



Licensing Committee

20 November 2013

Time 10.00am **Public meeting?** YES **Type of meeting** Regulatory

Venue Civic Centre, St Peter's Square, Wolverhampton WV1 1SH

Room Committee Room 1 (3rd floor)

Membership

Chair Cllr Bishan Dass (Lab)
Vice-chair Cllr Alan Bolshaw (Lab)
Shadow-Chair Cllr Mark Evans (Con)

Labour
Cllr Harman Banger
Cllr Ian Claymore
Cllr Craig Collingswood
Cllr Susan Constable
Cllr Keith Inston
Cllr Rita Potter
Cllr John Rowley

Conservative
Cllr Neville Patten
Cllr Patricia Patten

Liberal Democrat

Information for the Public

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

Contact Linda Banbury
Tel 01902 555040
Email linda.banbury@wolverhampton.gov.uk
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
Tel 01902 555043

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. **Declarations of interest**
3. **Minutes**
 (a) Meeting, 23 November 2013
 [for approval]
 (b) Sub-Committee – 1 November 2013
 [for approval and adoption]
4. **Matters arising**
 [To consider any matters arising from the minutes]

DECISION ITEMS

5. **Schedule of Outstanding Minutes**
 [To receive a schedule indicating when reports on individual items will be submitted for consideration]
6. **Changes to the Disclosure and Barring Service Enhanced Criminal Records Disclosure process**
 [To approve revised fee structure]
7. **Proposed revisions to hackney carriage and private hire criteria**
 [To approve revised hackney carriage and private hire vehicle criteria and implementation of drug policy]

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



Licensing Committee

Minutes – 23 October 2013

Attendance

Members of the Committee

Cllr Bishan Dass (chair)
Cllr Ian Claymore
Cllr Susan Constable
Cllr Mark Evans
Cllr Neville Patten
Cllr John Rowley

Cllr Alan Bolshaw
Cllr Craig Collingswood
Cllr Keith Inston
Cllr Patricia Patten
Cllr Rita Potter

Employees

Sarah Hardwick	Senior Solicitor (Delivery)
Andy Jervis	Head of Regulatory Services (Education and Enterprise)
Colin Parr	Licensing Manager (Education and Enterprise)
Linda Banbury	Democratic Support Officer (Delivery)
Donna Cope	Licensing Officer (Education and Enterprise)

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

- | | | |
|----|--|---|
| - | Councillor Neil Clarke
Councillor Dass referred to the recent death of Councillor Neil Clarke, former Shadow Chair of the Licensing Committee. The Committee acknowledged that he would be sadly missed and placed on record their appreciation for his valued work as a Wolverhampton Councillor. They expressed sympathy for his family at this sad time and a period of silence was observed in his memory. | - |
| 1. | Apologies for absence
There were no apologies for absence submitted. | - |
| 2. | Declarations of interest
No interests were declared. | - |

3. **Minutes**

Resolved:

- (a) That the minutes of the meeting held on 25 September 2013 -
be approved as a correct record.
- (b) That the minutes of the meetings of the Licensing
Sub-Committee held on 11 October 2013 (x 2) be approved -
as a correct record and adopted.

4. **Matters arising**

Scrap Metal Dealers Act 2013 – The Licensing Manager confirmed Colin Parr
that an email had been sent to all Councillors providing a briefing
note on the detail of the compliance and enforcement
arrangements.

Licensing Act 2003 – Sub-Committee hearings (meeting 11 Linda
October 2013) – The Chair drew attention to a recent premises Banbury
licence variation application, for which the Premises Licence
Holder's legal advisor had submitted a large amount of
supplementary information during the week and on the day of the
Sub-Committee meeting. This did not afford the parties, officers or
Councillors sufficient time within which to read and digest the
material. Correspondence to all parties advising of the
arrangements for hearings would, in future, include a paragraph
indicating that any documentation submitted after 6 working days
before the hearing would only be considered at the Sub-
Committee's discretion and that they could refuse to accept the
additional documentation or may adjourn the hearing to a later
date.

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.

Resolved:

That the report be received.

Linda
Banbury

DECISION ITEMS

6. **Casino Premises Licence – Stage 2 Evaluation**

The Licensing Manager presented a report, which sought approval
of the proposed membership for the Evaluation Panel established
to assist with the consideration of applications at Stage 2 of the
Casino Premises Licence application process.

Colin Parr/
Ruth Taylor

Councillors, whilst acknowledging the necessity to comply with the legal obligations, expressed concern regarding the extensive financial implications attached to the lengthy processes involved in since Parliament had given the Council the right to grant a premises licence for a 'Small Casino' under the Gambling Act 2005.

Resolved:

That approval be given to the membership of the Evaluation Panel for consideration of applications at Stage 2 of the Casino Premises Licence application process, as detailed in section 3 of the report.

- **Festival of Light**

(In accordance with Section 100b(4) of the Local Government Act 1972, the chair admitted this item as an urgent matter)

Councillor Bolshaw, Vice-Chair, drew attention to the Festival of Light, scheduled to run between 6.30 and 10pm on the evenings of 26 and 27 October. Unfortunately, the consents for the street traders in the city centre only permit them to trade until 6pm. However, several traders are interested in being part of the event.

Reference was also made to the Divali celebrations taking place that the weekend in Phoenix Park.

Resolved:

(a) That the street traders in the city be granted special permission to trade for the duration of the Festival of Light event on the evenings of 26 and 27 October 2013.

(b) That the Licensing Manager speak to the press office regarding communications for this event.

Part 2 – exempt items

Nil



Licensing Sub-Committee

Minutes – 1 November 2013

Attendance

Members of the Sub-Committee

Cllr Mark Evans (chair)

Cllr Alan Bolshaw

Cllr John Rowley

Employees

Wendy Trainor

Rob Edge

Linda Banbury

Interim Chief Legal Officer

Section Leader (Licensing)

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

3. **Licensing Act 2003 – Application to vary a premises licence in respect of Gorgeous, 32-36 School Street, Wolverhampton**

In attendance

For the premises

David Campbell	-	Legal Advisor
Shaun Keasey	-	General Manager, JJCA Limited
Susan Keasey	-	Director, JJCA Limited
Dale Murphy	-	Designated Premises Supervisor
Sergio Lema	-	Door Supervisor

Mark Ward - Company Administrator, JJCA Limited
Objectors

Duncan Craig	- Barrister
Inspector Sarah Thomas-West	- West Midlands Police
Elaine Moreton	- Licensing Authority
Dianne Slack	- Trading Standards

The chair introduced the parties and outlined the procedure to be followed at the meeting. No declarations of interest were made.

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

David Campbell, on behalf of the applicant, indicated that he had concerns regarding the volume of evidence produced since the last meeting. He requested that any information from the Police in relation to events prior to 24 February 2013 be disregarded, and that the further detail considered should be restricted to the period outlined at Appendix 6 of the report. Mr Campbell acknowledged that Shaun Keasey had referred in his statement to events in 2011 and that he would stand by that statement and respond to any questions raised in regard to it. David Campbell acknowledged that, historically, there had been problems at the venue. Duncan Craig, on behalf of the West Midlands Police, fundamentally disagreed with David Campbell's objection to consideration of the historical events. The Council's Chief Legal Officer, Wendy Trainor, advised that the Sub-Committee was a democratically appointed body, not a court of law and, as such, could attach whatever weight they saw fit to any representations made prior to and at the hearing. The Chair confirmed that the Sub-Committee were content to receive the information submitted and would attach sufficient weight to each piece of documentation as they saw fit.

At this juncture David Campbell outlined the application to vary the premises licence indicating that, following mediation, a number of conditions had been agreed, with the exception of the last entry time. In his submission, he called upon Shaun Keasey, Dale Murphy and Sergio Lima.

Responding to questions, Shaun Keasey advised that he had moved to a back office role in March 2013 when Dale Murphy had assumed the role of Designated Premises Supervisor. He had attended the hearing because Gorgeous was his bar. He had two other venues in the city centre, Devine and Darlington Street, but his company had foundered; his family had however persuaded

him to stay on. Shaun Keasey referred to a complaint he had registered against the Police in 2012. He was aware that the age verification policy had been introduced under Scottish law but could be changed to English if it was deemed necessary. He indicated that two events had been held until 0430 hours that year and no problems had arisen. He felt that the premises had demonstrated their promotion of the four licensing objectives through the Temporary Events. He believed that a later last entry time would alleviate a stampede of people across the town and that the Police shift patterns influenced their judgement in this regard. He indicated that the venue had to compete with other premises in the West Midlands.

Responding to questions Sergio Lima advised that, as the bar opened at 2100 hours, a lot of patrons leave by 0200 hours which provides scope for one hundred more people to attend. He indicated that on a quiet night they could turn away seventy people, but this would increase to the hundreds on a Friday or Saturday. With regard to patrons taking drugs into the premises, searches were made, but it was difficult when they hid them in their clothing. Sergio Lima indicated that was not aware of the specific details of the four licensing objectives which should be actively promoted by the premises.

Responding to questions, Dale Murphy advised that it was his role to oversee who came into the venue. In view of its location he could see people approaching from a distance and would use radio contact with Sergio Lima should he have any concerns. He indicated that he would review the CCTV footage with Shaun Keasey. He acknowledged that the instance whereby a seventeen year old gained entrance was a failing on behalf of the premises; this occurred when a young man had used his brother's ID card. Dale Murphy stated that there had never been any assault of customers by door staff.

At this juncture Elaine Moreton outlined the representations made on behalf of the Licensing Authority and, in so doing, questioned whether the applicant had agreed to the proposed conditions put forward by the Police. David Campbell advised that he was awaiting confirmation from the responsible authorities that they were happy with the wording and was unaware of the fifth condition. Duncan Craig advised that there had been an outstanding issue in regard to female door staff and a further condition proposed by Trading Standards in regard to the tills. With regard to the request for removal of the last entry time, Elaine

Moreton had concerns regarding the number of incidents that had taken place since January 2013 after 0200 hours and sought assurance that the removal of the last entry time would not add to crime and disorder.

At this juncture Duncan Craig outlined the representations made on behalf of the West Midlands Police. He referred to the action plans put in place at the premises in November 2011 and February 2012. The last entry time had been imposed by consent as a consequence of incidents at the premises. He accepted that it was a late night venue and that there would be incidents, and that conditions were imposed in order to promote the licensing objectives. The Police were, however, very supportive of the premises, but it was clear from the police log that the premises had issues requiring additional conditions on the licence. He believed there was no evidence from the applicant to indicate that the variation would promote the licensing objectives.

Responding to a question, Inspector Sarah Thomas-West advised that the police did not have a policy in regard to the need for all premises to close at 0200 hours and that every venue was considered on its individual merits. She added that in general terms there were no problems with the premises and that the incidents were historical and hence, there had been no move to apply for a review of the licence. Problems regarding the radio link scheme were due to an unpaid bill which had now been paid. She acknowledged that not all premises had last entry times. She was fairly confident, however, that removal of the last entry time would result in a resurrection of past problems. The chair advised that the Sub-Committee accepted that the Temporary Events had gone ahead problem free. Inspector Sarah Thomas-West drew attention to a police operation which existed to deal with the night-time economy, that a shift started at 0300 hours and that they would have a list of Temporary Events/ special events, which would then receive greater police attention. Duncan Craig advised that reviews would only be requested due to some trigger event.

At this juncture, Dianne Slack outlined the representations made on behalf of Trading Standards and referred to two complaints received of people under eighteen being admitted to the premises. Consequently, more robust intervention was required in the form of provision of door staff from 2300 hours and a till prompt. Shaun Keasey conceded the incident earlier in the year but indicated that, in regard to the 2012 complaint, the individual had been refused entry.

David Campbell and Duncan Craig summed up on behalf of the premises and West midlands Police respectively. A short DVD presentation was made on behalf of the premises.

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 solicitor advised them of the options open to them on the decision to be made in regard to the application to vary the premises licence.

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

7. The parties returned and the council's solicitor briefly outlined the decision of the Sub-Committee which included the refusal to remove the last entry time and to add amended conditions to the premises licence. The formal decision, as detailed below, would be circulated to all parties within five working days:

Wendy
Trainor
Rob Edge
Linda
Banbury

The Sub-Committee have taken note of all written concerns raised in respect of Gorgeous, 32-36 School Street, Wolverhampton. They have listened to the arguments of those who have spoken at the hearing, both for and against the application.

The Sub-Committee found the following facts:

- historically there have been problems of crime and disorder at the premises;

- Mr Lima, Head of Security, was not aware of the specific details of the four licensing objectives which should be actively promoted by the premises.

Submissions were made by Mr D Campbell, representing the applicant, in regard to:

- admissibility of evidence:
 - 1) In relation to Mr Keasey's conviction
 - 2) In relation to police submissions from prior to 2013
- case law – Daniel Thwaites plc V Wirral Borough Magistrates' Court and others, where speculation is not enough to invoke or change a condition on a licence, and
- the evidence presented by the West Midlands Police.

Parties were advised that the Sub-Committee was not a court of Law and, as such, the Councillors as a democratically appointed body, could attach whatever weight they saw fit to any representations made prior to and at the hearing. As such both items 1 and 2 were admitted as legitimate submissions by the Police.

Having considered the views of all concerned, the Sub-Committee have decided that, in accordance with the Licensing Act 2003, Section 35, 4, (b), the application to vary is refused in part, namely the application for removal of the last entry time is refused as this would not be appropriate for the promotion of the crime and disorder licensing objective, this is due to the crime and disorder problems detailed at the hearing.

However in addition, the following amended conditions, agreed between West Midlands Police, the Licensing Authority, Trading Standards and the applicant, have been added to the premises licence:

1. From 2300 hours on any evening when licensable activities are taking place until the time when the premises closes to the public, there must be at least five door supervisors present at the venue. Of these two must be female.
2. On 'special event nights', an additional risk assessment should be produced fourteen days prior to the event taking place. This assessment is to be provided to Wolverhampton Central Police Licensing Unit and Wolverhampton City Council's Licensing Authority, in order to establish if the level of security is adequate and is required earlier than 2300 hours.

3. If it becomes apparent within twenty four hours of the planned commencement of licensable activities on any evening that it is not possible to secure the services of a female door supervisor, then both Wolverhampton Central Police Licensing Unit and Wolverhampton City Council's Licensing Authority must be notified by email before opening.
4. If, for any reason, from 2300 hours through to the time when the premises are closed to the public, the female door supervisor has to leave the venue, her 'tour of duty' thus coming to an end, then a representative of the licence holder must notify the Police and Licensing Authority by email as soon as practicable, but in any case before the premises close to the public.
5. Staff serving alcohol at the premises must use a till prompt system, reminding them to verify the age of the person seeking to purchase alcohol.

It is considered by the Sub-Committee that the above conditions should be attached in support of the prevention of crime and disorder and protection of children from harm licensing objectives.

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



Licensing Committee

20 November 2013

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.	Private Hire Vehicle Criteria	27.06.12 20(b)	Further report to be presented following completion of review by the Law Commission in relation to taxi legislation reform.	Report to future meeting
2.	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
3.	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 April 2014 meeting
4.	City Centre Pubwatch Scheme	22.05.13 2	Update to be presented on outcome of customer research	Report to future meeting
5.	Review of Decision Making	22.05.13 6(d)	Annual delegation report to be presented	Report to May 2014 meeting
6.	Alcohol Strategy: Progress Update	22.05.13 8(b)	Further update to be presented in six months (individual goal leads to attend the meeting)	Report to December 2013 meeting
7.	Scrap Metal Dealers Act	25.09.13 8	Progress report to be presented in six months	Report to March 2014 meeting



Licensing Committee

20 November 2013

Report Title	Changes to the Disclosure and Barring Service Enhanced Criminal Records Disclosure Process	
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

Recommendation(s) for action or decision:

The Licensing Committee is recommended to:-

- (i) Note the revisions to the process for obtaining a Disclosure and Barring Service enhanced criminal records disclosure for hackney carriage and private hire vehicle drivers and approve the proposed revised fee structure for enhanced criminal records disclosures as outlined at 2.11 of this report.

1.0 Purpose

- 1.1 The Licensing Committee is requested to note the revisions to the process for obtaining an enhanced criminal record disclosure from the Disclosure and Barring Services for hackney carriage and private hire vehicle drivers.
- 1.2 The Licensing Committee is requested to consider the recommendation to approve the proposed revised fee structure for enhanced criminal record disclosures for hackney carriage and private hire vehicle drivers.

2.0 Background

- 2.1 The Disclosure and Barring Service (DBS) helps employers make safer recruitment decisions and prevent unsuitable people from working with vulnerable groups, including children. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).
- 2.2 The Local Government (Miscellaneous Provisions) Act 1976 gives the Council powers not to grant a licence to drive a hackney carriage or private hire vehicle unless they are satisfied that the applicant is a fit and proper person to hold a hackney carriage or private hire vehicle driver's licence.
- 2.3 The licensing authority is empowered in law to check with the Disclosure and Barring Service for the existence and content of any criminal record held in the name of an applicant.
- 2.4 The cost of a Disclosure and Barring Service (DBS) criminal records check is determined by the Criminal Records Bureau.
- 2.5 The DBS has indicated that there is no proposal to increase the fee at this time. However, if the fee is increased this will automatically be passed onto drivers.
- 2.6 The fee currently charged for a DBS disclosure is £50 which includes administration costs.
- 2.7 The charge for administration was initially set at £14 and the cost of a written disclosure was £36 with an overall cost to the applicant of £50.
- 2.8 Over the years the CRB (now DBS) has increased the cost of an enhanced disclosure however the Licensing Authority has not increased the charge for administration.
- 2.9 In 2012 the DBS launched an online disclosure application process in addition to the existing paper process. This online process significantly streamlines the application process for all parties.
- 2.10 Although Licensing Services encourages applicants to apply online there is still a high percentage of applicants who opt for the paper application.

2.11 In order to encourage more applicants to apply online it is proposed the following fees should be charged:-

- (a) An online DBS application submitted by the applicant and verified by a Licensing Officer at a cost of £46.
- (b) Completion and verification of a DBS online application by a Licensing Officer at a cost of £65.

2.12 If the applicant applies online prior to attending Licensing Services to produce original ID documentation this will greatly reduce the administrative time to process and verify the DBS application thus allowing for enhanced customer service through better working practices and use of resources.

2.13 For applicants who do not have access to apply online the Council offers support as there is access to computers on the ground floor of the Civic Centre. Employees have confirmed with ICT that these machines have the appropriate security safeguards in place.

3.0 Financial implications

3.1 The proposed fees will cover the increased costs of providing additional support to drivers who cannot or do not have access to a computer. This is not expected to have a detrimental impact on the Council's finances but the related income performance will be monitored accordingly in the short to medium term. [RT/06112013/W]

4.0 Legal implications

4.1 The legal implications are considered within the main body of the report [RM/05112013/M]

5.0 Equalities implications

5.1 This report has no implications for the Council's Equal Opportunities Policy.

6.0 Schedule of background papers

6.1 Hackney carriage and private hire fees and charges annual report.

Licensing Committee 16 January 2013.



Licensing Committee

20 November 2013

Report Title Proposed Revisions to Hackney Carriage & Private Hire Criteria

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

Recommendation(s) for action or decision:

The Licensing Committee is recommended to:-

- (i) Consider responses to a consultation undertaken by the Council. These are attached at Appendix A and B of this report.
- (ii) Approve and endorse for implementation the revised hackney carriage criteria.
- (iii) Approve and endorse for implementation the revised private hire vehicle criteria.
- (iv) Approve and endorse the implementation of a drug policy for hackney carriage & private hire vehicle drivers.

1.0 Purpose

- 1.1 This report is intended to inform the Licensing Committee of a proposal to revise the existing hackney carriage and private hire vehicle criteria.
- 1.2 The Licensing Committee is requested to consider responses received as a result of the consultation undertaken by Licensing Services relating to vehicle criteria and the drug policy for drivers.
- 1.3 Councillors are requested to approve and endorse the revision of the hackney carriage and private hire vehicle criteria, detailed at 5.0 below.
- 1.4 The Licensing Committee is requested to approve and endorse the implementation of a drug policy for hackney carriage and private hire vehicle drivers.

2.0 Background

- 2.1 Hackney carriage and private hire licensing is a non-executive function and it is therefore the responsibility of Licensing Committee to determine the policy and procedures in respect of this matter.
- 2.2 At the Hackney Carriage and Private Hire Working Group meetings held on 29 July 2013 a range of issues were discussed with the trades. These primarily focused on age requirements, vehicle livery and drug testing.
- 2.3 Members of the Hackney Carriage Working Group raised the issue that the Council increase the maximum age limit that hackney carriages can continue to be licensed until.
- 2.4 During the Private Hire Working Group meeting a number of requests were highlighted by trade representatives, these include:-
 - that the Council increase the maximum age limit that private hire vehicles can continue to be licensed until.
 - that the exceptional condition criteria is removed.
 - that the display of roof signs is removed.
- 2.5 On 29 July 2013 a demonstration from Dräger in regard to drug testing was received by both Hackney Carriage and Private Hire Working Groups. The product demonstrated is a saliva based test which has Home Office approval and can detect traces of the eight most commonly used prohibited recreational substances.

3.0 Proposals

- 3.1 The requests outlined in Section 2 have been subject to a formal consultation process.

4.0 Consultation

- 4.1 The consultation period commenced on 30 August 2013 and ended on 11 October 2013.
- 4.2 The consultation exercise sought views on age criteria and revised exceptional condition criteria, vehicle livery requirements and drug testing.
- 4.3 The Council has consulted with the following agencies and trade bodies:-
- Members of the Hackney Carriage Working Group
 - Members of Taxi Owners Association (TOA)
 - Member of Wolverhampton Hackney Carriage Drivers Association (WHCDA)
 - All existing private hire operators
 - The Chief Officer of Police
 - Members of the Private Hire Working Group
 - Wolverhampton Private Hire Owners Association
 - WCC Environmental Health (Commercial)
- 4.4 Copies of the consultation responses are attached at Appendix A and B of this report

5.0 Summary of Recommendations

- 5.1 Following consultation the following is recommended.
- 5.2 Revised Hackney Carriage Age Criteria
- 5.2.1 It is recommended that the upper age limit remains unchanged at 16 years.
- 5.3 Hackney Carriage Exceptional Conditional Criteria
- 5.3.1 It is recommended that should Councillors agree to retain the current upper age limit of 16 years old for hackney carriage vehicles, the existing exceptional criteria policy and the requirement for a full service history from date of first registration be removed. However vehicles will be subject to two MOT's a year and a rigorous compliance inspection by Licensing Services to ensure the vehicle is fit for purpose with an appeal to the Licensing Manager.
- 5.4 Revised Private Hire Age Criteria
- 5.4.1 It is recommended that the age limit for vehicles to be accepted onto the fleet should be increased from eight to 10 years old.
- 5.4.2 It is also recommended that the upper age limit be increased from 10 to 12 years old.
- 5.4.3 These measures will also be subject to a 12 month pilot period, with a further report to the Licensing Committee following completion of the pilot.

5.5 Private Hire Exceptional Conditional Criteria

- 5.5.1 It is recommended that should Councillors agree to the proposed upper age limit of 12 years old for private hire vehicles, the existing exceptional criteria policy should remain unchanged.

5.6 Private Hire Livery

- 5.6.1 It is recommended that further consultation takes place regarding the request that the display of roof sign criteria be removed.

5.7 Drugs Policy Proposal

- 5.7.1 Both hackney carriage and private hire trades are in agreement that the Council should implement a drugs policy in relation to hackney carriage and private hire vehicle drivers.
- 5.7.2 Licensing Services will consider a draft drugs policy for hackney carriage and private hire drivers. This will be presented to Licensing Committee for approval and subsequent amendments to the "Guidelines Relating to the Relevance of Convictions and Breaches of Licence Conditions" and licence conditions will be required.

6.0 **Financial implications**

- 6.1 There are no direct financial implications from this report. [RT/06112013/X]

7.0 **Legal implications**

- 7.1 The Local Government (Miscellaneous Provisions) Act 1976 allows the local authority to condition licences for hackney carriage and private hire vehicles.
- 7.2 Section 47 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence of a hackney carriage under the Town and Policies Causes Act of 1847 such conditions as the district council may consider reasonably necessary.
- 7.3 Section 48(1) 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 a suitable mechanical condition.
- 7.4 Section 48(2) provides a district council may attach to the grant of a private hire vehicle licence such conditions as they may consider reasonably necessary.
- 7.5 Section 50 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the proprietor of any ... 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 they may by notice reasonably require. Provided that a ... council shall not ... require a proprietor to present

the same ... private hire vehicle for inspection and testing on more than three separate occasions during any one period of twelve months.

- 7.6 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.
- 7.7 The Local Government (Miscellaneous Provisions) Act 1976 also allows the Local Authority to condition licences for private hire drivers.
- 7.8 Section 51 of the Act provides that the Council may attach such conditions to a driver's licence as are reasonable.
- 7.9 There is no equivalent power in relation to hackney carriage drivers, however, hackney carriage and private hire licensing is a non-executive function and therefore the Licensing Committee can determine policy and procedures in respect of this and as such can approve and endorse a drug policy which will apply to private hire and hackney carriage drivers [SH/08112013/E].

8.0 Equalities Implications

- 8.1 This report has no implications for the Council's Equal Opportunities Policy.

9.0 Schedule of background papers

- 9.1 Licensing Committee
Private hire vehicle criteria 25 May 2011, 27 June 2012

Hackney Carriage Consultation Responses

Q1. Age Limit

- (a) Do you think the upper age limit of 16 years for Hackney Carriage vehicles should be extended? If yes please provide evidence to support how public safety will not be compromised.

Yes (3)	No (3)
<p>(i) As long as the vehicle is in good condition and gets through its MOT. But I do believe the vehicle must be in good condition i.e. no dodge paintwork or repairs - TOA</p> <p>(ii) The MOT criteria (checking List) test checks components and also checks the vehicle all over to make sure it is safe to transport public. Other Towns/Cities/Boroughs don't have limits like Wolverhampton does. MOT certificate's (Two Tests) is sufficient to know that vehicle is public safe - Hackney Carriage Proprietor</p> <p>(iii) Taxis pass MOTs twice a year which is sufficient evidence to support public safety, other towns only have one MOT - Hackney Carriage Proprietor</p>	<p>(iv) No - Associated Taxis</p> <p>(v) No - Hackney Carriage Proprietor</p> <p>(vi) No it is regarded that the existing age limit for Hackney Carriage Vehicles is sufficient. The mileage recorded on vehicles of 16 years old can be substantial and general wear and tear on the vehicle increases. It is also regarded that older vehicles will be detrimental to the image and regeneration of the City - Environmental Health (Commercial)</p>

Q2. Exceptional Condition Criteria

- (a) Do you think the existing Exceptional Condition Criteria for Hackney Carriage:- “There shall be an authenticated service history of the vehicle from the date of first registration”. Is the acceptable or necessary? If no please give details of a more appropriate criteria.

Yes (1)	No (4)	Comment
(v) Yes - Hackney Carriage Proprietor	<p>(i) A Full Service History is not an indication of the condition of a vehicle all it shows is the vehicle has been serviced at the recommended intervals, in order for a vehicle to last 16 years you would have to service it regularly anyway. Plus the service book only goes upto.... – TOA</p> <p>(ii) Vehicles having a full service criteria is a waste of time. Passing a MOT should be sufficient enough. Records of Taxis passing MOTs should be available from Council Records. All vehicles get serviced twice every year, but this should not be a requirement or a criteria - Hackney Carriage Proprietor</p> <p>(iii) Taxis have two MOT's a year, taxis are serviced minimum twice a year. The Council's should have all records of taxis passing MOT's (Archives). There is no need for exception condition criteria - Hackney Carriage Proprietor</p> <p>(iv) Sometimes drivers do their own service on the vehicles and so do not receive a service stamp - Associated Taxis</p>	<p>(vi) It is regarded than an exceptional criteria should be devised to ensure that where vehicles are permitted to be extended over the existing age limit that an appropriate assessment of the vehicle history, as well as a robust compliance check are undertaken to ensure safety and the vehicles contribute towards the regeneration of the City - Environmental Health (Commercial)</p>

Q2. Exceptional Condition Criteria

(b) Do you think if the vehicle passes an MOT it should be allowed to continue to be licensed as a Hackney Carriage after 16 years of age? Please state reason.

Yes (4)	No (2)
<p>(i) I've ticked yes but it should not be as Black and White as just passing an MOT. Not all types of Hackneys will look or be very good after 16 years they should still have to meet a certain criteria and must be of a good standard internally and externally, especially bodywork i.e. not been patched up etc - TOA</p> <p>(ii) If vehicle is passing its MOT' and vehicle is of good condition, then that should be sufficient enough to continue to be licensed like Birmingham and other authorities - Hackney Carriage Proprietor</p> <p>(iii) Taxis are passing MOT's having minimum two services per year tested by Vosa garages. This should be sufficient to prove that vehicles are mechanically ok - Hackney Carriage Proprietor</p>	<p>(iv) Associated Taxis</p> <p>(v) Because the original policy has not been in force long enough to remove old vehicles in order to have enough new vehicles to replace them. Once they are enough newer vehicles there should be no need to continue after 16 years of age for the public interest and the environment - Hackney Carriage Proprietor</p>

Q3. Drug Policy

(a) Should drivers be found to test positive to a drug test, it is proposed that drivers will receive an immediate suspension until they can demonstrate they have engaged on a drug related Treatment Programme. Do you agree with this course of action? If no please state reasons

Yes (4)	No (2)
<p>(i) Yes - TOA</p> <p>(ii) Yes - Hackney Carriage Proprietor</p> <p>(iii) Yes - Hackney Carriage Proprietor</p> <p>(vi) Environmental Health Commercial fully supports this policy and agreed that a driver who fails a test or fails to have a test should be immediately suspended. If a driver has been tested positive for drugs it is further supported that the driver should remain suspended until they have engaged on a drug related treatment programme - Environmental Health (Commercial)</p>	<p>(iv) Badge should automatically be removed - Associated Taxis</p> <p>(v) Not all Hackney Carriage/Private Hire vehicle drivers are members of an association such as the TOA. Members if the association can voluntarily agree to complete a drug test, however, drivers who are not should be given the option to decline, as they have not agreed that a drug policy to test drivers should be implemented. Drivers can legally decline. Wolverhampton City Council have not submitted a relevant argument with substantial evidence, such as Police records and statistics on the prosecution of offending Hackney Carriage/Private Hire Drivers, which supports the necessity for drivers to be tested - Hackney Carriage Proprietor</p>

Q3. Drug Policy

(b) Should the Council suspend drivers if they fail to attend a drug test when requested to do so and keep the suspension in place until they have attended and passed a drug test. Do you agree with the course of action? If no please state reasons.

Yes (4)	No (2)
<p>(ii) But if there is a valid reason or appointment of any kind which can be proved, then they should be exempt of a suspension - Hackney Carriage Proprietor</p> <p>(iii) As long as they have a valid reason not to attend, depending on situation they should be exempt of a suspension - Hackney Carriage Proprietor</p> <p>(iv) Badge should automatically be removed - Associated Taxis</p> <p>(vi) Environmental Health Commercial fully supports this policy and agreed that a driver who fails a test or fails to have a test should be immediately suspended. If a driver has been tested positive for drugs it is further supported that the driver should remain suspended until they have engaged on a drug related treatment programme - Environmental Health (Commercial)</p>	<p>(i) If a driver can't make the appointment at that particular hour he should be allowed the chance to attend at a different time on the same day - TOA</p> <p>(v) Not all Hackney Carriage/Private Hire vehicle drivers are members of an association such as the TOA. Members if the association can voluntarily agree to complete a drug test, however, drivers who are not should be given the option to decline, as they have not agreed that a drug policy to test drivers should be implemented. Drivers can legally decline. Wolverhampton City Council have not submitted a relevant argument with substantial evidence, such as Police records and statistics on the prosecution of offending Hackney Carriage/Private Hire Drivers, which supports the necessity for drivers to be tested - Hackney Carriage Proprietor</p>

Are there any other issues you would like to be considered?

- (i) The main concerns are still the about the number of Hackneys in Wolverhampton, the drivers feel the council is ignoring the issue and not listening. Drivers are currently queuing up to 2 hours between jobs so what will happen if the cab numbers kept on increasing - **TOA**
- (ii) Change replacement age. We should allow vehicles to be replaced the same age or newer than taxi being replaced - **Hackney Carriage Proprietor**
- (iii) Replacement age should no longer be up to 5 years but should be able to replace same age or newer than vehicle being replaced - **Hackney Carriage Proprietor**
- (iv) No other issues raised - **Associated**
- (v) Wolverhampton City Council have u-turned on the policy of new drivers having to buy a brand new cab, up to the age of 8 years old, over a period of time. And now to change it to 16 years old to 20 years old, would result in more older cabs than new, compromising public safety. Drivers who adhered to the original policy purchased new cabs at significant cost to themselves, and many are still paying their loans. Therefore, in a matter of time if some new drivers leave and look to work in other councils, Wolverhampton City Council will only have old vehicles and not new ones. If this policy goes ahead, should Wolverhampton City Council consider voluntary compensation for the new drivers who brought new cabs with loans in adherence to the original policy? - **Hackney Carriage Proprietor**

Private Hire **Consultation Responses**

Q1. Age Limit

- (a) Do you think the upper age limit of 10 years for Private Hire vehicles should be extended? If yes please provide evidence to support how public safety will not be compromised

Yes (5)	No (1)
<p>(i) Vehicles over the age of six have two tests to ensure roadworthiness. MOT provides enough information of roadworthiness.</p> <p>(ii) If the vehicle passes an MOT test and is inspected as per current arrangements, age should not effect or compromise safety - ABC Countdown Cars Ltd</p> <p>(iii) Should be down to the discretion of the Council to the condition of the car.</p> <p>(iv) Modern car better made - Wednesfield Radio Cars</p> <p>(v) As you well know Central Government have put forward a propositions, although over turned, to include wedding cars within Private Hire licence conditions, as they event consider this proposal it is proof that they consider safety would not be compromised and most wedding cars are over 10 years of age - ABC Leisure Group Limited</p>	<p>(vi) No it is regarded that the existing age limit for private hire vehicles is sufficient. The mileage recorded on vehicles of 10 years old including owner driver vehicles which are replacing the traditional “company fleet vehicles” can be substantial and general wear and tear on the vehicle increases. It is also regarded that “older vehicles” will be detrimental to the image and regeneration of the City - Environmental Health (Commercial)</p>

Q1. Age Limit

(b) Do you think the age that vehicles can enter the fleet should be extended? (Currently under 8 years of age)

Yes (4)	No (2)
<p>(i) Rising cost of vehicle maintenance, some leeway should be allowed to recover cabs</p> <p>(ii) Quality and appearance should count, not age. Age does not compromise safety - ABC Countdown Cars Ltd</p> <p>(iv) Modern cars better made - Wednesfield Radio Cars</p> <p>(v) Age has no bearing on the condition of a vehicle when it is maintained to suit the purpose. An annual MOT is sufficient to provide a record that the vehicle is fit for use at the time it was inspected. Whilst Licence conditions emphasise on age they should consider miles to be the most important issue, a vehicle of 3 years of age that has covered 200,000 miles must be considered to be in a more vulnerable condition than a 10 year old vehicle that has covered 3,000 miles. Wolverhampton Council also have to consider the part they play in compromising public safety, the above only relates to the vehicle age when they should be considering the driver that has no alternative to make excessive use of the vehicle to pay for fees imposed by Council followed by road tax and insurance before the vehicle turns a wheel. This may be the reason that the public have to travel in such vehicles of four and five years of age that look and feel like they have been around the clock, pardon the expression - ABC Leisure Limited</p>	<p>(iii) There would be too many old cars as taxis.</p> <p>(vi) Refer the comments detailed above, however, this is not so as opposed, as long as the upper age limit was not extended - Environmental Health (Commercial)</p>

Q2. Exceptional Condition Criteria

- (a) Do you think the existing Exceptional Condition Criteria for Private Hire Vehicles:- “There shall be an authenticated service history of the vehicle from the date of first registration”. Is the acceptable or necessary? If no please give details of a more appropriate criteria.

Yes (1)	No (5)
<p>(vi) It is regarded than an exceptional criteria should be devised to ensure that where vehicles are permitted to be extended over the existing age limit that an appropriate assessment of the vehicle history, as well as a robust compliance check are undertaken to ensure safety and the vehicles contribute towards the regeneration of the City - Environmental Health (Commercial)</p>	<p>(i) MOT and general maintenance is enough legal requirement for the vehicles paper road worthiness</p> <p>(ii) As long as the vehicle is of the required standard - ABC Countdown Cars Ltd</p> <p>(iii) Some drivers maintain their own vehicles to a high standard.</p> <p>(iv) Sometimes service history is lost - Wednesfield Radio Cars</p> <p>(v) Although a vehicle requires servicing it has no bearing in its condition and in turn provides a false statement of the vehicles true status, although a vehicle is serviced there is no obligation to have repairs carried out until a MOT is required. A service consists of filter and lubricant replacements where repairs and replacements of other components require the customers authorisation; a service does not confirm that a vehicle is fit for use - ABC Leisure Limited</p>

Q2. Exceptional Condition Criteria

- (b) Do you think if the vehicle passes an MOT it should be allowed to continue to be licensed as a Private Hire after 10 years of age? Please state reason.

Yes (5)	No (1)
<p>(i) Market very competitive some allowances should be made for vehicle operators.</p> <p>(ii) The standards required currently is of a good level age should not be an issue - ABC Countdown Cars Ltd</p> <p>(iii) As long as the car is neat and tidy inside and out and mechanically sound.</p> <p>(iv) Providing body work is up to standard - Wednesfield Radio Cars</p> <p>(v) An MOT is to certify that a vehicle is fit for use at the time it was tested, age has nothing to do with the condition of the vehicle, a ten year old vehicle with low mileage would have received more attention than a three year old vehicle that is used 24/7 again I suggest that miles are a major factor not age - ABC Leisure Limited</p>	<p>(vi) It is regarded that a robust and full assessment of its mechanical and compliance is necessary should consideration be given to extending the life of a private hire vehicle to work after 10 years of age - Environmental Health (Commercial)</p>

Q3. Livery

What level of Livery should Private Hire Vehicles display?

(a) Should a Private Hire Vehicle display a roof sign

Yes (4)	No (2)
<p>(ii) Customer safety, Company identification. Private Hire users in Wolverhampton are used to signs on vehicles - ABC Countdown Cars Ltd</p> <p>(iii) While working as its easy for customers to know it's a taxi and what firm they work for. Also for compliant reasons</p> <p>(v) It is what most people look for when entering a Private Hire vehicle or taxi - ABC Leisure Limited</p> <p>(vi) A level of livery should be displayed to ensure the vehicle is identifiable to the general public that the vehicle is a private hire vehicle. It is regarded that the existing adhesive door signs and rear plate do make the vehicles very recognisable. However, it is acknowledged that problems are experienced by the trade with the existing door signs, therefore a similar sign that is more fit for purpose may be more appropriate - Environmental Health (Commercial)</p>	<p>(i) Too expensive to replace.</p> <p>(iv) Encourages plying for hire - Wednesfield Radio Cars</p>

Q3. Livery

What level of Livery should Private Hire Vehicles display?

(b) Should a Private Hire Vehicle display door stickers?

Yes (4)	No (2)
<p>(ii) A small door sticker would be adequate, may I suggest something in the area of 12 inches in length by 6 inches - ABC Countdown Cars Ltd</p> <p>(iii) Defines what Council you drive for and that it is a licensed vehicle</p> <p>(iv) Yes - Wednesfield Radio Cars</p> <p>(vi) A level of livery should be displayed to ensure the vehicle is identifiable to the general public that the vehicle is a private hire vehicle. It is regarded that the existing adhesive door signs and rear plate do make the vehicles very recognisable. However, it is acknowledged that problems are experienced by the trade with the existing door signs, therefore a similar sign that is more fit for purpose may be more appropriate - Environmental Health (Commercial)</p>	<p>(i) One external plate like other Councils is sufficient enough to meet the taxi criteria.</p> <p>(v) It is not necessary as private hire vehicles can also be used for private use, the Council stipulate that a door sign has to be fixed on the vehicle with adhesive and cannot be removed when the vehicle is not being used for private hire. Council also have a clause in the terms and conditions that enable an “executive” vehicle to be used for private hire without displaying door signs; this involves a payment to the Council of £75, it makes no sense that Council charge licence holders to omit door signs on executive vehicles when Council consider they are required to be displayed on other vehicles. Regarding the signs one statement contradicts the other, unless you are considered by Council to have an executive vehicle you have no option but to display door signs on the other hand if you do have an executive vehicle you can pay Council a fee and they are no longer required. Obviously Council do not consider them to be important as it would apply to have them on all vehicles with no get out clause when a fee is paid - ABC Leisure Limited</p>

Q4. Drug Policy

- (a) Should drivers be found to test positive to a drug test, it is proposed that drivers will receive an immediate suspension until they can demonstrate they have engaged on a drug related Treatment Programme. Do you agree with this course of action? If no please state reasons

Yes (5)	No (1)
<p>(i) Yes.</p> <p>(ii) Yes - ABC Countdown Cars Ltd</p> <p>(iii) But it should be when they can prove they have stayed clean for 3 months as it is the same as driving while intoxicated. If it is prescribed drugs the drivers should be able to verify this via Drs letter or their name on their medication.</p> <p>(iv) Yes - Wednesfield Radio Cars</p> <p>(vi) Environmental Health Commercial fully supports this policy and agrees that a driver who fails a test or fails to have a test should be immediately suspended. If a driver has been tested positive for drugs it is further supported that the driver should remain suspended until they have engaged on a drug related treatment programme - Environmental Health (Commercial)</p>	<p>(v) If I read this question correctly Council state that drivers only have to engage on a drug related treatment programme for their suspension to be revoked, if this is correct a driver will be allowed to drive a private hire vehicle whilst they may be under the influence of drugs as the programme takes time to complete. A driver should have completed a programme before their licence is reinstated - ABC Leisure Limited</p>

Q4. Drug Policy

- (b) Should the Council suspend drivers if they fail to attend a drug test when requested to do so and keep the suspension in place until they have attended and passed a drug test. Do you agree with the course of action? If no please state reasons.

Yes (6)	No (0)
<p>(i) Yes.</p> <p>(ii) Yes - ABC Countdown Cars Ltd</p> <p>(iii) If they have nothing to hide they would attend, failure to attend should be suspended.</p> <p>(iv) Yes - Wednesfield Radio Cars</p> <p>(v) Yes - ABC Leisure Limited</p> <p>(vi) Environmental Health Commercial fully supports this policy and agrees that a driver who fails a test or fails to have a test should be immediately suspended. If a driver has been tested positive for drugs it is further supported that the driver should remain suspended until they have engaged on a drug related treatment programme - Environmental Health (Commercial)</p>	

Are there any other issues you would like to be considered?

- (i) Set fare tables for all private hire. We all pay same licence fees so fares should be tabled to make level playing field.
- (ii) Operators should be obligated to report drivers of company cars that they have received a speeding or parking tickets for that particular driver - **ABC Countdown Cars Ltd**
- (iii) Private Hire should be able to use bus lanes the same as hackney cabs.
- (iv) Limit on Private Hire companies - **Wednesfield Radio Cars**
- (v) If you consider the cost to obtain a driver's licence, operator's licence and vehicle licence then add the car insurance followed by the operating costs of the vehicle Council should be able to access why private hire vehicles are not kept up to a standard to satisfy the public, as I have said they are required to be used 24/7 to meet the costs followed by having to charge high fares to meet those costs, this can only result in a diminishing service to the public. Council may also like to consider that the cost of operating a vehicle relates the amount the licence holder has to charge for fares if only to cover the initial set up costs, if a private hire or Hackney Carriage is to be operated as a service to the public then the fares should be consistent with those when using your own vehicle, all costs that Council imposed are passed on to the public which in turn reduces the demand that ultimately leads to a decline in the service being offered. The public are being forced away from using private hire and taxis in favour of using their own vehicles due to cost, like most of Government advice there is a price to pay because others jump on the band wagon. The question needs to be asked of Council what they consider to be important, being in control of a service that provides a solution for the public not to use their own vehicles and also that is cost effective or being responsible for imposing or not controlling costs that will not enable that service to continue at the standard required. As you know we are in year one of licence and the set up cost were estimated at £10,000, insurance being the main issue at an estimated cost of £8000, how can this continue? - **ABC Leisure Limited**