



DISTRICT COUNCIL

Despatched: 29.08.12

LICENSING COMMITTEE

06 September 2012 at 6.00 pm

Conference Room, Argyle Road, Sevenoaks

AGENDA

Membership:

Chairman: Pett

Cllrs. Abraham, Mrs. Ayres, Ayres, Clark, Cooke, Davison, Mrs. Dawson, Fittock, Orridge, Mrs. Parkin, Piper, Raikes and Walshe and one vacancy

	<u>Pages</u>	<u>Contact</u>
1. Apologies for absence		
2. Minutes of previous meetings	(Pages 1 - 18)	
Minutes of the meetings of the Committee held on 26 June 2012 and of the Sub-Committees held on 26 June 2012, 6 August 2012 and 22 August 2012		
3. Declarations of interest		
Any interests not already registered		
4. Actions from the previous meeting		
None		
5. Licensing of Sexual Entertainment Venues	(Pages 19 - 24)	Claire Perry Ext. 7325
6. Law Commission Consultation Paper on reforming the taxi and private hire services law	(Pages 25 - 40)	Claire Perry Ext. 7325

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

LICENSING COMMITTEE

Minutes of the meeting held on 26 June 2012 commencing at 6.00 pm

Present: Cllr. Pett (Chairman)

Cllrs. Abraham, Mrs. Ayres, Ayres, Clark, Davison, Fittock, Hogarth, Orridge, Mrs. Parkin, Piper and Raikes

Apologies for absence: Cllr. Cooke

1. Minutes

It was agreed that Cllr. Cooke's apologies would be added to the minutes of the meeting of the Licensing Committee on 11 April 2012.

It was noted that the minutes for the meeting of the Licensing Sub-Committee held on 26 June 2012 had not been prepared in time for the meeting.

Resolved: That the minutes of the Licensing Committee held on 11 April 2012, as amended, and of the Sub-Committees held on 24 April 2012 and 19 June 2012 be approved and signed by the Chairman as correct records.

2. Declarations of interest

There were no declarations of interest.

3. Actions from the previous meeting

There were no actions from the previous meeting.

4. Membership of Licensing Hearing Sub-Committees

A Member of the Committee observed that at some of the recent Licensing Sub-Committee Hearings only 2 Members of the panel had attended. He asked that substitute Members be available and on standby in case of non-attendance. Members unable to attend should ensure they inform the Council at least half an hour before the meeting.

Members agreed that they were uncomfortable when the panel consisted of only 2 Members. It was suggested that the Sub-Committees be amended to 4 Councillors to ensure that 3 would be available for the Hearing. The Chairman reminded the Committee that all Members were expected to be available in case a substitute Member was required.

The Democratic Services Officer confirmed that the Team would select a reserve Member for each Hearing. The extra Member would be informed that they had been selected as a reserve at the same time that the 3 expected panel Members were appointed. Their selection as reserve Member would not be recorded on the agenda.

Another Member of the Committee noted that the agenda for a recent Licensing Hearing had stated that the quorum for a Hearing was 3 people. The Democratic Services Officer clarified that the agenda was inaccurate. The quorum for Hearings had been amended to 2 by the Council on 21 July 2009.

Agenda Item 2

Licensing Committee - Tuesday, 26 June 2012

Resolved: That the memberships of the Licensing Sub-Committees as set out in paragraph 1 of the report be approved.

5. Police Reform and Social Responsibility Act 2011

The Legal Services Manager gave a presentation to the Committee about the Police Reform and Social Responsibility Act (PRSRA) 2011. This included a reminder of how the Licensing Act 2003 worked and how it was amended by the PRSRA.

The presentation explained which activities were licensable under the Licensing Act 2003, what licences were available and how the application process worked. The Authority was under a duty to carry out these functions having regard to the 4 licensing objectives, its Statement of Licensing Policy and amended guidance issued by the Secretary of State.

The key themes for the PRSRA were empowering local authorities, reducing late night drinking and child protection. Much of the Act had taken effect from 25 April 2012 and would apply to licensing applications received after that date.

The first highlighted change was that Licensing Authorities would be considered Responsible Authorities and so become regulators as well as administrators. This meant, for example, that Officers could now request a review of any licence rather than relying on another responsible authority to do so. The Licensing Partnership Manager had, however, cautioned Officers against using this power which was designed for larger authorities. Any Officer giving a representation should not have been involved in the licence application process. This would be difficult to achieve in a small team, such as the one based at Sevenoaks.

The presentation also explained that the evidential test for intervention in a licensing decision had been reduced from steps which were “necessary” to achieve the licensing objectives to those which were “appropriate”. It was felt this could reflect a move from an objective to a more subjective test.

Representations no longer could come only from those who lived or had a business in the vicinity of a licensable site. Anyone could make a representation so long as it related to the licensing objectives. The Licensing Partnership Manager was concerned that this could allow representations from distant areas of the country, whereas the Licensing Team had previously been able to take a pragmatic approach to the vicinity test.

Individual Temporary Event Notices (TENs) could now last longer (up to 168 hours) and there was also a new process for TENs to be submitted late (no later than 5 days before the event) on no more than 2 occasions each year for non-personal licence holders. Officers were noted that there was no central register of personal licence holders and so it was possible for applicants to exceed the limits on numbers of TENs by crossing authority boundaries.

TENs could be objected to on all 4 licensing objectives grounds by both the police and Environmental Health Officers. Further, if the TEN were for a premises already subject to a premises or club licence then the conditions for that existing licence would be applied to the TEN also. By adding these conditions to the TEN licence holders could no longer use a TEN to avoid their usual licensing conditions.

The Act allowed the introduction of Late Night Levies, though this provision was not yet commenced. It allowed local authorities to recover the costs of late night policing from

licence holders open between midnight and 6am. Kent Police had informed the Council that the cost of late night policing was, at minimum, £20,000 per operation and therefore even if a late night levy were collected they would not envisage additional operations taking place. The Licensing Partnership Manager added that the cost of late night policing made the Levy unsuitable and unsustainable in the District given the limited number of late licenses that currently existed. It was explained that late night disorder was small in the District and the imposition of the levy would have a disproportionate economic impact. The Levy was more appropriate for large cities that regularly experienced disorder and had many late night premises licences. In response to a question the Licensing Partnership Manager confirmed that not having a levy would not be a reason for the Council limiting licensed premises after midnight because all applications had to be considered on their merits.

Provisions which allowed for an Early Morning Restriction Order on the sale of alcohol had not yet come into force but would require a resolution of the full Council to introduce.

Other changes included an increased fine for persistent selling to underage customers and an increase in the length of a voluntary suspension. The PRSRA had extended the review date of Licensing Policies from every 3 years to every 5, though the Council would need to bring forward its next review because of the changes brought in by the Act.

The Licensing Authority could now also suspend licence holders for non-payment of fees. The Licensing Partnership Manager advised that Sevenoaks District Council had proactive procedures for collecting fees and did not have a particular difficulty with non-payment. Licensees were already given 21 days to pay, after which they were sent a further 3 letters each giving an extra 7 days. This meant they already had a total of 42 days in which to pay. She hoped similar procedures would be introduced at the other Teams in the Licensing Partnership which had faced some difficulties.

Members asked that these changes be brought to the public's attention. Although partial information had already been put on the Council website, Officers were asked to include the changes in In Touch. It was accepted this may need to wait until all the changes in the Act had been introduced.

The meeting thanked the Legal Services Manager for her presentation.

THE MEETING WAS CONCLUDED AT 6.55 pm

Chairman

LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 26 June 2012 commencing at 10.37 am

Present: Cllrs. Orridge and Raikes.

Apologies for absence were received from Cllr. Walshe.

Also Present:	Mr. F. Thangarajah	-	Applicant's Representative
	Mr. J. F. Dillon	-	Objector's Representative
	Mrs. L. Leeds	-	Licensing Officer
	Mrs. H. Langford	-	Legal Adviser
	Ms V. Etheridge	-	Democratic Services Officer

1. Appointment Of Chairman

Resolved: That Cllr. Orridge be appointed Chairman of the meeting.

2. Declarations of Interest.

There were no declarations of interest made.

3. Quantum House, High Street, Farningham, Kent

The Hearing gave consideration to a report by the Community and Planning Services Director giving details of an application under the Licensing Act 2003 for a premises licence at Quantum House, High Street, Farningham, Kent DA4 ODT. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination.

The Hearing heard from the applicant who gave a brief introduction to his background explaining that he currently owned another shop in Wilmington. He intended the shop to be a village convenience store. He had visited the village around thirty eight times at different times of the day and had not seen any of the concerns raised by the objectors, and queried why their concerns had not been raised with the relevant authorities.

In response to questions from the Sub committee and an objector's representative, he advised that he intended to close the shop at 20:00 hours, Mondays to Saturdays and therefore not sell alcohol after that time. He also advised that there would be one member of staff in the mornings and two members of staff from 15:00 hours to closing. The CCTV that would be used would consist of about eight cameras in total and the footage would be kept for 31 days. It could also be viewed remotely. He further advised that he operated the Challenge 25 policy and that more expensive/high volume alcohols were kept behind the counter. He did not promote bulk sales of alcohol and would speak and if necessary refuse to serve any customer he thought might be buying alcohol by proxy, or who appeared intoxicated.

The Hearing heard from a representative of one of the objectors, the owners and licence holders of a local public house. The Manager had hoped to attend but had sent his apologies. He outlined his clients' main concerns which included under age drinking and disruptive behaviour and the potential detrimental affect on village life. However these

Agenda Item 2

Licensing Hearing - Tuesday, 26 June 2012

concerns had been made when the application appeared to be for sales until 22:00 hours, but the applicant was now saying that the shop would close at 20:00 hours. However, he suggested that licence hours should be further reduced to 18:00 hours.

In response the applicant stated that in his experience far more problems were caused by a shop being open longer than it's licensed hours, which could lead to having to close earlier which in turn defeated the objective of being a local convenience store.

At 11.15 a.m. the Hearing Members and the Council's Legal Advisor withdrew to consider the issues raised.

At 11.48 a.m. the Hearing Members and the Council's Legal Advisor returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties particularly in relation to proxy sales, persons who had been refused alcohol in local public houses and the suggestion of further reduced hours, as well as the guidance issued under s 183 of the Licensing Act 2003 and the Council's Statement of Licensing policy. The Sub Committee noted that the Police had made no objection to the application and that the Applicant would implement an age verification scheme.

It was therefore unanimously,

Resolved: That a Premises Licence in respect of Quantum House, High Street, Farningham, Kent, subject to the conditions contained in the licence attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 11.50 am

Chairman

LICENSING ACT 2003 – Section 23

Notice of determination for application premises licence

To: Mr. Francis Thangarajah
Of: Quantum House, High Street, Farningham, Kent. DA4 0DT
Ref: 12/01249/LAPRE

Sevenoaks District Council being the licensing authority, on the 18 April 2012 received an application for a premises licence in respect of premises known as Quantum House, High Street, Farningham, Kent DA4 0DT.

On Tuesday 26 June 2012 there being valid representations which were received and had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section M: To allow sale of alcohol on Monday to Saturday from 09:00 until 20:00 hours and Sunday from 09:00 until 18:00 hours for consumption off the premises.

To add the conditions on the Licence as follows:

1. That CCTV covers the area where alcohol is displayed for sale to the side of the sales counter, to ensure that all areas where alcohol is displayed for sale are monitored at all times, and that recordings are kept for a minimum of 30 days.

This licence granted at the Hearing is effective from 26 June 2012.

Dated: 26 June 2012.

Signed

Chair – Licensing Hearing

Signed

Designation –Licensing Officer

Please address any communications to:

Licensing Regime
Community and Planning Services
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Agenda Item 2

LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 6 August 2012 commencing at 10.30 am

Present: Cllrs. Abraham, Mrs. Ayres and Fittock

Also present	Mr. S. Panchal	-	Applicant's Representative
	Mr. J M. Puthuvlakan	-	Applicant
	Town Cllr. M. Robson	-	Objector (Edenbridge Town Council)
	Mrs. L. Leeds	-	Licensing Officer
	Mr. D. Graham	-	Legal Adviser
	Ms V. Etheridge	-	Democratic Services Officer

1. Appointment of Chairman

Resolved: That Cllr. Fittock be appointed Chairman of the meeting.

2. Declarations of Interest

Cllr. Abraham advised that he knew the Edenbridge Town Council representative in a personal capacity, but there were no additional disclosable pecuniary or non pecuniary interests declared.

3. D 'n' M News 'n' Toys, 4 High Street, Edenbridge

The Hearing gave consideration to a report by the Community and Planning Services Director giving details of an application under the Licensing Act 2003 for a premises licence at D 'N' M News 'N' Toys, 4 High Street, Edenbridge, Kent TN8 5AG. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination.

The Hearing heard from the applicant's representative who clarified that if the license was granted 'Toys' would be removed from the shop name. He tabled some suggested additional conditions his Applicant would be happy with, in response to issues raised in the written objections. He also stated that there would be an incident book and refusals book and a notice requesting that customers leave quietly and they were happy to cease trading at the same time as the supermarkets. Diversification was necessary for survival as a commercial enterprise.

In response to questions from the Sub committee the applicant's representative replied that not only would toys be removed from the name of the shop but that it would cease to sell toys.

The Hearing heard from a representative of Edenbridge Town Council who reported that it was a small town which had a problem with alcohol related incidents. There was already two Off Licences, two supermarkets and two garages that sold alcohol, this was the only toy shop. There was a concern that it was a shop that sold toys, sweets and comics and therefore encouraged a child based clientele and that children and alcohol did not mix.

It was pointed out that commercial/market issues were not a consideration for this hearing. In questioning the representative of Edenbridge Town Council agreed that the

Agenda Item 2

Licensing Hearing - Monday, 6 August 2012

supermarkets did sell alcohol as well as sweets and there appeared to be no problems. It was noted that the Police had raised no objections and when asked whether the Town Council had raised their concerns with the Police, he did not know.

At 11.07 a.m. the Hearing Members and the Council's Legal Advisor withdrew to consider the issues raised.

At 11.38 a.m. the Hearing Members and the Council's Legal Advisor returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties as well as the guidance issued under s 183 of the Licensing Act 2003 and the Council's Statement of Licensing policy.

It was therefore unanimously,

Resolved: That a Premises Licence in respect of D 'N' M News 'N' Toys, 4 High Street, Edenbridge, Kent, subject to the conditions contained in the licence attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 11.41 am

Chairman

Notice of determination for application premises licence

To: MAHATHNASEELAN PUTHUVLAKAN

Of: D 'N' M NEWS 'N' TOYS, 04 HIGH STREET, EDENBRIDGE

Ref: 12/02017/LAPRE

Sevenoaks District Council being the licensing authority, on the 14 June 2012 received an application for a premises licence in respect of premises currently known as D 'N' M NEWS 'N' TOYS, 4 High Street, Edenbridge.

On Monday 6 August 2012 there being valid representations which were received and had not been withdrawn, a hearing was held to consider these representations and, having considered them, the Licensing Sub-Committee determined as follows:

To grant the Premises Licence:

Section M: To allow sale of alcohol for consumption off the premises, from 06:00 hours until 23:00 hours from Monday to Saturday, and from 08:00 until 22:30 hours on Sundays.

Section O: Hours premises are open to the public are: Monday to Thursday from 06:00 until 23:00 hours, Friday and Saturday from 06:00 hours until 23:00 hours, and on Sunday from 08:00 until 22.30 hours.

To add the conditions on the Licence as follows:

Mandatory Conditions:

The supply of alcohol

No supply of alcohol may be made under the premises licence -

- (a) at a time where there is no designated premises supervisor in respect of the premises licence; or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Other Conditions

Interpretation and effect of the conditions

- (1) No sale or supply of alcohol shall be authorised to take place on the premises

Agenda Item 2 C

unless each of the following conditions in this licence is being fully complied with at the time of sale or supply.

For the purpose of this licence, references in conditions to 'staff' or 'members of staff' include all persons serving customers on the premises, including in particular the owner of the establishment, the manager, and any family members of those owning or working in the business whether or not they be employees.

Protection of Children

- (2) No toys, games, puzzles, figurines or other playthings shall be sold or displayed for sale at the premises, and nor shall such playthings be advertised as being for sale at the premises.
- (3) In particular, no reference to toys, games, puzzles, figurines or other playthings shall be made in:
 - (i) the advertised name of the shop;
 - (ii) internal or external signs and displays;
 - (iii) canopies; or
 - (iv) shop-window displays.

Reason: In order to promote the Licensing Objective of protecting children from harm.

Age Verification

- (4) Staff selling alcohol shall operate the following age verification policy ("the Proof of Age Policy"):

All customers appearing to a member of staff to be aged 25 or younger shall, when attempting to buy alcohol-containing products, be required to provide proof of age before they are sold the products. The member of staff shall not sell the products to that individual unless he or she is satisfied that the individual has attained 18 years of age.

The following shall be the only acceptable forms of proof of age:

 - (i) valid passport;
 - (ii) photo-card driving licence issued by an EU member state; or
 - (iii) such card as is accredited by the Home Office National Proof of Age Standards Scheme (PASS).
- (5) The Proof of Age Policy shall be prominently and legibly announced on notices of at least A4 size, which shall be placed:
 - (i) at or within 2 metres of the entrance;
 - (ii) at or within 2 metres of the shelves or cabinets in which the alcohol is displayed for sale; and
 - (iii) at the point of sale.
- (6) The licence holder shall maintain a Refusals Book, in which all refusals of sale of alcohol shall be recorded at least on a daily basis. In particular, every refusal of sale on account of a person appearing to be aged 25 or younger and unable to prove that they were aged 18 years or above shall be entered in the Refusals Book. Each day's entries shall be stored for a period of at least six months. Entries in the

Refusals Book shall state:

- (i) The date and time of the refusal of sale;
 - (ii) The members of staff present when the sale was refused;
 - (iii) The identity (or if this is not known, the description) of the person or persons to whom the sale was refused;
 - (iv) The reason for refusing the sale.
- (7) All members of staff who sell alcohol shall be trained in order to ensure that they understand:
- (i) the requirements of the Licensing Act 2003 and of this licence insofar as they relate to the sale by them of alcohol for consumption off the premises;
 - (ii) how to record incidents in the Refusals Book; and
 - (iii) how to apply the Proof of Age Policy.

The licence holder shall retain all training materials on the premises. The licence holder shall certificate in writing the satisfactory completion of this training for each member of staff. Each member of staff who sells alcohol shall undergo this training annually and undergo annual recertification.

Reason: In order to promote the Licensing Objectives of protecting children from harm and preventing crime and disorder.

Staffing

- (8) Alcohol may only be sold or supplied at times when at least one person holding a personal licence is present on the premises.
- (9) Sales of alcohol may only be transacted by staff who have attained the age of 18 years.
- (10) There shall be two members of staff on the premises who shall have attained the age of 18 years between 19.00 hours and the close of business on each day.

Reasons: In order to promote the Licensing Objectives of preventing crime and disorder and protecting children from harm, as well as to clarify conditions proposed by the Applicant.

Storage of alcohol and cash

- (11) All products containing alcohol shall be displayed for sale in a separate section or sections of the store to other products.
- (12) All products containing alcohol shall be stored in the direct line of sight of staff acting as cashiers, and this line of sight shall not be obstructed by other displays or shelving.
- (13) Products containing more than 35% alcohol by volume shall be stored behind the counter.
- (14) The counter shall be a minimum height of one metre from the floor and at least 60 centimetres wide. Access to the area behind the counter shall be via a door bolted from the inside. The floor behind the counter shall be raised 10 centimetres above the level of the surrounding flooring.
- (15) The cash till shall be placed either behind the counter or, if placed on the counter,

it shall be fixed into position such that it cannot easily be removed.

Reasons: In order to promote the Licensing Objectives of preventing crime and disorder and protecting children from harm as well as to further clarify the operating schedule and conditions proposed by the Applicant.

Closed-Circuit Television

- (16) The licence holder shall ensure that before alcohol is first displayed or offered for sale and at all times thereafter:
- (i) the shelves or cabinets in which alcohol containing products are displayed for sale are within the field of view of a Closed-Circuit Television (CCTV) camera;
 - (ii) all entrances and exits to the store which are open to the public shall be within the field of view of a CCTV camera which clearly resolves the faces of all persons entering the store;
 - (iii) there shall be one or more CCTV cameras positioned so as to clearly record video footage of all alcohol sale transactions.
 - (iv) there shall be a CCTV camera immediately outside the entrance to the premises positioned so as to record images of persons leaving the store.
 - (v) There shall be at least one visual display monitor on which staff in the till area can view live footage from each of the cameras, and play back footage.
- (17) The cameras shall be securely and effectively linked to apparatus which faithfully and clearly records and safely stores the video footage. The video recording system comprising the cameras, recording and storage apparatus including any removable storage media, loaded software, display monitor and the links between these shall constitute 'the CCTV system' for the purpose of this licence.
- (18) The CCTV system shall be operated at all times when the premises are open for business, and shall be maintained in full working order.
- (19) The CCTV system must conform to the following requirements:
- (i) The system shall accurately and legibly record the date and time at which the video footage is recorded. The system clock shall be set correctly and maintained to take account of changes between Greenwich Mean Time and British Summer Time.
 - (ii) The recorded footage shall be of sufficiently high quality to be able to identify individuals clearly by their facial features, gait, and attire.
 - (iii) All video recordings shall be stored in a digital format and a backup copy of each day's recordings shall be made not later than the end of each day on which the footage is recorded.
 - (iv) All recordings, both original and backup copies, shall be stored securely and shall be appropriately archived to enable identification of the date and time of capture. The backup copy shall be stored separately from the original recordings to ensure that both sets of recordings are not lost.
 - (v) The recordings shall not be stored in such manner as to reduce the quality of the recordings below that required by paragraph (ii) of this condition.
 - (vi) Both original and backup copies of each day's recordings shall be retained

for at least 31 days from the date of capture.

- (vii) The system shall be operated, and all recordings retained, in a secure environment. Access to the CCTV system including the recordings shall be controlled to prevent tampering with either the recording process or the recorded data.
- (viii) A daily record shall be kept of who has accessed the CCTV system, when and for what purpose. This record shall be stored securely in a separate location to the stored recordings and retained for 31 days after the date on which each entry is made.
- (ix) Members of staff in charge of the CCTV system must be adequately trained to operate the system and must be provided with a simple set of instructions.
- (x) The system must have a method of exporting video and still image recordings to a removable storage medium, along with the time and date integral to the recordings. The pictures shall be exported in the native file format at the same quality that they were stored on the system. It must be possible to replay the files from the removable media.
- (xi) The playback software shall have variable speed control, including frame-by-frame, forward and reverse viewing. It must be able to maintain the aspect ratio of the video footage, display a single camera feed at full resolution, permit the recordings from each camera to be searched by time and date, and allow the printing of pictures with their date and time marked on the printout.

(20) The licence holder shall ensure that at all times when the premises are open there are sufficient staff to monitor the CCTV live footage relating to the alcohol-containing products.

Reasons: In order to promote the Licensing Objectives of preventing crime and disorder and protecting children from harm as well as to further clarify the operating schedule, as proposed by the Applicant.

Notice

(21) A notice of at least A4 size shall be displayed within 1 metre of the exit which asks customers to have consideration for neighbours when leaving the store.

Reason: in order to prevent public nuisances being caused by customers leaving the premises.

This licence granted at the Hearing is effective from the 6 August 2012.

Dated: 6 August 2012

Signed

Chair – Licensing Hearing

Signed

Designation –

Please address any communications to:

Agenda Item C

Licensing Regime
Community and Planning Services
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 22 August 2012 commencing at 2.00 pm

Present: Cllrs. Pett, Raikes and Walshe

Also present Mr A. Campbell - Applicant
Mr C. Laver - Applicant's Representative
Mr M. Tobin - Applicant's Representative
PC M. Beresford - Objector, Kent Police
Mrs A. Dawson - Objector, Environmental Health
Mr L. Roberts - Legal Services Manager
Mrs P. Gibbs - Democratic Services Manager

1. APPOINTMENT OF CHAIRMAN

Resolved: that Councillor Pett be appointed Chairman.

2. DECLARATIONS OF INTEREST.

There were no declarations of interest.

3. EDEN PARK, DEN CROSS, ROMAN ROAD, MARSH GREEN, KENT.

Prior to the start of the Hearing, the Chairman asked all parties to confirm that they had received the additional paperwork that had been submitted to the Council.

The Hearing gave consideration to a report by the Community and Planning Services Director giving details of an application under SECTION 105 (2) of the Licensing Act 2003 for a Temporary Event Notice (TEN) for Eden Park, Den Cross, Roman Road, Marsh Green, Kent. TN8 5PW. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination.

The Hearing heard from the Applicants who provided the background to the proposed event. It was intended to be a small scale music event with a line up of classic tribute bands and some local bands in order to raise funds for local charities. The organisers were prepared to ensure that no live music would be played after 11 p.m. Promotion of the event had mostly been through word-of-mouth, although a website had been set up for ticket sales and a newspaper article had been published. All attendees at the event were known to Members of the Organising Committee. Entry to the event would be controlled by pre-issued wrist bands and the two points of entry to the Park would be manned throughout the event. The event had a strict anti-drugs policy and there would be no under-aged sales of alcohol as wrist bands would identify under 18s.

The Applicants reported that they had experienced some difficulties with the Licensing process. They had initially applied for a premises license in April 2012 however, for some reason the electronic application had not been received by the licensing team. A second application had been submitted however the same problems were experienced. Following these problems it had become apparent that the only way to go ahead with the event was to obtain a temporary event notice (TEN).

Agenda Item 2 Licensing Hearing - Wednesday, 22 August 2012

In response to questions from the Sub-committee, the Applicant reported that Bar Staff would be fully trained to identify under-aged drinkers and if necessary ID would be requested. The organisers were reliant on parents being honest about the age of their children, however as families were known to the organisers under age drinkers could be identified. The anti-drugs policy would be enforced through the Marshalls briefing and overt drug users would be escorted off the premises. The security staff were a mixture of adults and teenagers and were volunteers who had worked with members of the organising committee at previous events. The car parking area (including the over flow area) outlined on the map provided could accommodate up to 150 cars.

The Hearing then heard from PC Beresford who explained that the Police had concerns surrounding breaches of the licensing objectives. A TEN was not an appropriate way to deal with this type of festival and the short timescales meant that the plans could not be fully scrutinised. In addition some local residents had expressed concerns about the scale of the event. There were also concerns about the level of experience of the organisers. An article of the "This is Kent" website advertised where to buy tickets and a website also advertised ticket sales. The Police asserted that the article that had appeared on the front page of the "Kent and Sussex Courier" could attract applications for tickets from people who were not known to the organisers. It was also not known how effective the organisers would be in dealing with any issues that may arise during the event.

The Hearing also heard from an Environmental Health representative who outlined concerns surrounding noise nuisance caused by the proposed event. It was unclear how the noise measurements taken by the Applicant were recorded meaning it was impossible to comment on accuracy. Whilst Environmental Health were pleased that the Applicant had taken on board comments made in respects of live bands playing after 11pm, a number of concerns remained and as a result of this Officers had no choice but to maintain the objection.

At 15:20 the Hearing Members withdrew to consider the issues raised. (The Council's Legal Advisor and the Democratic Services Officer retired with the Members)

At 15:22 Councillor Roger Walshe left the meeting.

At 15.45 the remaining Hearing Members returned to the Council Chamber (with the Council's Legal Advisor and the Democratic Services Officer).

Following detailed consideration of all the representations it was

Resolved: That a counter notice be issued under Section 105 (2) of the Licensing Act 2003 because the Sub-Committee felt that there was insufficient evidence that the relevant licensing objectives (the prevention of crime and disorder, the promotion of public safety and the prevention of public nuisance) had been met.

THE MEETING WAS CONCLUDED AT 3.50 pm

Chairman

LICENSING COMMITTEE – 6 SEPTEMBER 2012

LICENSING OF SEXUAL ENTERTAINMENT VENUES

Report of the: Director of Community and Planning Services

Status: For Decision

EXECUTIVE SUMMARY: The Committee’s views are sought on whether to adopt powers relating to sexual entertainment venues, following changes the regulation of Sexual Entertainment Venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Currently sex shops and sex cinemas require a licence from the Council. The Policing and Crime Act 2009 introduced new powers for local authorities to regulate sexual entertainment venues (e.g. table dancing, lap dancing or similar activities), so as to require such licensees to apply for a licence.

In order for the new provisions relating to sexual entertainment venues to take effect within Sevenoaks District, the Council would need to formally resolve to adopt these provisions. The Council is required to consult local people about whether or not it should make such a resolution.

We have consulted with local people and the end date for their views was 10 August 2012.

This report supports the Key Aim of Safe and Caring Communities and Dynamic and Sustainable Economy

Portfolio Holder Cllr. Mrs. Bracken

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: To adopt powers relating to sexual entertainment venues, following changes to the regulation of Sexual Encounter Venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Background

Activities covered by the new provisions

1. A sexual entertainment venue is described as “any premises at which relevant entertainment is provided before a live audience for financial gain of the organiser or the entertainer”. It is expected that this definition would apply to the following forms of entertainment – lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows.

Agenda Item 5

How such venues are currently regulated

2. Venues that currently provide entertainment of this nature are able to do so under the authority of a premises licence granted under the Licensing Act 2003, and there are currently no venues within the District. However, any representations concerning the grant or variation of a premises licence can only be based upon one of the 4 licensing objectives i.e. the prevention of crime and disorder, the prevention of public nuisance, the protection of public safety and the protection of children from harm.
3. Licensing authorities cannot therefore consider representations on issues falling outside of the 4 licensing objectives e.g. whether a lap dancing club would be appropriate given the character and locality of the area in which it is proposed to be situated.

Proposed changes

4. The changes introduced by the Policing and Crime Act 2009 will allow the Licensing Authority to refuse an application for the grant or renewal of a licence for a sexual entertainment venue on a number of specified grounds, including:
 - That the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality. This number may be nil.
 - That the grant or renewal would be inappropriate, having regard –
 - to the character of the relevant locality; or
 - the use to which any premises in the vicinity are put; or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Objection on moral grounds cannot however be considered.

5. Licences granted for sexual entertainment venues will be renewable annually, rather than lasting for the life of the business as is the case under the Licensing Act 2003.
6. Furthermore, the authority will have a wider discretion when imposing conditions on a licence, and may apply different conditions for different types of venues. For example, it will be possible to regulate opening times, the display of advertisements and the visibility of the interior of the premises to passers-by.
7. Premises providing other licensable activities in addition to sexual entertainment will still also require a premises licence under the Licensing Act 2003. In practical terms, this means that most sexual entertainment venues will require a licence under the 2003 Act as well as a sex establishment licence.

Exemptions

8. Premises which provide regulated entertainment on an infrequent basis i.e. on no more than 11 occasions within a 12 month period (subject to there being at least one month between events, and each event lasting no longer than 24 hours) will not need to be licensed as a sexual entertainment venue, and will instead continue to be licensed under the Licensing Act 2003.

Key Implications

Financial

9. The Council's budget for the licensing of Sexual Entertainment Venues is set on a cost recovery basis and the cost of this consultation is covered with the licensing administration budget.

Legal, Human Rights etc.

10. Decisions in relation to a licence are likely to amount to consideration of civil rights and obligations with the result that Article 6 (1) of the Human Rights Act 1998 is engaged.

Equalities implication and Community Impact

11. The policy applies to all operators across the Sevenoaks District whose activities may fall under the definition of 'relevant entertainment'. The policy will aim to prevent any adverse impact on disadvantaged groups. Once the new National Policies are introduced an Equalities Impact Assessment will be undertaken.

Sources of Information: Local government (Miscellaneous Provisions) Act 1976.

Licensing Act 2003

Contact Officer(s): Claire Perry Ext. 7235

Jessica Bolton Ext. 7480

**KRISTEN PATERSON
COMMUNITY AND PLANNING SERVICES
DIRECTOR**

This page is intentionally left blank

Agenda Item 5

Name	Comment
<p>Annie Sargent Sevenoaks District Council</p>	<p>Jessica I have read this and it all seems fair and reasonable. No comment to make. Regards Annie</p>
<p>Revd Anne Clements</p>	<p>I and my congregation would like to support the adoption of the new provisions by the Council. Yours, Revd Anne Clements West Kingsdown Baptist</p>
<p>Revd James Oakley Kemsing</p>	<p>I have read the consultation document regarding the possibility of Sevenoaks District Council adopting the provisions under the Policing and Crime Act (2009). I understand that, if the Council were to adopt these powers, venues wishing to be used as "sexual entertainment venues" would need to obtain a specific license for this purpose, and that this allows the Authority to consider additional factors. Those factors would not be able to be considered under the Licensing Act (2003).</p> <p>My comment would be that this would be an excellent decision for the Council to take. It seems to me that the nature of venues providing sexual entertainment are too specialised for the Licensing Act of 2003. It is absolutely essential that the Council is able to take into consideration the proximity of local schools, the density of such venues in any smaller locality so as to avoid creating neighbourhoods renowned for such venues, and the impact that any venue would have on the character of its immediate vicinity. Furthermore, the Council should be able to set a ceiling on the number of sexual entertainment venues for the District as a whole, so that the character of the Sevenoaks area can remain what the local residents would wish it to be.</p> <p>I would therefore urge the District Council, as it considers adopting these powers, to do so.</p> <p>Please do not hesitate to get in touch if you would like any clarification or further information.</p> <p>With best wishes James Oakley</p>

Agenda Item 5

<p>Helen Gilder Assistant Clerk to the Council Hartley Parish Council</p>	<p>Hartley Parish Council would like to comment on the above consultation as follows:</p> <p>Hartley Parish Council supports the District Council's adoption of the new provisions relating to the licensing of sexual entertainment venues.</p> <p>Regards</p> <p>Helen Gilder</p>
<p>Barbara Morris Clerk Crockenhill Parish Council</p>	<p>Dear Jessica</p> <p>Councillors have asked me to reply by saying they support the new proposals and believe they are an improvement and will give more control to their regulation.</p> <p>Barbara Morris Clerk, Crockenhill Parish Council Village Hall, Stones Cross Road, Crockenhill, Kent BR8 8LT Tel: 01322 614674 Email: crockenhillpc@btinternet.com</p>
<p>Yolanda Tredoux (Mrs.) Clerk Kemsing Parish Council</p>	<p>Thank you for the opportunity to comment on the above application.</p> <p>KEMSING PARISH COUNCIL supports Sevenoaks District Council's proposal to adopt the new powers under the Policing and Crime Act 2009 in order to regulate sexual entertainment venues.</p> <p>Yours sincerely,</p> <p>Yolanda Tredoux (Mrs.) Clerk to Kemsing Parish Council Tel: 01732 762 841 The Clerk's Office St. Edith Hall High Street Kemsing Sevenoaks Kent TN15 6NA www.kemsingpc.kentparishes.gov.uk</p>
<p>Veronica Todd PCC Secretary St Mary's Church, Riverhead</p>	<p>The document was discussed at our PCC meeting in May and it was agreed that I should write to inform you that St Mary's Riverhead PCC believe it to be preferable for sexual entertainment venues to require a sex establishment licence in addition to a licence under the 2003 Act. The PCC of St Mary's Church, Riverhead, therefore agree that Sevenoaks District Council should adopt powers relating to sexual entertainment venues, following changes to legislation.</p> <p>Yours faithfully</p> <p>Veronica Todd PCC Secretary St Mary's Church, Riverhead</p>
<p>Holly Ivaldi Clerk Eynsford Parish Council</p>	<p>In response to the above consultation, Eynsford Parish Council supports the changes proposed to the legislation.</p> <p>Yours</p> <p>Holly Ivaldi Clerk</p> <p>Eynsford Parish Council Parish Office Priory Lane Eynsford DA4 0AY 01322 865320 eynsford.pc@tiscali.co.uk</p>

LAW COMMISSION CONSULTATION PAPER ON REFORMING THE HACKNEY CARRIAGE AND PRIVATE HIRE SERVICES LAW

Licensing Committee – 5 September 2012

Report of the: Community and Planning Services Director

Status: For Decision

Executive Summary: This report sets out the Council's response to the Law Commission's Consultation paper on reforming the Taxi and Private Hire law. Current Taxi and Private Hire legislation includes the Town Police Clauses Act 1847, the Public Health Act 1875 and the Local Government (Miscellaneous Provisions) Act 1976.

The consultation document proposes changes to the legislation through Primary legislation to bring it into the twenty-first century.

This report supports the Key Aim of the Community Plan ' Safe and Caring Communities'

Portfolio Holder Councillor Mrs. Elaine Bracken

Head of Service Richard Wilson – Head of Environmental & Operational Services

Recommendation: to approve the proposed response to the Law Commission's Consultation Paper on reforming the Taxi and Private Hire law as outlined in their Summary Paper. The consultation period ends on 10 September 2012.

Reason for recommendation: The Council has a duty to licence and enforce Hackney Carriage and Private Hire vehicles, drivers and operators to ensure the public are provided with a safe mode of transport. The Council's response as recommended is an opportunity to influence the reform in legislation.

Introduction

- 1 In July 2011, the Law Commission agreed to undertake a law reform project on the law of taxis and private hire vehicles. In May 2012 all interested parties were invited to respond to a consultation document which included 73 questions. The consultation period was intended to be the main evidence-gathering exercise, and the only opportunity for the public to directly provide their views. After the consultation the Law Commission will analyse responses and reconsider their proposals. They aim to produce a report with their final proposals and a draft Bill by November 2013.
- 2 The main changes that might follow from their provisional proposals are:
 - a. National minimum safety standards for both taxis and private hire vehicles.

Agenda Item 6

- b. Changes to standard-setting: additional local standards, above the national standards, would continue to apply to taxis (for example, topographical knowledge and vehicle requirements). However, for private hire vehicles, only the national standards would apply and there would be no scope for additional local standards. However we ask about possible exceptions where local private hire standards may be retained, for example, in respect of signage.
- c. It would be easier for private hire services to operate on a national basis. We suggest private hire operators would no longer be restricted to accepting or inviting bookings only within a particular locality; nor to only using drivers or vehicles licensed by the same licensing authority. Subcontracting would be allowed, as is already the case in London.
- d. London would be regulated under the same flexible framework as the rest of England and Wales.
- e. Licensing authorities could no longer limit the number of taxi licences.
- f. More enforcement powers for licensing officers against out-of-borough vehicles and drivers.
- g. Disability awareness training for drivers.
- h. Introduction of a statutory definition of “plying for hire” (but without changing it in substance).
- i. Weddings and funeral cars would no longer be exempted through primary legislation.
- j. Allowing leisure use of taxis and private hire vehicles.
- k. Bringing more vehicles within the licensing system (including for example limousines, motorbikes and pedicabs) – but giving the Secretary of State and Welsh Ministers power to make exclusions, and to set separate standards, in respect of different categories of vehicle.
- l. Clearer exclusions for volunteers and other services where transport is not the main service provided, such as childminders.
- m. Powers for government to issue binding statutory guidance to create greater consistency in how taxi and private hire legislation is applied.

3 They also ask questions about the following:

- a. a new category of wheelchair accessible vehicles;
- b. *extending operator licensing to taxi radio circuits;*
- c. *possible use of the term “taxi” in respect of private hire services if used in phrases like “pre-booked taxi only”;*
- d. reintroducing a (revised) contract exemption;

- e. improving the enforcement powers of licensing officers; and
 - f. a new “peak time” taxi licence that could only be used at particular times of day as decided by the licensing authority.
- 4 This list only provides simplified, headline points and does not include all the changes they propose. The full consultation document may be viewed via this link - http://lawcommission.justice.gov.uk/docs/cp203_taxi-and-private-hire-services.pdf
- 5 This report provides the response on behalf of Sevenoaks District Council and is in the form of answers to the questions posed in the Consultation and Summary report documents published by the Law Commission.

Overview of Provisional Reform Proposals

Provisional proposal 1 (Page 160)

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

Provisional proposal 2 (Page 162)

- 8 *London should be included, with appropriate modifications, within the scope of reform.*
- 9 Proposed response: Agreed.

Provisional proposal 3 (page 164)

- 10 *The regulation of taxi and private hire vehicles should not be restricted to any particular type of vehicle but should rather focus on road transport services provided for hire with the services of a driver.*
- 11 Proposed response: Agreed.

Question 4 (Page 164)

- 12 *Would there be (and if so what) advantages to restricting licensing to motor vehicles that require a driving licence?*
- 13 Proposed response: None, pedi-cabs and horse drawn vehicles would be excluded and safety issues may still arise.

Provisional proposal 5 (Page 165)

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

Agenda Item 6

15 Proposed response: Agreed.

Provisional proposal 6 (Page 165)

16 *References to stage coaches charging separate fares should no longer feature as an exclusion from the definition of taxis.*

17 Proposed response: Agreed.

Provisional proposal 7 (Page 167)

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

19 Proposed response: Agreed.

Provisional proposal 8 (Page 168)

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

21 Proposed response: Agreed.

Question 9 (Page 170)

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

- a. *carpooling; and*
- b. *members clubs?*

23 Proposed response:

- a. *car pooling should not be licensed.*
- b. *member clubs should be covered by the regulations.*

Provisional proposal 10 (Page 171)

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

25 Proposed response: Agreed. If this were not possible and changes sought would require amendment to primary legislation which would cause significant delays. It is felt that proposed changes should be subject to consultation.

Provisional proposal 11 (Page 172)

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

27 Proposed response: Agreed.

Question 12 (Page 174)

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

29 Proposed response: There are merits in the Secretary of State having powers flexible enough to deal with exemptions. An exemption for public sector contracts would be sensible as would a list of specific exclusions, provided the exclusions were subject to consultation.

Provisional proposal 13 (Page 175)

30 *Regulation of the ways taxis and private hire vehicles can engage with the public should not be limited to "streets".*

31 Proposed response: Agreed.

Question 14 (Page 177)

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

33 Proposed response: This is not relevant to Sevenoaks District as there is no airport within the area.

Provisional response 15 (Page 181)

34 *The defining feature of taxis, the concept of "plying for hire", should be place on a statutory footing and include:*

- a. *references to ranking and hailing;*
- b. *a non-exhaustive list of factors indicating plying for hire; and*
- c. *appropriate accommodation of the legitimate activities of private hire vehicles.*

35 Proposed response: Agreed.

Provisional proposal 16 (Page 181)

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

37 Proposed response: Agreed

Question 17 (Page 182)

Agenda Item 6

- 38 *Would there be advantages to adopting the Scottish approach to defining taxis in respect of “arrangements made in a public place” instead of “plying for hire”?*
- 39 Proposed response: Quite possibly but most people understand the concept of “plying for hire”.

Provisional proposal 18 (Page 182)

- 40 *The concept of compellability, which applies exclusively to taxis, should be retained.*
- 41 Proposed response: Agreed.

Provisional proposal 19 (Page 183)

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

Provisional proposal 20 (Page 184)

- 44 *Leisure and non-professional use of taxis and private hire vehicles should be permitted. There would however be a presumption that the vehicle is being used for professional purposes at any time unless the contrary can be proved.*
- 45 Proposed response: Agreed, however it must be very clear that the presumption is that the vehicle is being used for professional purposes at all times unless the driver can prove to the contrary.

Provisional proposal 21 (Page 185)

- 46 *The Secretary of State and Welsh Ministers should have the power to issue statutory guidance in respect of taxi and private hire licensing requirements.*
- 47 Proposed response: Agreed.

Provisional proposal 22 (Page 185)

- 48 Reformed legislation should refer to “taxis” and “private hire vehicles” respectively. References to “hackney carriages” should be abandoned.
- 49 Proposed response: Agreed.

Question 23 (Page 186)

- 50 Should private hire vehicles be able to use terms such as “taxi” or “cab” in advertising provided they are only used in combination with terms like “pre-booked” and did not otherwise lead to customer confusion?
- 51 Proposed response: Agreed.

A Reformed Regulatory Framework

Provisional proposal 24 (Page 188)

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

53 Proposed response: Agreed.

Provisional proposal 25 (Page 189)

54 *National safety standards, as applied to taxi services, should only be minimum standards.*

55 Proposed response: Agreed

Provisional proposal 26 (Page 189)

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

57 Proposed response: Agreed

Provisional proposal 27 (Page 190)

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

59 Proposed response: Agreed

Question 28 (Page 190)

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

61 Proposed response: Agreed, currently the Council has almost identical standards for Hackney Carriage and Private Hire vehicles.

Question 29 (Page 191)

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

63 Proposed response: None.

Question 30 (Page 192)

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

65 Proposed response: No.

Agenda Item 6

Provisional proposal 31 (Page 192)

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

67 Proposed response: Agreed.

Provisional proposal 32 (Page 193)

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

69 Proposed response: Agreed.

Question 33 (Page 193)

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

71 Proposed response: The most appropriate approach in determining the content of national safety standards is in consultation with all the relevant bodies including licensing authorities, private hire operators and representatives from each of the appropriate national associations. If it was possible to draw from these bodies a technical advisory panel which would give first consideration to any proposals before the formal consultation takes place this would be very helpful.

Provisional proposal 34 (Page 193)

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

73 Proposed response: Agreed.

Question 35 (Page 194)

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

75 Proposed response: Agreed.

Question 36 (Page 194)

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

77 Proposed response: There may occasions where there are local issues which are not able to be covered in national conditions. However, it may be advisable that before this could be implemented it would require the agreement of the Secretary of State.

Question 37 (Page 195)

78 *Should the powers and duties of licensing authorities to co-operate be on a statutory footing or is it best left to local arrangements?*

79 Proposed response: It would be extremely helpful if legislation made it easier for authorities to work together such as making it easier to enable delegations in one authority to be given to employees of other authorities.

Provisional proposal 38 (Page 196)

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

81 Proposed response: Agreed.

Provisional proposal 39 (Page 196)

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

83 Proposed response: This is not relevant to Sevenoaks District.

Question 40 (Page 197)

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

85 Proposed response: This could be useful and should be explored as it could meet a potential need at peak hours. The vehicle could be highlighted by a different colour plate or some other clearly identifiable means.

Provisional proposal 41 (Page 198)

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

87 Proposed response: Agreed.

Provisional proposal 42 (Page 199)

88 *We do not propose to introduce a "return to area" requirement in respect of out-of-area drop offs.*

89 Proposed response: It is felt that all Taxis and Private Hire vehicles should return to their licensing authority area upon completion of their journey, otherwise the link to the local area could be lost and big national companies could take a far larger slice of the business which could lead to the loss of local companies and local service.

Provisional proposal 43 (Page 200)

Agenda Item 6

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

91 Proposed response: Agreed.

Question 44 (Page 200)

92 *Should taxis be allowed to charge a fare that is higher than the metered fare for pre-booked journeys?*

93 Proposed response: Agreed.

Reform of Driver, Vehicle and Operator Licensing

Question 45 (Page 203)

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

(a) *Set out in primary legislation; or*

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

95 Proposed response: It should be set out in primary legislation.

Provisional proposal 46 (Page 204)

96 *Vehicle owners should not be subject to “fit and proper” tests and the criteria applied would relate solely to the vehicle itself.*

97 Proposed response: Agreed.

Question 47 (Page 205)

98 *Should national vehicle safety standards be either:*

(a) *set out in primary legislation; or*

(b) *included within the Secretary of State and Welsh Ministers’ general powers to set national safety conditions? (Page 205)*

99 Proposed response: It should be set out in primary legislation.

Provisional proposal 48 (Page 206)

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

101 Proposed response: Agreed.

Question 49 (Page 208)

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

103 Proposed response: Yes, it is important for parity with the private hire trade. There are no logical arguments why this should not be the case. There is a strong argument with respect to public safety.

Provisional proposal 50 (Page 209)

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

105 Proposed response: Agreed.

Question 51 (Page 209)

106 *Should “fit and proper” criteria in respect of operators be retained?*

107 Proposed response: Agreed.

Provisional proposal 52 (Page 210)

108 *Operators should be expressly permitted to sub-contract services.*

109 Proposed response: Agreed.

Question 53 (Page 210)

110 *Where a taxi driver takes a pre-booking directly, should record-keeping requirements apply?*

111 Proposed response: Agreed. There is no difference between this arrangement and that which the private hire trade are subject to.

Reforming Quantity Controls

Provisional proposal 54 (Page 213)

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

113 Proposed response: Agreed.

Question 55 (Page 213)

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

115 Proposed response: This would not affect Sevenoaks District.

Question 56 (Page 215)

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

Agenda Item 6

- 117 Proposed response: This would not affect Sevenoaks District but where there are restrictions we believe this would prove helpful.

Taxi and Private Hire Reform and Equality

Question 57 (Page 217)

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

- (a) *A duty on the licensee to give priority to disabled passengers; and*
- (b) *A duty on the licensing authority to make adequate provision at ranks for wheelchair accessible vehicles.*

- 119 Proposed response: Agreed. It would seem appropriate that anyone hailing a taxi or putting up to the rank had an appropriate vehicle to be able to carry a disabled person with a wheelchair. However, where authorities currently do not have sufficient provision there should be a phased introduction of appropriate vehicles.

Question 58 (Page 217)

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

- 121 Proposed response: It may be helpful for local authorities to encourage certain types of Private Hire vehicles to be disabled friendly.

Question 59 (Page 217)

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

- 123 Proposed response: It may be helpful to require all new vehicles to be disabled friendly.

Provisional proposal 60 (Page 218)

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

- 125 Proposed response: This may assist local authorities in achieving a greater number of wheelchair accessible vehicles.

Provisional proposal 61 (Page 219)

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

- 127 Proposed response: Agreed.

Provisional proposal 62 (Page 219)

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

129 Proposed response: Agreed.

Question 63 (Page 220)

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

131 Proposed response: Agreed.

Reforming Enforcement

Question 64 (Page 222)

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

133 Proposed response: We strongly agree to this as Police resources are stretched and therefore their ability to support licensing authorities in their enforcement is more limited as they prioritise their activities.

Question 65 (Page 223)

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

135 Proposed response: This is not an issue with our area.

Question 66 (Page 223)

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

137 Proposed response: We agree in principle but there will need to be specific procedures relating to issues such as where and how long the vehicles would be kept, return or sale, cost recovery etc.

Question 67 (Page 225)

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

139 Proposed response: Agreed as this is a cost effective method of dealing with minor offences.

Provisional proposal 68 (Page 225)

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

Agenda Item 6

141 Proposed response: Agreed.

Question 69 (Page 226)

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

143 Proposed response: The principle of cross-border enforcement powers extending to suspensions and revocation of licenses is a good idea. The view of this authority is that the option of formal procedures for cross-border co-operation as set out in paragraph 19.25 is the most appropriate way forward. This is because it brings an element of formality to the system and also requires other licensing authorities to take action.

Reform of Hearing and Appeals

Provisional proposal 70 (Page 230)

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

145 Proposed response: Agreed.

Provisional proposal 71 (Page 231)

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

147 Proposed response: Agreed.

Provisional proposal 72 (Page 232)

148 *Appeals should continue to be heard in the Magistrates' Court.*

149 Proposed response: Agreed.

Question 73 (Page 233)

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

151 Proposed response: Agreed but only on specific issues.

Key Implications

Financial

152 There are no financial implications with submitting the consultation response. However, if some of the proposals were made in primary legislation there could be implications.

Community Impact and Outcomes

- 153 The submission of this response is unlikely to have a significant impact on the community other than a positive one if some of the proposals are converted into primary legislations.

Legal, Human Rights etc.

- 154 There are no legal or human rights implications with submitting the consultation response.

Resource (non-financial)

- 155 None.

Value For Money and Asset Management

- 156 None.

Equality Impacts

Does the activity have the potential to cause adverse impact or discriminate against different groups in the community?

- 157 No.

Does the activity make a positive contribution to promoting equality?

- 158 Only if some of the consultation responses are implemented within legislation.

Summary of Impacts

- 159 An assessment of the potential impact of the consultation response has identified no detrimental impacts to equality groups.

How the equality impacts weigh on other factors relating to the decision

- 160 The impact assessment has identified no potential detrimental equality impacts. As a result the equality impacts do not weigh on other factors relating to this decision.

- 161 Once the new National Policies are introduced an Equalities Impact Assessment will be undertaken.

Conclusions

- 162 This consultation is intended to frame the future legislation for taxi and private hire licensing and it is important that this authority provides a balanced response to the proposals

RISK ASSESSMENT STATEMENT

- 163 Setting out the Council's responses to this consultation document demonstrates our commitment to providing a safe environment for our residents.

Agenda Item 6

Background Papers: Law Commission, Consultation Paper no. 203
Reforming the law of taxi and private hire services
http://lawcommission.justice.gov.uk/docs/cp203_taxiand-private-hire-services.pdf

Contact Officer(s): Claire Perry, Licensing Partnership Manager. Ext. 7325

Kristen Paterson

Community and Planning Services Director