

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Tuesday, 10 March 2015

Committee:
Strategic Licensing Committee

Date: Wednesday, 18 March 2015
Time: 10.00 am
Venue: Shrewsbury Room - Shirehall

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Michael Wood (Chairman)
Keith Roberts (Vice Chairman)
Peter Adams
Joyce Barrow
Vernon Bushell
Steve Davenport
Andrew Davies
Peter Cherrington
Nigel Hartin
Roger Hughes
Simon Jones
Robert Macey
Vivienne Parry
Jon Tandy
Robert Tindall

Substitute Members of the Committee

Andrew Bannerman
Gwilym Butler
Dean Carroll
Ted Clarke
Richard Huffer
Vince Hunt
John Hurst-Knight
Jane MacKenzie
Mike Owen
William Parr
David Roberts
Tina Woodward
Christian Lea

Your Committee Officer is:

Emily Marshall Committee Officer
Tel: 01743 252726
Email: emily.marshall@shropshire.gov.uk

AGENDA

1 Welcome and Introductions from the Chairman

2 Apologies

To receive apologies for absence.

3 Minutes of Previous Meeting (Pages 1 - 6)

To confirm the minutes of the meeting held on 10th December 2014.

Please contact Shelley Davies (01743 252719).

4 Disclosable Pecuniary Interests

Members are reminded that they must not participate in the discussion or voting on any matter in which they have a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

5 Public Question Time

To receive any questions, statements or petitions from the public, notice of which has been given in accordance with Procedure Rule 14.

6 Hackney Carriage and Private Hire Licensing Fees and Charges 2015/16 (Pages 7 - 48)

Report of the Senior Commissioner (Public Protection) is attached, marked 6.
Contact: Frances Darling (0345 678 9026)

7 Licensing and Safety Sub-Committee Procedure Rules (Pages 49 - 68)

Report of the Senior Commissioner (Public Protection) is attached, marked 7.
Contact: Frances Darling (0345 678 9026)

8 Records of Proceedings - Licensing Act Sub-Committee (Pages 69 - 94)

Copies of the records of proceedings of the Licensing Act Sub-Committee meetings from August 2014 to February 2015 are attached for the Committee's information.

- 8th September 2014
- 21st October 2014
- 12th November 2014
- 16th December 2014
- 2nd February 2015

Contact: Emily Marshall/Shelley Davies (01743 252726 or 252719)

9 Exercise of Delegated Powers Report (Pages 95 - 100)

Report of the Team Manager Operational Community Safety is attached, marked 9.

Contact Mandy Beever (0345 678 9026)

10 Date of Next Meeting

To confirm that the next meeting of the Strategic Licensing Committee will be held on Wednesday, 20th May 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Agenda Item 3



Committee and Date

Strategic Licensing
Committee

18th March 2015

Item

Public

**MINUTES OF THE STRATEGIC LICENSING COMMITTEE MEETING HELD ON 10
DECEMBER 2014
10.00 - 11.20 AM**

Responsible Officer: Shelley Davies
Email: shelley.davies@shropshire.gov.uk Tel: 01743 252719

Present

Councillor Michael Wood (Chairman)
Councillors Keith Roberts (Vice Chairman), Peter Adams, Joyce Barrow,
Peter Cherrington, Roger Hughes, Simon Jones, Robert Macey, Jon Tandy,
Martin Bennett (substitute for Robert Tindall) and Richard Huffer (substitute for Nigel
Hartin)

28 Apologies

Apologies for absence were received from Councillors Vernon Bushell, Robert
Tindall (Substitute: Martin Bennett), Andrew Davies, Nigel Hartin (Substitute: Richard
Huffer) and Vivienne Parry.

29 Welcome and Introduction from the Chairman

The Chairman welcomed everyone to the meeting.

30 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on
any matter in which they had a Disclosable Pecuniary Interest and should leave the
room prior to the commencement of the debate.

31 Minutes of Previous Meeting

RESOLVED:

That the Minutes of the meeting held on 24th September 2014, be approved as a
correct record and signed by the Chairman.

32 Public Question Time

The Chairman referred to the statement that had been received from Mr Mark
Higgins, in relation to Agenda item 8 – Hackney Carriage and Private Hire Licensing
Policy which had been circulated to all Members.

33 **Safety of Sports Grounds - Annual Report 2014**

Consideration was given to a report of the report of the Team Manager – Health Protection and Prevention (copy attached to the signed minutes), detailing the exercise of delegated functions in respect of the safety of sports grounds, undertaken by the Public Protection service over the past year.

In response to a question from a Member the Team Manager – Health Protection and Prevention explained that capacity levels for Special Safety Certificate had to be agreed before the event and confirmed that temporary stands were used at the Greenhous Meadow to allow an increased capacity at the Chelsea v Shrewsbury Town football match.

RESOLVED:

That the report of the Team Manager – Health Protection and Prevention be noted.

34 **Licensing Fees and Charges 2015 - 2016**

Consideration was given to a report of the Senior Commissioner (Public Protection) relation to the Licensing Fees and Charges for 2015 – 2016. (copy attached to the signed minutes).

The Senior Commissioner (Public Protection) presented the report and explained that the recommendation 2.2 had been replaced with the following:

That the Committee agrees, with any necessary modifications, that the proposed fees relevant to those licences and licensing related activities where the authority has the discretion to determine the fees as set out in Part 2 of the Appendix A be referred to Cabinet and for further consideration in the 2015/16 annual fees and charges report with respect to adoption and implementation on 1 April 2015 and at such time as the fees are agreed by Cabinet and Council the Committee also instructs the Head of Public Protection to publish, on the Council's website, the agreed fees.

In response to a question from a Member regarding safeguarding, the Senior Commissioner (Public Protection) outlined the processes undertaken by the team and noted that this was covered in more detail in the next agenda item.

Responding to a question in relation to how fees were calculated, the Senior Commissioner (Public Protection) explained that this was an ongoing process where all the costs including central costs were identified using the best method available, ensuring that the costs were reasonable and that no loss or profit was made. It was added that these costs were likely to change year to year as services change and that these costs were reviewed the following year with the figures for 2013/14 currently being reviewed.

The Senior Commissioner (Public Protection) confirmed that the Telford and Wrekin Borough Council Fees and Charges were included in the report for information purposes only and cannot influence the fees and charges set by Shropshire Council. In response to a query it was explained that enforcement exercises took place in the Telford and Wrekin Borough Council area and there were regular meetings between officers from both authorities.

RESOLVED:

1. The Committee noted the statutory fees that Shropshire Council was required to charge in respect of the specified licences under the Licensing Act 2003 and the Gambling Act 2005 as set out in Part 1 of Appendix A and agreed to implement these fees (or if subject to statutory amendment, the relevant amended fees) on the 1 April 2015 and instructs the Head of Public Protection to include the fees in the 2015/16 annual fees and charges report that is presented to the Council and further instructs the Head of Public Protection to implement, as appropriate, any other statutory fees that may be brought into force during the 2015/16 financial year.
2. The Committee agreed that the proposed fees relevant to those licences and licensing related activities where the authority has the discretion to determine the fees as set out in Part 2 of the Appendix A be referred to Cabinet for further consideration in the 2015/16 annual fees and charges report with respect to adoption and implementation on 1 April 2015 and at such time as the fees are agreed by Cabinet and Council the Committee also instructs the Head of Public Protection to publish, on the Council's website, the agreed fees.
3. The Committee agreed to implement, with any necessary modification, the proposed fees relevant to driver, hackney carriage, private hire vehicle and operator licences as set out in Part 3 of Appendix A and instructs the Head of Public Protection, in accordance with the provisions of Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, to publish in the Shropshire Star a notice setting out those fees that it is proposed will be varied and specifying a period from 12 January 2015 to 15 February 2015 (this being not less than 28 days) within which and the manner in which objections to the proposed fees can be made.

AND

Where no objections to the proposed variation in fees are received by 15 February 2015 or if all objections so made are withdrawn by the said date the Committee agreed to implement the proposed variation to the fees on 16 February 2015 or where objections to the proposed variation to the fees are received by 15 February 2015 and are not withdrawn by the said date, the Committee will consider the objections at a meeting on the 18 March 2015 with a view to setting the date of 1 April 2015 (being a date not later than 2 months after the 16 February 2015) when the proposed variation to the fees shall come into force with or without further modification.

4. The Committee instructs the Head of Public Protection to include the proposed fees, as set out in Part 3 of Appendix A, in the 2015/16 annual fees and charges report presented to the Council and that in respect of those fees that were subject to a proposed variation that these were recorded in the said annual report as '*provisional fees under consultation between 12 January 2015 and 15 February 2015; fees to be confirmed by 31 March 2015*'.

35 Hackney Carriage and Private Hire Licensing Policy

The Senior Commissioner (Public Protection) presented the Hackney Carriage and Private Hire Licensing Policy report which set out the results of the second period of consultation that was undertaken in respect of the Policy and set out a further revision of the Policy for the Committee to consider. (Copy attached to the signed minutes).

The Senior Commissioner (Public Protection) and the Team Manager Operational and Community Safety responded to a number of queries from Members in relation to the revised policy. The processes used in relation the background checks for new drivers were detailed and it was noted that the changes in the policy in relation to the reduction of emissions was generally supported by the trade as long as time was given for drivers to change their vehicles.

Following debate it was agreed that the wording in the table included in the Policy on pages 22, 33, 43 regarding how children were transported be amended from to read:

Child from 3rd Birthday to 12th Birthday or 135cm in height whichever they reach first.

The Team Manager Operational and Community Safety explained why the names of those who had responded to the consultation at Appendix C had been redacted. It was agreed that advice would be sought from the Information Governance Officer as to whether in future the names of those responding to a consultation can be published.

RESOLVED:

1. The committee considered the feedback received as a result of the second period of consultation carried out between 29 September 2014 and 2 November 2014, together with the analysis and officer comments, as set out in Appendices A, B, C and D.
2. The agreed, with any necessary modifications, that the proposed 'Hackney Carriage and Private Hire Policy 2015 – 2019' as set out in Appendix E be reported to Cabinet for further consideration and a final decision with respect to adoption and implementation.

36 Exercise of Delegated Powers

Consideration was given to a report of the Team Manager - Operational Community Safety in relation to delegated powers to issue and amend licences. (Copy attached to the signed minutes).

RESOLVED:

That the report of the Team Manager - Operational Community Safety be noted.

37 Date of the Next Meeting

It was noted that the next meeting of the Strategic Licensing Committee would be held on Wednesday, 18th March 2015 in the Shrewsbury Room, Shirehall, Shrewsbury.

Signed..... (Chairman)

Date:

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<u>Committee and Date</u>	<u>Item</u>
Strategic Licensing Committee	6
18 March 2015	<u>Public</u>

Hackney Carriage and Private Hire Licensing Fees and Charges 2015 – 2016

Responsible Officer Frances Darling – Senior Commissioner (Public Protection)

e-mail: frances.darling@shropshire.gov.uk

Tel: 01743 251715

1. Summary

- 1.1** This report sets out the objections to be considered by the Strategic Licensing Committee in respect of the variations proposed to the fees in relation to driver, hackney carriage (zones 1, 2, 3, 4 & 5), private hire vehicle and operator licences. The report aims to enable the Committee to make a decision in respect of the fees that will take effect from 1 April 2015.

2. Recommendations

- 2.1** That the Committee, in accordance with the provisions of Section 70 (5) of the Local Government (Miscellaneous Provisions) Act 1976, considers the objections received, together with associated officer comments, as set out in **Appendix A**, following the legally prescribed objection process that was undertaken in respect of the variations proposed to the fees in relation to driver, hackney carriage (zones 1, 2, 3, 4 & 5), private hire vehicle and operator licences and agrees, with any further modifications if necessary, to implement the variations proposed to the fees as set out in **Appendix B (Parts 1 and 2)** with effect from 1 April 2015, this being a date not later than 2 months after the 16 February 2015.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1** The Council's fees and charges may be challenged through a number of routes, e.g. service complaints to the Local Government Ombudsman, complaints to the External Auditor by way of an objection to the Council's annual account and judicial review. It is reasonable to assume that in the current economic climate, the likelihood of customers adopting this approach may increase.
- 3.2** The consequences of such a challenge are clearly demonstrated in the Court of Appeal judgement given in respect of the R Hemming and others v Westminster City Council case (the Hemming case – see paragraph 5.4 below), which involved the licensing of sex shops in Soho and Covent Garden. The judgement has made it clear that local authorities may become liable for substantial costs if it is found that procedures for setting fees have not been correctly followed and if the fees are not reasonable and proportionate to the costs of the licensing procedures. Westminster City Council appealed the Court of Appeal decision with the case heard by the Supreme Court on 13 January 2015; however, the judgement has not yet been made public by the Supreme Court.
- 3.3** To reduce the risk of challenge to the Council, officers undertook work in 2013 to develop a financial modelling tool to calculate licensing fees from 2014/15 onwards. The 2014/15 financial year is the baseline year against which fees and charges, in the following two years of a three year cycle, are being compared.
- 3.4** The modelling tool developed in 2013 has been further updated, modified and refined to take account of changes recommended by the Council's finance officers and to reflect the way in which the licensing function is now being resourced. Overall, the tool remains based on drawing together detailed information regarding the costs associated with undertaking the administrative procedures and formalities associated with all licencing procedures, including the costs of investigating the background and suitability of applicants for licences together with the cost of monitoring the compliance of those who are licensed against the conditions of their

licences. In addition, it aims to demonstrate that the cost of enforcing the licensing regime against unlicensed operators is not charged to those who are licensed.

- 3.5** An Equalities Impact Needs Assessment has not been undertaken as the report does not concern the implementation of a new policy.
- 3.6** There is no anticipated environmental impact associated with the recommendations in this report.
- 3.7** The recommendations are not at variance with the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with current legal procedures laid down in relevant licensing legislation and takes into consideration the provisions of the Services Directive together with the implications of the Hemming case judgement (whilst acknowledging the outstanding Supreme Court appeal) that directly affects the setting of licensing fees.
- 3.8** It should be noted that the provisions of the Services Directive do not apply to hackney carriage and private hire licensing activities; however, the principles remain a helpful way of providing a transparent and business-friendly approach to such licensing and it is, therefore, appropriate to consider the provisions of the Directive as part of the hackney carriage and private hire fee setting process.
- 3.9** There is a statutory duty on the Council to follow a prescribed process to allow objections to be made when it proposes to vary licensing fees relating to hackney carriage, private hire vehicles and operators' licences under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976. Historically, the Council has also applied this process to driver licence fees; on the 10 December 2014, the Strategic Licensing Committee agreed that this practice was to continue.
- 3.10** The duty under Section 70 of Local Government (Miscellaneous Provisions) Act 1976 was fulfilled between the 12 January 2015 and 15 February 2015, with the necessary notice published in the Shropshire Star on the 15 February 2015. The notice was also available for inspection, without payment, at the Council offices in Shrewsbury as detailed in the formal notice. It was also published through the

“Have your say” page on the Council’s website on the 12 January 2015, together with a press release that was issued through the Council’s Newsroom webpage on the 13 February 2015. Copies of the relevant documents evidencing this process are attached at **Appendix C**.

- 3.11** The Committee’s legal authority to agree the recommendation is based within Section 53 and Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, together with the delegated functions set out in the Council’s constitution. The relevant extracts from the legislation are provided in **Appendix D**. However, despite the fact that the Services Directive does not have direct applicability to the fees under consideration and the Hemming case judgement is currently the subject of an outstanding appeal, it remains appropriate that due consideration is given to both.

4. Financial Implications

- 4.1** An exercise has been undertaken involving managers, licensing officers and finance officers to capture the detail involved in all licensing procedures where the Council has the discretionary power to set fees, including those specifically relating to driver, hackney carriage, private hire vehicle and operator licences. The procedures were considered from receipt of application to the issue of the final licence or permit with both variable and fixed costs being considered. These costs include officer time and management time spent on licensing administration and monitoring compliance of those already licensed but excludes time spent on enforcing unlicensed operators/businesses. In addition, a proportion of all relevant indirect costs that can reasonably be attributed to licensing procedures have been included; for example, office accommodation, ICT, travelling, legal costs, advertising, equipment, postage & printing, subscriptions, telephone costs, other corporate recharges, etc.
- 4.2** In relation to the consideration of applications, it is reasonable to recover a proportion of the costs of running both the Strategic Licensing Committee and the Licensing & Safety Sub-Committee from licensing fees and consequently these costs have, where possible, been incorporated into the overall figures.

- 4.3** As a result of this work, proposed fees for driver, hackney carriage, private hire vehicle and operator licences were calculated and presented to the Strategic Licensing Committee on the 10 December 2014 in Part 3 of Appendix B to the report entitled “Licensing Fees and Charges 2015 – 2016”.
- 4.4** It is accepted that costs can be recovered over a period of time allowing surpluses to be returned to licensees and deficits to be recouped by the Council. This does not mean that fees have to be adjusted every year (although they can be) to reflect immediately previous deficits or surpluses; however, it must be demonstrable over a period of time that only legitimately incurred costs are recovered. The Hemming case judgement (albeit now subject to an appeal) makes it clear that not all costs are recoverable and that the costs associated with enforcing unlicensed operators/businesses must be borne by the Council. This will include the costs of providing advice to those who may consider applying for a licence in the future.
- 4.6** The Council has control over hackney carriage and private hire licence fees but only on a cost recovery basis. At this time, officers are satisfied that the income received from these discretionary fees has not generated a surplus or significant deficit either overall or with respect to individual licence types based on 2013/14 fees and income. It should be noted that in relation to hackney carriages, the fees for each zone are separately set.
- 4.7** Consequently, the hackney carriage and private hire discretionary licence fees calculated for 2015/16 are based solely on the costs forecast at the commencement of the 2014/15 financial year for undertaking the administrative procedures and formalities associated with the relevant licencing procedures, including the costs of investigating the background and suitability of applicants for licences together with the cost of monitoring the compliance of those who are licensed against the conditions of their licences.
- 4.8** The detailed fee variations proposed for the 2015/16 fees are set out in **Appendix B (Parts 1 and 2)**. These are summarised below:
- New drivers badge increased by 17%
 - Renewal drivers badge increased by 12%

- Driver knowledge test resit reduced by 26%
- Driver training assessment reduced by 13%
- New private hire vehicle increased by 5%
- Renewal private hire vehicle increased by 8%
- Licence transfer private hire vehicle increased by 10%
- New hackney carriage increased by 3%
- Renewal hackney carriage increased by 1%
- Licence transfer hackney carriage increased 8%
- New and renewal private hire operators increased from 8% (specific increases are dependent on the size of the operation)

4.8 All fees for the replacement of lost, stolen and damaged items and the administrative charge remain the same as those agreed in 2014/15.

4.9 The increases associated with the hackney carriage and private hire licences are linked to the additional resources that are being directed towards increasing the effectiveness of the administration process specifically for safeguarding purposes. In addition, increased compliance checks and investigation work are being carried out by officers who are not based directly within the licensing team. The fees are also affected by the changes made to the way in which average hourly officer rates are now calculated and charged.

4.10 With reference to the private hire operators licences, the new fee regime (fee level dependent on the size of the operation) that was implemented in 2014/15 is again being proposed for 2015/16. As it will only be the second year of operation, the Council is not yet in a position to fully assess the impact on cost recovery of the new regime for this particular licence type. At this stage, it is anticipated that the regime ought to operate for at least a further two years to enable a robust assessment to be undertaken; however, very early indications of its effectiveness are positive but confirmation of the detail required will not be available until late 2015 and beyond. These details, once available, will further inform future fee setting decisions.

4.11 Where legislation allows the Council to recover licensing costs, it is important that this is undertaken effectively. Failure to do so means that the costs are subsidised

by council tax payers. In addition, resourcing those elements that cannot be legally funded through fees, e.g. enforcement of unlicensed activities, are adversely impacted as council tax funds have to be utilised to deliver licensing activities that can and should be funded through fees as well as those that cannot. This may result in a reduction in the Council's ability to effectively deliver the overall licensing regime.

5. Background

- 5.1** Detailed background information about designing fees on a cost recovery basis was provided to the Strategic Licensing Committee on the 10 December 2014 as part of the report entitled "Licensing Fees and Charges 2015 – 2016". As a result of this report, the Committee instructed the Head of Public Protection to publish the proposed fees in relation to driver, hackney carriage (for zones 1, 2, 3, 4 & 5), private hire vehicle and operator licences and to set out the period during which and the method whereby objections could be made.
- 5.2** This process was carried out as described in paragraph 3.10 above. The two objections received are set out in **Appendix A** to this report, together with relevant officer comments for the Committee to consider.

6. Additional Information

- 6.1** The Local Government Association has published guidance on locally set fees. The work that has been undertaken to determine Shropshire Council's proposed fees follows the principles contained in the guidance.
- 6.2** The revised process that has been undertaken to determine the fees for driver, hackney carriage, private hire vehicle and operator licences will be undertaken annually with amendments being made to take account of changes in the law and Council procedures.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- Report to Strategic Licensing Committee on 10 December 2014 on Licensing

Fees and Charges 2015 – 2016

- Services Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market
- Provision of Services Regulations 2009 - SI 2009 No 2999
- Court of Appeal Judgement in the case of R Hemming and others v Westminster City Council - 24 May 2013 - [2013] EWCA Civ 591 Case No. C1/2012/1666
- LGA guidance on locally set fees (January 2014)

Cabinet Member (Portfolio Holder)

Councillor Steve Charmley

Local Member

Not applicable

Appendices

Appendix A - Objections with officer responses

Appendix B

Part 1 - Discretionary Fees Hackney Carriages (zones 1, 2, 3, 4 & 5) and Private Hire Vehicles

Part 2 - Discretionary Fees Private Hire Operators

Appendix C - Documents evidencing the consultation process

Appendix D - Extracts from the Local Government (Miscellaneous Provisions) Act 1976

Strategic Licensing Committee – 18 March 2015**Hackney Carriage and Private Hire Licensing
Fees and Charges 2015 – 2016**Objection to variation of fees

Yet again the taxi and private hire trade are facing increased licence fees. It's not been made clear that despite Shropshire council's radical cuts to service that the trade have the burden of increased fees year on year.

Although calculation of expenditure have treated hackney carriages as being funded from a single pot where as they operate out of five separate zones and costs vary enormously.

Drivers (zone3) Oswestry have very limited access to licensing officer's limited enforcement and ranks.

. The information currently presented to Strategic Licensing Committee is incomplete and members will not be able to ensure that the Council is about to introduce fees that would cause the Council to be guilty of making unlawful charges, which may become the subject of objections to the District Auditor under the provisions of section 17 of the Audit Commission Act 1998. Any investigation by the District Auditor might cost the Council something in the region of £50,000 (from its central funds as they cannot charge the costs to taxi licensing) and might be required to refund any sums held in the future to have been overcharged. Local trade already are struggling to survive in these difficult times and are serving local communities across the whole of Shropshire.

Thomas Mark Higgins (Badge Number JD0 834)

Officer response to objection made by Thomas Mark Higgins

The current proposals mean that:

- hackney carriage and private hire driver and vehicle licence fees will increase by between £2 and £35
- knowledge test resit fee will reduce by £20
- driver training assessment fee will reduce by £4

- private hire operators face the most significant increases of between £42 and £369¹; however, the significant majority of operators face an increase of between £42 and £102
- fees for replacing plates, door signs, badges and the basic administration fee remain the same

Shropshire Council has not made radical cuts to the hackney carriage and private hire licensing service. It has redesigned the way in which the service is delivered utilising largely centrally based resources to better provide the administrative element of the licensing function and to increase the resources that are available to carry out compliance checks and enforcement activity associated with licensed vehicles and operators. The resources dedicated to compliance checks and enforcement are likely to further increase as the Council continues to review and strengthen its safeguarding role.

The proposed fee increases for hackney carriage licences are between £2 and £10. The calculation of these fees are considered on the basis of five separate zones. However, the way in which hackney carriage licensing is delivered both from an administrative and enforcement perspective means that the costs associated with hackney carriage licensing do not vary across the zones and hence the hackney carriage licence fee is calculated to be the same for all five zones. At present, the costs incurred by the Highways Service for providing hackney ranks is not built into the fee calculations.

The information presented to the Strategic Licensing Committee is based on the available financial information and is as complete as it can practically be at this time. There is a clear and reasoned process that has drawn together the financial information and enabled the calculations to be undertaken as robustly as possible. The process has been scrutinised by senior Council finance officers to ensure accuracy and to demonstrate reconciliation of the calculated figures by way of the Council's accounting mechanisms. This is carried out in order to demonstrate to internal and external auditors that the introduction of the proposed fees is lawful.

¹ The £369 increase is an anomaly due to a typographical error made in the 2014/15 fees and charges report.

Licensing
Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Our Ref: DBW / Central & Diamond
Your Ref:
Date: 15 February 2015
Please ask for: David Wilson

**By First Class post and email to:
licensing@shropshire.gov.uk**

Dear Sir / Madam,

**Local Government (Miscellaneous Provisions) Act 1976, sections 53 and 70
Objection by Central Taxis (Shrewsbury) and Diamond Cars (Shifnal)**

I act on behalf of Central Taxis of Shrewsbury and Diamond Cars of Shifnal, the two largest private hire companies in the county.

Please accept this letter as their joint objection to the changes to the various fees relating to hackney carriage and private hire licensing.

Whilst one understands the Council's desire to set fees for the forthcoming financial year, it is disappointing to note that:

- The officer report, which refers to the Court of Appeal judgment in R (on the application of Henning and others) v Westminster City Council, did not mention that Westminster had appealed to the Supreme Court (formerly the House of Lords) or suggest that the setting of fees should be deferred until the Supreme Court gives its judgment.

Lord Neuberger, Lord Mance, Lord Clarke, Lord Reed and Lord Toulson heard the appeal on 13 January 2015. Licensing authorities and licensing practitioners the length and breadth of the country anxiously await their Lordships' opinions.

- The officer report does not mention that the fees set in 2013 are subject to an on-going investigation by the External Auditor or suggest that the setting of fees should be deferred until the conclusion of that investigation, which might sensibly also follow the Supreme Court giving judgment in the Hemming case.

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Tel: 0191 2449637

- The officer report does not mention the High Court judgment and declaration made in R (on the application of Cummings) v Cardiff City Council on 18 June 2014. I attach a copy of the court's order and declaration for your information, although the judgment itself is available under the case citation [2014] EWHC 2544 (Admin).

In this case, the court quashed the fees set by Cardiff because: (i) the level of fees set failed to have regard to and / or account for any surplus or deficit generated in previous years (dating back to 2009); and (ii) the level of fees set failed to account for any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes within the regime under which they have been accrued: both between each regime and in respect of each licence within those regimes.

In this regard, the court declared that:

- (i) A local authority when determining hackney carriage and private hire licence fees under section 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 must take into account any surplus or deficit generated from fees levied in previous years in respect of meeting the reasonable costs of administering the licence fees as provided by section 53 and 70.
- (ii) A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licensing fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another.

In view of the foregoing, the Council is asked to defer considering this (and any other) objection in relation to hackney carriage and private hire licensing fees until the Supreme Court gives its judgment and the External Auditor has presented his decision and statement of reasons.

As the Council did not comply with the requirements set out by the High Court in Cummings v Cardiff when the Strategic Licensing Committee set the fees on 10 December 2014, the process is fundamentally legally flawed and will, if necessary, be challenged by my clients.

Should the Council consider that the fees will only be determined and set at a further meeting of the Strategic Licensing Committee on 18 March 2015 (or any other date), may I respectfully draw to your attention that the fees were set on 10 December 2014 and would, according to the Council's statutory notice, take effect on 16 February 2015 unless objection is made and not withdrawn.

Contrary to popular belief, the statutory process is an objection process and not a consultative process.

If, despite the foregoing, the Council proceeds to consider the substantive objections to the detail of the proposed fees, my clients raise the following specific issues:

- The officer report makes broad statements to justify fee increases (para 4.8), but does not address the detail licence-by-licence and fee-by-fee.
- The fees in relation to driver licence fees are to go up by £18 for a three-year licence and £35 for a new one-year licence to increase the effectiveness of the administration process specifically for safeguarding purposes, but there is no detail as to what that entails or why the amount of the increase is almost double for a one-year licence than that for a three-year licence.
- In relation to vehicle licensing, the officer report appears to offer no explanation as to why changes are proposed. However, Appendix A Part 3 shows that there are no changes to be made to the costs of exterior or interior plates, the provision of fare cards or private hire door signs. In the circumstances, the proposed increases can only relate to staff costs and centrally charged overheads, but again there is no specific detail.
- Although it is not explained in the officer report, the effect of the proposed fee changes to hackney carriage and private hire vehicle licensing is to make the fees for both types of vehicle the same, although the private hire fees also include an additional £13 in relation to a pair of door signs.

To avoid giving the impression that fees for private hire vehicle licences are inexplicably higher than they are for hackney carriages, the Council could set the fees at the same level, i.e. charging separately for door signs for private hire vehicles.

- Despite having raised this query in 2013, officers have still failed to provide a rational explanation as to why the licence fees for the renewal of a vehicle licence, whether it be a hackney carriage or a private hire vehicle, is more than it is for the initial grant of a licence. Firstly, one would imagine that the costs of data input in relation to a vehicle licence renewal would be less than those at initial application when all the data has to be input. The costs of issuing a renewal application should form part of the fee of the licence to which a renewal would relate and not to the renewed licence, because the costs of issuing the renewal will not be recovered, if a renewal application is not made.
- The lawfulness (or more particularly, the unlawfulness) of the Council's fee structure for private hire operators, based on "the size of the operation", i.e. the number of private hire vehicles under the operator's control was raised when fees were set in 2013 and featured prominently in the objection to the External Auditor. As stated in the officer report (para 4.9), this is only the second year of operation of this charging

structure and consequently, early enough for the Council to reverse it, without exposing itself to significant claims for repayment in relation to unlawfully charged fees. By charging an operator a fee for each vehicle working for them, the Council is subsidising the costs of vehicle or driver licensing (subject to it being entitled to levy a charge against either of those licences in the first place) by charging a fee to a different licence type (the private hire operator licence fee) contrary to the declaration made by Mr Justice Hickinbottom in R (on the application of Cummings) v Cardiff City Council [2014] EWHC 2544 (Admin), referred to above. The officer calculations in relation to the 2013 fees shows that the total cost of a private hire operator's licence was only £86.40, which was made up of staff costs of £25.18 and £61.22 of other costs.

- The assertion that "losses that are not funded by other means, including being subsidised by the council tax payer, may result in the Council's ability to effectively deliver the overall licensing regime" (para 4.10) is wrong. Whilst confirmed by the declaration made in Cummings v Cardiff, it was widely (correctly) believed that losses and surpluses should be carried forward, although it is now also clear that applies to each individual licence type and not in relation to the combined taxi accounts. The Council appears to have subscribed to that view, because in 2012 it was reported that a £60,000 deficit had been eliminated.
- All hackney carriage and private hire licensing fees are said "also [to have been] affected by the changes made to the way in which average hourly officer rates are now calculated and charged" (para 4.8). But no information is provided as to how they were calculated in the past, how they have now been calculated or why it was considered necessary to make such changes.
- Despite a detailed breakdown having not been provided to Strategic Licensing Committee when it resolved to set the fees the subject of this objection on 10 December 2014, information provided by officers in early 2014 in relation to the fees set in 2013, showed that up to 80 per cent of a licence fee related to non-staff costs and as little as 20 per cent related to the staff costs of providing the service. Even in relation to the fee in respect of which the smallest element of the fee related to non-staff costs, this still amounted to 40 per cent of the fee. Following years of austerity and the Council's repeated restructuring and cost saving endeavours, it is unbelievable that the average non-staff costs still make up about 60 per cent of each hackney carriage and private hire licence fee.
- As the Council has resolved, subject to the making and consideration of objections, to reduce some fees, it is assumed there must be a surplus on the account for that particular licence type / item of charge. That information has not been disclosed.
- The issue of past surpluses and deficits is one that remains unaddressed. On 21 March 2012, Councillor Peter Adams reported to the Strategic Licensing Committee that an existing deficit of £60,000 had been eliminated by increased fee revenue. Despite that announcement, at the same meeting, Strategic Licensing Committee resolved to increase the fees and did so again on 28 November 2013. In the

circumstances, it appears that the Council made a profit in 2011 / 2012 and ought, therefore, to have accrued larger surpluses in each subsequent year, namely 2012 / 2013, 2013 / 2014 and 2014 / 2015 and is seeking to further increase fees for 2015 / 2016. The Council will appreciate that if, as expected by my clients and others in the trade, it has unlawfully set fees and accrued substantial surpluses in past years, it is likely to find itself in the position of Cardiff in the Cummings case. In that case, Cardiff was ordered to pay the five defendants that brought claims in excess of £90,000 in respect of damages and interest in relation to fees charged from 1 May 2009. Cardiff was also ordered to pay the defendants' legal costs.

In all the circumstances, the Council is asked to resolve not to implement the proposed fee increases, as agreed on 10 December 2014 or any such increases (but to implement the fee reductions) and to await the handing down of their Lordship's opinions (judgments) in the Supreme Court in the Hemmings case and the conclusion of the on-going investigation of the External Auditor.

If, however, the Council wishes to proceed to determine the objections to the fees, please also accept this letter as notification under Procedure Rule 14 of the Constitution of Council of my request to address Strategic Licensing Committee in relation to this matter on behalf of my aforementioned clients, Central Taxis and Diamond Cars.

Yours faithfully,



David B Wilson
Licensing Consultant, Mediator and Trainer
Consulting Editor, Paterson's Licensing Acts 2015

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Mobile: 07794 776383

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT IN WALES
BEFORE THE HON MR JUSTICE HICKINBOTTOM

Claim No CO/12090/2013

BETWEEN:



THE QUEEN ON THE APPLICATION OF

- (1) CARL CUMMINGS
- (2) SUPATAX 2000 LIMITED
- (3) PRIMEOUTLET LIMITED
- (4) STEPHEN MEARS
- (5) FARZAND ALI

Claimants

-v-

THE COUNCIL OF THE CITY AND COUNTY OF CARDIFF

Defendant

ORDER

UPON the Claimants' application to amend their claim and the final hearing of the claim for judicial review

AND UPON HEARING Leading and Junior Counsel for the Claimants and Leading and Junior Counsel for the Defendant

IT IS ORDERED THAT:

1. The Claimants' application to amend is refused.
2. The claim for judicial review be granted.
3. The decisions of the Defendant made on 3 June 2013 as they relate to hackney carriage and private hire vehicle and respective drivers' licence fees be quashed on the basis that they are unlawful for the following reasons:
 - 3.1 the level of fees set failed to have regard to and/or account for any surplus or deficit generated in previous years dating back to 1 May 2009;
 - 3.2 the level of fees set failed to account for any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes within the regime under

which they have accrued: both between each regime and in respect of each licence within those regimes; and

3.3 the level of fee set for hackney carriage licences in 2013 included part of the cost of funding taxi marshals for the Council's administrative area.

4. It be declared that:

4.1 A local authority when determining hackney carriage and private hire licence fees under section 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 must take into account any surplus or deficit generated from fees levied in previous years in respect of meeting the reasonable costs of administering the licence fees as provided by section 53 and 70.

4.2 A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not to be used to subsidise a deficit in another.

5. The Defendant do pay the Claimants the following sums by way of restitution in respect of sums unlawfully obtained from the Claimants in respect of hackney carriage and private hire license fees from 1 May 2009 (but on the footing and basis that this order and subsequent payment shall not of itself prevent the Claimants from pursuing any claim that (i) the Defendant is obliged to make restitution in respect of such payments prior to 1 May 2009 and (ii) the Defendant is under an obligation to make restitution in respect of any greater sum should the Defendant's decisions of March 2014 re-calculating the sums that should have been claimed for the period after 1 May 2009 be set aside):

5.1 The Defendant shall pay the First, Second and Third Claimant £84,314 and £7,861 interest within 21 days of the provision by the First, Second and Third Claimant to the Defendant of details of a bank account into which the payment is to be made;

5.2 The Defendant shall pay the Fourth Claimant £77 and £10 interest; and

5.3 The Defendant shall pay the Fifth Claimant £343 and £36 interest.

6. The following costs order be made:

6.1 The Claimants to pay the Defendant's costs of the application to amend the claim.

6.2 The Defendant do pay the Claimants' costs of the claim up to 5 May 2014.

6.3 The Claimants do pay the Defendant's costs of the claim from 5 May 2014.

In each case, in default of agreement the costs shall be assessed on the standard basis, and the costs of the Claimants and the Defendant shall be set-off against each other.

7. The Claimants' application for permission to appeal is refused.

DATED this 18th day of June 2014

Officer response to objection made by David Wilson (a2z Licensing)

The point made concerning the lack of specific reference to the appeal to the Supreme Court in connection with the R v Westminster City Council (Hemming) case is noted. However, deferring the setting of the fees until after the Supreme Court gives its judgement is considered unnecessary. The most significant issue being considered by the appeal is whether it is lawful to incorporate, into a licence fee, the cost of enforcing against unlicensed activities. If Westminster City Council wins its appeal, the anticipated impact on Shropshire Council's hackney carriage and private hire licensing fees is likely to be minimal. This is because the majority of enforcement is undertaken in relation to licensed vehicles and operators and the fees that were set for 2014/15 and those that are proposed for 2015/16 do not include the cost of enforcing against unlicensed activities. As a consequence, it is deemed extremely unlikely to be prejudicial to licence applicants or existing licence holders if the Strategic Licensing Committee was to make a decision to set fees in advance of the Supreme Court's judgement. Deferring the decision may, in fact, have an adverse impact as subsequent fees may require a greater percentage increase than may otherwise be required in 2016/17 and beyond.

The external auditor's investigation into the fees set in 2013 is being considered separately; the outcomes, if necessary, will be presented to the Committee for its consideration in due course. On the basis that the external auditor has not advised the Council to defer setting fees until the conclusion of their investigation, it is considered appropriate for the Committee to consider the proposals and agree the fees for 2015/16.

Whilst the report to the Committee in December 2014 did not specifically refer to the High Court judgement in the Cardiff City Council case, the text of the report was drafted based on an understanding of the judgement made in this case. The report made it clear in paragraphs 4.5 and 4.6 that the process to set hackney carriage and private hire (and other discretionary) fees must take account of any surplus or deficit and must do so in relation to individual licence types.

The basis of the assertion that the Council did not comply with the requirements set out by the High Court in the Cardiff City Council case is unclear. The Council does not accept that the process is fundamentally legally flawed. The indication that the Council's process will, if necessary, be challenged is duly noted.

With respect to the details contained in the statutory notice, the fees were set on the 10 December 2014 and would have taken effect on the 16 February 2015 but for the fact that objections were received and not withdrawn and, therefore, the fees did not and cannot take effect from the 16 February. The Committee must now make a decision and agree the fees (modifying the proposed variations if the Committee so wish) that will come into effect on a date that must be not more than 2 months after the 16 February. The proposal is for the Committee to agree the fees with effect from 1 April, this being a date that is not more than 2 months after the 16 February. The 1 April date also makes financial sense for the Authority as this coincides with the commencement of the new financial year.

The report prepared for the Committee has clarified that the process is a legally prescribed process that allows objections to be made and considered rather than a consultative process in the strictest sense. Nevertheless, there is little difference, if any, in terms of the actual end result and outcome.

A number of concerns, questions and allegations are made or implied throughout the latter part of the submission. Having considered these individually, the simple fact remains that overall the Council is proposing reasonable fees based on lawful principles. Using relevant and available financial information, officers have utilised a practical, logical and documented process that is subject to continuous review to determine the proposed fees on an annual basis. A significant commitment is made by licensing practitioners, managers and finance officers to ensure licensing fees are fair and lawful. The aim is to set fees to recover the full costs, within defined legal parameters, of providing this service. There is not and never has been any intention to deliver a surplus in this service area or for one licensing regime to subsidise another. Overall, the aim has been, and continues to be, to make neither a surplus nor a deficit and to ensure applicants pay fair and lawful fees for the specific licence types for which they apply.

Appendix B Part 1 - Discretionary Fees Hackney Carriage and Private Hire Vehicles

Licence Type	2014/15 Fee (£)	Licence Type	Decrease	No change	Increase
			Proposed 2015/16 Fee (£)	Difference (£)	Difference (%)
Drivers					
Driver's Joint Badge New 1 year (inc. DVLA, DBS check, first knowledge test and first driver training assessment)	204.00	Driver's Joint Badge New 1 year (inc. DVLA, DBS check, first knowledge test and first driver assessment)	239.00	35.00	17%
Driver's Badge 3 yr Renewal (inc. DVLA and DBS check)	156.00	Driver's Badge 3 yr Renewal (inc. DVLA and DBS check)	174.00	18.00	12%
Driver's Knowledge Test Resit	77.00	Driver's Knowledge Test Resit	57.00	-20.00	-26%
Driver Badge replacement following damage or loss	10.00	Driver Badge replacement following damage or loss	10.00	0.00	0%
Driver Training assessment	30.00	Driver Training assessment	26.00	-4.00	-13%
Vehicles					
Private Hire Vehicle - new	160.00	Private Hire Vehicle - new	168.00	8.00	5%
Private Hire Vehicle - renewal	167.00	Private Hire Vehicle - renewal	172.00	12.00	8%
Private Hire Vehicle Licence Transfer (transfer of existing licence to a new vehicle)	97.00	Private Hire Vehicle Licence Transfer (transfer of existing licence to a new vehicle)	107.00	10.00	10%
Hackney Carriage Vehicle - new	150.00	Hackney Carriage Vehicle - new	155.00	5.00	3%
Hackney Carriage Vehicle - renewal	157.00	Hackney Carriage Vehicle - renewal	159.00	2.00	1%
Hackney Carriage Licence Transfer (transfer of existing licence to a new vehicle)	87.00	Hackney Carriage Licence Transfer (transfer of existing licence to a new vehicle)	94.00	7.00	8%
Exterior plate replacement following damage or loss	13.00	Exterior plate replacement following damage or loss	13.00	0.00	0%
Internal plate replacement following damage or loss	15.00	Internal plate replacement following damage or loss	15.00	0.00	0%
Fare Card replacement following damage or loss	2.50	Fare Card replacement following damage or loss	2.50	0.00	0%
Private Hire Door Signs (pair)	15.00	Private Hire Door Signs (pair)	15.00	0.00	0%
Additional Administrative Charges					

Appendix B Part 1 - Discretionary Fees Hackney Carriage and Private Hire Vehicles

License holder transfer/change of details	10.00	License holder transfer/change of details (e.g. change of address/other minor changes)	10.00	0.00	0%
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Appendix B Part 2 Discretionary Fees Private Hire Operators

2014 - 2015		2015 - 2016			Increase
Licence Type	2014/15 Fee (£)	Licence Type	Proposed 2015/16 Fee (£)	Difference (£)	Difference (%)
Private Hire Operator - 1 Year - New					
Private Hire Operator - up to 5 vehicles	86.00	Private Hire Operator - up to 5 vehicles	132.00	46.00	53%
Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	119.00	Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	166.00	47.00	39%
Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	168.00	Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	217.00	49.00	29%
Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	330.00	Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	387.00	57.00	17%
Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	695.00	Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	770.00	75.00	11%
Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	1,304.00	Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	1,407.00	103.00	8%
Private Hire Operator - 3 Years - New					
Private Hire Operator - up to 5 vehicles	118.00	Private Hire Operator - up to 5 vehicles	220.00	102.00	86%
Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	182.00	Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	288.00	106.00	58%
Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	199.00	Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	390.00	191.00	96%

Appendix B Part 2 Discretionary Fees Private Hire Operators

Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	361.00	Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	730.00	369.00	102%
Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	1,334.00	Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	1,495.00	161.00	12%
Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	2,551.00	Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	2,770.00	219.00	9%

Private Hire Operator - 1 Year - Renewal

Private Hire Operator - up to 5 vehicles	86.00	Private Hire Operator - up to 5 vehicles	128.00	42.00	49%
Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	119.00	Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	162.00	43.00	36%
Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	168.00	Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	213.00	45.00	27%
Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	330.00	Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	383.00	53.00	16%
Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	695.00	Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	766.00	71.00	10%
Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	1,304.00	Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	1,403.00	99.00	8%

Private Hire Operator - 3 Years - Renewal

Private Hire Operator - up to 5 vehicles	118.00	Private Hire Operator - up to 5 vehicles	215.00	97.00	82%
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Appendix B Part 2 Discretionary Fees Private Hire Operators

Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	182.00	Private Hire Operator - 6 to 10 vehicles (mid-point for fee calculation purposes = 8)	283.00	101.00	55%
Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	199.00	Private Hire Operator - 11 to 30 vehicles (mid-point for fee calculation purposes = 20)	385.00	186.00	93%
Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	361.00	Private Hire Operator - 31 to 100 vehicles (mid-point for fee calculation purposes = 60)	725.00	364.00	101%
Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	1,334.00	Private Hire Operator - 101 to 200 vehicles (mid-point for fee calculation purposes = 150)	1,490.00	156.00	12%
Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	2,551.00	Private Hire Operator - > 200 vehicles (mid-point for fee calculation purposes = 300)	2,765.00	214.00	8%

NOTE:

1 year licence: mid-point no. of vehicles x 10% ave. officer hourly rate to allow for additional work created as a result of number of vehicles being operated; cost added to the "up to 5 vehicles" fee

3 year licence: mid-point no. of vehicles x 20% ave. officer hourly rate to allow for additional work created as a result of number of vehicles being operated; cost added to the "up to 5 vehicles" fee

Appendix B Part 2 Discretionary Fees Private Hire Operators

Appendix B Part 2 Discretionary Fees Private Hire Operators

Appendix B Part 2 Discretionary Fees Private Hire Operators

Extract from the “Have your say” link on the Council’s website

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Taxi licence fees consultation

- Period: 12 January 2015 - 15 February 2015
- Status: Closed
- Audiences: Everyone
- Topics: Licensing and applications
- Type: Public
- [Proposal](#)
- [How to get involved](#)

SHROPSHIRE COUNCIL

Local Government (Miscellaneous Provisions) Act 1976

Sections 53 and 70

Hackney carriage proprietor’s licence and hackney carriage driver’s licence fees for zones 1, 2, 3, 4 and 5, and private hire vehicle licence, private hire operator’s licence and private hire vehicle driver’s licence fees.

APPENDIX C – Extracts from website publicising proposals (as captured on 01/03/15)

NOTICE IS HEREBY GIVEN under the above act that Shropshire Council proposes to vary the statutory permissible fees chargeable for hackney carriage, private hire vehicle and operator's licences and drivers' licences. The charges set out below will take effect on 16 February 2015 unless objection is made and not withdrawn.

Licence Type	Current Fee (£)	Proposed 2015/16 Fee (£)
<hr/> Drivers		
Driver's joint badge new one year (inc. DVLA, DBS check, first knowledge test and first driver assessment)	204.00	239.00
Driver's badge three year renewal (inc. DVLA and DBS check)	156.00	174.00
Driver's knowledge test resit	77.00	57.00
Driver badge replacement following damage or loss	10.00	10.00
Driver training assessment	30.00	26.00
<hr/> Vehicles		

APPENDIX C – Extracts from website publicising proposals (as captured on 01/03/15)

Private hire vehicle - new	160.00	168.00
Private hire vehicle - renewal	167.00	172.00
Hackney carriage vehicle - new	150.00	155.00
Hackney carriage vehicle - renewal	157.00	159.00
Hackney carriage licence transfer	87.00	94.00
Private hire vehicle licence transfer	97.00	107.00
Exterior plate replacement following damage or loss	13.00	13.00
Internal plate replacement following damage or loss	15.00	15.00
Fare card replacement following damage or loss	2.50	2.50
Private hire door signs (pair)	15.00	15.00
Private hire operators – one year - new application		
Private hire operator - up to five vehicles	86.00	132.00

APPENDIX C – Extracts from website publicising proposals (as captured on 01/03/15)

Private hire operator - six to ten vehicles	119.00	166.00
Private hire operator - 11 to 30 vehicles	168.00	217.00
Private hire operator - 31 to 100 vehicles	330.00	387.00
Private hire operator - 101 to 200 vehicles	695.00	770.00
Private hire operator - > 200 vehicles	1,304.00	1,407.00
Private hire operators – three years - new application		
Private hire operator - up to five vehicles	118.00	220.00
Private hire operator - six to ten vehicles	182.00	288.00
Private hire operator - 11 to 30 vehicles	199.00	390.00
Private hire operator - 31 to 100 vehicles	361.00	730.00
Private hire operator - 101 to 200 vehicles	1,334.00	1,495.00
Private hire operator - > 200 vehicles	2,551.00	2,770.00

APPENDIX C – Extracts from website publicising proposals (as captured on 01/03/15)

Private hire operators – one year - renewal of licence

Private hire operator - up to five vehicles	86.00	128.00
Private hire operator - six to ten vehicles	119.00	162.00
Private hire operator - 11 to 30 vehicles	168.00	213.00
Private hire operator - 31 to 100 vehicles	330.00	383.00
Private hire operator - 101 to 200 vehicles	695.00	766.00
Private hire operator - > 200 vehicles	1,304.00	1,403.00

Private hire operators – three years - renewal of licence

Private hire operator - up to five vehicles	118.00	215.00
Private hire operator - six to ten vehicles	182.00	283.00
Private hire operator - 11 to 30 vehicles	199.00	385.00

APPENDIX C – Extracts from website publicising proposals (as captured on 01/03/15)

Private hire operator - 31 to 100 vehicles	361.00	725.00
Private hire operator - 101 to 200 vehicles	1,334.00	1,490.00
Private hire operator - > 200 vehicles	2,551.00	2,765.00

Additional administrative charges

License holder transfer/change of details (e.g. change of address/other minor changes)	10.00	10.00
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In accordance with Section 70 (3) (b) of the Local Government (Miscellaneous Provisions) Act 1976 a copy of this notice may be inspected without payment during normal office hours at our offices at Shirehall Abbey Foregate Shrewsbury SY2 6ND, for a period of 35 days from 12 January 2015 to 15 February 2015.

Any objections to the proposed fees and charges should be made in writing and addressed to Licensing, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND or by e-mail to licensing@shropshire.gov.uk by 5pm on 15 February 2015.

Any objections received, if not withdrawn, will be considered by our Strategic Licensing Committee on the 18 March 2015 and the fees, with or without modification, shall come into force on 1 April 2015.

Dated 12 January 2015

Paul McGreary - Head of Public Protection

Our [consultation press release](#) gives more information.

Contact

Taxis

- taxis@shropshire.gov.uk
- 0345 678 9000
- Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

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Consultation press release as it appeared on the Council's Newsroom webpage

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Council proposes variation to hackney carriage and private hire licence fees

Related topics: [Community](#) / [Democracy](#)

Shropshire Council is proposing to vary its fees in relation to the licensing of hackney carriage proprietors and drivers and for private hire vehicles, operators and drivers.

The council is advising all those drivers and operators who may be affected by these changes to be aware of the proposals and to make any objections they may have within the next five weeks.

Objections to the proposals must be received by 5pm on 15 February 2015 and these must be submitted to the council in writing, either by post or by email, in accordance with the [formal notice](#).

Frances Darling, Shropshire Council's Senior Commissioner for public protection, said:

“The council has a legal duty to publish any proposed variation to these particular licence fees and to allow a minimum of 28 days for objections to be received. If no objections are received by the deadline, the fees will automatically take effect from 16 February 2015. However, if we do receive objections, these will be given full consideration by the council's Strategic Licensing Committee before a final decision is made. In this event, it is anticipated that the fees will take effect from 1 April 2015.”

Councillor Steve Charmley, Shropshire Council's Cabinet member responsible for public protection, said:

“We can recover certain costs associated with delivering the licensing service for the hackney carriage and private hire trades. Consequently, the fees currently being proposed aim to do this in as fair a manner as is possible, whilst continuing to comply with relevant legal requirements.”

Michael Wood, Chairman of the Strategic Licensing Committee, added:

“We are currently proposing that some charges will increase, some will stay the same and some will even decrease. It is about making sure that our costs are recovered as much as possible to enable us to deliver a fit for purpose and resilient service to our customers.

APPENDIX C – Extracts from website publicising proposals (as captured on 01/03/15)

“To help the Strategic Licensing Committee make an informed decision about the fees, I would encourage all those who may be affected by the changes to submit any objections they have as soon as possible and clearly to do so before the 5pm deadline on 15 February.”

Further information is available in the [report](#) that was considered by the Strategic Licensing Committee on 10 December 2014.

Share this page

Comments are closed.

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Shropshire Star Thursday, January 15, 2015

commercial vehicles

PEUGEOT EXPERT 2ltr, HDi, 54, MoT July 15, tow bar, bulk head, ply lined, part racking, Good condition. £1,400 ono. 07801 089151.

vehicles wanted

SELL YOUR CAR, VAN, 4X4, BIKE PAYMENT TODAY! FREE Valuation & Visit Call TELCARS: 01952 501473 or 07772 968992

FOR ALL YOUR MOTORCYCLING NEEDS New & Second Hand Sales • Parts • Accessories • Clothing • Servicing & Workshop Shrewsbury Honda Centre 01743 440 770

FAST-TRAK For all your Motorcycle Training... CBT to Advanced & Driver CPC training 01743 450303.

TIMBER BIKE STORE overlap new complete can deliver £100. 01746 766766 T

CARS WANTED!

We buy ANY scrap vehicle • Certificate of Destruction issued BEST PRICES PAID USED CAR PARTS OFF THE SHELF

WANT TOP MONEY FOR YOUR CAR? Let us sell it for you. 01743 296569. simplygoodcars.com

spares & accessories

ROOF BARS PLUS Cross Bars, all fittings, as new to fit Citroen Berlingo £250 ono. 01952 375682

BREAKDOWN RECOVERY

24 HRS - 7 DAYS A WEEK From a Motorcycle to a 44 ton Truck

mobile mechanics

JOHN'S - Servicing + Diagnostics, non starts. Est.1991, all cards accepted, all areas covered.

tyres / wheels / exhausts

PART WORN TYRES New budgets Free balancing from £15 01952 583 383

CAVALIERS £300 4 X 4 DIESELS £400 MIN TYRES from £5 01952 588815 07929 046674

A1 AUTOBREAKERS J.M.S TOP PRICES PAID FOR SCRAP Payment on collection CARS, DAMAGED, MOT FAILURES

A1 AUTOS: PAYMENT ON THE SPOT WANTED £300-£10,000 ALWAYS BUYING QUALITY USED CARS 07527 303 336

WANTED Cars, Vans & 4 x 4's Scrap Damage & Faulty Vehicles Min £130-£5,000 paid INSTANT PAYMENT

JARVIS METALS Scrap Metal Dealers We pay top prices for all plumbers, electricians, builders & farm scrap.

scrap metal

James Rollason ALL SCRAP METAL GRADES BOUGHT SCRAP VEHICLES FACTORY CLEARANCE

TRENCH METALS - best prices paid... Lead, Aluminium, Copper, Brass, Cable, Stainless Steel etc.

ENTERPRISE GARAGE (TELFORD) LIMITED MOT'S from £25 BIKES * CARS * MOTORHOMES

SHROPSHIRE COUNCIL

Local Government (Miscellaneous Provisions) Act 1976 Sections 53 and 70 Hackney Carriage Proprietor's Licence and Hackney Carriage Driver's Licence

NOTICE IS HEREBY GIVEN under the above Act that Shropshire Council proposes to vary the statutory permissible fees chargeable for Hackney Carriage, Private Hire Vehicle and Operator's Licences and Drivers' Licences.

Table with columns: Licence Type, Current Fee (£), Proposed 2015/16 Fee (£)

Table with columns: Licence Type, Current Fee (£), Proposed 2015/16 Fee (£)

Table with columns: Licence Type, Current Fee (£), Proposed 2015/16 Fee (£)

Table with columns: Licence Type, Current Fee (£), Proposed 2015/16 Fee (£)

In accordance with Section 70 (3) (b) of the Local Government (Miscellaneous Provisions) Act 1976 a copy of this notice may be inspected without payment during normal office hours at the Council's offices at Shirehall Abbey Foregate Shrewsbury SY2 6ND.

9 Local Information

public & legal notices

INSOLVENCY ACT 1986 IN BANKRUPTCY SHREWSBURY COUNTY COURT

NO 127 of 2007 RE: ROBERT WILLIAM MEREDITH D.O.B: 25 February 1955 I intend to pay within four months from 11th February 2015

creditors who have not yet proved their debts must do so by 11th February 2015 otherwise they will be excluded from the dividend.

Mr A Oliver, Official Receiver and trustee

INSOLVENCY ACT 1986

IN BANKRUPTCY SHREWSBURY COUNTY COURT

creditors who have not yet proved their debts must do so by 11th February 2015 otherwise they will be excluded from the dividend.

INSOLVENCY ACT 1986

creditors who have not yet proved their debts must do so by 11th February 2015 otherwise they will be excluded from the dividend.

Borough of Telford & Wrekin

Notice of Making of Creation Order and Extinguishment Orders in the Parish of Lawley and Overdale

Bridleway 136 creation order 1 of 2015, made on 13 January 2015 under section 26 of the Highways Act 1980, will create a bridleway in the vicinity of the junction with footpath 135

Footpath 171 (part) extinguishment order 1 of 2015 made on 13 January 2015. The effect of the order will be to stop up a Footpath running from the junction with Restricted Byway 16

Restricted byway 16 extinguishment order 2 of 2015 made on 13 January 2015. The effect of the order will be to stop up a Footpath running from the junction with Footpath 136

A copy of the orders and the order maps may be seen free of charge or purchased at Addebrouke House, Ironmasters Way, Telford on Mondays to Fridays between 9.30 am and 4.00pm.

Any representations about or objections to the orders may be sent in writing to the Assistant Director of Law, Democracy & People Services, Borough of Telford & Wrekin, Legal Services, Darby House, Lawn Central, Telford, TF3 4JA not later than 13 February 2015.

If no such representations or objections are duly made, or if any so made are withdrawn, the Borough of Telford & Wrekin may confirm the order as an unopposed order. If the order is sent to the Secretary of State for the Environment for confirmation any representations and objections which have not been withdrawn will be sent with the order.

Jonathan Eatough Assistant Director Law, Democracy & People Services

Borough of Telford & Wrekin

Telford & Wrekin Council has received the following planning applications

(format: Application number - Site location- Proposal): TWC/2014/1138 - 5 Church Street, Wellington - Change of use of existing public house (Class A4) to coffee shop (Class A3), clothing shop (Class A1), hairdressers (Class A1) and an extension at the rear and installation of new shop front to facility coffee shop

TWC/2014/1151 - Telford Millennium Community (Part of Phase 4), Katley, Telford - Erection of No.52 apartments and No.14 dwellinghouses (Variation of Planning Permission TWC/2013/0095)

TWC/2015/0002 - Newport Rugby Union Football Club, Forton Road, Newport - Siting of 2no. cabins, 2 no. dugouts, 1no. pay kiosk and 1no. storage container

TWC/2015/0004 - Newport Rugby Union Football Club, Forton Road, Newport - Erection of 4no. free standing non illuminated advertisement signs (Retrospective)

TWC/2015/0006 - Nexus Industries Ltd, Stafford Park 1, Stafford Park - Erection of a high bay rear extension to existing factory with additional car parking

TWC/2015/0007 - 35 Wellington Road, Coalbrookdale - Felling of 1 no. Sycamore tree

TWC/2015/0013 & TWC/2015/0014 - 41B High Street, Edgmond, Newport - Erection of a single storey garden room to the rear (Full and Listed Building applications)

TWC/2015/0017 - Land Off, Hadley Park West, Hadley - Display of 2no. non illuminated sign boards

TWC/2015/0019 - 15 Spring Village, Horsehay - Tree works as per schedule

The above application(s) can be viewed in full on planning online at www.telford.gov.uk/planning or Business & Planning First Point, Wellington Civic Offices, Telford, TF2 2FH (sat. nav. TF1 1LX) during office hours 8:30am to 5:15pm Monday to Friday. Written representations need to be made to the above address or on planning online by 05/02/15.

If a written representation appeal is made to the Secretary of State for a householder or minor commercial application no further representations can be made and existing representations will be forwarded to them. (TWC LP 00608)

RONALD HENRY POOLE (Deceased) Pursuant to the Trustee Act 1925 any persons having a claim against or an interest in the Estate of the aforementioned deceased, late of 16 West Edge Bicton Heath Shrewsbury Shropshire SY3 5EZ, who died on 27/08/2014, are required to send particulars thereof in writing to the undersigned Solicitors on or before 27/03/2015, after which date the Estate will be distributed having regard only to claims and interests of which they have had notice.

TERRY JONES SOLICITORS Abbey House Abbey Foregate Shrewsbury Shropshire SY2 6BH 7490180

PUBLIC NOTICES AND LEGAL NOTICES

For your convenience you may fax any advertising requirements to LORNA MCLAUGHLIN on 01902 319694. or email lorna.mclaughlin@expressandstar.co.uk

For further information call 01902 319868.

(Remember to include a name and contact number)

10 Personals

personal

ALONE? Over 35? Call Jane Stephens for local personal introductions. 01432 355144. Est 1977. janestephensbureau.co.uk

CHAMELEONS for like minded adults - singles / couples. 7 days a week. 9am - late. Mon Bisexual day. 2 mins from J9 / J10 M6. 0121 5686117. www.chameleons.co

GENTLEMAN, LATE 50'S Seeking a lady between 40-55 for a long term relationship. I'm a very kind and trustworthy person, I live on my own and am self employed, I'm very outgoing, I enjoy walking, going out for meals and going on holiday.

It would be nice to have someone to share these things with. Genuine replies only please. If possible a recent photo would be appreciated.

Write Box No. P19633 (WS), Shropshire Newspapers Ltd, Queen Street, Wolverhampton, WV1 1ES

IF YOU'RE looking for adult fun and not a long term relationship in any area call 0905 2127240. (Calls are charged at £1.20 per minute at all times. Strictly for 18 years old or over).

LONELY? write for a copy of Contact Magazine, Chorley, PR7 4BS or ring 01257 482201.

MALE 63

Country living, good looking and sociable, has lots of interests, normal height and weight, who should not need to advertise.

WLTM a stylish attractive lady, who should not need to reply. Photo please, returned.

Box Number P19649, Express and Star, Queen Street, Wolverhampton, WV1 1ES.

WIDOWER YOUNG 60

WLTM a lady of similar age, with the same values of trust and honesty to share Theatre, Opera, Ballet and Live Concerts and visits to the Hebrides and Sri Lanka.

All letters answered. Box Number P19651, Express and Star, Queen Street, Wolverhampton, WV1 1ES.

general

HAVE YOU CHECKED your advertisement today? We would respectfully remind advertisers that it is their responsibility to inform the publishers of any mistakes or inaccuracies on the first day of publication.

Advertisement for Shropshire Star newspaper, featuring a hand holding the paper and text: 'CALL US NOW TO SAVE FREEPHONE 0800 174 064' and 'Prices start from only £1.50 per week'.

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Local Government (Miscellaneous Provisions) Act 1976

Controls hackney carriages and private hire vehicles

Section 53 - Drivers' licences for hackney carriages and private hire vehicles

(2) Notwithstanding the provisions of the Act of 1847*, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

*Town Police Clauses Act 1847

Section 70 - Fees for vehicle and operators' licences

(1) Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

- (a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
- (b) the reasonable cost of providing hackney carriage stands; and
- (c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

- (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;
- (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and
- (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof

APPENDIX D – Extracts from the Local Government (Miscellaneous Provisions) Act 1976

be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.



<u>Committee and Date</u>
Strategic Licensing Committee
18 March 2015

<u>Item</u>
7
<u>Public</u>

Proposed Amendments to the Licensing & Safety Sub-Committee Procedure Rules in relation to Hackney Carriage and Private Hire Licensing

Responsible Officer Frances Darling – Senior Commissioner (Public Protection)
e-mail: frances.darling@shropshire.gov.uk Tel: 01743 2517175

1. Summary

- 1.1 This report sets out proposed changes to the Licensing & Safety Sub-Committee Procedure Rules as set out in Part 4 of the Council's Constitution.

2. Recommendation

- 2.1 That the Committee instructs the Head of Public Protection to take whatever steps are necessary to progress the proposed amendments, as set out in **Appendix A** with any necessary modifications, to the Council's Licensing & Safety Sub-Committee Procedure Rules detailed in Part 4 of the Council's Constitution in consultation with the Head of Legal and Democratic Services and the Portfolio Holder for Business Growth, ip&e, Culture and Commissioning (North).

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 The proposed changes to the Licensing & Safety Sub-Committee Procedure Rules are required to take account of the increasing responsibility placed on the Council with respect to the safeguarding of children, young people and vulnerable adults as it relates to hackney carriage and private hire licensing and, in addition, to reflect the current management structure within Public Protection.

- 3.2** It is key that appropriate professionals from the Council's Adult and Children's Services and from West Mercia Police are more directly involved in supporting the Council's decision making process. These professionals provide skills, knowledge and relevant information that significantly enhance the bare facts that are reported on a Disclosure and Barring Service (DBS) check. This leads to more robust decisions and is another step that helps to ensure, as far as is reasonably practicable, that only fit and proper persons are permitted to hold hackney carriage and private hire driver and operator licences.
- 3.3** It is equally important to recognise that other officers of the Council and representatives from other relevant external agencies and organisations may also provide valuable information that will further enhance the outcomes of the licensing process. Consequently, the proposed changes to the Procedure Rules also gives a clear direction that consultation with all relevant parties, in addition to those specifically identified for the purposes of safeguarding, is entirely appropriate.
- 3.4** All decisions are and will continue to be taken by an individual officer [Team Manager (Transactional Management)] of the Council with delegated authority to do so thus ensuring decisions are made lawfully. These decisions will be made in consultation with safeguarding professionals, a legal advisor, police and other relevant agencies/organisations to support the Team Manager (Transactional Management) at a 'Licensing Panel'.
- 3.5** The recommendation supports the protection of the human rights of the public who use hackney carriages and private hire vehicles, particularly children, young people and vulnerable adults. The principles behind the recommendation are aimed at ensuring the Council takes its duty to protect life seriously, prevents inhuman treatment and avoids any adverse impact on normal family life.
- 3.6** With respect to those people who wish to apply for or retain a licence to be a hackney carriage or private hire vehicle driver, the proposed changes to the Procedure Rules incorporates clear guidance that the officer making the decision must act fairly and sets out procedures to ensure that this is the case. Additional safeguards are set out in the revised Hackney Carriage and Private Hire Licensing

Policy 2015 – 2019 ('the Policy') that takes effect from 1 April 2015 to ensure the Council provides a fair evaluation of applications and existing licences and maintains respect for private and family life when making decisions on whether to grant, renew, suspend or revoke a licence. In addition, in the event that an officer does not grant or renew a licence or decides to revoke or suspend an existing licence, the applicant or licence holder has a right of appeal to the Magistrates' Court.

- 3.7** An Equality Impact Needs Assessment (EINA) has not been carried out in relation to the specific changes proposed in this report; however, equalities and diversity issues have been considered as part of the overall review of the hackney carriage and private hire licensing regime and an Equality and Social Inclusion Impact Assessment (ESIIA) was undertaken in respect of the Policy that will come into force on 1 April 2015.
- 3.8** An extensive consultation exercise has been undertaken as part of the process to revise the Policy and is detailed in reports that have been previously been presented to the Strategic Licensing Committee between March and December 2014 and to Cabinet on the 11 February 2015. The operation of the 'Licensing Panel', as referred to in paragraph 3.4 above, formed part of this consultation process; subsequent feedback informed changes to the Policy as well as guiding the development of the ESIIA.
- 3.9** There are no environmental consequences associated with the recommendation in this report.

4. Financial Implications

- 4.1** There are no additional or significant financial implications associated with the recommendation for the Council. Nevertheless, officer time will be required to implement the amendments to the Procedure Rules, including the preparation of a separate report to full Council to give effect to the necessary amendments.
- 4.2** The costs associated with undertaking the necessary work going forward will initially be met from existing budgets held by Public Protection, Legal & Democratic

Services, Adult Services and Children's Services. However, in the longer-term, these costs are recoverable through the licensing fee regime and will be built into the annual licensing fee review process during 2015/16 in readiness for 2016/17. Discussions around the level of support that West Mercia Police will provide together with the potential to recover their costs are ongoing. It is anticipated that these issues will be resolved prior to the necessary report being presented to full Council.

5. Background

5.1 The Council's Constitution (Part 8 – Delegations to Officers) delegates to the Head of Public Protection and Service Managers with responsibility for licensing functions the authority to issue any unopposed statutory licence and to refuse, suspend or revoke any existing licence. The Head of Public Protection and Service Managers have the authority to make onward delegations to other officers where this is considered necessary.

5.2 This delegated authority has been extended by means of a number of amendments to the Licensing & Safety Sub-Committee Procedure Rules to permit what was the Licensing Team Leader, and those officers above this post with line management responsibility, to investigate and take such action as is considered appropriate including refusal of new and renewal applications and suspension and revocation of existing licences in relation to any matter concerning a private hire or hackney carriage driver or vehicle licence. The current applicable Procedure Rules are set out in **Appendix B**.

5.3 The extension of the delegated authority was initially agreed as a result of the significant increase in 'out of area' licence applications for both driver and hackney carriage licences that occurred in 2011/12. The delegated authority was further extended following the introduction of the Council's 'Intended Use and Licensing of Hackney Carriage Policy'. The introduction of this delegated authority has led to a reduction in the time taken to deal with applications without creating an adverse impact on the quality of decision making and it has also significantly reduced the burden on the Licensing & Safety Sub-Committee to a manageable level.

- 5.4** The Council's Policy has been significantly revised, with a decision taken by Cabinet on the 11 February 2015 to adopt and implement the revised Policy with effect from 1 April 2015. A fundamental reason for revising the Policy was to place a greater emphasis on safeguarding when licensing hackney carriages and private hire vehicles, drivers and operators. The proposed changes to the Licensing and Safety Sub-Committee Procedure Rules further enhance the steps the Council is taking to protect the public and, in particular, to safeguard children, young people and vulnerable adults.
- 5.5** The principle of utilising the delegated decision making powers was considered by the Enterprise & Growth Scrutiny Committee at a meeting held on 6 November 2014. There was overall support for the majority of hackney carriage and private hire licencing decisions to be undertaken by officers with only those matters, where officers are unable to agree upon a decision, coming before Members for further consideration and final determination. The proposed changes to the Licensing and Safety Sub-Committee Procedure Rules support this principle and further provide for the officer, with delegated authority, to make effective decisions on the majority of hackney carriage and private hire related licences.
- 5.6** The Policy was also considered by the Young People's Scrutiny Committee on the 4 February 2015. A number of recommendations were made to further improve the safeguarding of children and vulnerable persons. The proposed changes to the Procedure Rules also support the Young People's Scrutiny Committee's recommendations.
- 5.7** The practical mechanism that will facilitate an appropriate level of support from West Mercia Police to the Licensing Panel has yet to be agreed; however, this will be resolved prior to the preparation of the necessary report that will be presented to full Council to give effect to the proposed changes either as they are currently drafted or with any further amendments deemed necessary to ensure the mechanism is lawful and can be delivered in practice.

6. Additional Information

6.1 In addition to minor amendments to improve clarity and formatting, the specific changes proposed to the Council's Licensing & Safety Sub-Committee Procedure Rules detailed in Part 4 of the Council's Constitution are:

- a)** In paragraphs 6 and 7, references to 'Licensing Officer' be replaced with 'Team Manager (Transactional Management)'.
- b)** In paragraph 7, the powers delegated to the Team Manager (Transactional Management) be extended to include decisions in respect of private hire operator licences as well as driver and vehicle licences.
- c)** In Annex A (Procedure Guidance Notes for Members), all references to 'Licensing Team Leader' be replaced with 'Team Manager (Transactional Management) or their appointed representative'.
- d)** In Annex B (Matters of Procedure for the Licensing Decision Maker)
 - the reference to 'Licensing Officers' be replaced with 'the Licensing Decision Maker';
 - in addition to consulting with a legal advisor, the Team Manager (Transactional Management) is now specifically required to also consult with the Council's safeguarding lead officers for Adult and Children's Services and an appropriate officer from West Mercia Police prior to making a decision;
 - it is made clear that the Team Manager (Transactional Management) may consult with any other officer of the Council or a representative from any other relevant external agency or organisation as they consider appropriate prior to making a decision;
 - provision is made for immediate suspension decisions to be taken prior to the licence holder being informed but with the proviso that the licence holder will be informed after the decision has been made and will still be given an opportunity to make representations; and
 - the time period of two weeks for licence holders to submit representations is replaced with the words '10 working days'.

7. Conclusions

7.1 The proposed changes to the Council's Licensing & Safety Sub-Committee Procedure Rules detailed in Part 4 of the Council's Constitution will further strengthen the safeguarding of children, young people and vulnerable adults by increasing the robustness of the hackney carriage and private hire licensing regime.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- Shropshire Council Hackney Carriage and Private Hire Licensing Policy 2015 – 2019
- Report of the Independent Enquiry into Child Sexual Exploitation in Rotherham 1997 – 2013 by Alexi Jay OBE, published August 2014
- Report of Inspection of Rotherham Metropolitan Borough Council by Louise Casey CB, published in February 2015

Cabinet Member (Portfolio Holder)

Cllr Steve Charmley

Local Member

Not applicable as issue applicable to whole administrative area of Shropshire Council

Appendices

Appendix A – Proposed Licensing & Safety Sub-Committee Procedure Rules in Part 4 of the Council's Constitution

Appendix B – Current Licensing & Safety Sub-Committee Procedure Rules in Part 4 of the Council's Constitution

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Part 4 – Licensing & Safety Sub-Committee Procedure Rules

LICENSING AND SAFETY SUB-COMMITTEE PROCEDURE RULES

1. Composition

The Licensing and Safety Sub-Committee shall comprise of 5 to 6 Members, decided by the Strategic Licensing Committee. Substitutes, as decided by the Committee, are permitted

2. Number of Meetings

The Licensing and Safety Sub-Committee shall meet every 4 weeks, or as and when necessary.

3. Quorum

The Quorum for the Licensing and Safety Sub-Committee shall be three.

4. Role and Function

The Licensing and Safety Sub-Committee shall be responsible for considering those functions conferred on the Council in part B of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to licensing and registrations (excluding Commons Registration), part C including functions in relation to Health and Safety at Work but limited to those set out in Annex A, and functions in relation to the power to make a closing order with respect to take away food shops under s4 (Local Government Miscellaneous Provisions) Act 1982.

5. Bias and Predetermination

Bias is an attitude of mind that prevents the decision maker from making an objective determination of the issues that he/she has to resolve. There is no need for proof of actual potential bias for there to be a “procedural impropriety”. It is sufficient that there is an appearance of bias. The test for bias is ‘whether a fair-minded informed observer, having considered the facts would conclude that there was a real possibility of bias’.

Where the decision to be made is quasi-judicial, as at the Licensing and Safety Sub-Committee, the key issue to ensure the legality of the decision is the ‘public perception of a probability of unconscious bias’. Members should therefore avoid participating as a member of the Licensing and Safety Sub-Committee where previous voting or statements of belief may alter that objective impression conveyed.

A member should not reach a final conclusion before he/she comes to take a decision on an issue. A member’s statements and activities should not create the impression that his/her views on a matter are fixed, and that he/she will not fairly consider the evidence or arguments presented to him/her, when he/she is making a decision.

‘Bias’ also includes the situation where it is felt that the decision maker has predetermined the case based on his/her own prejudices. An obvious

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

example is where the impression is clearly given to, for example, members of the public or a lobbyist, beyond conveying a mere disposition, that ‘the member or authority will approach the matter with a closed mind and without impartial consideration of all relevant issues’.

A member must make a disclosure of his/her position regarding the possibility of political or structural bias, in advance, to the Licensing and Safety Sub-Committee which will consult with its Legal Advisor to decide if the member can participate in the decision-making.

6. Pre-Application/Pre-Decision Discussions

Whilst discussions between the licence applicant and the Team Manager (Transactional Management) prior to the submission of an application, or prior to a decision being made are often helpful to both parties, the Licensing Authority must ensure it is not open to accusations or appearance of bias. It must therefore ensure that such advice and assistance is clearly identified as being such and is not any type of ‘predetermination’.

Licensing and Safety Sub-Committee members should ensure that they DO NOT take part in any pre-application/pre-decision discussions and that applicants are referred to the Team Manager (Transactional Management).

7. Role of the Team Manager (Transactional Management)

(a) That the Team Manager (Transactional Management) and those officers in posts above this level with line management responsibility use delegated powers to investigate and take any such action as the officer considers appropriate, including refusal of new licence applications, refusal to renew existing licences and revocation and suspension of existing licences, in relation to any matter concerning a hackney carriage or a private hire drivers licence or a vehicle licence or any matter concerning a private hire operator licence.

(b) That where the officer referred to in paragraph 7 (a) above uses the delegated powers referred to in the said paragraph then the procedures set out in **Annex B** shall be followed.

(c) When a matter is to be referred to the Licensing and Safety Sub-Committee, the officer referred to in paragraph 7 (a) above shall make recommendations to the Committee. A report shall be prepared by the officer summarising the application. Details of any representations received shall be included, together with, where it is appropriate to do so, the officer’s comments setting out how the representations relate to relevant legislation and current licensing policy and conditions.

8. Decision Making

Reasons for decisions made must be clearly documented so that any subsequent accusations of bias etc. can be defended. Decisions must be made according to the relevant legislation, policy and conditions.

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

9. Site Inspection

Site inspections by Licensing and Safety Sub-Committee members are generally unnecessary and can put the members and the Licensing Authority at risk of accusations of bias. If a site inspection is required then the reasons will need to be set out to justify the visit.

10. Application of Council Procedure Rules

Council Procedure Rule 33.2 (Application to Cabinet, Committees and Sub-Committees) shall take effect subject to these Procedure Rules.

11. The guidance notes for the holding of hearings in respect of licensing matters are attached at Annex A.

12. The matters of procedure for licensing officers are attached at Annex B.

PROPOSED PROCEDURE RULES

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

ANNEX A - PROCEDURE GUIDANCE NOTES FOR MEMBERS

1. Apologies for absence.
2. Minutes to be confirmed and signed.
3. Public Question Time.
4. Declaration of any interests by members.
5. Consideration of non-exempt agenda items (if any).
6. The Sub-Committee to resolve that in accordance with the provisions of Schedule 12A, Local Government Act 1072 and Paragraph 10.4(1) of the Council's Access to Information Procedure Rules, the public and press be excluded during consideration of the following items.

STEPS FOR EACH CASE

7. Chairman to confirm that the applicant is happy to represent him/herself, if they have no representative present, prior to the case being heard.
8. Chairman to request Team Manager (Transactional Management) or their appointed representative to present the case and call witnesses (if any).
9. Questions may be asked of the Team Manager (Transactional Management) or their appointed representative and any witness called in the following order:
 - (i) Applicant
 - (ii) Members of the Committee
 - (iii) Legal Advisor
10. Chairman to request the Applicant to present their case to the Committee and call witnesses (if any).
11. Questions may be asked of the Applicant and any witness called in the following order:
 - (i) Team Manager (Transactional Management) or their appointed representative
 - (ii) Members of the Committee
 - (iii) Legal Advisor
12. Chairman to request the Team Manager (Transactional Management) or their appointed representative to sum up.
13. Chairman to request the Applicant to sum up.
14. The Committee will determine the application in private. The Legal Advisor will remain in the room to provide advice as required.
15. The meeting will be reconvened for the decision to be announced.

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

16. Chairman to advise the applicant of the appeals procedure if their application is refused.

ANNEX B - MATTERS OF PROCEDURE FOR THE LICENSING DECISION MAKER

1. The officer deciding a matter will be making a quasi-judicial decision. There is a right of appeal to a court.
2. The officer making the decision shall carry out the delegated powers in consultation with a legal advisor, the Council's safeguarding lead officers for Adult and Children's Services and an appropriate officer from West Mercia Police. The officer may consult with any other officer of the Council or a representative from any other relevant external agency or organisation as the officer deciding the matter considers is appropriate.
3. The officer must of course act fairly. With the exception of circumstances where immediate suspension is held to be the appropriate course of action, the licence holder shall be informed of the case against them and be given an opportunity to make representations before any decision is made. Where immediate suspension is applicable, the licence holder shall be informed after the decision has been made but will nonetheless be given an opportunity to make representations.
4. It is open to the local authority to allow only written representations and this is how the officer deciding the matter shall deal with each case unless the officer considers the circumstances also warrant an oral hearing. The officer shall write to the relevant licence holder stating the case against them. The correspondence shall set out all relevant information and give to the licence holder a reasonable time (usually 10 working days) to reply in writing with their representations.
5. Following receipt of the licence holder's representations, or upon expiration of the time limit for replies, the officer shall, unless it is necessary to seek further information as a result of the representations already received, make a decision taking all relevant matters into account.
6. Where the officer considers it is necessary or appropriate, a case shall be referred to the Licensing and Safety Sub-Committee for consideration and decision.

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Part 4 – Licensing & Safety Sub-Committee Procedure Rules

LICENSING AND SAFETY SUB-COMMITTEE PROCEDURE RULES

1. Composition

The Licensing and Safety Sub-Committee shall comprise of 5 to 6 Members, decided by the Strategic Licensing Committee. Substitutes, as decided by the Committee, are permitted

2. Number of Meetings

The Licensing and Safety Sub-Committee shall meet every 4 weeks, or as and when necessary.

3. Quorum

The Quorum for the Licensing and Safety Sub-Committee shall be three.

4. Role and Function

The Licensing and Safety Sub-Committee will be responsible for considering those functions conferred on the Council, in part B of Schedule 1 of The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 relating to licensing and registrations (excluding Commons Registration) part C including functions in relation to Health and Safety at Work, but limited to those set out in Annex A, and functions in relation to the power to make a closing order with respect to take away food shops under s4 (Local Government Miscellaneous Provisions) Act 1982.

5. Bias and Predetermination

Bias is an attitude of mind that prevents the decision maker from making an objective determination of the issues that he/she has to resolve. There is no need for proof of actual potential bias for there to be a “procedural impropriety”. It is sufficient that there is an appearance of bias. The test for bias is “whether a fair-minded informed observer, having considered the facts would conclude that there was a real possibility of bias”.

Where the decision to be made is quasi-judicial, as at the Licensing and Safety Sub-Committee, the key issue to ensure the legality of the decision is the “public perception of a probability of unconscious bias”. Members should therefore avoid participating as a member of the Licensing and Safety Sub-Committee where previous voting or statements of belief may alter that objective impression conveyed.

A member should not reach a final conclusion before he/she comes to take a decision on an issue. A member’s statements and activities should not create the impression that his/her views on a matter are fixed, and that he/she will not fairly consider the evidence or arguments presented to him/her, when he/she is making a decision.

‘Bias’ also includes the situation where it is felt that the decision maker has predetermined the case based on his/her own prejudices. An obvious

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

example is where the impression is clearly given to e.g. members of the public or a lobbyist, beyond conveying a mere disposition, that “the member or authority will approach the matter with a closed mind and without impartial consideration of all relevant issues”.

A member must make a disclosure of his/her position regarding the possibility of political or structural bias, in advance, to the Licensing and Safety Sub-Committee which will consult with its Legal Advisor to decide if the member can participate in the decision-making.

6. Pre-Application/Pre-Decision Discussions

Whilst discussions between the licence applicant and the Licensing Officer prior to the submission of an application, or prior to a decision being made are often helpful to both parties, the Licensing Authority must ensure it is not open to accusations or appearance of bias. It must therefore ensure that such advice and assistance is clearly identified as being such and is not any type of “predetermination”.

Licensing and Safety Sub-Committee members should ensure that they DO NOT take part in any pre-application/pre-decision discussions and that applicants are referred to the Licensing Officer.

7. Role of the Licensing Officer

1. That the Licensing Team Leader (and those above her with line management responsibility) use delegated powers to investigate and take any such action as the officer considers appropriate (including refusal, revocation and suspension) in relation to any matter concerning a private hire or hackney carriage driver or vehicle licence, such action to include refusal of any new application.
2. That where the officer uses the delegated power referred to in 2 above then the procedure set out in Annex B be followed.
3. When a matter is to be referred to the Licensing and Safety Sub Committee, the Licensing Officer will generally make recommendations. A summary report of the application, the representations and the Officer’s comments as to how these relate to relevant legislation, licensing policy and conditions may be useful.

8. Decision Making

Reasons for decisions made must be clearly documented so that any subsequent accusations of bias etc. can be defended. Decisions must be made according to the relevant legislation, policy and conditions.

9. Site Inspection

Site inspections by Licensing and Safety Sub-Committee members are generally unnecessary and can put the members and the Licensing Authority

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

at risk of accusations of bias. If a site inspection is required then the reasons will need to be set out to justify the visit.

10. Application of Council Procedure Rules

Council Procedure Rule 33.2 (Application to Cabinet, Committees and Sub-Committees) shall take effect subject to these Procedure Rules.

- 11.** The guidance notes for the holding of hearings in respect of licensing matters are attached at Annex A.
- 12.** The matters of procedure for licensing officers are attached at Annex B.

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

ANNEX A - PROCEDURE GUIDANCE NOTES FOR MEMBERS

1. Apologies for absence.
2. Minutes to be confirmed and signed.
3. Public Question Time.
4. Declaration of any interests by members.
5. Consideration of non-exempt agenda items (if any).
6. The Sub-Committee to resolve that in accordance with the provisions of Schedule 12A, Local Government Act 1072 and Paragraph 10.4(1) of the Council's Access to Information Procedure Rules, the public and press be excluded during consideration of the following items.

STEPS FOR EACH CASE
7. Chairman to confirm that the applicant is happy to represent him/herself, if they have no representative present, prior to the case being heard.
8. Chairman to request Licensing Team Leader to present the case and call witnesses (if any).
9. Questions may be asked of the Licensing Team Leader and any witness called in the following order:
 - (i) Applicant
 - (ii) Members of the Committee
 - (iii) Legal Advisor
10. Chairman to request the Applicant to present their case to the Committee and call witnesses (if any).
11. Questions may be asked of the Applicant and any witness called in the following order:
 - (i) Licensing Team Leader
 - (ii) Members of the Committee
 - (iii) Legal Advisor
12. Chairman to request the Licensing Team Leader to sum up.
13. Chairman to request the Applicant to sum up.
14. The Committee will determine the application in private. The Legal Advisor will remain in the room to provide advice as required.
15. The meeting will be reconvened for the decision to be announced.
16. Chairman to advise the applicant of the appeals procedure if their application is refused.

Part 4 – Licensing & Safety Sub-Committee Procedure Rules

ANNEX B – MATTERS OF PROCEDURE FOR LICENSING OFFICERS

1. The officer deciding a matter will be making a quasi-judicial decision. There is a right of appeal to a court. The officer making the decision will carry out the delegated power in consultation with a legal advisor and any other officer where he/she considers it appropriate.
2. The officer must of course act fairly. Before any decision is reached the licence holder must be informed of the case against him or her and be given an opportunity of making representations.
3. It is open to a local authority to allow only written representations and this is how the officer dealing with the matter will deal with each case (unless the officer considers the matter warrants an oral hearing). The officer will write to the relevant licence holder stating the case. The letter will set out all the relevant information and give to the licence holder a reasonable time (usually two weeks) to reply in writing with his or her representations.
4. Following receipt of the licence holder's representations, or upon the expiration of the time limit for replies, the officer (unless she seeks further information as a result of the representation) shall make a decision taking all relevant matters into account.
5. Where the officer considers it necessary or appropriate, a case will be referred to the Licensing and Safety Sub Committee for consideration and decision.

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SHOPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 8 September 2014

**2.00 - 3.35 pm in the Ludlow Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND**

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

Present

Councillors Joyce Barrow, Peter Cherrington and Roger Hughes

13 Election of Chairman

RESOLVED:

That Councillor Peter Cherrington be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

14 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

15 Application for a Review of a Premises Licence - Drink Stop, Unit 3 Brownlow Street Parade, Whitchurch

Consideration was given to an application for a Review of a Premises Licence in respect of Drinks Stop, Unit 3 Brownlow Street Parade, Brownlow Street, Whitchurch.

Ms. Louise Prince (Solicitor – Shropshire Council), Mr A Tiwana (The Licence Holder); The Licence Holder's Solicitor; Mr G. Tunnadine (Applicant - Shropshire Council's Trading Standards Team Manager – Investigations); and Mr S. Ditton (Shropshire Council's Public Protection Officer - Specialist); were present.

At the request of the Licence Holder, additional information was circulated with the agreement of those present.

The Trading Standards Team Manager – Investigations addressed the Sub-Committee, advising that he had made the application for a review of the Premises Licence of Drinks Stop on the grounds that the current operation of the premises undermined the Protection of Children from Harm Licensing Objective. The circumstances that led to the application for a review of the premises licence were summarised.

In response to questions from the Licensing Holders Legal Representative and Members of the Sub-Committee the Team Manager – Investigations confirmed that;

- There were no entries in the refusals log prior to the date of the first failed test purchase; and
- CCTV images were provided upon request following the second failed test purchase, however the footage consisted of adhoc images and was not useful to Officers.

The Public Protection Officer (Specialist) addressed the Sub-Committee confirming that the application for the review had been accepted as a valid application and outlining the options for consideration by the Sub-Committee.

The Licence Holder addressed the Sub-Committee, describing the circumstances that led to two failed test purchases. The Premises, Drinks Stop was a specialist off licence, selling fine wines and real ale. Young people were not encouraged to enter the premises and the premises closed at 8.00 p.m. so that it did not attract young revellers. He was an experienced business man and ran other premises within the West Midlands, he only employed experienced staff who were local to the area.

In response to questions from the Applicant (Trading Standards) and Members of the Sub-Committee, the Licence Holder confirmed that;

- The failed test purchase on 18th February was a result of human error, the Licence Holder confirmed that the shop was busy at that time and his concentration lapsed;
- A Challenge Policy was in operation before the first failed test purchase, however the Challenges were not being documented;
- The second failed test purchase was a result of mistaken identity, the Licence Holder believed the purchaser had previously produced identification;
- A Challenge 25 Policy had been in operation since the store had opened; and
- He and his employees relied on memory when serving customers.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application, in private, at 15:10 and reconvened at 15:34 to announce their decision.

RESOLVED:

1. That the following Conditions (recommended by Trading Standards) be added to the Premises Licence;

- i) The Designated Premises Supervisor to undertake training to include a BIIAB or an equivalent recognised licensee course. Copies of all training certificates to be made available, on request to a responsible authority.
- ii) Implementation of refresher training on a 6 monthly basis for all staff with comprehensive records to be maintained and made available on request, to a responsible authority.
- iii) To employ the services of an external agency to test how robust the organisation is at enforcing the 'Challenge 25 Policy'. This is to consist of 4 anonymous test purchase style visits over a 12 month period (October 2014 to September 2015) with at least two visits in the first six months and two visits in the last six months. All results to be submitted to Shropshire Licensing on receipt. This to be repeated year on year until a 100% success rate has been achieved during a 12 month period.

The parties were advised that the decision would be confirmed in writing within 7 days of the date of the hearing. Every party had the right of appeal against this decision to the Magistrates Court within 21 days of being notified of the decision.

Reason:

The Sub-Committee had read all of the submitted documents and considered all the representations made by the parties, at the hearing.

The Sub-Committee had also taken into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council's Licensing Policy. The Sub-Committee were concerned that the Licensing Holder admitted to relying on memory when serving customers and this was not reliable. The Sub-Committee warned the Licence Holder that if he were to appear before the Sub-Committee again, these matters would be taken in to consideration.

The Sub-Committee considered, in order to enforce the licensing objective of protection of children from harm, the additional conditions to be appropriate and proportionate, having considered the serious nature of the breaches of the licensing conditions.

Signed (Chairman)

Date:

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SHOPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 21 October 2014

**10.00 - 11.08 am in the Ludlow Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND**

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

Present

Councillors Vernon Bushell, Peter Cherrington and Andrew Davies

16 Election of Chairman

RESOLVED:

That Councillor Peter Cherrington be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

17 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

18 Application for a Review of a Premises Licence - Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire

Consideration was given to an application for a Review of a Premises Licence in respect of Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY.

Ms. Louise Prince (Solicitor – Shropshire Council), Mr A. Rashid (The Licence Holder); Mr G. Tunnadine (Applicant - Shropshire Council's Trading Standards Team Manager – Investigations); and Mr S. Ditton (Shropshire Council's Public Protection Officer - Specialist); were present.

Mr G Tunnadine (Applicant – Trading Standards) addressed the Sub-Committee, stating that the application for a review of the Premises Licence was made on the grounds that operations at the premises undermined the Prevention of Crime and Disorder and Protection of Children from Harm Licensing Objectives. Illicit tobacco products had been discovered at the premises on three separate occasions and there had been a complaint of sale of tobacco to a fifteen year old at the premises. The Premises Licence Holder at the time was convicted and following this an application to change the Premises Licence Holder and DPS was submitted. The new Premises Licence Holder and owner of the Premises was Mr Rashid.

In response to questions from Members of the Sub-Committee the Team Manager – Investigations confirmed that;

- There was nothing to suggest that Mr Rashid had been involved in the illegal activity at the premises, he was present at the premises on 29th June as an employee only;
- He was not satisfied that Mr Rashid was the new owner of the Premises; and
- During his interview Mr Rashid had given Licensing Officers an address which when checked further turned out to be false.

The Public Protection Officer (Specialist) addressed the Sub-Committee confirming that the application for the review had been accepted as a valid application and outlining the options for consideration by the Sub-Committee.

The Licence Holder addressed the Sub-Committee explaining that he wanted to improve the running of the business.

In response to questions from the Applicant (Trading Standards) and Members of the Sub-Committee, the Licence Holder confirmed that;

- He had no experience of running a business;
- He was present at the premises on 23rd June but he was not an employee he just came in for two to three days per week to observe how the business operated;
- He had no relationship to Miss Pole;
- He did not know that illicit tobacco products were being sold from the premises at the time;
- He was aware that the Licence was subject to a Review when he took it over;
- He was the sole owner of the business;
- He was unable to present any evidence of the financial transaction for the sale of the business/rental agreement or any legal documentation to prove ownership of the business; and
- He was unable to explain why a person unknown to him was paying business rates at the premises.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application, in private, at 10:49 and reconvened at 11:06 to announce their decision.

RESOLVED:

That the Premises Licence for Magdalenka, 10-12 Shropshire Street, Market Drayton, Shropshire, TF9 3BY be revoked with immediate effect.

Reason:

The Sub-Committee had read all of the submitted documents and considered all the representations made by the parties, at the hearing.

The Sub-Committee felt that there had essentially been no change to the management of the business. The former Designated Premises Supervisor / Premises Licence holder of the premises had been found by the Courts to have been engaging in criminal activity. The new Designated Premises Supervisor / Premises Licence Holder had presented no evidence to support his case that the business had been transferred to him and confirmed that the previous Premises Licence holder / Designated Premises Supervisor was still involved in the management of the business. In the circumstances the Sub-Committee did not consider that any conditions could be added to the premises licence that would sufficiently promote the licensing objectives in particular the Prevention of Crime and Disorder and the Protection of Children from Harm.

The Sub-Committee considered that the decision was in accordance with the guidance issued by the Home Office and with the Licensing Objectives of the Promotion of Crime and Disorder and the Protection of Children from Harm.

It was noted that the Sub-Committee's decision would be confirmed in writing and that all parties had the right of appeal.

Signed (Chairman)

Date:

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SHOPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 12 November 2014

**2.00 - 3.38 pm in the Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND**

Responsible Officer: Shelley Davies

Email: shelley.davies@shropshire.gov.uk Tel: 01743 252719

Present

Councillors Joyce Barrow, Peter Cherrington and Roger Hughes

19 Election of Chairman

RESOLVED:

That Councillor Peter Cherrington be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

20 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

21 Application for a Review of a Premises Licence - Shropshire and West Mid Showground, Berwick Road, Shrewsbury.

Consideration was given to an application for a Review of a Premises Licence in respect of Shropshire and West Mid Showground, Berwick Road, Shrewsbury.

Ms. Louise Prince (Solicitor – Shropshire Council); Mr Lance Jackson (Showground Chairman); Mr Ian Bebbington (Showground Director); Mr M Key (Applicant – Environmental Health, Shropshire Council); Mr S. Ditton (Public Protection Officer (Specialist) - Shropshire Council); Mrs D Fox (Interested Party); Mr K Williams (Interested Party); Mrs M Clemmey (Interested Party); Mr I Lacey (Interested Party); and PC K Roberts (West Mercia Police) were present.

Mr M Key (Applicant – Environmental Health) addressed the Sub-Committee, stating that the application for a review of the Premises Licence was made on the grounds that operations at the premises undermined the Prevention of Public Nuisance Licensing Objective. He detailed the background to the application and advised that following noise nuisance issues at the site a noise abatement notice was served on 21 May 2013. It was reported that the Showground Committee had been working with Shropshire Council to resolve the issues and the conditions had largely be adhered to, however, the Shrewsbury Fields Forever Music Festival continued to draw considerable complaints. Mr Key explained that the primary issue with the

event was the lack of control at the site, as the organiser was not the Licence Holder and therefore he was recommending that large live music events be excluded from the premises licence.

In response to questions from Members of the Sub-Committee Mr M Key confirmed that;

- Outdoor music should cease at 23:00;
- There was an enforcement process for the Council to use if the Licence Holders did not comply with the conditions of their licence, but the Council would try to find a suitable solution before using this option;
- The trigger to exclude a music event under the premises licence would be 1000+ people, but small music events would still be picked up by the Council;
- The PA System was not included for this application but was covered by the abatement notice;
- The Council preferred to work with event organisers to resolve issues rather than using enforcements powers; and
- The number of people attending events would have an effect on noise levels.

The Public Protection Officer (Specialist) addressed the Sub-Committee confirming that the application for the review had been accepted as a valid application and that representations had been received during the consultation period.

PC K Roberts (West Mercia Police) addressed the Sub-Committee confirming that representations had been submitted by West Mercia Police. He explained that the Police required clarity in relation to security issues and the operation of bars during events held at the Showground.

Mrs Fox (Interested Party) addressed the Sub-Committee explaining that she supported the recommendations outlined by Mr Key and requested that the resident meetings were kept as a condition of the licence. Mrs Fox added that there were events held at the Showground on approximately 30 weekends of the year and Mr Key had worked hard to reduce the problems for residents but issues still arose.

Mr Williams (Interested Party) addressed the Sub-Committee explaining that he supported the application to review the licence and stated that the Showground committee had no control over events and did not reply to residents' complaints.

Mrs M Clemmey (Interested Party) addressed the Sub-Committee explaining that she supported the application to review the licence. She questioned why sanctions had not been applied in the past and suggested that a timescale for the Licence Holder to comply with conditions and sanctions applied if the conditions were breached in order for the new licence to be effective.

Mr I Bebbington (Showground Director) addressed the Sub-Committee. He explained that in order to pay off a historical debt, events held at the Showground had been increased. Mr Bebbington confirmed that the Shrewsbury Fields Forever music festival had caused problems in the past but advised that the Showground Committee had allowed the event to go ahead as they wanted to provide events for

all age groups. He added that the Showground Committee would be agreeable for these type of events to have their own licence.

In response to questions from the Applicant and Members of the Sub-Committee, Mr Bebbington confirmed that;

- He would need to discuss the revised conditions with trustees, but in principle agreed with the recommendations;
- The trustees had concerns in relation to Shrewsbury Fields Forever Festival but wanted to provide events for younger people;
- The Festival had not yet made application to hire showground for 2015;
- The Committee was a Charity and needed to hire out the Showground for financial reasons;
- The PA System was used at 2 events a year, otherwise organisers use their own system;
- The weather can affect noise issues;
- The Showground Committee employed a company to 'man' the phones during events;
- The two large music events do run close together and it was possible that they could try to space these out; and
- The Committee was currently drawing up a 5 year plan which would include improving PA system.

The meeting was adjourned at 15:15 to allow all parties the opportunity to read the revised conditions suggested by Mr Key.

The meeting reconvened at 15:25.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application, in private, at 15:28 and reconvened at 15:36 to announce their decision.

RESOLVED:

That Part 1 of the licence and the licence summary be amended in sections E and F of the times for licensable activities to restrict performance of live music and playing of recorded music outdoors from 10.00 hour to 23.00 hours.

That the conditions attached to Annex 2 and Annex 3 of the licence be replaced with a new Annex 2 – 'Conditions attached after a hearing by the Licensing Authority' to incorporate the following conditions:-

- 1. Events involving Regulated Entertainment where more than 500 persons will be in attendance at any one time (excluding those events taking place within the Members Pavilion and Presidents Pavilion).**

The licence holder shall submit an operating plan to the Licensing Authority at least 21 days (or any shorter period where agreed by the Licensing Authority) before the date of the event for the written approval of the Licensing Authority. The operating plan shall detail the methods to be adopted to meet the four licensing objectives [namely the prevention of crime & disorder, public safety, prevention of public nuisance and the protection of children from harm] and to meet the objectives set out in the Shropshire Council Licensing Policy. The operating plan shall include details of traffic management and parking, security management, noise minimisation, site access and egress, first aid and medical support, electrical safety, lighting and power supply, details of any camping arrangements and a copy of the health & safety plan for the event. The event shall be managed and operated to ensure that all of the controls detailed in the operating plan and any conditions attached to the written approval issued by the Licensing Authority are complied with at all times during the event.

2. Major events where more than 5000 persons will be in attendance at any one time.

The licence holder shall submit an operating plan to the Licensing Authority at least 42 days (or any shorter period where agreed by the Licensing Authority) before the date of the event for the written approval of the Licensing Authority. The operating plan shall detail the methods to be adopted to meet the four licensing objectives [namely the prevention of crime & disorder, public safety, prevention of public nuisance and the protection of children from harm] and to meet the objectives set out in the Shropshire Council Licensing Policy. The operating plan shall include details of traffic management and parking, security management, noise minimisation, site access and egress, first aid and medical support, electrical safety, lighting and power supply, details of any camping arrangements and a copy of the health & safety plan for the event. The event shall be managed and operated to ensure that all of the controls detailed in the operating plan and any conditions attached to the written approval issued by the Licensing Authority are complied with at all times during the event.

3. No event shall be permitted involving regulated entertainment where there is a music-based theme and an average daily attendance in excess of 1000 persons.
4. Performance of live and recorded music outdoors shall cease at 23.00.
5. Any reference in this licence to outdoors includes any marquee, tent, vehicle or temporary structure.
6. No event shall be permitted involving Regulated Entertainment where more than 500 persons will be in attendance at any one time event as detailed in 1 and 2 above without the written approval of the Licensing Authority.
7. There shall be external lighting sufficient for maintaining public safety and preventing crime and disorder. There shall be secure car parking facilities. The lighting shall be located to ensure that it does not cause a nuisance to local residents.

8. Unless otherwise approved in writing by the Licensing Authority each entry gate shall be controlled by 2 SIA registered personnel and there shall be an additional 1 SIA registered person per 500 attendees for events where more than 5000 persons will be in attendance at any one time. Additional specific security arrangements shall be addressed in the operating plans referred to in 1 and 2 above.
9. Noise levels shall be monitored in liaison with Shropshire Council Officials.
10. There shall be a contingency plan in place which covers public safety which is regularly reviewed and approved by the Shropshire Fire & Rescue Service and the West Midlands Ambulance Service.
11. A Health & Safety Policy shall be in place which is available for inspection by the Licensing Authority (and submitted to the Licensing Authority).
12. Events at the premises shall be monitored by the licence holder.
13. Noise from any regulated entertainment taking place in the Members' Pavilion and Presidents Pavilion shall be controlled to ensure that no nuisance is caused to local residents.
14. All windows and doors shall be kept closed after 21.00 hours when regulated entertainment is taking place in the Members' Pavilion and Presidents Pavilion other than for access to and egress from the building.
15. During periods of regulated entertainment the public address system at the Showground shall not be operated before 0900 hours or after 1900 hours (public safety announcements excepted).
16. Noise limiters shall be installed and operated at all times there is regulated entertainment taking place in the Members' Pavilion and Presidents Pavilion. They shall be set by an officer appointed by Shropshire Council so as to ensure that there is no noise nuisance caused to local residents.
17. The licence holder or a nominated representative shall be available for contact by mobile phone during all events and shall be on site during major events. The Licensing Authority and any other resident who has advised the licence holder that he/she wishes to be informed of the numbers shall be informed of the contact number.
18. The licence holder shall establish a residents forum which should meet at least 4 times per annum to discuss matters relevant to the licence and activities on the Showground. Any invited to do so.
19. With the exception of events and any other licensed activities for which there is camping on site, the site shall be cleared of members of the public/event attendees by 0130hours
20. There shall be no adult entertainment of any kind.

Reason:

The Sub-Committee had read all of the submitted documents and considered all the representations made by the parties, at the hearing.

The Sub-Committee had also taken into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council's Licensing Policy.

The Sub-Committee were mindful of the fact that the Licence Holder had voiced their support in relation to the revised conditions.

The Sub-Committee considered the revised conditions to be appropriate and proportionate in order to enforce the licensing objective of prevention of public nuisance.

It was noted that the Sub-Committee's decision would be confirmed in writing and that all parties had the right of appeal.

Signed (Chairman)

Date:

SHOPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 16 December 2014
9.30 am - 12.59 pm in the Shrewsbury Room, Shirehall, Abbey Foregate,
Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Shelley Davies
Email: shelley.davies@shropshire.gov.uk Tel: 01743 252719

Present

Councillors Peter Cherrington, Andrew Davies and Keith Roberts

22 Election of Chairman

RESOLVED:

That Councillor Andrew Davies be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

23 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

24 Application for an Expedited Review of a Premises Licence - The Blue Boar, 52 Mill Street, Ludlow.

Consideration was given to an application for an Expedited Review of a Premises Licence in respect of The Blue Boar, 52 Mill Street, Ludlow.

Ms. Louise Prince (Solicitor – Shropshire Council); Mr A. Morgan (Licence Holder); Mr M. Phipps (Licence Holder's Representative); Mr S. Ditton (Public Protection Officer (Specialist) - Shropshire Council); Ms G. Wilding (Ludlow Town Council); Mr K. Porkett (Interested Party); Dr. J. Cartwright (Interested Party); Mr M. Woodman (Interested Party); Mr T. Evans (Interested Party); Mr R. Pote (Interested Party – Chairman of Ludlow Town Centre Residents Association); Mr T. Mahalski (Interested Party); Sgt A. Woolley (Applicant - West Mercia Police) and R. Thompson (West Mercia Police) were present.

Sgt. A. Woolley (Applicant – West Mercia Police) addressed the Sub-Committee, stating that the application for an expedited review of the Premises Licence was made on the grounds that operations at the premises undermined the Prevention of Crime and Disorder Licensing Objective. Sgt. A. Woolley detailed the background to the application for the expedited review of the licence, listing the recent incidents that had occurred at the premises.

In response to questions from Members of the Sub-Committee Sgt. A. Woolley confirmed that;

- The Designated Premises Supervisor had failed to adhere to the Licensing Objectives and a culture had developed at the premises but with the support from Punch Taverns this could be turned around;
- 2 SIA Door Supervisors were required to enforce the conditions of the Licence; and
- Measures were needed to avoid a reoccurrence of the problems already experienced.

The Public Protection Officer (Specialist) addressed the Sub-Committee confirming that the application for an expedited review had been accepted as a valid application and that representations had been received during the consultation period.

In response to questions from Members of the Sub-Committee and Interested Parties the Public Protection Officer (Specialist) confirmed that;

- The Council had not been inundated with complaints but these might have been directed to the Police if the incidents had occurred out of normal hours; and
- The Council did not receive a copy of complaints made to the Police.

Mr R. Pote (Chairman of the Ludlow Town Centre Residents Association) addressed the Sub-Committee explaining that over recent years and especially the last 18 months there had been a number of complaints made to the Residents Association in relation to the Blue Boar and listed 7 requests that the Association would like to be introduced as a result of the review.

Mr T Mahalski (Interested Party) addressed the Sub-Committee explaining that he supported the review of the Licence and read out a letter he had wrote to Punch Taverns. (A copy of the letter was shown to the Licence Holder's representative).

Mr T Evans (Interested Party) addressed the Sub-Committee explaining that he supported the statement by the Residents Association and detailed some of the incidents he had witnessed.

Mr M Woodman (Interested Party) addressed the Sub-Committee and gave his personal account of what it was like to live near the Blue Boar, he agreed that there needed to be a change in the culture of the premises.

Dr J Cartwright (Interested Party) addressed the Sub-Committee explaining that the premises was not managed properly and gave details of the incidents that had occurred at the Blue Boar.

Ms. G Wilding (Ludlow Town Council) addressed the Sub-Committee explaining that the Town Council had listened to representations of the Residents Association in

relation to the issues at the Blue Boar and as a result had written to all Public Houses not in the Pubwatch scheme. She added that the Markets Officer for the Town Council had reported glass and vomit in the street in Mill Street.

Mr M Phipps (Licence Holders Representative) addressed the Sub-Committee. He explained that Punch Taverns took their responsibilities seriously and read out a number of matters they would be willing to change in relation to the future management of the Blue Boar. Mr Phipps responded to the 7 requests made by the Residents Association and the recommendations made by the Police.

In response to questions from the Applicant, The Public Protection Officer (Specialist), Interested Parties and Members of the Sub-Committee, Mr Phipps confirmed that;

- The Designated Premises Supervisor would be present on the premises Friday/Saturdays and other key times;
- Punch Taverns wanted to show that they would do all they could to turn the Premises around;
- There would be a final sweep through at the end of the day but would not look to recording this information;
- Punch Taverns would monitor if the Designated Premises Supervisor was on site by on-going dialogue with the tenant;
- Punch Taverns had offered to remove the special hours on Bank Holidays and accept the amended hours for the week days but did not want to reduce hours on Friday and Saturdays;
- Punch Taverns had offered to change the opening hours but the hours for sale of alcohol would remain the same;
- Punch Taverns do not believe that door supervisors would ensure the changes required at the premises;
- Punch Taverns were keen to see the premises engaged in the Pubwatch scheme but would not want this to be a condition of the licence; and
- Punch Taverns would ensure that staff training was undertaken.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application, in private, at 11:47 and reconvened at 12:54 to announce their decision.

RESOLVED:

1. That the decision made by the Sub-Committee held on 26th November 2014 to remove the Designated Premises Supervisor stands;
2. That the Premises Licence is suspended for a period of 1 month effective from receipt of the decision notice;

3. That for a period of 2 months following the suspension of the licence the opening hours of the premises and the supply of alcohol are as follows:

Monday – Thursday: Supply of Alcohol –11:00 – 23:00
Opening hours –11:00 – 23:30

Friday – Saturday: Supply of Alcohol –11:00 – 23:00
Opening hours – 11:00 – 23:30

Sunday Supply of Alcohol –12:00 – 22:30
Opening hours - 12:00 – 23:00

Following this 2 month period the opening hours and supply of alcohol will be as follows:

Monday – Thursday: Supply of Alcohol –11:00 – 23:00
Opening hours –11:00 – 23:30

Friday – Saturday: Supply of Alcohol –11:00 – 23:30
Opening hours – 11:00 – 00:00

Sunday Supply of Alcohol –12:00 – 22:30
Opening hours - 12:00 – 23:00

Non-standard opening times will remain as currently stated on the licence i.e. Bank Holidays.

Timings for all other licensable activities to be in line with the above stated times.

4. For a period of 1 month following the suspension of the licence, 2 SIA Door Staff will be employed at the premises on Friday and Saturday from 17:30 until the termination of licensable activities.
5. For a period of 2 months following the suspension of the licence, the Designated Premises Supervisor is to be on the premises on Fridays and Saturdays from 17:30 onwards and on Sundays between 14:00 – 18:00. Following this 2 month period a Personal Licence Holder is required to be on the premises at all opening times;
6. Contact details of the Premises Licence Holder are to be affixed to the exterior of the premises;
7. Meetings are to be called every 6 months to involve the local residents, the Town Council and the Designated Premises Supervisor;
8. Noise or vibration shall not emanate from the premises so as to cause a nuisance.
9. No bottling out to take place after 22:00 until 08:00;

- 10 The following conditions proposed by Police to be added to the premises licence:

Under age sales - Protection of Children from Harm

- All staff engaged in the sale of alcohol to be trained in Responsible Alcohol Retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Trading Standards. This training to be delivered PRIOR to undertaking any alcohol sales. (All existing staff shall be trained within one month of the date that this condition appears on this licence. All new staff shall be trained within one month of taking up employment. All staff shall be re-trained twelve monthly thereafter. Training records shall be kept on the premises which shall show the name of the training course attended, the date of the training, the name of the person undertaking the training and shall be produced to the police, an authorised Herefordshire Trading Standards Officer or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

- All existing staff shall be trained within one month of the date this condition appears on this licence. All new staff shall be trained within one month of taking up employment. All staff shall be re-trained sixth monthly thereafter for the first 2 years and then once every twelve months thereafter. The training shall include:
 - Drugs Awareness
 - Conflict resolution
 - Selling to under age person
 - Selling to drunks

- Training records shall be kept on the premises which shall show the area of training covered, the date of the training, and the name of the person and shall be signed by the trainer and trainee. This shall be produced to the police, an authorised Shropshire Trading Standards Officer or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

- The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), an authorised Shropshire Trading Standards Officer or the police. Prominent, clear and legible signage (in not less than 32 fonts bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any serving area advertising the scheme operated.

Prevention of Crime and Disorder

- The DPS will employ SIA door staff at other times when risk assessment dictates door supervision to be necessary.

- The Premises Licence Holder or DPS or a person nominated by them in writing for the purpose, shall maintain a register of door supervisors which shall be

kept on the premises showing the names and addresses of the door supervisors, their badge numbers and shall be signed by the door supervisors as they commence and conclude duty. The register shall be made available on demand for inspection by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), or the Police or an authorised officer of the SIA.

- CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition. Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs. Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand. The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or USB to the Police, an authorised Shropshire Trading Standards Officer or the Local Authority on demand. The Recording equipment and USB/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded. In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number 101 immediately.

Prevention of Public Nuisance/Prevention of Crime and Disorder

- No regulated entertainment will take place in external areas at any time.
- All windows will be kept shut after 21:00. Doors will be closed when music is being played.
- The Premises Licence Holder or DPS or the responsible person must immediately comply with any request to adjust noise levels/ frequency spectra made by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police.
- Where regulated entertainment is provided, the premises licence holder or DPS or a responsible person nominated by either in writing will monitor noise emanating from the premises at least every 60 minutes to ensure that no noise nuisance is being caused and where there is shall cause the noise to be reduced. A written record shall be kept on the premises detailing the name of the person carrying out the monitoring, the monitoring locations, the date and time and the result obtained. Such record shall be made available on demand of an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or police.

- Loudspeakers shall not be located in the entrance lobby or external to any part of the premises. Loudspeakers will not be mounted on any Party wall. Loudspeakers will not be used in any rooms where the walls or roof are not constructed to standard living construction. Loudspeakers will not be used in rooms where there is inadequate insulation or substantial roof covering.
- Prominent, clear and legible signage (in not less than 32 font bold) shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- The courtyard/garden shall not be used for licensable activities after 22:30. After 22:30 the area will not be used for any purpose with the exception as a 'smoking area' when it will be monitored by the premises licence holder/DPS who will ensure that customers will not loiter or congregate in the area.
- The premises licence holder will have in place a dispersal policy to ensure that they effectively move customers away from the vicinity of the premises. The policy shall be made available on demand for inspection by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), or the Police.

Further conditions.

- The external areas will be cleaned at close of day to ensure litter; cigarette ends and any waste are removed. Refuse bins and sacks will not obstruct the public right of way.

Reason:

The Sub-Committee had read all of the submitted documents and considered all the representations made by the parties, at the hearing.

The Sub-Committee had particular regard to historical issues which had been raised in connection with the premises and recent incidents of crime and disorder that had occurred at the premises. They also had regard to the breaches of the licensing conditions together with the effect the apparent lack of good management at the premises has had on local residents.

The Sub-Committee had also taken into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council's Licensing Policy.

It was noted and appreciated by the Sub-Committee that the premises licence holder and the police were able to reach agreement in respect of a number of the conditions proposed.

The Sub-Committee considered that the suspension of the licence and the additional conditions were appropriate and proportionate, in order to promote the licensing objectives.

Signed

(Chairman)

.....

Date:

.....

SHOPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 2 February 2015

**11.00 - 11.47 am in the Ludlow Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND**

Responsible Officer: Emily Marshall
Email: emily.marshall@shropshire.gov.uk Tel: 01743 252726

Present

Councillors Joyce Barrow, Andrew Davies and Vivienne Parry

25 Election of Chairman

RESOLVED:

That Councillor Andrew Davies be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

26 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

27 Application for a Review of a Premises Licence - Albrighton Post Office and Convenience Store, 31-33 Station Road, Albrighton

Consideration was given to an application for a Review of a Premises Licence in respect of the Albrighton Post Office and Convenience Store, 31-33 Station Road, Albrighton, WV7 3QG.

Ms. Louise Prince (Solicitor – Shropshire Council); Mr G Tunnadine (Applicant – Trading Standards, Shropshire Council) and Mr S. Ditton (Public Protection Officer (Specialist) - Shropshire Council) were present. The Licensing Holder was not in attendance and the Committee agreed that the application should be considered in their absence as the required notifications had been sent.

Mr Grant Tunnadine (Applicant – Trading Standards) addressed the Sub-Committee, stating that the application for a review of the Premises Licence was made on the grounds that operations at the premises undermined the Protection of Children from Harm Licensing Objective. He described the background to the application and the developments that had taken place since the application had been made. In response to questions, the applicant confirmed that he would like to see additional conditions being added to the Licence. A list of additional Conditions was circulated to Members.

The Public Protection Officer (Specialist) addressed the Sub-Committee confirming that the application for the review had been accepted as a valid application and that representations had been received during the consultation period. The Public Protection Officer (Specialist) provided details of the correspondence that had been sent to the Licence Holder.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application in private, at 11:31 and reconvened at 11:47 to announce their decision.

RESOLVED:

1. That the Premises Licence be suspended for 28 consecutive days commencing 2nd March 2015.

That the following Conditions (recommended by Trading Standards) be added to the Premises Licence;

2. Mr Anwar and any other person working within the store to undertake a BIIAB or an equivalent recognised licensee course within 3 calendar months of 2nd March 2015 and prior to effecting alcohol sales. Copies of the training certificates to be retained and made available, on request, to a 'responsible' authority.
3. Any new employees to undertake a BIIAB or an equivalent recognised licensee course within 3 calendar months of commencement of employment. Copies of the training certificates to be retained and made available, on request, to a 'responsible' authority.
4. The full implementation, within 28 days of 2nd March 2015, of a Challenge 25 policy utilising approved photo ID namely a passport, 'PASS accredited ID' or similar. In addition appropriate signage of the challenge 25 policy to be displayed within the premise advising of this policy and an appropriate till prompt reflecting this policy.
5. Implement, within 28 days of 2nd March 2015, a 'Refusals Log/Register' providing details of all refused sales with documented monthly reviews by management to include all actions initiated as a result of these reviews. This log and any documented reviews to be made available, on request, to a Responsible Authority.
6. All staff to receive refresher training on underage sales matters undertaken on a 6 monthly basis. The refresher training to include, as a minimum, the types of age restricted products on sale in the shop, information on the law concerning these age restricted products/sales, the internal operating practices in operation, the recording of refusals, store signage, challenge 25 policy and the acceptable forms of ID to be relied upon. Comprehensive records to be maintained and made available, on request, to a Responsible Authority.
7. To employ the services of an external agency to test how robust the organisation is at enforcing the 'challenge 25 policy'. This to consist of 4 anonymous test purchase

style visits undertaken over a 12 month period commencing April 2015 to March 2016, with at least two visits in the first six months and two visits in last 6 months. All results to be submitted to Shropshire Councils Licensing Team on receipt. This to be repeated year on year until a 100% success rate has been achieved during a 12 month period.

The parties were advised that the decision would be confirmed in writing within 7 days of the date of the hearing. Every party had the right of appeal against this decision to the Magistrates Court within 21 days of being notified of the decision.

Reason:

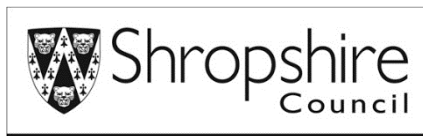
The Sub-Committee had read all of the submitted documents and considered all the representations made by the parties, at the hearing.

The Sub-Committee had also taken into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council’s Licensing Policy. The Sub-Committee considered that the nature of the offence and the further incidents of underage sales were so serious that in order to promote the licencing objective of protection of children from harm, and to encourage the better management of the premises the measures and additional conditions were appropriate and proportionate.

Signed (Chairman)

Date:

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<u>Committee and Date</u>	<u>Item</u>
Strategic Licensing Committee	9
18 th March 2015	<u>Public</u>

EXERCISE OF DELEGATED POWERS

Responsible Officer Mandy Beever, Team Manager Operational Community Safety
Email: Mandy.Beever@shropshire.gov.uk Tel: 01743 251702

1. Summary

- 1.1 Licensing officers have been given delegated powers to issue or amend licences, providing no objections have been received in the case of licences issued under the Licensing Act or with regard to general and public health licences.
- 1.2 Further, procedures have been approved for officers with direct line management responsibility for Licensing to use their delegated powers to, amend, revoke or refuse driver and vehicle licences.
- 1.3 This report gives details of the licences issued, variations that have been made and the enforcement action undertaken between 15th November 2014 to the 28th February 2015 and a summary of applications considered by committee.

2. Recommendations

- 2.1 That members note the position as set out in the report.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 This is an information report giving Members information on the work undertaken by the Licensing Team and Committee and therefore a risk assessment and opportunities appraisal has not been carried out.

4. Financial Implications

- 4.1 There are no financial implications associated with this report.

5. Background

- 5.1 Information regarding the issue of licences by Officers under delegated powers is reported to Committee on a quarterly basis.
- 5.2 Officers use their delegated powers in a number of situations, including where:
- a) A licence has been requested and there have been no objections raised by interested parties or Responsible Authorities.
 - b) The application has met the Council's policy criteria for accepting an application.
 - c) There are vehicle applications for new or renewal licenses and revocation of licences where the operating criteria as set by the Hackney Carriage and Private Hire Licence policy or Out of Area policy is not met and the officer does not consider there to be any special reason for an exception to be made.
 - d) There are driver's applications for new or renewal licences or revocation of licences where the criteria as set by the Hackney Carriage and Private Hire Licence policy is not met and the officer does not consider there to be any special reason for an exception to be made.
- 5.3 The table in Appendix A shows the complete range of licences issued by the licensing team during the period of the 15th November 2014 to the 28th February 2015. During this period the total number of licences processed was 1472. In addition, the table includes the total number of surrendered Hackney Carriage and Private Hire Vehicle licences during the same period.
- 5.4 The Table in Appendix B shows that there were no Licensing and Safety Sub-Committee Meetings held between the 15th November 2014 and the 28th February 2015.
- 5.5 The Licensing Act activities at Sub Committee have also been given in Appendix C.
- 5.6 There were no Taxi Operator Fleet Checks undertaken between the 15th November 2014 and the 28th February 2015.
- 5.7 Following the decision at the Strategic Licensing Committee on 21st March 2012, vehicles and driver applications are now being considered by Officers using delegated powers. Evidence is obtained by the officers through interview with the applicants, to ascertain where they intend to operate to a material extent and to also obtain agreement that they will keep records if a licence is granted. In relation to Driver Applications where the decision is 'minded to refuse', a letter is sent to the applicant giving them an opportunity to make written representations stating any exceptional circumstances that they wish to be taken into consideration. This is in line with the rules of natural justice which state that there is a right to be heard before a decision is made.

5.8 The number of licences and actions determined by this process is as follows:-

Driver	Granted	Granted and/or warning letter	Letter Council is 'Minded to refuse' or 'Suspend'	Refused /Revoked	To refer to Committee
New	5	10		4	
Renewal	1	4	2	2	
Conduct				3	
Vehicle	Granted	Granted subject to keeping records	Letter sent stating Council is 'Minded to refuse'	Refused	To refer to Committee
New					
Renewal					
Condition				2	

6. Conclusion

6.1 During the last quarter the work load for the Licensing team continues to be high the team have been working hard to maintain the flow of applications and respond to additional queries in regard to the revision of the Hackney Carriage and Private Hire Licensing Policy 2015 to 2019.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)

Councillor Steve Charmley

Local Member

Cover all areas of Shropshire

Appendices

A – Licences issued 15th November 2014 to the 28th February 2015.

B – Number of hackney Carriage / Private Hire Vehicle applications considered at the Licensing and Safety Sub-Committees from 15th November 2014 to the 28th February 2015.

C – Hearings held for licensed premises at the Licensing Act Sub-Committees from 15th November 2014 to the 28th February 2015.

APPENDIX A

Licences issued – 15th November 2014 to the 28th February 2015.

General Licensing	Total
Acupuncture Personal	1
Acupuncture Premises	3
Animal Boarding	63
Animal Breeding	11
Caravan Sites	2
Cosmetic Piercing Personal	5
Cosmetic Piercing Premises	1
House to House Collection	2
Pet Shops	16
Riding Establishments	3
Scrap Metal Site	1
Scrap Metal Collector	1
Sex Shop	1
Street Collection	82
Street Trading Consent	12
Tattooing Personal	2
Tattooing Premises	1
Electrolysis	2
Dangerous Wild Animals	1
Zoo	0
Performing Animals	0
Total Applications General	210

Taxi Licensing (Surrendered)	Total
Private Hire Vehicles	19
Hackney Carriages	3
Total Surrendered Vehicles	22

Taxi Licensing		Total
Hackney Carriage	N	6
Hackney Carriage	R	41
Joint HC/PH Driver	N	84
Joint HC/PH Driver	R	280
Private Hire Operator	N	2
Private Hire Operator	R	16
Private Hire Vehicle	N	95
Private Hire Vehicle	R	163
Hackney Vehicle Transfer		19
Private Hire Vehicle Transfer		46
Private Hire Licensee Transfer		0
Total Taxi Applications		752

Licensing Act 2003	Total
Club Certificate with alcohol	1
Personal Alcohol	89
Premises Licence	10
Temp Event Notice no Alcohol	0
Temp Event Notice with Alcohol	218
Minor Variation Application	8
DPS Change/Variation	57
Transfer Application	37
Annual Fee	0
Premises Review	3
Premises Lic with Alcohol - Full Variation	1
Premises Lic without Alcohol - Full Variation	0
Total Lic Act Applications General	424

Gambling Act 2005	Total
Bingo Premise Licence	0
Betting Premise Licence	0
Licensed Premise Gaming Machine Permit	3
Notification of Intent to have gaming machines	3
Club Machine Permits	1
Occasional Use Licence	2
Adult Gaming Centre	0
Small Society Lotteries	77
Change of Promoter	0
Annual Fee	0
Total Gambling Act 2005 Applications	86

Total Applications	1472
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Total Surrendered Vehicles	22
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APPENDIX B

Licensing and Safety Sub-Committee Meetings – 15th November 2014 to the 28th February 2015.

Date of Meeting	Scheduled/ Additional	Item	Time	Decisions
None				

APPENDIX C

Licensing Act Sub-Committees. Hearings held for licensed premises from 15th November 2014 to the 28th February 2015.

Date	Premises	Type of application	Councillors	Meeting Venue	Decision	Review Requested by
16 th December 2014	The Blue Boar, 52 Mill Street, Ludlow	Expedited Review of Premises Licence	Peter Cherrington, Andrew Davies and Keith Roberts	Shirehall	Premises Licence suspended for 1 month, Licence amended and conditions added to Licence	West Mercia Police
2 nd February 2015	Albrighton Post Office and Convenience Store, 31-33 Station Rd, Albrighton	Review of Premises Licence	Joyce Barrow, Andrew Davies and Vivienne Parry	Shirehall	Premises Licence suspended for 28 consecutive days and Conditions added	Trading Standards