licence Shops/Cinema/ Sexual Entertainment Venues Renewal Applications	No Representations – Section Leader, Licensing Representations - Licensing Sub-Committee	Licensing Committee 30/05/2012	
Sex Establishment Shop/Cinema/ Sexual Entertainment Venues Variation Applications	Licensing Sub-Committee	Licensing Committee 30/05/2012	No representations - Section Leader, Licensing Representations - Licensing Sub-Committee
Sex Establishment Licence Shop/Cinema/Sexual Entertainment Venues Transfer Applications	Section Leader, Licensing Licensing Sub-Committee	Licensing Committee 30/05/2012	No representations Section Leader, Licensing Representations - Licensing Sub-Committee
Revocation of Sex Establishment Licence	Licensing Sub-Committee	Licensing Committee 30/05/2012	
Street Collections	Licensing Officer	Licensing Committee 30/05/2012	
House to House	Licensing Officer	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
General continued/...			
Free Printed Matter – Grant	Licensing Officer	Licensing Committee 30/05/2012	Section Leader, Licensing
Suspension, Revocation	Licensing Manager	Licensing Committee 16/01/2013	
Review of Decision	Licensing Sub-Committee	Licensing Committee 16/01/2013	
Mediate outcome of Appeal	Licensing Manager – Recommendations to Chair	Licensing Committee 22/5/2013	
Applications Acupuncture/Tattooing/ Electrolysis/Cosmetic Piercing and Permanent Skin Colouring	Licensing Officer	Licensing Committee 30/05/2012	
Hypnotism	Licensing Officer	Licensing Committee 30/05/2012	
Marriage Venues	Licensing Officer – signed off by Proper Officer Appeal to Licensing Sub-Committee	Licensing Committee 30/05/2012	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
General continued/...			
'A' Boards	No Representations – Licensing Officer Representations/Non-Compliant with policy - Section Leader, Licensing Appeal to Licensing Manager	Licensing Committee 30/05/2012	Licensing Officer Section Leader, Licensing
Table and Chairs	No Representations – Licensing Officer Representations/Non-Compliant with policy - Section Leader, Licensing Appeal to Licensing Manager	Licensing Committee 30/05/2012	Licensing Officer Section Leader, Licensing
Goods on the Highways	No Representations – Licensing Officer Representations/Non-Compliant with policy - Section Leader, Licensing Appeal to Licensing Manager	Licensing Committee 30/05/2012	Licensing Officer Section Leader, Licensing
Sale of Non-Medical Poisons	Licensing Officer	Licensing Committee 30/05/2012	

2014 - 2015

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
General continued/...			
Caravan Sites Grant – Attachment of Model Conditions	Licensing Officer	Licensing Committee 30/05/2012	
Caravan Sites Grant – Attachment of Conditions other than all Model Conditions	Licensing Sub-Committee	Licensing Committee 30/05/2012	
Caravan Sites Transfer	Licensing Officer	Licensing Committee 30/05/2012	
Caravan Sites Refusal	Licensing Officer	Licensing Committee 30/05/2012	
Caravan Sites Alteration of Conditions	No Representations - Licensing Officer Representations - Licensing Sub-Committee	Licensing Committee 30/05/2012	
Mini Bus Permits	Licensing Officer	Licensing Committee 30/05/2012	

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
General continued/...			
Pet Shops	No Representations – Licensing Officer	Licensing Committee 30/05/2012	
	Representations – Licensing Sub-Committee		
Animal Boarding Establishments	Licensing Officer	Licensing Committee 30/05/2012	
	Grounds for Refusal Under the Act/Revocation of Licence - Licensing Sub-Committee		
Dog Breeding	Licensing Officer	Licensing Committee 30/05/2012	
	Grounds for Refusal Under the Act/Revocation of Licence - Licensing Sub-Committee		
Dangerous Wild Animals	Licensing Officer	Licensing Committee 30/05/2012	
	Grounds for Refusal Under the Act/Revocation of Licence - Licensing Sub-Committee		
Riding Establishments	Licensing Officer	Licensing Committee 30/05/2012	
	Grounds for Refusal Under the Act/Revocation of Licence - Licensing Sub-Committee		

Licence/Consent/Permit Type	Current Delegation(s)	Date of Committee Authorisation	Proposed Delegation(s)
General continued/...			
Performing Animals	Licensing Officer Grounds for Refusal Under the Act/Revocation of Licence - Licensing Sub-Committee	Licensing Committee 30/05/2012	
Zoos	No Representations – Licensing Officer Representations/Review of Licence – Licensing Sub-Committee	Licensing Committee 30/05/2012	

Page 23

The proposed delegation to officers is subject to an administrative process by working through checklists of approved policy/criteria prior to the issue of Licence/Registration/Permit/Notice etc.

I delegate authority for the decision making processes within the functions detailed above to the posts named in the proposed delegation column.

.....
 Tim Johnson
 Strategic Director for Education and Enterprise

Date:

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Licensing Committee

18 June 2014

Report Title	Hackney Carriage and Private Hire Vehicle Testing at VOSA Registered Garages	
Accountable Strategic Director	Tim Johnson Education and Enterprise	
Originating service	Licensing Services	
Accountable employee	Name	Elaine Moreton
	Tel	01902 555033
	Email	elaine.moreton@wolverhampton.gov.uk

Recommendations:

- (i) Advise the Committee of the impact and current position regarding the use of VOSA registered garages for the testing of Hackney Carriages and Private Hire Vehicles.
- (ii) That the 12 month pilot scheme relating to testing arrangements for Hackney Carriage and Private Hire Vehicles at VOSA registered garages adopted by Licensing Committee on 17 April 2013 be made permanent.
- (iii) The payment of an approval fee to the Council for the existing garages registered be extended until 31 March 2015 and included in 2015/16 fees and charges report.

1.0 Purpose of Report

1.1 The purpose of this report is to inform the Committee on the impact of the 12 month pilot scheme relating to the:-

- Testing arrangements of Hackney Carriage and Private Hire Vehicles at Council approved VOSA registered garages.
- To seek approval from the Committee to make the pilot scheme relating to the use of VOSA registered garages for Hackney Carriage and Private Hire Vehicles permanent.
- The payment of an approval fee to the Council for the existing garages registered be extended until 31 March 2015 and included in 2015/16 fees and charges report.

2.0 Background

2.1 In the summer of 2012 the Council consulted on proposals titled 'Future Hackney Carriage Provision' age criteria for Hackney Carriages. These proposals detailed revisions to the new vehicle.

2.2 The consultation responses and subsequent detailed dialogue with the Hackney Carriage trade highlighted several additional issues, including a request that vehicle testing be opened up to private VOSA registered MOT stations.

2.3 This proposal was further discussed at both the Hackney Carriage and Private Hire Working Groups and at a meeting to which all VOSA registered MOT stations in Wolverhampton were invited.

2.4 On 17 April 2013 a report was presented to Licensing Committee outlining the options for opening up testing of Hackney Carriages and Private Hire Vehicles to private VOSA registered garages.

2.5 Following a meeting with garages and discussions with Hackney Carriages and Private Hire trades the preferred option was identified as:

“Allow any VOSA registered garage, that meets the standard specified by the Council to complete taxi mechanical safety tests – this would involve issuing an MOT certificate”.

2.6 The proposed criteria and process for VOSA garages to become an appropriate Testing Centre is detailed below:-

- Registered as a VOSA approved Test Centre for a minimum of 3 years.
- Currently considered by VOSA as a 'green' rated garage.
- Located within the administrative boundary of Wolverhampton City Council.
- The garage is available for inspection by an authorised officer of the Council at any time the garage is open to the public.

- Ownership and management of the garage must be independent of any current Wolverhampton Hackney Carriage or Private Hire vehicle proprietor or operator.
- Payment of an approval fee to the Council of £150 per year.
- Compliance with any other reasonable directive/conditions placed on the garage by the Licensing Manager.

The Council consulted with stakeholders on the proposed criteria in order to establish if the above criteria was sufficient to ensure public safety of vehicles and/or whether other safeguards should be considered.

3.0 Pilot Scheme

- 3.1 Licensing Services have been in regular contact with the garages over the initial 12 month period and only positive feedback has been received.
- 3.2 The Hackney Carriages and Private Hire trades have also given positive feedback as it has allowed them freedom of choice of the 16 garages that are now registered with the Council from across the city.
- 3.3 It should be noted that one of the garages has assisted greatly in an investigation regarding falsified MOT certification being presented to Licensing Services. This investigation is ongoing and the Council Trading Standards Service are progressing enforcement action regarding forgery and counterfeiting offences.
- 3.4 The approval fee payable to the Council by the garages was initially set at £150 per year. However, it is proposed that the approval fee paid by the 16 existing VOSA garages be extended until 31 March 2015 without further payment as costs to the Council have been minimal.
- 3.5 The fee for garages to be approved and added to the Council's list of garages for Hackney Carriage and Private Hire Vehicle testing will be subject to review and included in 2015/16 fees and charges report for consideration by Licensing Committee in 2015.

4.0 Financial Implications

- 4.1 The opening up of testing to other facilities has resulted in an overall increase in the Council's net expenditure as a result of a reduction in income over and above cost savings. This has been factored into the ongoing review of Fleet Services and Culwell Street facility and covered in further reports to Councillors [TK/05062014/W].

5.0 Legal Implications

- 5.1 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a District Council may determine a private hire vehicle application taking into account various factors. These include being satisfied that the vehicle is in suitable mechanical condition.

- 5.2 A District Council may attach to the grant of a licence such conditions as they may consider reasonably necessary.
- 5.3 Section 50 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the proprietor of any hackney carriage or private hire vehicle licensed by a District Council shall present such private hire vehicle for inspection and testing by or on behalf of the Council within such period and at such place within the area of the Council as may by notice be reasonably required. Provided that a Council shall not require a proprietor to present the samehackney carriage or private hire vehicle for inspection and testing on more than three separate occasions during any one period of 12 months.
- 5.4 Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 gives authorised officers of the Council and the police powers which are additional to the requirements of Section 50 and allows such officers, if on inspection they are not satisfied as to the vehicle's fitness, to require the vehicle or its taximeter to undergo a further inspection [KR/05062014/P].

6.0 Environmental Implications

- 6.1 The reduction in income from Hackney Carriage and Private Hire Vehicle testing has virtually all been offset by the reduction in charges made by the Culwell Street testing station.
- 6.2 The reduction in the number of tests carried out at Culwell Street has formed part of a review of resource requirements at the testing station.

7.0 Equalities Implications

- 7.1 There are no equalities implications arising from this report.

8.0 Schedule of Back Group Papers

- 8.1 Licensing Committee – 17/04/2013 – Hackney Carriage and Private Hire Vehicle testing at VOSA registered garages.



Licensing Committee

18 June 2014

Report Title City Centre Street Trading Designation of Licensed Streets

Accountable Strategic Director Tim Johnson
Education and Enterprise

Originating service Licensing Services

Accountable employee Colin Parr Licensing Manager
Tel 01902 550105
Email colin.parr@wolverhampton.gov.uk

Recommendations:

The Licensing Committee are recommended to:

- (i) Approve the commencement of the process to re-designate the streets within the ring road of Wolverhampton city centre as licensed streets for the purpose of street trading.
- (ii) Approve the commencement of the process to rescind the existing designation relating to consent streets within Wolverhampton city centre ring road for the purpose of street trading.
- (iii) Publish a notice in a local newspaper containing the draft resolution on the proposed designations.
- (iv) Receive a further report following the end of the consultation period.

1.0 Purpose

- 1.1 The Licensing Committee is recommended to commence the statutory process to designate the streets within the ring road of the City Centre as licensed streets rather than consented streets for the purpose of street trading.

2.0 Background

- 2.1 Street trading is regulated under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4. The Act allows by way of resolution to designate any street in their district as a “prohibited street”, “licensed street” or “consent street”.
- 2.2 On 6 July 1983 Wolverhampton Metropolitan Borough Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 designating all streets within Wolverhampton as “consent streets”.
- 2.3 Therefore any person engaging in street trading must obtain a consent from the Council to trade.
- 2.4 On 29 January 2014 Licensing Committee received a report on the review of city centre street trading.
- 2.5 The Committee agreed a number of policy revisions to the city centre street trading function.
- 2.6 One of the revisions was to commence the statutory process to designate streets within the ring road as “licensed streets” as opposed to “consented streets”.
- 2.7 This would allow traders the security of a licence rather than a consent with a right of appeal to the courts for failure to offer renewal and provide traders with more security to invest in their businesses.
- 2.8 The relevant matters that can be taken into account when considering an application for a street trading licence are more comprehensive, as follows:
- (a) that there is not enough space in the street for the applicant to engage in the trading without causing undue interference or inconvenience to persons using the street; or
 - (b) there are already enough traders in the street from shops or otherwise in the goods in which the applicant desires to trade; or
 - (c) the applicant desires to trade on fewer days than the minimum number specified under the resolution; or
 - (d) the applicant is unsuitable to hold a licence as they have been convicted of an offence or for any other reason; or

- (e) the applicant has been granted a street trading licence and has persistently refused or neglected to pay the fee or charges required under paragraph 9(6) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; or
- (f) the applicant has been granted a street trading consent and has persistently refused or neglected to pay the fees; or
- (g) the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

2.9 It is proposed the existing designation remains unchanged for the rest of the city.

3.0 Consultation

3.1 The proposal is to commence the statutory consultation process to:-

- (a) authorise Licensing Services to commence the consultation process to designate all streets within Wolverhampton city centre ring road as licensed streets.
- (b) authorise Licensing Services to commence the consultation process to rescind the existing designation relating to consent streets within Wolverhampton city centre ring road.

3.2 It is proposed to maintain the existing consented streets for all areas outside the ring road.

3.3 Members of the public and trade will have the opportunity to make representations when the statutory notice is published.

3.4 A further report will be presented to Licensing Committee following the end of the 28 day consultation period requesting Committee to recommend the Council to adopt the resolution for the new street trading process subject to any variations of the draft proposals that arise as a result of the consultation process.

3.5 It is anticipated that the whole process will take between six to nine months to complete.

4.0 Financial implications

4.1 There are limited financial implications from this report in that the Council will be required to publish a notice advertising their intention to re-designate streets and, in due course, the fees for street trading licences. There will be a need to publish three notices at a cost of approximately £750 for each notice. The cost will be met through approved Licensing budgets 2014/15. [TK/05062014/Y]

5.0 Legal implications

- 5.1 Paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the procedure for the re-designation of the city centre as a licensed street trading area. Briefly, the steps to be followed are:
- 5.2 The publication of a notice of intention to pass a resolution designating a particular street. The notice must contain a draft resolution to be passed and must be published in a local newspaper. A copy is then served on the Chief of Police and any highway authority responsible for a particular street. The consent of the highway authority is required where a street is to be designated a licence street. Where the land is owned by one of the bodies specified in the Act, for example the British Railway Board, consent from that body is also required.
- 5.3 A period of at least 28 days must elapse from the time of initial publication of the notice to the time when the Council passes a resolution confirming the proposed designation. This is to allow for objections to be made to the Council, which must be considered before a resolution is passed to designate a particular street.
- 5.4 Once a resolution has been passed, the Council are obliged to publish the fact for two consecutive weeks in a local newspaper.
- 5.5 The Council will also be required to rescind the designation relating to consent streets. The same procedure as outlined above must be followed (paragraph 9 (13) of Schedule 4). [KR/05062014/V]

6.0 Equalities implications

- 6.1 The process for the re-designation of the city centre has been incorporated into the statutory consultation process.

7.0 Environmental implications

- 7.1 This report will have environmental implications. The revisions to the city centre street trading function will have a positive impact on the city centre's public realm.

8.0 Schedule of background papers

- 8.1 Licensing Committee - Street Trading Various Issues, 26 September 2007
Licensing Committee - City Centre Street Trading, 29 January 2014