

Licensing and Public Protection Committee
Briefing Note
Taxi / Private Hire Licensing Policy

Members are asked to note that an updated Taxi and Private Hire Licensing Policy will be presented to full Council for approval and adoption on 15th January 2014.

Through their work on this Committee members will be aware of the Council's Taxi and Private Hire Licensing function and its primary purpose of ensuring public safety.

In order to effectively perform this function the Council requires a Policy framework. The Policy explains to the trade, the public and elected members and officers how the Council, through this Committee administers this important licensing function.

The updated Policy seeks to achieve the following objectives:

- Safety and health of drivers and the public;
- High standards of vehicle safety, comfort and access;
- Prevention of Crime and Disorder and the Protection of Consumers;
- Environmental sustainability through improved air quality;
- Equality and accessibility in service provision

The Policy as proposed covers several areas including:

- Assessment of driver fitness and propriety (driving and medical records, past criminal history (if any), knowledge test, personal conduct etc.);
- How the Council will determine the relevance and significance of any previous criminal convictions;
- Vehicle testing, safety and condition;
- Duration of Licences;
- The conditions applied to driver and vehicle licences (for example dress code);
- The criteria the Council uses in deciding whether to grant, renew, suspend or revoke licences.
- Enforcement of licence conditions;

A number of proposals were consulted on, including:

- Offering drivers the choice of a one or three year driver licence;
- Alternative medical assessment providers;
- Drug and Alcohol testing for all new applicants;
- Introduction of a spoken English element to the knowledge test;
- Driver Standards Agency (DSA) assessment for all new applicants;
- Independent checks on DVLA Licences;
- Amendments to the dress code;
- Introduction of an enforcement / penalty matrix;
- Previous convictions policy;
- Permitting only Wheelchair Accessible Vehicles (WAVs) to be licensed as hackney carriages;
- Vehicle emissions;
- Age restrictions on vehicles;

Responding to the consultation, Councillor Zaphne Stretton suggested a local forum be held to discuss accessibility issues, and Councillor John Bernard suggested that the Council should only license vehicles over 6 (or 10) years old, if they had been licensed with the Council for a minimum of 3 years.

These suggestions have both been acted upon and the Policy will now require all vehicles licensed for the first time by the Council to be less than 3 years old.

A disability discussion forum took place on 30 August 2012 at Lea Hall Social Club, Rugeley and consideration continues to be given as to how best to improve accessibility.

Cannock and District Access Group agreed with proposals in respect of improved access to vehicles (including not permitting access by having to fold down or move seats, and allowing use of rear loading vehicles).

A significant change within the updated Policy which will be of interest to members of this Committee is the removal of the 6 year / 10 year age limits and the need to consider whether a vehicle is "exceptional". Safety and condition of vehicles will now be assessed purely on merit using VOSA national inspection standards and all vehicles over 6 years old will be tested twice a year at the Council's Depot.

Members of the Committee will therefore no longer have to inspect and make decisions on individual vehicles.

Members are asked to note the above and also to recognise the work of Officers in both Environmental Health and Legal Services in developing the Policy, in particular the significant contribution made by the Council's Senior Licensing Officer, Sean O'Meara.

Please note that officers will be available to take Members through the policy document at the L&PPC meeting on 14 January 2014. You are asked to bring a copy of the said policy document with you to the meeting.

A copy of the policy document has already been sent to you as part of the bundle of documents you have received for the Full Council meeting on 15 January 2014.

**Licensing and Public Protection Committee
Briefing Note
Home Office Consultation on abolition of Personal Licences**

Members are asked to note Home Office proposals to remove the requirement for Personal Licences under the Licensing Act 2003 and to note the consultation response submitted on behalf of the Committee following a presentation by the Council's Senior Licensing Officer and Principal Solicitor on 24 October 2013.

Background

The current system of personal licences requires that all alcohol sales be made or authorised by a personal licence holder. At the same time, the Designated Premises Supervisor (DPS) in relation to licensed premises must hold a personal licence.

This system uses two key safeguards to ensure that alcohol is sold responsibly and to prevent crime and disorder at licensed premises. First, personal licences may be denied to, or forfeited from, those who have criminal convictions for certain offences. Secondly, applicants for a personal licence must be trained. To ensure a level playing field for bar staff nationally, these safeguards are qualified by two 'benchmarks' set by Government:

1. only offences listed as relevant under the 2003 Act may be considered as a basis for denying the grant of, or revoking, a personal licence; and
2. only training courses accredited by the Secretary of State are valid for applications.

The government is concerned that the system of personal licences may not always be the most proportionate or effective way to ensure alcohol is sold responsibly.

For example, although all alcohol sales must be at least authorised by a personal licence holder, it is not always the case, in practice, that a personal licence holder is present on the premises at all times to do this. No person working at licensed premises except the DPS is required to hold a personal licence. The Government view is that this restricts the system's ability to prevent those with criminal records and a poor understanding of alcohol harms from working at, or even managing, a licensed premises.

Finally, the Government argues that the system is not targeted. It is a national, blanket requirement. All premises, from the riskiest to the quietest, must comply with it – and incur significant costs in training, application fees and criminal records checks as a result. The Government questions whether this is appropriate for all licensed premises.

The Consultation

The consultation proposes enabling targeted, local alternatives to personal licences. The Government estimates that the proposals could save

businesses some £10 million a year, while keeping a focus on tackling crime and disorder at licensed premises.

The proposals, in summary are:

- To keep the national benchmarks for training and criminal records checks. At present, these ensure that a level playing field for business exists across the country. In the event that personal licences were abolished, these benchmarks would still ensure that, if training or criminal records checks were required at a premises, businesses would not have to comply with different standards from one licensing authority to another;
- To require all alcohol sales to be made or authorised by the DPS, rather than a personal licence holder
- To allow the police to object to a new DPS based on the crime prevention objective in general, rather than only in 'exceptional circumstances'
- To allow licensing authorities to require a criminal records declaration to be provided with any new application to vary a DPS
- To allow those who either are named as the DPS in relation to a premises licence or have accredited training to give up to 50 Temporary Event Notices (TENs) a year; those without would be limited to giving five.

The effects of the proposals are given in the table below

	Now	Proposal
Who must be trained	All personal licence holders, in effect: <ul style="list-style-type: none"> • DPS in relation to premises licence • All who authorise sales of alcohol 	No-one: unless required by a condition placed on the premises licence
What is the benchmark for training	All training courses must be accredited by the Secretary of State	
How can training be checked	Inspection of Personal Licence application and personal licence itself at premises	Inspection of a certificate of training at the premises
Who must provide a criminal records check?	All applicants for, and those renewing, personal licences,	No-one
Who must provide a criminal records declaration?	in effect: <ul style="list-style-type: none"> • The DPS in relation to a premises licence • Those who may authorise alcohol sales 	No-one: unless a condition imposed on the premises licence requires that all future applications to vary the DPS are accompanied by a criminal records declaration
What is the benchmark for criminal convictions?	Only offences listed as relevant in Schedule 4 to the Licensing Act 2003 may be considered	

The Consultation response

The following response was submitted on behalf of the Committee:

"The Council's Licensing & Public Protection Committee (L&PPC) consider that government proposals will reduce the burden on business however they believe they are unlikely to prevent the licensing objectives from being undermined.

The Committees major concern is that although the current requirement for training of staff is somewhat limited, the new proposal will not explicitly require any training is carried out.

The current regime is not considered to be too expensive to maintain and the L&PPC would like to see this maintained or tightened rather than relaxed.

A requirement for a trained Personal Licence Holder to be on site at all times would be welcomed.

The increased responsibilities for the DPS within the new proposal is also welcomed as would be a simple fit and proper test"

Members of the Committee are asked to note the above.

Licensing and Public Protection Committee
Briefing Note
Government Consultation on Proposals for Regulated Entertainment.

Members of the Committee are asked to note that the Government, through the Department of Culture, Media and Sport (DCMS) has recently consulted on proposals to remove certain regulated entertainment activities from the current licensing regime.

Members are also asked to note the response submitted on behalf of the Committee following a presentation by the Council's Senior Licensing Officer and Principal Solicitor to the Committee on 17 December 2013.

Background

Members will be aware that the following types of entertainment are currently licensable under Licensing Act 2003:-

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment (both indoors and outdoors);
- a performance of live music;
- any playing of recorded music;
- a performance of dance; and
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

The 2003 Act has four underlying "licensing objectives": the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives.

The Consultation

This consultation sets out proposals to amend the [Licensing Act 2003](#) so that certain entertainment activities in defined circumstances, which are deemed to be lower risk, no longer require a licence before they can take place.

The proposals include, in summary:-

- creating licensing exemptions for local authority premises, schools, hospitals, nurseries and circuses
- relaxing existing controls for the playing of recorded music in certain premises
- raising the audience threshold for performances of live music from 200-500 in appropriate premises
- removing the licensing requirement for Olympic wrestling disciplines

The DCMS view is that where such activities occur in conjunction with alcohol sale or supply, it is the presence of alcohol that is generally responsible for

any increased threat to the licensing objectives. Where small scale entertainment is provided and where alcohol is neither sold nor supplied - a significant proportion of activities – the application of the licensing regime is disproportionate to the risk of harm under the licensing objectives.

The intention of the proposals is:-

- to remove bureaucracy and cost from community entertainment activities and bolster creativity and community participation;
- to make it easier for schools, community groups and civil society organisations to put on cultural and sporting events by removing them from the entertainment licensing regime; and
- to grow the creative economy and remove burdens from small and medium sized businesses. In particular, the measures in relation to live and recorded music are intended to help pubs, hotels and other hospitality businesses diversify their offer and access new markets.

As a result of previous amendments to the Licensing Act, the following are already deregulated and no longer require a licence (provided they take place between 08:00-23:00 on any day):

- a performance of a play in the presence of any audience of no more than 500 people;
- an indoor sporting event in the presence of any audience of no more than 1,000 people;
- performances of dance in the presence of any audience of no more than 500 people; and
- live music, where the live music comprises:
 - a performance of unamplified live music;
 - a performance of live amplified music in a workplace with an audience of no more than 200 people; or
 - a performance of live music on alcohol licensed premises which takes place in the presence of an audience of no more than 200 people, at a time when the premises are open for the purpose of being used for the supply of alcohol for consumption.

The Proposals

The following will be exempt from entertainment licensing between 08:00-23:00 with no audience limitations:

- Entertainment activities held by, or on behalf of, local authorities on their own premises.
- Entertainment activities held by, or on behalf of, hospitals and schools on their own premises.
- Entertainment activities that are part of nursery provision on non-domestic premises.

Live music

A performance of live amplified music in alcohol licensed premises or in a workplace will not require specific permission where the entertainment takes place between 08:00-23:00 and the audience consists of up to 500 people. The present audience ceiling is 200 people.

Recorded music

Any playing of recorded music in alcohol licensed premises will not require specific permission where the entertainment takes place between 08:00-23:00 and the audience consists of up to 500 people.

Live and recorded music exemptions

The following events will be exempt from entertainment licensing for live and recorded music between 08:00-23:00, where the audience consists of

to 500 people:

- Activities held on local authority premises.
- Activities held on hospital and school premises.
- Activities held in community premises.

Circuses

Tented circuses will be exempt from entertainment licensing in respect of performances of live music, the playing of recorded music, indoor sporting events and any performance of a play or dance that takes place between 08:00-23:00, with no audience limitation.

Greco-Roman and freestyle wrestling

Above wrestling disciplines to be exempt from licensing, with no audience limitations, if these contests take place between 08:00-23:00.

Members will particularly wish to note the effects of the proposals for live music in premises used primarily for the supply of alcohol:

The effect of an increase in the audience cap from 200 to 500 people would be that a performance of live music on alcohol on-licensed premises - reflecting the amendments made to the 2003 Act by the Live Music Act 2012 - would **not** be licensable to the extent that:

- at the time the live music takes place, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises;
- the live music takes place in the presence of an audience of no more than 500 persons; and

- the live music takes place between 08.00-23.00 on the same day, or where the Secretary of State makes an order relaxing opening hours for special occasions, between the hours specified in that order (e.g. Royal Weddings).

Additionally, where live music takes place under these circumstances, then the effect of all existing licence conditions that relate to the performance of live music is suspended. However, on a review of a premises licence or club premises certificate, the effect of any such conditions may be reactivated by a licensing authority, and new conditions relating to live music may also be added by a licensing authority on review as if any such performance of live music was licensable. Thereafter, an authorisation under the 2003 Act will be required for any performance of live music on those premises.

Comments submitted on behalf of the Committee in response to the consultation, following discussion with the Council's Senior Licensing Officer and Principal Solicitor:

Having considered the consultation document in its entirety, the Committee wish to make the following comments:

- 1) The Committee welcome the deregulation and cross- activity exemption proposals as an attempt to assist businesses and others in difficult times. They note that they have the necessary powers to review any Premises Licence if problems arise in respect of entertainment provided under these new proposals. They are also aware of powers which are at the disposal of other enforcement agencies.
- 2) The Committee are concerned however that that the public nuisance licensing objective may be compromised by the playing of unregulated live and recorded music where such large numbers of people are present as well as when those people leave the premises late at night.

Members are asked to note the above.