

***LICENSING COMMITTEE  
Regulatory Committee  
Agenda***

Date Tuesday 6 November 2018

Time 9.30 am

Venue Crompton Suite, Civic Centre, Oldham, West Street, Oldham, OL1 1NL

Notes 1. DECLARATIONS OF INTEREST- If a Member requires any advice on any item involving a possible declaration of interest which could affect his/her ability to speak and/or vote he/she is advised to contact Paul Entwistle or Sian Walter-Browne in advance of the meeting.

2. CONTACT OFFICER for this Agenda is Sian Walter-Browne Tel. 0161 770 5151 or email [sian.walter-browne@oldham.gov.uk](mailto:sian.walter-browne@oldham.gov.uk)

3. PUBLIC QUESTIONS – Any member of the public wishing to ask a question at the above meeting can do so only if a written copy of the question is submitted to the Contact officer by 12 Noon on Thursday, 1 November 2018.

4. FILMING - The Council, members of the public and the press may record / film / photograph or broadcast this meeting when the public and the press are not lawfully excluded. Any member of the public who attends a meeting and objects to being filmed should advise the Constitutional Services Officer who will instruct that they are not included in the filming.

Please note that anyone using recording equipment both audio and visual will not be permitted to leave the equipment in the room where a private meeting is held.

Recording and reporting the Council's meetings is subject to the law including the law of defamation, the Human Rights Act, the Data Protection Act and the law on public order offences.

MEMBERSHIP OF THE LICENSING COMMITTEE IS AS FOLLOWS:  
Councillors A. Alexander, M Bashforth, Briggs (Chair), Byrne, Cosgrove (Vice-Chair), Garry, C. Gloster, A Hussain, Malik, Moores, Price, Rehman and Shuttleworth

Item No

1 Apologies For Absence

- 2            Urgent Business  
  
              Urgent business, if any, introduced by the Chair
- 3            Declarations of Interest  
  
              To Receive Declarations of Interest in any Contract or matter to be discussed at the meeting.
- 4            Public Question Time  
  
              To receive Questions from the Public, in accordance with the Council's Constitution.
- 5            Minutes of Previous Meeting (Pages 1 - 8)  
  
              The Minutes of the meetings of the Licensing Committee held on 5<sup>th</sup> June and 3rd July 2018 are attached for approval.
- 6            Licensing Activity Update  
  
              This will be a verbal update to inform Members of the activities undertaken to discharge the Council's Licensing function during the period March 2018 to November 2018
- 7            Animal Welfare Licensing Policy (Pages 9 - 70)  
  
              The purpose of this report is to inform Members of the recent changes to Animal Welfare legislation, namely "Animal Welfare (Licensing of Activities involving Animals) Regulations 2018" which were implemented on 1st October 2018.
- 8            Gambling Policy Review Report (Pages 71 - 108)  
  
              The purpose of this Report is to update Members of the recent review of the Council's Gambling Policy.
- 9            Executive Hire Policy Report (Pages 109 - 114)  
  
              The purpose of this report is to provide Members with feedback from the Private Hire Trade following a consultation on the proposed Executive Hire Policy.
- 10          Ministerial Working Party on Taxis Update (Pages 115 - 186)  
  
              The purpose of this report is to advise Members of the outcome of the Department for Transport Ministerial Working Party review of Taxi and Private Hire Licensing.



**LICENSING COMMITTEE**  
**05/06/2018 at 9.30 am**

**Present:** Councillor Briggs (Chair)  
Councillors M Bashforth, Byrne, Cosgrove, Garry, C. Gloster,  
A Hussain, Malik, Moores, Price, Rehman and Shuttleworth

Also in Attendance:

Alan Evans	Group Solicitor, Oldham Metropolitan Borough Council (OMBC)
John Garforth	Trading Standards and Licensing Manager, OMBC
Fabiola Fuschi	Constitutional Services, OMBC

1           **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors A. Alexander and Brock.

2           **URGENT BUSINESS**

An item of urgent business was introduced by the Trading Standards and Licensing Manager to inform the Committee of some amendments to the Oldham's Licensing Policy. According to the current policy, Oldham Council undertook various checks on applicants to ensure that they were "fit and proper person" to hold a private hire and/or hackney carriage licence. Currently, one of these tests was completed by the Driver and Vehicle Licensing Agency (DVLA).

The reason for urgency was determined by the fact that the Trading Standards and Licensing service had been notified, after the publication of today's agenda, that the DVLA would cease to carry out the checks on the applicants. Consequently, the current contract between Oldham Council and the DVLA had to be terminated and a new service provision would need to be sought.

The Committee was asked to consider the following options:

1. Officers to set up a new contract with the DVLA which would entail paying an upfront fee of £25,000 and £6.00 per applicant's check;
2. Each applicant would directly apply to the DVLA to undertake the relevant check;
3. Subject to Oldham Council's policies and procedures on procuring services, Officers to enter into a contract with a third party provider already holding a bulk contract with the DVLA and pay a certain amount per check as and when required. The same contractor would also provide Disclosure and Barring Service (DBS) checks.

Members sought and received clarification on the following points:

- Time to complete checks with third party provider – 24 hours;

- Previous cost of check per applicant – £1.00;
- Further checks linked to the same driver/application – Further checks would not incur in additional costs unless the task was onerous;
- Third party provider;
- Greater Manchester’s local authorities approach to applicants’ checks and other organisations in England;
- Licensing office and assistance for drivers – officers assisted drivers who needed to access on line services.

Options rejected:

Option 1 – This option would be too expensive for the Council;

Option 2 – This option would create delays in processing the applications.

Members agreed that Option 3 would be the most suitable and cost effective proposal for the Council.

It was **MOVED** by Councillor Gloster and **SECONDED** by Councillor Briggs that officers proceed to amend the Council’s Licensing Policy as per Option 3, outlined above.

**RESOLVED** that the amendments to Oldham’s Licensing Policy be agreed.

### 3 **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

### 4 **PUBLIC QUESTION TIME**

There were no public questions received.

### 5 **MINUTES OF PREVIOUS MEETING**

**RESOLVED** that the minutes of the Licensing Committee meeting held on 6<sup>th</sup> March 2018 be approved as a correct record.

### 6 **LICENSING ANNUAL REPORT 2018**

Consideration was given to a report of the Trading Standards and Licensing Manager which sought to inform the committee of the activities undertaken to discharge the Council’s licensing functions during the period 1<sup>st</sup> April 2017 to 30<sup>th</sup> April 2018.

It was explained that the licensing function encompassed two strategic objectives:

- To work with businesses to ensure they were licensed and compliant;
- To ensure safe passenger journeys, in safe licensed vehicles with safe licensed drivers.

It was also explained that the legislation that underpinned the Council’s licensing function was the Licensing Act 2003 whose main objectives were:

- Prevention of crime **Page 2**



- Prevention of public nuisance;
- Public safety;
- Protection of children from harm

The number of licensed premises under the Act for year ending 31<sup>st</sup> March 2018 were reported: these were 3531 in total. In the last 12 months, 8 applications to the Licensing Premises panel had been considered. It was also reported that 48 complaints had been received in relation to premises licenced under the Licensing Act 2003.

Applications under the Gambling Act 2005 continued to be in minor numbers and officers continued to work closely with the Gambling Commission to ensure compliance with licence conditions.

Trading Standards Officers continued to monitor premises where intelligence suggested attempts to purchase alcohol or other restricted goods by children. Figures relating to this issue were outlined in the report. Training would continue to be provided for all businesses regarding selling age restricted products.

With regards to the business of the Licensing Driver Panel, it was reported that since June 2017, a total of 37 hearings had been held: 32 for applications for new/renewal of licences and five for reviews of licences.

The details on the number of licences in force were provided as well as the figures concerning complaints and enforcement.

Members were also informed of current projects concerning the harmonisation of Private Hire and Hackney licensing policies across local authorities in Greater Manchester and recent changes in national legislation.

Members sought and received clarification / commented on the following points:

- Gambling Act 2005, limit to betting and social responsibility of licensee;
- Age restricted sales, data referred to separate premises;
- Complaints and enforcement, hackney carriage and private hire complaint type and outcomes;
- Private hire star rating scheme; up to date data to be published soon. Rating to be visible on the vehicle;
- Comparison with other areas in the country with a high number of licences issued;
- Other local authorities in Greater Manchester and opportunity for a shared taxi licensing policy;
- Second hand dealers registration and requirement to keep a book of transactions;
- Number of Pubwatch in the borough.
- Recruitment issues – the service was now fully staffed with a new Principal Licensing Officer who recently joined the team.

At this point in the proceedings, Councillor M. Bashforth, left the meeting.

The Committee commended the progress on the NVQ level 2 training scheme on road passenger transport. The policy had been introduced last year and required all taxi drivers in Oldham to complete the NVQ course as a mandatory condition of their licence.

**RESOLVED that:**

1. The report be noted;
2. The implications of the report be considered in future licensing decisions.

At this point in the proceedings, Councillor Cosgrove left the meeting which was adjourned for five minutes and resumed at 11.07 a.m.

7

**COMPOSITION OF LICENSING PANELS**

Consideration was given to the proposals, outlined in the report, for the composition of the Licencing Driver Panel and the Licensing Panels for the Municipal Year 2018/19.

The Chair informed the Committee that Councillor Malik remained a member of the Licensing Committee. However, he would not be able to be part of the Licensing Driver Panel. It was agreed that further consultation would be necessary in order to fill the remaining vacancy on this Panel.

It was also agreed that Councillor Garry replaced Councillor Marie Bashforth on the Licensing Panels scheduled for 11<sup>th</sup> September and 11<sup>th</sup> December 2018.

**RESOLVED** that, the composition of Panels for the Municipal Year 2018/19 be agreed as follows:

No.	Party	Councillor (8)	Dates of Future Meetings
1.	Lab	Briggs (C)	<b>Tuesday 12th June 2018</b>
2.	Lab	Cosgrove	<b>Tuesday 3<sup>rd</sup> July 2018</b>
3.	Lab	<b>Vacant</b>	<b>Tuesday 4<sup>th</sup> September 2018</b>
4.	Lab	Shuttleworth	<b>Tuesday 2<sup>nd</sup> October 2018</b>
5.	Lab	Garry	<b>Tuesday 13<sup>th</sup> November 2018</b>
6.	Lab	A Alexander	<b>Tuesday 4<sup>th</sup> December 2018</b>
7.	Lib Dem	Gloster	<b><u>2019</u></b>
			<b>Tuesday 15<sup>th</sup> January 2019</b>
			<b>Tuesday 5<sup>th</sup> February 2019</b>

			<b>Tuesday 12<sup>th</sup> March 2019</b>
			<b>Tuesday 2<sup>nd</sup> April 2019</b>



**Oldham**  
Council

**(a) Licensing Panels**

5 Panels consisting of 3 Members, with all other Members of the Licensing Committee to serve as substitutes, as required: -

**PANEL 1**

No.	Councillor (3)	Dates of Future meetings
1.	Briggs	<b>Tuesday 19<sup>th</sup> June 2018</b>
2.	Malik	<b>Tuesday 22<sup>nd</sup> January 2019</b>
3.	Gloster	

**PANEL 2**

No.	Councillor (3)	Dates of Future Meetings
1.	Moores	<b>Tuesday 10<sup>th</sup> July 2018</b>
2.	Price	<b>Tuesday 12<sup>th</sup> February 2019</b>
3.	Byrne	

**PANEL 3**

No.	Councillor (3)	Dates of Future Meetings
1.	Garry	<b>Tuesday 11<sup>th</sup> September 2018</b>
2.	Shuttleworth	<b>Tuesday 11<sup>th</sup> December 2018</b>
3.	A. Hussain	

**PANEL 4**

No.	Councillor (3)	Dates of Future Meetings
1.	Moores	<b>Tuesday 9<sup>th</sup> October 2018</b>
2.	Brock	<b>Tuesday 19<sup>th</sup> March 2019</b>
3.	Gloster	

**PANEL 5**

No.	Councillor (3)	Dates of Future Meetings
1.	Shuttleworth	<b>Tuesday 20<sup>th</sup> November 2018</b>
2.	Rehman	<b>Tuesday 9<sup>th</sup> April 2019</b>
3.	Byrne	

***(Please note that all Licensing Panels will be held at the Civic Centre, Oldham)***

The meeting started at 9.30 am and ended at 11.25 am

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**LICENSING COMMITTEE**  
**03/07/2018 at 9.30 am**



**Present:** Councillor Briggs (Chair)  
Councillors A. Alexander, Byrne, Cosgrove (Vice-Chair), Garry,  
A Hussain, Moores, Price, Rehman and Shuttleworth

Also in Attendance:

John Garforth	Trading Standards and Licensing Manager
Lori Hughes	Constitutional Services
David Joy	Solicitor
David Smith	Principal Licensing Officer

1           **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Brock,  
Councillor Gloster and Councillor Malik.

2           **URGENT BUSINESS**

There were no items of urgent business received.

3           **DECLARATIONS OF INTEREST**

There were no declarations of interest received.

4           **PUBLIC QUESTION TIME**

There were no public questions received.

5           **APPOINTMENT TO THE LICENSING DRIVER PANEL**

Nominations to the vacancy on the Licensing Driver Panel were  
given consideration.

Councillor Garry proposed and Councillor Byrne seconded the  
nomination for Councillor Price.

Councillor A. Alexander proposed and Councillor A. Hussain  
seconded the nomination for Councillor Rehman.

The Chair requested a secret ballot be undertaken. Upon  
receipt of the ballots being received and counted Councillor  
Price received the majority vote.

**RESOLVED** that Councillor Price be appointed to the Licensing  
Driver Panel for the Municipal Year 2018/19.

The meeting started at 9.30 am and ended at 9.38 am

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## Report to LICENSING COMMITTEE

# Animal Welfare Licensing Policy

### Portfolio Holder:

Cllr A. Shah – Cabinet Member for Neighbourhoods

**Officer Contact:** Deputy Chief Executive – People & Place

**Report Author:** John Garforth – Trading Standards & Licensing Manager

**Ext.** 5026

**6 November 2018**

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### Reason for Report

The reason for the report is to inform Members of the recent changes to Animal Welfare legislation, namely “Animal Welfare (Licensing of Activities involving Animals) Regulations 2018” which were implemented on 1<sup>st</sup> October 2018.

### Recommendations

That Members consider the proposed Animal Welfare Licensing Policy which incorporates the new regulations and make any suggestions for further alterations to it prior to it being placed before December Council.

## Animal Welfare Licensing Policy

### 1 Background

1.1 The Council is responsible for the regulation and licensing of a variety of animal-related businesses and activities. The licence types currently issued by the Council are:

- Animal boarding establishment licences
- Dog breeding establishment licences
- Pet shop licences
- Riding establishment licences
- Dangerous Wild Animal Licences\*
- Zoo Licences\*

1.2 There are many different pieces of legislation controlling the welfare of animals, many of which have been superseded by the introduction and implementation of the new regulations. The Council must also take into account the Animal Welfare Act 2006, as this is the primary piece of legislation controlling the welfare of animals in England and Wales and established set welfare standards that must be maintained by all people who are responsible for animals under the above activities.  
(\*Dangerous Wild Animal and Zoo licences are unaffected by the new legislation).

1.3 Although there is no statutory requirement for local authorities to set policies in relation to animal welfare licensing, the Council consider it best practice to do so to ensure transparency, accountability, consistency and the promotion of good standards in licensing.

### 2 Current Position

2.1 In 2017, the Government consulted on Draft Regulations relating to ‘The Animal Welfare (Licensing of Activities Involving Animals) Regulations’. These Regulations came into effect on 1<sup>st</sup> October 2018. There have been numerous licensing systems in the past that local authorities have used to regulate businesses which deal with animals, or animal activities, many of which have been in place for over 50 years. This has led to outdated regulations meaning some businesses require several licences, and others such as home boarding and dog day care businesses were not always covered.

2.2 The new system, which includes a new set of national mandatory conditions set by Parliament, introduces a more rigorous and robust scheme which will, in most cases, involve a more thorough and mid-term inspection during the licence period. These Regulations introduce a new structure for local authorities to use for the different areas of licensed activities as listed below:

- Selling animals as pets
- Providing or arranging for the provision of boarding cats or dogs
- Hiring out horses
- Breeding dogs
- Keeping or training animals for exhibition

2.3 A key part of these new licences will be a new “star rating” system (out of five) for licensed activities involving animals. This rates relevant businesses, on welfare and other grounds, and helps consumers choose the best provider as well as enabling local authorities to

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better regulate the poor rated through increased inspections. It is also anticipated that the rating system will prove motivation to providers to improve their rating.

2.4 The Licensing department informed all current licence holders of the New Animal Licensing Regulations in writing shortly after the implementation date. All current licences, with the exception of dog breeding licences, will expire on 31<sup>st</sup> December 2018 and all applicants have been advised that they must apply for a new licence within 14 days upon receipt of the letter. Due to this being a new licensing regime, all licences will be deemed to be 'new' regardless of whether a licence has been held previously.

2.5 Members are asked to consider the attached proposed policy prior to moving forward for approval at December 2018 Council.

### 3 **Recommendations**

3.1 Members are asked to note the report and feedback any comments on its content.

### 4 **Preferred Option**

4.1 N/A

### 5 **Consultation**

5.1 None

### 6 **Financial Implications**

6.1 Not applicable

### 7 **Legal Services Comments**

7.1 Licences issued by the Council must be in accordance with the relevant conditions specified in Schedules 2 to 7 of the Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018. (A Evans)

### 8. **Co-operative Agenda**

8.1 None

### 9 **Human Resources Comments**

9.1 None

### 10 **Risk Assessments**

10.1 Not applicable

### 11 **IT Implications**

11.1 None

### 12 **Property Implications**

12.1 None

### 13 **Procurement Implications**

- 
- 13.1 None
  - 14 **Environmental and Health & Safety Implications**
  - 14.1 None
  - 15 **Equality, community cohesion and crime implications**
  - 15.1 None
  - 16 **Equality Impact Assessment Completed?**
  - 16.1 No
  - 17 **Key Decision**
  - 17.1 No
  - 18 **Key Decision Reference**
  - 18.1 Not applicable
  - 19 **Background Papers**
  - 19.1 None
  - 20 **Appendices**
  - 20.1 Appendix 1 – Animal Welfare Licensing Policy (draft)

# Animal Welfare Licensing Policy (Draft)

- Awaiting approval
- Issued for information only

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## **1. Introduction**

- 1.1 Oldham Council is responsible for licensing a number of activities relating to the welfare of animals under a number of Acts of Parliament. This legislation is aimed at protecting animals in order to carry out certain businesses, or have possession of certain animals within the borough of Oldham without first being licensed by the Council.
- 1.2 This document states the Council's policy on the regulation of animal establishments. The purpose of the animal establishment's legislation set out below is to protect the health, safety and welfare of animals and prevent the spread of disease.
- 1.3 Oldham Council has had regard to Defra's procedural guidance when producing this policy.
- 1.4 Information and guidance supporting this policy may be found at [www.oldham.gov.uk/animals](http://www.oldham.gov.uk/animals)

## **2. Transitional Provisions**

- 2.1 Any unexpired licences granted under the Pet Animals Act 1951, Animal Boarding Establishments Act 1963, Riding Establishments Act 1964, Riding Establishments Act 1970 will continue in force for the rest of their terms under the relevant Act.
- 2.2 An unexpired licence granted under the Breeding of Dogs Act 1973 will continue in force for the rest of its term subject to the provisions of that Act, the Breeding of Dogs (Licensing Records) Regulations 1999 and the Breeding and Sale of Dogs (Welfare) Act 1999.

## **3. Licences issued by the Council**

- 3.1 The Council issues licences for the below activities relating to the welfare of animals and are regulated by the following Acts:
  - Dangerous wild animal licences – (Dangerous Wild Animals Act 1976)
  - Zoo licences – (Zoo Licensing Act 1981)
  - Animal Welfare Act 2006 (The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018)

Oldham Council is also responsible for carrying out animal welfare licensing inspections for neighbouring local authorities.

## **4. Animal Welfare Act 2006**

- 4.1 This Act is the primary piece of legislation controlling the welfare of animals in England and Wales and established set welfare standards must be maintained by all people who are responsible for an animal. It has consolidated animal welfare legislation in areas such as preventing unnecessary suffering, mutilation and animal fighting. The Act also places responsibilities on to numerous enforcement agencies.
- 4.2 The Act introduces a 'duty of care' on any person that is responsible for an animal to ensure that the needs of that animal are met. A person does not have to be the owner of the animal for the 'duty of care' to apply.
- 4.3 The Act creates an offence of failing to provide for the needs of an animal in a person's care and increases the penalties for animal abuse allowing the courts to disqualify a person from being in charge of animals. Any person disqualified under

the Act will also be disqualified from holding a licence under any of the primary licensing Acts.

The Act permits the Department for the Environment, Food and Rural Affairs (Defra) to pass regulations that may repeal or amend any of the primary licensing Acts or to create new forms of licences.

4.4 Section 9 of the 2006 Act creates five overarching principles of animal welfare. The Act refers to these as the 'five needs' of all animals. It is the duty of any person responsible for an animal to ensure that each of these five needs are met.

- The need for a suitable environment;
- The need for a suitable diet;
- The need to be able to exhibit normal behaviour patterns;
- Any need to be housed with, or apart from, other animals; and
- The need to be protected from pain, suffering, injury and disease.

## 5. Licensing Objectives

When carrying out its function under the primary licensing Acts the Council will seek to promote the following objectives:

- Animal welfare (the five needs)
- Public safety

## 6. Licensable Activities

### 6.1 *Business Test*

The circumstances where a local authority must take into account in determining whether an activity is being carried out in the course of a business for the purposes of this Schedule include, for example, whether the operator –

- a) makes any sale by, or otherwise carries on, the activity with a view to making a profit, or
- b) earns any commission or fee from the activity.

### 6.2 *Selling animals as pets*

Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.

The activity described in the above paragraph does not include— (a) selling animals in the course of an aquacultural production business authorised under regulation 5(1) of the Aquatic Animal Health (England and Wales) Regulations 2009(a), or (b) the activity described in paragraph 8.

### 6.3 *Providing or arranging for the provision of boarding for cats or dogs*

Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business by—

- (a) providing boarding for cats;
- (b) providing boarding in kennels for dogs;
- (c) providing home boarding for dogs; or

(d) providing day care for dogs..

The activity described in the above paragraph does not include keeping a dog or cat on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981(a).

#### 6.4 *Hiring out horses*

Hiring out horses in the course of a business for either or both of the following purposes—

- (a) riding;
- (b) instruction in riding.

The activity described in the above paragraph does not include any activity—

- (a) solely for military or police purposes, or
- (b) involving the instruction of students at a university on a course of study and examinations leading to a veterinary degree to which a recognition order under section 3 of the Veterinary Surgeons Act 1966(b) relates and for as long as such an order is in force.

#### 6.5 *Breeding dogs*

Either or both of the following—

- (a) breeding three or more litters of puppies in any 12-month period;
- (b) breeding dogs and advertising a business of selling dogs.

The activity described in the above paragraph does not include—

- (a) keeping a dog on any premises pursuant to a requirement imposed under, or having effect by virtue of, the Animal Health Act 1981,
- (b) breeding only assistance dogs or dogs intended to be used as assistance dogs within the meaning of section 173 of the Equality Act 2010(c), or
- (c) breeding three or more litters of puppies in any 12-month period if the person carrying on the activity provides documentary evidence that none of them have been sold (whether as puppies or as adult dogs).

#### 6.6 *Keeping or training animals for exhibition*

Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes—

- (a) to any audience attending in person, or
- (b) by the recording of visual images of them by any form of technology that enables the display of such images.

The activity described in the above paragraph does not include—

- (a) keeping or training animals solely for military, police or sporting purposes,
- (b) any activity permitted under a licence to operate a travelling circus under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012(a), or
- (c) any activity permitted under a licence for a zoo under the Zoo Licensing Act 1981(b).

## 7. **Public Safety**

- 7.1 In addition to the danger to the welfare of animals by unlicensed or irresponsible animal owners there is also a danger that may arise to members of the public. For instance the effect of diseases affecting animals, or harmful bacteria stemming from poor hygiene could spread and affect other members of the public and their animals.

Additionally, licence holders that permit members of the public onto their premises have a duty to ensure that they do not put them at risk of illness or injury. Public safety will therefore be a paramount consideration by the Council at all times.

## **8. Licensing Application Procedure**

- 8.1 The primary licensing Acts set out individual application requirements and standards that the Council must be satisfied of before it can grant a licence. Each of those primary Licensing Acts permits the Council to impose conditions on each licence it grants. The purpose of requiring a licence is primarily to ensure the welfare of the animals.
- 8.2 Unless legislation states otherwise, licences will remain in force for up to three years dependent upon the scoring matrix of low/high risk, together with welfare standards. Minor failings during an inspection may result in a re-inspection within 7 days at the inspecting officer's discretion before a final score is confirmed. The licence holder must apply for a renewed licence at least 10 weeks before their current licence expires if they wish to continue to operate the licensable activity without a break.
- 8.3 Applicants may request a re-inspection during the term of the licence. The fee for this will be levied at the Council's published hourly rate.
- 8.4 Applications made to the local Authority must be completed using the relevant Application forms available from the Council website or on request from the Licensing Section.
- 8.5 There are a number of different areas that may affect or be affected by licence holders or potential licence holders under the primary licensing Acts and where necessary these will be considered by the Council in carrying out its functions under the Animal Welfare Act 2006.
- 8.6 Each licence type has its own application process and requirements that the Council need to take into consideration before granting a licence. Details on how to apply for a licence can be viewed at [www.oldham.gov.uk/animals](http://www.oldham.gov.uk/animals).
- 8.7 Each of the primary licensing Acts states clearly the criteria which the Council must be satisfied of before any licence is granted. Where the relevant licensing officer is not satisfied that the legal requirements are met, or when an inspector or the Veterinary surgeon has raised concerns that the legal requirements or standards are not met or unlikely to be met, the applicant will be notified. The applicant will have the opportunity to address these matters in the hope of satisfying the relevant criteria.
- 8.8 *Persons who may not apply for a licence*

The following persons may not apply for a licence in respect of any licensable activity—

- a) a person listed as a disqualified person in paragraph 4 or any of paragraphs 6 to 17 of Schedule 8 where the time limit for any appeal against that disqualification has expired or where, if an appeal was made, that appeal was refused;
- (b) a person listed in any of paragraphs 1 to 3 and 5 of Schedule 8 as having held a licence which was revoked where the time limit for any appeal against that revocation has expired or where, if an appeal was made, that appeal was refused.

Any licence granted or renewed, or held by, a person mentioned in paragraph (1)(a) or (b) is automatically revoked.

## **9. Decision making**

Decisions will be made in accordance to relevant statute, inspections and guidance. Internal reviews of decisions will be undertaken by a delegated manager and appeals of decisions must be made in writing to the appropriate first tier tribunal, which at the time of writing this policy, is Leicester Magistrates Court.

## **10. Enforcement & Offences**

10.1 Inspectors from the Council are appointed to fulfil duties and carry out licensing functions on its behalf. They may inspect the premises at all reasonable times. If the Council have any concerns about the welfare of the animals kept under the licence it may be that the Council instructs a vet to ascertain if the measures in place are acceptable.

10.2 It is an offence to breach any licence condition. It is also an offence not to comply with an inspector's request in the process of taking a sample from an animal. Samples should be as non-invasive as possible however inspectors may deem more invasive samples necessary if there are concerns over the welfare of the animals, the provision for sampling is primarily aimed at veterinarians carrying out inspections and it is not expected that samples be taken by those without the training to properly and safely do so.

10.3 It is also an offence to obstruct an inspector who has been appointed by a local authority to enforce the Regulations. Committing either of these offences could result in an unlimited fine.

10.4 If a licence holder is not complying with their licence conditions the Council may take appropriate enforcement action. This may be to advise them that they no longer meet the licensing requirements and must cease the licensable activity or to prosecute them.

10.5 Anyone who carries on any of the licensable activities without a licence is liable to imprisonment for a term of up to six months, a fine or both, section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.

10.6 *Grounds for suspension, variation without consent or revocation of a licence*

A local authority may, without any requirement for the licence holder's consent, decide to suspend, vary or revoke a licence at any time on being satisfied that—

- (a) the licence conditions are not being complied with,
- (b) there has been a breach of these Regulations,
- (c) information supplied by the licence holder is false or misleading, or
- (d) it is necessary to protect the welfare of an animal.

## **11. Powers of entry**

11.1 An inspector may not enter any part of the premises which is used as a private dwelling unless 24 hours' notice of the intended entry is given to the occupier, parts of the premises which are not a private dwelling may be entered by an inspector if

the premises is specified in a licence as premises on which the carrying on of an activity to which a licence relates is being carried on.

- 11.2 A justice of the peace can issue a warrant authorising an inspector or a constable to enter a premises on the request of an inspector or constable using reasonable force if necessary in order to search for evidence of the commission of a relevant offence.
- 11.3 The justice will only issue a warrant if there are reasonable grounds for believing that a relevant offence has been committed on the premises, or that evidence of the commission of a relevant offence is to be found on the premises, and that section 52 of the Animal Welfare Act 2006 is satisfied in relation to the premises.
- 11.4 All other considerations from the Animal Welfare Act also apply.

## **12 Fees**

- 12.1 Licensing fees are calculated on a cost recovery basis. Activities covered by the licensing fees set out in Regulation 13 of the 2018 Regulations are as follows:
  - a) The costs of consideration of an application, including any inspection relating to that consideration;
  - b) The reasonable anticipated costs of consideration of a licence holder's compliance with the Regulations and the licence conditions to which a licence holder is subject. This includes the costs of any further inspections related to compliance;
  - c) The reasonable anticipated costs of enforcement in relation to any licensable activity of an unlicensed operator; and
  - d) The reasonable anticipated costs of the local authority compiling and submitting the data required by regulation 29 to the Secretary of State.
- 12.2 The same principles will apply for fee calculation in relation to Dangerous Wild Animals and Zoo Licences.
- 12.3 In setting fees, all relevant guidance will be taken into consideration.
- 12.4 Separate application and grant fees will be set and a grant fee, where appropriate, will include any additional inspection costs including those of the vet and compliance and monitoring costs going forward.
- 12.5 Fees will be reviewed annually and published on the Council's website.

## **13. Death of a licence holder**

In the event of the death of a licence holder, the licence is deemed to have been granted to, or renewed in respect of, the personal representatives of that former licence holder.

In the circumstances described in the above paragraph the licence is to remain in force for three months beginning with the date of the death of the former licence holder or for as long as it was due to remain in force but for the death (whichever period is shorter) but remains subject to the provisions in Part 3.

The personal representatives must notify in writing the local authority which granted or renewed the licence that they are now the licence holders within 28 days beginning with the date of the death of the former licence holder.

If the personal representatives fail so to notify the local authority within the period specified in paragraph (3), the licence shall cease to have effect on the expiry of that period.

The local authority which granted or renewed the licence may, on the application of the personal representatives, extend the period specified in paragraph (2) for up to three months if it is satisfied that the extension is necessary for the purpose of winding up the estate of the former licence holder and is appropriate in all the circumstances.

#### **14. Dangerous Wild Animals Licence**

- 14.1 The keeping of certain species of wild animals is controlled by the Dangerous Wild Animals (DWA) Act 1976 (as amended). No person may keep any dangerous wild animal without first obtaining a licence from the Council. These licences are required regardless of whether the animal is kept for commercial purposes or as a pet.
- 14.2 The animals classed as DWA are listed in the DWA Act 1976 (Modification) (No.2) Order 2007. Any person who is unsure if their animal is classed as dangerous should consult that order or seek advice.
- 14.3 The person making the application must be the person who owns or possesses or proposes to own and possess the animal to which the application applies. The licence must be obtained and held before the owner actually has possession of the animal.
- 14.4 Upon receipt of a completed application form and payment of the fee, a visit will be made to the premises by an inspector from the Animal Welfare team and our appointed veterinary surgeon. They will be checking for compliance against the licensing conditions and other legislation including the Animal Welfare Act 2006. Following the inspection, the veterinary surgeon will provide the Local Authority with a report highlighting any issues, which may be added as additional conditions to the applicants licence. The applicant will then be re-charged for the veterinary fees.
- 14.5 If the inspector considers the applicant's procedure to be acceptable and the premises to be suitable, the licence will be issued. A copy of the licence must then be displayed in a prominent position at the premises.

#### **Considerations**

Before granting a licence the Council must be satisfied:

- It is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;
- The applicant is a suitable person to hold a licence under The Dangerous Wild Animals Act 1976 (as amended);
- Any animal concerned will at all times of its being kept only under the authority of the licence –
  - (i) be held in secure accommodation suitable in size for the animals kept and which is suitable as regards construction, temperature, lighting, ventilation, drainage and cleanliness; and

- (ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;
- Appropriate steps will at such times be taken for the protection of any animal in case of fire or other emergency;
- All reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;
- While any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise.

## **15 Zoo Licence**

- 15.1 The Zoo Licensing Act 1981 came into force in 1984 and introduced a licensing system applicable to existing and new zoos. The Act was amended significantly by the Zoo Licensing Act 1984 (Amendment) (England and Wales) Regulations 2002. The Act aims to ensure that, where animals are kept in enclosures, they are provided with a suitable environment to provide an opportunity to express most normal behaviour.
- 15.2 Any establishment, other than a circus or shop, when wild animals are kept for public exhibition on seven or more days in any period of 12 consecutive month's period falls within the definition of a zoo and require a licence from the Council.
- 15.3 Wild animals, for the purpose of the 1981 Act, is wide ranging and means any animal that is not normally domesticated in Great Britain. This would include animals that have come from abroad and animals/birds/reptiles that are wild in this country.

### **Considerations**

Before determining to grant or refuse a licence, Oldham Council shall take into account representations made by or on behalf of:

- The applicant
- Chief officer of Police
- Fire Officer
- Governing Body of any national institution concerned with the operations of zoos
- Planning authority if not local authority
- Any person alleging establishment or continuance of a zoo would injuriously affect health and safety of persons living in the neighbourhood of the zoo

Oldham Council will consider any reports made by an inspector who has inspected the zoo. If there has been no inspection (which might be the case for a new zoo), the authority will consult such persons as the Secretary of State nominates.

### **The authority may approve or refuse the application:**

#### **➤ Approval of the licence**

If the licence is approved:

- The licence will be sent in the post.
- The licence must be publicly displayed at the entrance to the zoo.



## ➤ **Refusal of the licence**

Oldham Council **shall** refuse if:

- The authority is satisfied establishment or continuance of zoo would injuriously affect health and safety of persons living in the neighbourhood of the zoo, or seriously affect the preservation of law and order

Oldham Council **may** refuse if:

- Standards of accommodation, staffing or management are not adequate for proper care and well being of the animals
- Applicant, director/manager secretary (of a body corporate), keeper of zoo has been convicted for ill treatment of animals
- Planning permission for the zoo has not been granted the authority can refuse or defer the decision

### **15.4 Licences**

A new licence will be granted for 4 years from the date on the licence.

If the licence is a renewal it will be 6 years from the end of existing licence.

### **15.5 Inspections**

Three inspectors are appointed by the local authority who appear competent, including 1 vet and 2 inspectors nominated after consultation with the Secretary of State. (A zoo operator may ask for this number to be reduced.)

The inspectors will look at:

Health, welfare and safety of public and animals including measures for prevention of escape, and the records kept under any site condition.

The report will be sent to the local authority who will notify the zoo operator of any recommendations within one month. The operator will be allowed to comment on the recommendations.

### **15.6 Dispensations**

A local authority can request the Secretary of State that due to the small size of the zoo or the small number of animal types kept there, to direct that the Act does not apply or that it is not necessary for periodical and special inspections to be carried out.

The Secretary of State may, after consulting such persons as he thinks fit, determine if these dispensations may be allowed.

The operator of the zoo may request the Secretary of State to reduce the number of inspectors for periodical inspections having regard to the size of the zoo or the small number of animals kept there.

The Secretary of State may nominate the persons to inspect the zoo, if so the operator's right to object shall not apply. This may be reviewed by the Secretary of

## APPENDIX 1- Providing boarding for cats or dogs

### The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- General conditions

#### **Licence display**

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

#### **Records**

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

#### **Use, number and type of animal**

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

#### **Staffing**

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.

#### **Suitable environment**

5.—(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.

(2) Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to—

(a) their behavioural needs,

(b) its situation, space, air quality, cleanliness and temperature,

(c) the water quality (where relevant),

(d) noise levels,

(e) light levels,

(f) ventilation.

(3) Staff must ensure that the animals are kept clean and comfortable.

(4) Where appropriate for the species, a toileting area and opportunities for toileting must be provided.

(5) Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.

(6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.

(7) All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.

(8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.

(9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

#### **Suitable diet**

6.—(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.

(2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.

(3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.

(4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.

(5) Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.

(6) Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

### **Monitoring of behaviour and training of animals**

7.—(1) Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.

(2) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.

(3) The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.

(4) Where used, training methods or equipment must not cause pain, suffering or injury.

(5) All immature animals must be given suitable and adequate opportunities to—

(a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and

(b) become habituated to noises, objects and activities in their environment.

### **Animal handling and interactions**

8.—(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

### **Protection from pain, suffering, injury and disease**

9.—(1) Written procedures must—

(a) be in place and implemented covering—

- (i)feeding regimes,
  - (ii)cleaning regimes,
  - (iii)transportation,
  - (iv)the prevention of, and control of the spread of, disease,
  - (v)monitoring and ensuring the health and welfare of all the animals,
  - (vi)the death or escape of an animal (including the storage of carcasses);
- (b)be in place covering the care of the animals following the suspension or revocation of the licence or during and following an emergency.
- (2) All people responsible for the care of the animals must be made fully aware of these procedures.
- (3) Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.
- (4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.
- (5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.
- (6) Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.
- (7) Where necessary, animals must receive preventative treatment by an appropriately competent person.
- (8) The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.
- (9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.
- (10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.
- (11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.

(12) No person may euthanase an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or—

(a) in the case of fish, a person who is competent for such purpose;

(b) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

(13) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

### **Emergencies**

**10.—**(1) A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) The plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

### Specific conditions: providing boarding for cats or dogs

#### **PART 1 - Providing boarding for cats**

##### **Interpretation**

**1.** In this Part—

“cat unit” means the physical structure and area that comprises a sleeping area and an exercise run;

“exercise run” means an enclosed area forming part of the cat unit attached to and with direct and permanent access to the sleeping area;

“premises” means the premises on which the licensable activity of providing boarding for cats is carried on.

## **Suitable environment**

2.—(1) Cats within the premises must be prevented from coming into direct contact with other animals from outside the premises.

(2) There must be a safe, secure, waterproof roof over the entire cat unit.

(3) A cat unit may only be shared by cats from the same household.

(4) Communal exercise areas are not permitted.

(5) Each cat unit must be clearly numbered and there must be a system in place which ensures that information about the cat or cats in each cat unit is available to all staff and any inspector.

(6) Each cat unit must provide the cat with sufficient space to—

(a) walk,

(b) turn around,

(c) stand on its hind legs,

(d) hold its tail erect,

(e) climb,

(f) rest on the elevated area, and

(g) lie down fully stretched out,

without touching another cat or the walls.

(7) Each cat unit must have sufficient space for each cat to sit, rest, eat and drink away from the area where it urinates and defecates.

(8) Cats must have constant access to their sleeping area.

(9) A litter tray and safe and absorbent litter material must be provided at all times in each cat unit and litter trays must be regularly cleaned and disinfected.

(10) Each cat unit must include an elevated area.

(11) Adjoining cat units must have solid barriers covering the full height and full width of the adjoining wall.

(12) Any gaps between cat units must be a minimum of 0.6 metres wide.

(13) Any cat taken out of a cat unit must be secured in a suitable carrier.

(14) The sleeping area must form part of the cat unit and be free from draughts.

## **Monitoring of behaviour and training of cats**

**3.—**(1) There must be an area within each cat unit in which the cat can avoid seeing other cats and people outside the cat unit if it so chooses.

(2) Each cat unit must include a facility for scratching and any surface within a cat unit available for scratching must either be disinfected between uses by different cats or disposed of.

(3) All cats must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.

(4) All toys and other enrichment items must be checked daily to ensure they remain safe and must be cleaned and disinfected at least weekly.

### **Records**

**4.** A register must be kept of all the cats on the premises which must include—

(a) the dates of each cat's arrival and departure,

(b) each cat's name, age, sex, neuter status and a description of it or its breed,

(c) each cat's microchip number, where applicable,

(d) the number of any cats from the same household,

(e) a record of which cats (if any) are from the same household,

(f) the name, postal address, telephone number (if any) and email address (if any) of the owner of each cat and emergency contact details,

(g) in relation to each cat, the name, postal address, telephone number and email address of a local contact in an emergency,

(h) the name and contact details of each cat's normal veterinarian and details of any insurance relating to the cat,

(i) details of each cat's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise,

(j) details of each cat's diet and related requirements,

(k) any required consent forms,

(l) a record of the date or dates of each cat's most recent vaccination, worming and flea treatments, and

(m) details of any medical treatment each cat is receiving.

### **Protection from pain, suffering, injury and disease**

**5.—**(1) A cat must remain in its assigned cat unit, except when it is moved to an isolation cat unit or to a holding cat unit.

(2) Where any other activity involving animals is undertaken on the premises, it must be kept entirely separate from the area where the activity of providing boarding for cats takes place.



(3) All equipment must be cleaned and disinfected before a cat is first introduced into a cat unit.

(4) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(5) A holding cat unit must only be used in an emergency and must not be used for longer than is necessary and in any event for no longer than a total of 12 hours in any 24-hour period.

(6) In this paragraph, “holding cat unit” means a cat unit, separate from any other cat unit, in which a cat may be housed temporarily.

## **PART 2 - Providing boarding in kennels for dogs**

### **Interpretation**

**6.** In this Part—

“exercise run” means an enclosed area forming part of a kennel unit attached to and with direct access to the sleeping area;

“kennel unit” means the physical structure and area that consists of a sleeping area and an exercise run;

“premises” means the premises on which the licensable activity of providing boarding in kennels for dogs is carried on.

### **Suitable environment**

**7.—(1)** Dogs within the premises must be prevented from coming into contact with other animals from outside the premises.

(2) In each kennel unit, the sleeping area must—

(a) be free from draughts;

(b) provide the dog with sufficient space to—

(i) sit and stand at full height,

(ii) lie down fully stretched-out,

(iii) wag its tail,

(iv) walk, and

(v) turn around,

without touching another dog or the walls;

(c) have a floor area which is at least twice the area required for the dog in it to lie flat; and

(d) if built after the date on which these Regulations come into force, have a floor area of at least 1.9 square metres.

(3) Each kennel unit must be clearly numbered and there must be a system in place which ensures that information about the dog or dogs in each kennel unit is available to all staff and any inspector.

(4) Each dog must have constant access to its sleeping area.

(5) Each dog must have a clean, comfortable and warm area within its sleeping area where it can rest and sleep.

(6) Each exercise run must have a single, safe, secure, waterproof roof over a minimum of half its total area.

(7) Where a dog poses a health or welfare risk to other dogs, it must be kept on its own in a kennel unit and, if that kennel unit adjoins another kennel unit, any adjoining wall must be of full height and width so as to prevent the dog from coming into physical contact with any other dog.

(8) Only dogs from the same household may share a kennel unit.

#### **Monitoring of behaviour and training**

**8.—**(1) Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

(2) All dogs must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.

(3) All toys and other enrichment items must be checked daily to ensure they remain safe and must be cleaned and disinfected at least weekly.

(4) Each dog must be exercised at least once daily away from its kennel unit as appropriate for its age and health.

(5) Any dog which, on the advice of a veterinarian, cannot be exercised must be provided with alternative forms of mental stimulation.

(6) There must be an area within each kennel unit in which a dog can avoid seeing people and other dogs outside the kennel unit if it so chooses.

#### **Records**

**9.—**(1) A register must be kept of all the dogs on the premises which must include—

(a) the dates of each dog's arrival and departure;

(b) each dog's name, age, sex, neuter status, microchip number and a description of it or its breed;

(c) the number of any dogs from the same household;

- (d) a record of which dogs (if any) are from the same household;
  - (e) the name, postal address, telephone number (if any) and email address (if any) of the owner of each dog and emergency contact details;
  - (f) in relation to each dog, the name, postal address, telephone number and email address of a local contact in an emergency;
  - (g) the name and contact details of the dog's normal veterinarian and details of any insurance relating to the dog;
  - (h) details of each dog's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise;
  - (i) details of the dog's diet and related requirements;
  - (j) any required consent forms;
  - (k) a record of the date or dates of each dog's most recent vaccination, worming and flea treatments;
  - (l) details of any medical treatment each dog is receiving.
- (2) When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

### **Protection from pain, suffering, injury and disease**

**10.**—(1) Where any other activity involving animals is undertaken on the premises, it must be kept entirely separate from the area where the activity of providing boarding for dogs in kennels takes place.

(2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(3) A holding kennel unit must only be used in an emergency and must not be used for longer than is necessary and in any event for no longer than a total of 12 hours in any 24-hour period.

(4) In sub-paragraph (3), "holding kennel unit" means a kennel unit, separate from any other kennel unit, in which a dog may be housed temporarily.

### **PART 3 - Providing home boarding for dogs**

#### **Interpretation**

**11.** In this Part—

"designated room" means a room within the home allocated to a dog;

"home" means a domestic dwelling on which the licensable activity of providing home boarding for dogs is carried on.

## **Home**

**12.**—(1) Dogs must be accommodated within the home.

(2) The home must include—

(a) direct access to a private, non-communal, secure and hazard-free external area, and

(b) at least two secure physical barriers between any dog and any entrance to or exit from it.

### **Suitable environment**

**13.**—(1) Dogs from different households may only be boarded at the same time with the written consent of every owner.

(2) Each dog must be provided with its own designated room where it can, if necessary, be kept separate from other dogs.

(3) Each dog must have a clean, comfortable and warm area within its designated room where it can rest and sleep.

(4) Each designated room must have a secure window to the outside that can be opened and closed as necessary.

(5) A dog must not be confined in a crate for longer than three hours in any 24-hour period.

(6) A dog must not be kept in a crate unless—

(a) it is already habituated to it,

(b) a crate forms part of the normal routine for the dog, and

(c) the dog's owner has consented to the use of a crate.

(7) Any crate in which a dog is kept must be in good condition and sufficiently large for the dog to sit and stand in it at full height, lie flat and turn around.

### **Suitable diet**

**14.** Each dog must be fed separately in its designated room unless its owner has given written consent to the contrary.

### **Monitoring of behaviour and training**

**15.**—(1) Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

(2) Each dog must be exercised at least once daily as appropriate for its age and health.

(3) Dogs which on the advice of a veterinarian cannot be exercised must be provided with alternative forms of mental stimulation.

### **Housing with or apart from other dogs**

**16.**—(1) Written consent must be obtained from the owner or owners (as the case may be) to keep dogs together in a designated room.

(2) Unneutered bitches must be prevented from mating.

(3) If any person aged under 16 years resides at the home, there must be procedures in place to regulate the interactions between the dogs and that person.

### **Records**

**17.—**(1) A register must be kept of all the dogs accommodated in the home which must include—

(a) the dates of each dog's arrival and departure;

(b) each dog's name, age, sex, neuter status, microchip number and a description of it or its breed;

(c) the number of any dogs from the same household;

(d) a record of which dogs (if any) are from the same household;

(e) the name, postal address, telephone number (if any) and email address (if any) of the owner of each dog and emergency contact details;

(f) in relation to each dog, the name, postal address, telephone number and email address of a local contact in an emergency;

(g) the name and contact details of each dog's normal veterinarian and details of any insurance relating to the dog;

(h) details of each dog's relevant medical and behavioural history, including details of any treatment administered against parasites and restrictions on exercise;

(i) details of each dog's diet and related requirements;

(j) any required consent forms;

(k) a record of the date or dates of each dog's most recent vaccination, worming and flea treatments;

(l) details of any medical treatment each dog is receiving.

(2) When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

### **Protection from pain, suffering, injury and disease**

**18.—**(1) Before a dog is admitted for boarding, all equipment to be used by or in relation to that dog must be cleaned and disinfected.

(2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

## **PART 4 - Providing day care for dogs**

### **Interpretation**

**19.** In this Part, “premises” means the premises on which the licensable activity of providing day care for dogs is carried on.

### **No overnight stay**

**20.** No dog may be kept on the premises overnight.

### **Suitable environment**

**21.—**(1) Each dog must be provided with—

- (a) a clean, comfortable and warm area where it can rest and sleep, and
- (b) another secure area in which water is provided and in which there is shelter.

(2) Each dog must have access to areas where it can—

- (a) interact safely with other dogs, toys and people, and
- (b) urinate and defecate.

(3) There must be an area where any dog can avoid seeing other dogs and people if it so chooses.

### **Suitable diet**

**22.** Any dog that requires specific feed due to a medical condition must be fed in isolation.

### **Monitoring of behaviour and training**

**23.—**(1) All dogs must be screened before being admitted to the premises to ensure that they are not afraid, anxious or stressed in the presence of other dogs or people and do not pose a danger to other dogs or staff.

(2) Any equipment used that is likely to be in contact with the dogs and any toys provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

### **Housing apart from other dogs**

**24.—**(1) Unneutered bitches must be prevented from mating.

(2) Dogs which need to be isolated from other dogs must be provided with alternative forms of mental stimulation.

### **Records**

**25.—**(1) A register must be kept of all the dogs on the premises which must include—

- (a) the date of the dog’s attendance;

(b)the dog's name, age, sex, neuter status, microchip number and a description of it or its breed;

(c)the name, postal address, telephone number (if any) and email address (if any) of the owner and emergency contact details;

(d)the name and contact details of the dog's normal veterinarian and details of any insurance relating to the dog;

(e)details of the dog's relevant medical and behavioural history, including details of any treatment administered against parasites and any restrictions on exercise;

(f)details of the dog's diet and relevant requirements;

(g)any required consent forms;

(h)a record of the date or dates of the dog's most recent vaccination, worming and flea treatments;

(i)details of any medical treatment the dog is receiving.

(2) When outside the premises, each dog must wear an identity tag which includes the licence holder's name and contact details.

**Protection from pain, suffering, injury and disease**

**26.—**(1) The dogs must be supervised at all times.

(2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(3) Any journeys in a vehicle must be planned to minimise the time dogs spend in the vehicle.

**The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations  
2018**

- General conditions

**Licence display**

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

**Records**

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

**Use, number and type of animal**

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

**Staffing**

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.

**Suitable environment**

5.—(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.



(2) Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to—

- (a) their behavioural needs,
- (b) its situation, space, air quality, cleanliness and temperature,
- (c) the water quality (where relevant),
- (d) noise levels,
- (e) light levels,
- (f) ventilation.

(3) Staff must ensure that the animals are kept clean and comfortable.

(4) Where appropriate for the species, a toileting area and opportunities for toileting must be provided.

(5) Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.

(6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.

(7) All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.

(8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.

(9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

### **Suitable diet**

**6.—**(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.

(2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.

(3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.

(4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.

(5) Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.

(6) Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

### **Monitoring of behaviour and training of animals**

7.—(1) Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.

(2) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.

(3) The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.

(4) Where used, training methods or equipment must not cause pain, suffering or injury.

(5) All immature animals must be given suitable and adequate opportunities to—

(a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and

(b) become habituated to noises, objects and activities in their environment.

### **Animal handling and interactions**

8.—(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

### **Protection from pain, suffering, injury and disease**

9.—(1) Written procedures must—

(a) be in place and implemented covering—

(i) feeding regimes,

(ii) cleaning regimes,

(iii) transportation,

(iv) the prevention of, and control of the spread of, disease,

- (v) monitoring and ensuring the health and welfare of all the animals,
  - (vi) the death or escape of an animal (including the storage of carcasses);
- (b) be in place covering the care of the animals following the suspension or revocation of the licence or during and following an emergency.
- (2) All people responsible for the care of the animals must be made fully aware of these procedures.
- (3) Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.
- (4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.
- (5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.
- (6) Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.
- (7) Where necessary, animals must receive preventative treatment by an appropriately competent person.
- (8) The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.
- (9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.
- (10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.
- (11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.
- (12) No person may euthanase an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or—
- (a) in the case of fish, a person who is competent for such purpose;
  - (b) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

(13) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

### **Emergencies**

**10.—**(1) A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) The plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

### Specific conditions: breeding dogs

### **Advertisements and sales**

**1.—**(1) The licence holder must not advertise or offer for sale a dog—

(a) which was not bred by the licence holder;

(b) except from the premises where it was born and reared under the licence;

(c) otherwise than to—

(i) a person who holds a licence for the activity described in paragraph 2 of Schedule 1; or

(ii) a keeper of a pet shop in Wales who is licensed under the Pet Animals Act 1951(1) to keep the shop,

knowing or believing that the person who buys it intends to sell it or intends it to be sold by any other person.

(2) Any advertisement for the sale of a dog must—

(a) include the number of the licence holder's licence,

(b) specify the local authority that issued the licence,

(c) include a recognisable photograph of the dog being advertised, and

(d) display the age of the dog being advertised.

(3) The licence holder and all staff must ensure that any equipment and accessories being sold with a dog are suitable for it.

(4) The licence holder and all staff must ensure that the purchaser is informed of the age, sex and veterinary record of the dog being sold.

(5) No puppy aged under 8 weeks may be sold or permanently separated from its biological mother.

(6) A puppy may only be shown to a prospective purchaser if it is together with its biological mother.

(7) Sub-paragraphs (5) and (6) do not apply if separation of the puppy from its biological mother is necessary for the health or welfare of the puppy, other puppies from the same litter or its biological mother.

### **Suitable environment**

**2.—**(1) Each dog must have access to a sleeping area which is free from draughts and an exercise area.

(2) Each dog must be provided with sufficient space to—

(a) stand on its hind legs,

(b) lie down fully stretched out,

(c) wag its tail,

(d) walk, and

(e) turn around,

without touching another dog or the walls of the sleeping area.

(3) The exercise area must not be used as a sleeping area.

(4) Part or all of the exercise area must be outdoors.

(5) There must be a separate whelping area for each breeding bitch to whelp in which contains a suitable bed for whelping.

(6) Each whelping area must be maintained at an appropriate temperature (between and including 26 and 28 degrees centigrade) and include an area which allows the breeding bitch to move away from heat spots.

(7) Each dog must be provided with constant access to a sleeping area.

(8) A separate bed must be provided for each adult dog.

(9) No puppy aged under 8 weeks may be transported without its biological mother except—

(a) if a veterinarian agrees for health or welfare reasons that it may be so transported, or

(b) in an emergency.

(10) No breeding bitch may be transported later than 54 days after the date of successful mating except to a veterinarian.

(11) No breeding bitch may be transported earlier than 48 hours after whelping except to a veterinarian where it is not otherwise practicable or appropriate for that person to attend to the bitch.

(12) Each dog's sleeping area must be clean, comfortable, warm and free from draughts.

(13) In this paragraph, "exercise area" means a secure area where dogs may exercise and play.

### **Suitable diet**

#### **3. Staff must—**

(a) ensure that each puppy starts weaning as soon as it is capable of ingesting feed on its own,

(b) provide each breeding bitch with feed appropriate to its needs,

(c) provide each puppy with feed appropriate for its stage of development, and

(d) ensure that each puppy ingests the correct share of the feed provided.

### **Monitoring of behaviour and training**

**4.—**(1) The licence holder must implement and be able to demonstrate use of a documented socialisation and habituation programme for the puppies.

(2) Each dog must be provided with toys or feeding enrichment (or both) unless advice from a veterinarian suggests otherwise.

(3) Except in the circumstances mentioned in sub-paragraph (4), all adult dogs must be exercised at least twice daily away from their sleeping area.

(4) Where a veterinarian has advised against exercising a dog, the dog must be provided with alternative forms of mental stimulation.

(5) Any equipment that a dog is likely to be in contact with and any toy provided must not pose a risk of pain, suffering, disease or distress to the dog and must be correctly used.

### **Housing with or apart from other dogs**

**5.—**(1) Each adult dog must be provided with opportunities for social contact with other dogs where such contact benefits the dogs' welfare.

(2) Each adult dog must be given suitable and adequate opportunities to become habituated to handling by people.

(3) Procedures must be in place for dealing with dogs that show abnormal behaviour.

(4) There must be an area within each sleeping area in which dogs can avoid seeing people and other dogs outside the sleeping area if they so choose.

### **Protection from pain, suffering, injury and disease**

**6.**—(1) All dogs for sale must be in good health.

(2) Any dog with a condition which is likely to affect materially its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until it has recovered.

(3) The licence holder must ensure that no bitch—

(a) is mated if aged less than 12 months;

(b) gives birth to more than one litter of puppies in a 12-month period;

(c) gives birth to more than six litters of puppies in total;

(d) is mated if she has had two litters delivered by caesarean section.

(4) The licence holder must ensure that each puppy is microchipped and registered to the licence holder before it is sold.

(5) No dog may be kept for breeding if it can reasonably be expected, on the basis of its genotype, phenotype or state of health that breeding from it could have a detrimental effect on its health or welfare or the health or welfare of its offspring.

(6) The health, safety and welfare of each dog must be checked at the start and end of every day and at least every four hours during the daytime.

(7) Breeding bitches must be adequately supervised during whelping and the licence holder must keep a record of—

(a) the date and time of birth of each puppy,

(b) each puppy's sex, colour and weight,

(c) placentae passed,

(d) the number of puppies in the litter, and

(e) any other significant events.

(8) The licence holder must keep a record of each puppy sale including—

(a) the microchip number of the puppy,

(b) the date of the sale, and

(c) the age of the puppy on that date.

(9) The licence holder must keep a record of the following in relation to each breeding dog—

(a) its name,

- (b)its sex,
- (c)its microchip and database details,
- (d)its date of birth,
- (e)the postal address where it normally resides,
- (f)its breed or type,
- (g)its description,
- (h)the date or dates of any matings, whether or not successful,
- (i)details of its biological mother and biological father,
- (j)details of any veterinary treatment it has received, and
- (k)the date and cause of its death (where applicable).

(10) In addition to the matters mentioned in sub-paragraph (7), the licence holder must keep a record of the following in relation to each breeding bitch—

- (a)the number of matings,
- (b)its age at the time of each mating,
- (c)the number of its litters,
- (d)the date or dates on which it has given birth, and
- (e)the number of caesarean sections it has had, if any.

(11) Unless the licence holder keeps the dog as a pet, the licence holder must make arrangements for any dog no longer required for breeding to be appropriately rehomed.

(12) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented.

(13) The licence holder must keep a record of any preventative or curative healthcare (or both) given to each dog.

(14) Where any other activity involving animals is undertaken on the premises on which the licensable activity of breeding dogs is carried on, it must be kept entirely separate from the area where that licensable activity is carried on.



**The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations  
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SCHEDULE 2 General conditions

**Licence display**

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

**Records**

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

**Use, number and type of animal**

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

**Staffing**

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.

**Suitable environment**

5.—(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.

(2) Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to—

(a) their behavioural needs,

(b) its situation, space, air quality, cleanliness and temperature,

(c) the water quality (where relevant),

(d) noise levels,

(e) light levels,

(f) ventilation.

(3) Staff must ensure that the animals are kept clean and comfortable.

(4) Where appropriate for the species, a toileting area and opportunities for toileting must be provided.

(5) Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.

(6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.

(7) All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.

(8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.

(9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

### **Suitable diet**

**6.—**(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.

(2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.

(3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.

(4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.

(5) Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.

(6) Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

### **Monitoring of behaviour and training of animals**

**7.—**(1) Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.

(2) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.

(3) The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.

(4) Where used, training methods or equipment must not cause pain, suffering or injury.

(5) All immature animals must be given suitable and adequate opportunities to—

(a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and

(b) become habituated to noises, objects and activities in their environment.

### **Animal handling and interactions**

**8.—**(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

### **Protection from pain, suffering, injury and disease**

**9.—**(1) Written procedures must—

(a) be in place and implemented covering—

(i) feeding regimes,

(ii) cleaning regimes,

(iii) transportation,

- (iv) the prevention of, and control of the spread of, disease,
  - (v) monitoring and ensuring the health and welfare of all the animals,
  - (vi) the death or escape of an animal (including the storage of carcasses);
- (b) be in place covering the care of the animals following the suspension or revocation of the licence or during and following an emergency.
- (2) All people responsible for the care of the animals must be made fully aware of these procedures.
  - (3) Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.
  - (4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.
  - (5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.
  - (6) Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.
  - (7) Where necessary, animals must receive preventative treatment by an appropriately competent person.
  - (8) The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.
  - (9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.
  - (10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.
  - (11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.
  - (12) No person may euthanase an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or—
    - (a) in the case of fish, a person who is competent for such purpose;

(b) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

(13) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

### **Emergencies**

**10.—**(1) A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) The plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

### Specific conditions: hiring out horses

#### **Interpretation**

1. In this Schedule, “client” means a person for whose use a horse is hired out.

#### **Eligibility**

**2.—**(1) The licence holder must—

(a) hold an appropriate formal qualification, or have sufficient demonstrable experience and competence, in the management of horses, and

(b) hold a valid certificate of public liability insurance which—

(i) insures the licence holder against liability for any injury sustained by, and the death of, any client, and

(ii) insures any client against liability for any injury sustained by, and the death of, any other person,

caused by or arising out of the hire of the horse.

(2) The certificate mentioned in sub-paragraph (1)(b) must be clearly and prominently displayed on the premises.

### **Supervision**

3.—(1) The activity must not at any time be left in the charge of a person aged under 18 years.

(2) No horse may be hired out except under the supervision of a person aged 16 years or more unless the licence holder is satisfied that the person hiring the horse is competent to ride without supervision.

(3) The following must be clearly and prominently displayed on the premises—

(a) the full name, postal address (including postcode) and telephone number of the licence holder or other person with management responsibilities in respect of the activity;

(b) instructions as to the action to be taken in the event of a fire or other emergency.

### **Suitable environment**

4.—(1) It must be practicable to bring all the horses on the premises under cover.

(2) Suitable storage must be provided and used for feed, bedding, stable equipment and saddlery.

(3) All arena surfaces must be suitable for purpose, well drained, free of standing water and maintained regularly to keep them level.

### **Suitable diet**

5.—(1) At all times when any horses are kept at grass, adequate pasture, shelter and clean water must be available for them.

(2) Supplementary feed and nutrients must be provided to any horse when appropriate.

(3) Each horse must be fed a balanced diet of a quantity and at a frequency suitable for its age, health and workload to enable it to maintain an appropriate physical condition.

### **Protection from pain, suffering, injury and disease**

6.—(1) The horses must be maintained in good health and must be in all respects physically fit.

(2) A preventative healthcare plan agreed with the veterinarian with whom the licence holder has registered under paragraph 9(8) of Schedule 2 must be implemented

(3) A daily record of the workload of each horse must be maintained and available for inspection at any reasonable time.

(4) Each horse must be suitable for the purpose for which it is kept and must not be hired out if, due to its condition, its use would be likely to cause it to suffer.

(5) Any horse found on inspection to be in need of veterinary attention must not be returned to work until the licence holder has, at the licence holder's expense, obtained from and lodged with the local authority a veterinary certificate which confirms that the horse is fit for work.

(6) Each horse's hooves should be trimmed as often as is necessary to maintain the health, good shape and soundness of its feet and any shoes should be properly fitted and in good condition.

(7) An area suitable for the inspection of horses by a veterinarian must be provided.

(8) The following must not be hired out—

(a) a horse aged under 3 years;

(b) a mare heavy with foal;

(c) a mare whose foal has not yet been weaned.

(9) The licence holder must keep a register of all horses kept for the licensable activity on the premises, each such horse's valid passport showing its unique equine life number and a record of its microchip number (if any).

### **Equipment**

7. All equipment provided to clients must be in good and safe condition and available for inspection at any reasonable time.

## APPENDIX 4 - Keeping or training animals for exhibition

### The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- General conditions

#### **Licence display**

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

#### **Records**

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

#### **Use, number and type of animal**

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

#### **Staffing**

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.



### **Suitable environment**

**5.—**(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.

(2) Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to—

(a) their behavioural needs,

(b) its situation, space, air quality, cleanliness and temperature,

(c) the water quality (where relevant),

(d) noise levels,

(e) light levels,

(f) ventilation.

(3) Staff must ensure that the animals are kept clean and comfortable.

(4) Where appropriate for the species, a toileting area and opportunities for toileting must be provided.

(5) Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.

(6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.

(7) All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.

(8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.

(9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

### **Suitable diet**

**6.—**(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.

(2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.

(3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.

(4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.

(5) Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.

(6) Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

### **Monitoring of behaviour and training of animals**

**7.—**(1) Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.

(2) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.

(3) The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.

(4) Where used, training methods or equipment must not cause pain, suffering or injury.

(5) All immature animals must be given suitable and adequate opportunities to—

(a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and

(b) become habituated to noises, objects and activities in their environment.

### **Animal handling and interactions**

**8.—**(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

### **Protection from pain, suffering, injury and disease**

**9.—**(1) Written procedures must—

(a) be in place and implemented covering—

(i) feeding regimes,

(ii) cleaning regimes,

(iii) transportation,

(iv) the prevention of, and control of the spread of, disease,

(v) monitoring and ensuring the health and welfare of all the animals,

(vi) the death or escape of an animal (including the storage of carcasses);

(b) be in place covering the care of the animals following the suspension or revocation of the licence or during and following an emergency.

(2) All people responsible for the care of the animals must be made fully aware of these procedures.

(3) Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.

(4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.

(5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.

(6) Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.

(7) Where necessary, animals must receive preventative treatment by an appropriately competent person.

(8) The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.

(9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.

(10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.

(11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the

manufacturer's instructions and used in a way which prevents distress or suffering of the animals.

(12) No person may euthanase an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or—

(a) in the case of fish, a person who is competent for such purpose;

(b) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

(13) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

### **Emergencies**

**10.—**(1) A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) The plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

- Specific conditions: keeping or training animals for exhibition

### **Insurance**

1. The licence holder must hold valid public liability insurance in respect of the licensable activity of keeping or training animals for exhibition.

### **Emergencies**

2. A written policy detailing contingency measures in the event of the breakdown of a vehicle used to transport the animals or any other emergency must be available to all staff.

### **Suitable environment**

3. Suitable temporary accommodation must be provided for all the animals at any venue where they are exhibited.

### **Monitoring of behaviour and training**

4. The animals must be trained by competent staff and given suitable and adequate opportunities to become habituated to being exhibited, using positive reinforcement.

### **Housing with or apart from other animals**

5.—(1) Social animals must not be exhibited if their removal from and reintroduction to the group with which they are usually housed causes them or any other animal within that group stress, anxiety or fear.

(2) Animals must be prevented from coming into contact with each other during any exhibition where such contact would be likely to cause any of them to show signs of aggression, fear or distress.

(3) All persons likely to come into contact with the animals during an exhibition must be briefed about how to behave around the animals so as to minimise anxiety, fear and stress in the animals.

(4) No female animal with unweaned offspring may be removed from its home environment and newborn, unweaned or dependent offspring must not be removed from their mothers.

### **Records**

6. The licence holder must keep a list of each animal kept, or trained, for exhibition with all the information necessary to identify that animal individually (including its common and scientific names) and must provide the local authority with a copy of the list and any change to it as soon as practicable after the change.

### **Protection from pain, suffering, injury and disease**

7.—(1) A register must be kept of each animal exhibited or to be exhibited which must include—

(a) the full name of its supplier,

(b) its date of birth,

(c) the date of its arrival,

(d) its name (if any), age, sex, neuter status, description and microchip or ring number (if applicable),

(e) the name and contact details of the animal's normal veterinarian and details of any insurance relating to it,

(f) details of the animal's relevant medical and behavioural history including details of any treatment administered against parasites and any restrictions on exercise or diet,

(g) a record of the date or dates of the animal's most recent vaccination, worming and flea treatments, and

(h) the distance to and times taken for it to travel to and from each exhibition event.

(2) A record of when the animals are exhibited must be kept and an animal rotation policy must be put in place to ensure that the animals have enough rest between and during exhibition events.

(3) All the animals used in exhibition events must be in good physical and mental health.

(4) The exhibited animals must be suitable for the specific conditions, type of enclosure and actions involved in the exhibition.

(5) Any equipment, chemicals and other materials used in the exhibition must not cause the animals pain, discomfort, fatigue or stress.

(6) The animals must be transported in suitable, secure and appropriately labelled carriers.

(7) The licence holder or the licence holder's staff must undertake a risk assessment before each exhibition event.

(8) The animals must not be handled by persons whose behaviour appears at the time to be influenced by the consumption of alcohol or by any psychoactive substance.

## APPENDIX 5- Selling Animals as Pets

### The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

- General conditions

#### Licence display

1.—(1) A copy of the licence must be clearly and prominently displayed on any premises on which the licensable activity is carried on.

(2) The name of the licence holder followed by the number of the licence holder's licence must be clearly and prominently displayed on any website used in respect of the licensable activity.

#### Records

2.—(1) The licence holder must ensure that at any time all the records that the licence holder is required to keep as a condition of the licence are available for inspection by an inspector in a visible and legible form or, where any such records are stored in electronic form, in a form from which they can readily be produced in a visible and legible form.

(2) The licence holder must keep all such records for at least three years beginning with the date on which the record was created.

#### Use, number and type of animal

3.—(1) No animals or types of animal other than those animals and types of animal specified in the licence may be used in relation to the relevant licensable activity.

(2) The number of animals kept for the activity at any time must not exceed the maximum that is reasonable taking into account the facilities and staffing on any premises on which the licensable activity is carried on.

#### Staffing

4.—(1) Sufficient numbers of people who are competent for the purpose must be available to provide a level of care that ensures that the welfare needs of all the animals are met.

(2) The licence holder or a designated manager and any staff employed to care for the animals must have competence to identify the normal behaviour of the species for which they are caring and to recognise signs of, and take appropriate measures to mitigate or prevent, pain, suffering, injury, disease or abnormal behaviour.

(3) The licence holder must provide and ensure the implementation of a written training policy for all staff.

#### Suitable environment

5.—(1) All areas, equipment and appliances to which the animals have access must present minimal risks of injury, illness and escape and must be constructed in materials that are robust, safe and durable, in a good state of repair and well maintained.

(2) Animals must be kept at all times in an environment suitable to their species and condition (including health status and age) with respect to—

(a) their behavioural needs,

(b) its situation, space, air quality, cleanliness and temperature,

(c) the water quality (where relevant),

(d) noise levels,

(e) light levels,

(f) ventilation.

(3) Staff must ensure that the animals are kept clean and comfortable.

(4) Where appropriate for the species, a toileting area and opportunities for toileting must be provided.

(5) Procedures must be in place to ensure accommodation and any equipment within it is cleaned as often as necessary and good hygiene standards are maintained and the accommodation must be capable of being thoroughly cleaned and disinfected.

(6) The animals must be transported and handled in a manner (including for example in relation to housing, temperature, ventilation and frequency) that protects them from pain, suffering, injury and disease.

(7) All the animals must be easily accessible to staff and for inspection and there must be sufficient light for the staff to work effectively and observe the animals.

(8) All resources must be provided in a way (for example as regards frequency, location and access points) that minimises competitive behaviour or the dominance of individual animals.

(9) The animals must not be left unattended in any situation or for any period likely to cause them distress.

#### **Suitable diet**

6.—(1) The animals must be provided with a suitable diet in terms of quality, quantity and frequency and any new feeds must be introduced gradually to allow the animals to adjust to them.

(2) Feed and (where appropriate) water intake must be monitored, and any problems recorded and addressed.

(3) Feed and drinking water provided to the animals must be unspoilt and free from contamination.



(4) Feed and drinking receptacles must be capable of being cleaned and disinfected, or disposable.

(5) Constant access to fresh, clean drinking water must be provided in a suitable receptacle for the species that requires it.

(6) Where feed is prepared on the premises on which the licensable activity is carried on, there must be hygienic facilities for its preparation, including a working surface, hot and cold running water and storage.

### **Monitoring of behaviour and training of animals**

7.—(1) Active and effective environmental enrichment must be provided to the animals in inside and any outside environments.

(2) For species whose welfare depends partly on exercise, opportunities to exercise which benefit the animals' physical and mental health must be provided, unless advice from a veterinarian suggests otherwise.

(3) The animals' behaviour and any changes of behaviour must be monitored and advice must be sought, as appropriate and without delay, from a veterinarian or, in the case of fish, any person competent to give such advice if adverse or abnormal behaviour is detected.

(4) Where used, training methods or equipment must not cause pain, suffering or injury.

(5) All immature animals must be given suitable and adequate opportunities to—

(a) learn how to interact with people, their own species and other animals where such interaction benefits their welfare, and

(b) become habituated to noises, objects and activities in their environment.

### **Animal handling and interactions**

8.—(1) All people responsible for the care of the animals must be competent in the appropriate handling of each animal to protect it from pain, suffering, injury or disease.

(2) The animals must be kept separately or in suitable compatible social groups appropriate to the species and individual animals and no animals from a social species may be isolated or separated from others of their species for any longer than is necessary.

(3) The animals must have at least daily opportunities to interact with people where such interaction benefits their welfare.

### **Protection from pain, suffering, injury and disease**

9.—(1) Written procedures must—

(a) be in place and implemented covering—

(i) feeding regimes,

(ii) cleaning regimes,

- (iii) transportation,
  - (iv) the prevention of, and control of the spread of, disease,
  - (v) monitoring and ensuring the health and welfare of all the animals,
  - (vi) the death or escape of an animal (including the storage of carcasses);
- (b) be in place covering the care of the animals following the suspension or revocation of the licence or during and following an emergency.
- (2) All people responsible for the care of the animals must be made fully aware of these procedures.
- (3) Appropriate isolation, in separate self-contained facilities, must be available for the care of sick, injured or potentially infectious animals.
- (4) All reasonable precautions must be taken to prevent and control the spread among the animals and people of infectious diseases, pathogens and parasites.
- (5) All excreta and soiled bedding for disposal must be stored and disposed of in a hygienic manner and in accordance with any relevant legislation.
- (6) Sick or injured animals must receive prompt attention from a veterinarian or, in the case of fish, an appropriately competent person and the advice of that veterinarian or, in the case of fish, that competent person must be followed.
- (7) Where necessary, animals must receive preventative treatment by an appropriately competent person.
- (8) The licence holder must register with a veterinarian with an appropriate level of experience in the health and welfare requirements of any animals specified in the licence and the contact details of that veterinarian must be readily available to all staff on the premises on which the licensable activity is carried on.
- (9) Prescribed medicines must be stored safely and securely to safeguard against unauthorised access, at the correct temperature, and used in accordance with the instructions of the veterinarian.
- (10) Medicines other than prescribed medicines must be stored, used and disposed of in accordance with the instructions of the manufacturer or veterinarian.
- (11) Cleaning products must be suitable, safe and effective against pathogens that pose a risk to the animals and must be used, stored and disposed of in accordance with the manufacturer's instructions and used in a way which prevents distress or suffering of the animals.
- (12) No person may euthanase an animal except a veterinarian or a person who has been authorised by a veterinarian as competent for such purpose or—
- (a) in the case of fish, a person who is competent for such purpose;

(b) in the case of horses, a person who is competent, and who holds a licence or certificate, for such purpose.

(13) All animals must be checked at least once daily and more regularly as necessary to check for any signs of pain, suffering, injury, disease or abnormal behaviour and vulnerable animals must be checked more frequently.

(14) Any signs of pain, suffering, injury, disease or abnormal behaviour must be recorded and the advice and further advice (if necessary) of a veterinarian (or in the case of fish, of an appropriately competent person) must be sought and followed.

### **Emergencies**

**10.—**(1) A written emergency plan, acceptable to the local authority, must be in place, known and available to all the staff on the premises on which the licensable activity is carried on, and followed where necessary to ensure appropriate steps are taken to protect all the people and animals on the premises in case of fire or in case of breakdowns of essential heating, ventilation and aeration or filtration systems or other emergencies.

(2) The plan must include details of the emergency measures to be taken for the extrication of the animals should the premises become uninhabitable and an emergency telephone list that includes the fire service and police.

(3) External doors and gates must be lockable.

(4) A designated key holder with access to all animal areas must at all times be within reasonable travel distance of the premises and available to attend in an emergency.

- Specific conditions: selling animals as pets

### **Interpretation**

**1.** In this Schedule—

“prospective owner” means a person purchasing an animal to keep or to be kept as a pet;

“premises” means the premises on which the licensable activity of selling animals as pets (or with a view to their being later resold as pets) is carried on;

“purchaser” means a person purchasing an animal to keep as a pet or with a view to it later being resold as a pet.

### **Records and advertisements**

**2.—**(1) A register must be maintained for all the animals or, in the case of fish, all the groups of fish, on the premises which must include —

(a) the full name of the supplier of the animal,

(b) the animal’s sex (where known),

(c) (except in the case of fish) the animal’s age (where known),

- (d) details of any veterinary treatment (where known),
  - (e) the date of birth of the animal or, if the animal was acquired by the licence holder, the date of its acquisition,
  - (f) the date of the sale of the animal by the licence holder, and
  - (g) the date of the animal's death (if applicable).
- (2) Where an animal is undergoing any medical treatment—
- (a) this fact must be clearly indicated—
    - (i) in writing next to it, or
    - (ii) (where appropriate) by labelling it accordingly, and
  - (b) it must not be sold.
- (3) Any advertisement for the sale of an animal must—
- (a) include the number of the licence holder's licence,
  - (b) specify the local authority that issued the licence,
  - (c) include a recognisable photograph of the animal being advertised,
  - (d) (except in the case of fish) display the age of the animal being advertised,
  - (e) state the country of residence of the animal from which it is being sold, and
  - (f) state the country of origin of the animal.

**Prospective sales: pet care and advice**

- 3.—**(1) The licence holder and all staff must ensure that any equipment and accessories being sold with an animal are suitable for the animal.
- (2) The licence holder and all staff must ensure that the prospective owner is provided with information on the appropriate care of the animal including in relation to—
- (a) feeding,
  - (b) housing,
  - (c) handling,
  - (d) husbandry,
  - (e) the life expectancy of its species,
  - (f) the provision of suitable accessories, and
  - (g) veterinary care.
- (3) Appropriate reference materials on the care of all animals for sale must be on display and provided to the prospective owner.

(4) The licence holder and all staff must have been suitably trained to advise prospective owners about the animals being sold.

(5) The licence holder and all staff must ensure that the purchaser is informed of the country of origin of the animal and the species, and where known, the age, sex and veterinary record of the animal being sold.

#### **Suitable accommodation**

**4**—(1) Animals must be kept in housing which minimises stress including from other animals and the public.

(2) Where members of the public can view or come into contact with the animals, signage must be in place to deter disturbance of the animals.

(3) Dangerous wild animals (if any) must be kept in cages that are secure and lockable and appropriate for the species.

(4) For the purposes of sub-paragraph (3), “dangerous wild animal” means an animal of a kind specified in the first column of the Schedule to the Dangerous Wild Animals Act 1976(1).

#### **Purchase and sale of animals**

**5**.—(1) The purchase, or sale, by or on behalf of the licence holder of any of the following is prohibited—

(a) unweaned mammals;

(b) mammals weaned at an age at which they should not have been weaned;

(c) non-mammals that are incapable of feeding themselves;

(d) puppies, cats, ferrets or rabbits, aged under 8 weeks.

(2) The sale of a dog must be completed in the presence of the purchaser on the premises.

#### **Protection from pain, suffering, injury and disease**

**6**.—(1) All animals for sale must be in good health.

(2) Any animal with a condition which is likely to affect its quality of life must not be moved, transferred or offered for sale but may be moved to an isolation facility or veterinary care facility if required until the animal has recovered.

(3) When arranging for the receipt of animals, the licence holder must make reasonable efforts to ensure that they will be transported in a suitable manner.

(4) Animals must be transported or handed to purchasers in suitable containers for the species and expected duration of the journey.

## APPENDIX 6- Dangerous Wild Animals Licence Conditions

While any animal is being kept under the authority of this licence;

- i) the animal shall be kept by no person other than the person specified in the licence,
- ii) the animal shall normally be held at such premises as are specified in this licence;
- iii) the animal shall not be moved from those premises, except for veterinary treatment or transport to a hospital.
  
- iv) the licence holder shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of this licence against liability for any damage which may be caused by the animal, the terms of such policy being satisfactory in the opinion of the Council.

The species and number of animals of each species that may be kept under the authority of this licence shall be restricted to those specified in the schedule within the licence.

The licence holder shall, at all reasonable times, make available the licence to any person entitled to keep any animal under the authority of the licence.

Any change in species, or increased in numbers of a species, will only be permitted if written consent of the Council is first obtained and the Schedule of Animals attached to the licence is amended by the Council.

## APPENDIX 7- Zoo Licence Conditions

The following conditions may be attached to the licence in addition to the model conditions applied by the Secretary of State

They may state:

- The precautions to be taken against escape of animals and steps to be taken in the event of any escape or unauthorised release
- The records to be kept of numbers of different animals acquisitions, births, deaths, disposals or escapes and the cause of any such death and of the health of animals
- Insurance against liability for damage caused by animals
- Any other matter that the Secretary of State may decide
- The condition shall not relate primarily to health, safety or welfare of persons working in the zoo.

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**Report to LICENSING COMMITTEE**

## **Gambling Policy Review**

**Portfolio Holder:**

Councillor A.Shah - Cabinet Member for Neighbourhoods

**Officer Contact:** Deputy Chief Executive – People & Place

**Report Author:** John Garforth – Trading Standards & Licensing Manager

**Ext.** 5026

**6 November 2018**

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**Reason for the Report**

The reason for this report is to update Members of the recent review of the Council's Gambling Policy and seek views on the suggested amendments required prior to Council approval.

**Recommendations**

That Members consider the proposed attached Gambling Policy draft and make any suggestions for further alterations to it prior to it being placed before December Council.

**Gambling Policy Review**

**1 Background**

1.1 The Gambling Act 2005 created a new system of licensing and regulation for commercial gambling in this Country. Amongst other changes it gave local authorities new and extended responsibilities for licensing premises for gambling and associated permissions.

1.2 In setting its local policy the Council must show how we will seek to promote the licensing objectives under the Act which are:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- Ensuring gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable people from being harmed or exploited by gambling.

1.3 The role of the licensing authority covers:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for the consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued
- Maintain registers of the permits and licences

**2 Current Position**

2.1 The current policy was adopted in January 2016 and has to be reviewed every 3 years. Therefore, the attached proposed policy at Appendix 1 proposes amendments since it was last approved. Most gambling policies issued by Councils will use the same template issued by the Local Government Association based on best practice and to ensure a consistent approach nationally.

2.2 The majority of alterations to the policy since the one adopted in December 2015 are tidying up changes to references from national guidance and making certain points clearer.

2.3 A section has been included in the proposed Policy in relation to gambling related harm following a motion debated at Council on 12<sup>th</sup> July 2018. The motion was:

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Council believes that local authorities should be regarded as ‘responsible authorities’ in supporting ‘problem’ gamblers and young people gambling, ensuring they are provided with additional safeguards. Due to an increased trend in online gambling which is carried out away from licensed premises where trained staff could intervene, it is anticipated that there will become more ‘problem’ gamblers and more young people gambling. It is the hope that this sets a recognition that gambling related harm is a public health issue and ensuring that those who are vulnerable and require support are able to get such help.

The main resolution from the Council motion was to ensure that information is displayed on the Council website to ‘signpost’ residents with a gambling ‘problem’ to the providers of relevant services, such as GambleAware, to support them with their addiction. In addition, Council have requested that all schools, colleges and youth centres in the Borough are made aware of the Gambling Toolkit produced by GambleAware, which is available online.

Furthermore, it was resolved that the Council’s Gambling Policy reflects any recommendations that result from the work done to achieve these outcomes by the time of its renewal in January 2019.

- 2.4 The work undertaken by Officers in licensing and public health has shown the Council’s commitment to support those who are suffering or likely to suffer from the effects of gambling and details areas of help and support whilst recognising that there is a problem.
- 2.5 The attached proposed policy is going to be considered by the Overview and Scrutiny Board on the 27<sup>th</sup> November prior to moving forward for approval to December Council.

### 3 **Recommendations**

- 3.1 Members are asked to note the report and feedback any comments on its content.

### 4 **Preferred Option**

- 4.1 N/A

### 5 **Consultation**

- 5.1 The proposed Gambling Policy Statement was drafted for the purposes of consulting in August 2018 with some amendments suggested from the current policy.

The Consultation lasted for an eight week period and copies of the consultation were circulated widely amongst licence holders and interested parties within the trade. A total of 3 responses were received.

The responses were fairly generic suggesting minor amendments in relation to the wording of paragraphs to ensure consistency.

### 6 **Financial Implications**

- 6.1 None

### 7 **Legal Services Comments**

- 7.1 The Gambling Policy Statement sets out the principles the Council proposes to apply in exercising its functions under the Gambling Act during the three year period covered by the Statement. Under section 153 of the Gambling Act, the Council should aim to permit the use of premises for gambling in so far as the Council think it in accordance with the Gambling Policy Statement, any relevant code of practice or guidance issued by the

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Gambling Commission and it is reasonably consistent with the licensing objectives. (A Evans)

8. **Co-operative Agenda**

8.1 Not applicable

9 **Human Resources Comments**

9.1 Not applicable

10 **Risk Assessments**

10.1 Not applicable

11 **IT Implications**

11.1 None

12 **Property Implications**

12.1 None

13 **Procurement Implications**

13.1 None

14 **Environmental and Health & Safety Implications**

14.1 None

15 **Equality, community cohesion and crime implications**

15.1 None

16 **Equality Impact Assessment Completed?**

16.1 Yes

17 **Key Decision**

17.1 No

18 **Key Decision Reference**

18.1 N/A

19 **Background Papers**

19.1 None

20 **Appendices**

20.1 Appendix 1 – Gambling Policy Statement (draft) 2019

# Gambling Policy Statement (draft)

January 2019

**POLICY STATEMENT**  
**Under Section 349 of the Gambling Act 2005**

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## Introduction

This statement of Policy in relation to the Gambling functions that this Authority regulates sets out the approach that will be taken when dealing with permissions it grants and enforces thereafter.

It also identifies how the Authority will seek to promote the licensing objectives under the Act, namely:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime.**
- **Ensuring gambling is conducted in a fair and open way.**
- **Protecting children and other vulnerable people from being harmed or exploited by gambling.**

Partnerships are important to us and with this in mind we will be working closely with the Gambling Commission, the Police and the other responsible authorities named within the Act. We will also provide guidance and support, where possible, to the trade, residents and businesses.

In this policy this Council has inserted a section in relation to Public Health and gambling harm. We hope this sets out our recognition that gambling related harm is a public health issue and contribution we wish to make to ensuring that those who are vulnerable and needing support get such help.

All decisions that are made in relation to gambling will be made having taken into account the three objectives and each application will be dealt with on its merits.

This policy will come into effect on the 7<sup>th</sup> January 2019 and will be reviewed no later than the 31<sup>st</sup> January 2022.

In carrying out its gambling functions this Authority will have regard to its Policy and the Guidance issued by the Gambling Commission.

An equalities impact assessment has been conducted in relation to this Policy and is available upon request.

## Policy Statement

### PART 1

#### **1.0 The Licensing Objectives**

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of licensing policy

#### **2.0 Preparing a Gambling Policy**

- 2.1 Licensing authorities are required by s349 Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions under the Act. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.
- 2.2 The Authority consulted upon this Policy before finalising at a full Council meeting held on the 12<sup>th</sup> December 2018.
- 2.3 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 2.4 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 2.5 The authority is one of the 10 Metropolitan Districts of Greater Manchester. The Borough of Oldham occupies an area of 56 square miles to the North East of Manchester. About one third of the Borough consists of the area occupied by the majority of the towns 224,900 residents (2011 census). Another third of the Borough



consists of moorland, which is largely uninhabited. The final third consists of small rural towns and villages.

- 2.6 Oldham currently offers a range of premises that offer gambling facilities, which include 1 Bingo Hall, 31 Betting Offices and 5 Adult Gaming Centres. In addition to this there are various permits and permissions granted to alcohol licensed premises and private members clubs.

### **3.0 Declaration**

- 3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4.0 Responsible Authorities**

Responsible authorities are public bodies that must be notified of application and are entitled to make representations to the council in relation to applications for, and in relation to, premises licences.

- 4.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 4.2 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.
- 4.3 The details of all the Responsible Authorities under the Gambling Act 2005 are available at **Appendix A**.

### **5.0 Interested parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

- 5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

The factors that the Council will take into account when determining what “sufficiently close to the premises” means (in each case) might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the circumstances of the complaint. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

The factors that are likely to be relevant to “persons with business interests” and which the council will take into account include:

- the size of the premises
- the ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

- 5.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities at 8.11 and 8.18. It will also consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. If in the particular circumstances of the application the licensing authority departs from the guidance it will explain its reasons for doing so.
- 5.4 The Gambling Commission recommended in its guidance that the licensing authority states that interested parties include trade associations and trade unions, and residents’ and tenants’ associations although it is noted that the Commission have now stated this was a mistake which will be rectified in future guidance. However, this authority emphasises that it will not generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 5.5 Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 5.6 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section.

## **6.0 Exchange of Information**

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 2018 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7.0 Enforcement**

- 7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This licensing authority's principles are that:
- It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
  - Consistent: rules and standards must be joined up and implemented fairly;
  - Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - Targeted: regulation should be focused on the problem, and minimise side effects.
- 7.3 This authority generally inspects all premises annually and, where necessary, revisits premises as appropriate.
- 7.4 As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 7.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 7.6 This licensing authority will have regard to guidance, including the Regulator's Code, issued by relevant Government departments in its consideration of its regulatory functions.
- 7.7 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Section. Our risk methodology will also be available upon request.
- 7.8 Reference should also be made to Oldham Metropolitan Borough's Enforcement Policy when considering enforcement action. The Council will take into account any published Enforcement Concordat issued by the Gambling Commission.
- 7.9 The Council will take account of the Gambling Commissions guidance document issued in February 2015 (or any subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises. The Council will also follow its own policies and procedures regarding the use of underage test purchasers.
- 7.10 Where there is a Primary Authority scheme in place, the Council will seek guidance from the Primary Authority before taking any enforcement action.

Further information, including an index of all Primary Authority arrangements can be found at:

<https://primaryauthorityregister.info/par/index.php/home>

## **8.0 Licensing Authority functions**

- 8.1 Licensing Authorities are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
  - Issue Provisional Statements
  - Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - Issue Club Machine Permits to Commercial Clubs
  - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - Register small society lotteries below prescribed thresholds
  - Issue Prize Gaming Permits
  - Receive and Endorse Temporary Use Notices
  - Receive Occasional Use Notices

- Provide information to the Gambling Commission regarding details of licences issued (see section above on ‘information exchange’)
- Maintain registers of the permits and licences that are issued under these functions

## **PART 2 PREMISES LICENCES**

### **9.0 General Principles**

- 9.1 Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. The conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives in the circumstances of a particular case.
- 9.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission ;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority’s statement of licensing policy.
- 9.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority. Further it is a under duty not to take other irrelevant matters into consideration, e.g. the likelihood of an applicant obtaining Planning permission.
- 9.4 The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission places further onus on premises to complete a risk assessment based on code 8, the social responsibility code which will come into force on 6 April 2016. The council will have regard to this code when considering applications. This is covered in detail in Part 4 of this statement.
- 9.5 Definition of “premises” - Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separated, for example, by ropes or moveable partitions, can be properly regarded as different premises.
- 9.6 The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that “In most cases the expectation is that a single building / plot will be

the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority. However, the commission does not consider that the areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises”.

9.7 This licensing authority takes particular note of the Gambling Commission’s Guidance to licensing authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises

which holds a gambling premises licence

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

### **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premise.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track
  -

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to licensing authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

## **9.8 Premises "ready for gambling"**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling

- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58-7.65 of the Guidance.

- 9.9 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.
- 9.10 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. This policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

9.11 **Planning**

The licensing authority will have regard to the guidance issued by the Gambling Commission on Planning and Building Regulations and requests that applicants have the same regard.

- 9.12 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, building and other regulations and must not form part of the consideration for the premises licence.

The licensing authority will, however, maintain close links with all regulatory bodies to ensure clear and open communication relating to licensed premises.

- 9.13 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority



has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

- 9.14 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.
- 9.15 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.
- 9.16 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 9.17 This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises.
- 9.18 Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) issued in April 2018 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure;

- all staff are trained,
- that all customers are supervised when on gambling premises
- that they must have procedures for identifying customers who are at risk of gambling related harm.

9.19 The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

9.20 Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

See Part 4 of this policy statement for further details and on the council's requirements in relation to the LCCP.

9.21 As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

9.22 **Conditions** - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.
- Consistent with those attached to the Operator's Licences.

The conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives.

9.23 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

9.24 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

9.25 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- physical barriers to segregate areas should not impede the escape routes from that or other areas.

9.26 These considerations will apply to premises including buildings where multiple premises licences are applicable.

9.27 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

9.28 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

All premises licences shall by virtue of section 183 of the Act be subject to the condition that premises shall not be used to provide facilities for gambling on Christmas Day.

9.29 Door Supervisors - The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority (SIA) if directly employed by the premises. In all other circumstances the staff must be SIA registered.

## **10.0 Adult Gaming Centres**

Adult gaming centres (AGCs) are premises able to make category B, C and D gaming machines available to their customers. Persons operating an AGC must hold a gaming machines general operating licence from the Commission as well as a premises licence from the Council.

10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

10.2 Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls. The council will expect the gambling area to be clearly defined to ensure that customers

are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

10.3 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

#### **11.0 (Licensed) Family Entertainment Centres**

The Act creates two classes of family entertainment centre (FEC). Licensed FEC's provide category C and D machines and require a premises licence. Unlicensed FEC's provide category D machines only are regulated through FEC gaming machine permits.

11.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Operators should ensure that a proof of age scheme is in force.

11.2 This licensing authority may consider measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

11.3 This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## **12.0 Casinos**

Section 7 (1) of the Act states that “a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games.” Casino games are a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, where the chances are equally favourable to all participants.

- 12.1 *No Casinos resolution* - This licensing authority has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

## **13.0 Bingo premises**

The Gambling Act 2005 does not contain a definition of Bingo. It is to have its ordinary and natural meaning and the Act does stipulate that “bingo” means any version of that game, irrespective of how it is described. Two types of bingo may be offered:

- Cash bingo, where the stakes panel made up the cash prize that’s won; or
- Prize bingo, where various forms of prizes is won, not directly relating to the stakes panel

Under the Act, the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize. Therefore, a premises with a bingo premises licence, or a casino premises licence (where the operator holds bingo as well as a casino operating licence) will be able to offer bingo in all its forms. It is acknowledged that gaming machines are permitted in Bingo premises.

This licensing authority notes that the Gambling Commission’s Guidance states:

[18.5] Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

Subject to the rules of individual operators, children and young people are allowed into bingo premises. However they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

- 13.1 This licensing authority may consider measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas

- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

13.2 This licensing authority notes that the Gambling Commission's Guidance states:

[18.4] Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

[18.6] Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

Details of the Code of Practice for Equal Chance Gaming in Pubs and Clubs can be found on the Gambling Commission website. This details maximum stakes and prizes without the need for a commercial Bingo Operators Licence.

#### **14.0 Betting premises**

The Act contains a single class of licence for betting premises. However, without this single class of licence, there are different types of premises which require licensing, for instance – off course betting (i.e.: licensed betting offices) and betting offices on tracks. It is acknowledged that gaming machines are permitted in Betting premises.

The Council specifically have a regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.

14.1 Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It is noted that that children are not able to go into premises with the benefit of a Betting Premises Licence.

14.2 This licensing authority may consider measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas

- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 14.3 The authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter
- 14.4 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate
- 14.5 This authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.”

## **15.0 Tracks**

Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (i.e.: “totalisator” or “tote”) and also general betting (i.e: “fixed odds” betting).

- 15.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 15.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 15.3 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- This list is not mandatory, nor exhaustive, and is shown as an example.

15.4 Gaming machines - □Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

15.5 Betting machines - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

Conditions on rules being displayed – The Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in a leaflet from the track office.

#### 15.6 **Applications and plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to licensing authorities, Para 20.28).

15.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to licensing authorities, para 20.29).

15.8 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to licensing authorities, para 20.31).

15.9 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to licensing authorities, para 20.32).

15.10 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are



provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. (See Guidance to licensing authorities, para 20.33).

## **16.0 Travelling Fairs**

The Act defines a travelling fair as "wholly or principally" providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.

It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

- 16.1 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 16.2 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded. In any event neighbouring authorities will be consulted to ensure best practice and consistency is applied.

## **17.0 Provisional Statements**

- 17.1 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
  - (a) which could not have been raised by objectors at the provisional licence stage; or
  - (b) which in the authority's opinion reflect a change in the operator's circumstances.
- 17.2 This authority has noted the Gambling Commission's Guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

## **18.0 Reviews:**

- 18.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the

review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of licensing policy.
- 18.2 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.
- 18.3 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 18.4 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 18.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of state or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 18.6 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 18.7 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 18.8 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - the Chief Officer of police or Chief constable; and
  - Her Majesty's Commissioners for Revenue and Customs

### **PART 3**

#### **Permits / Temporary & Occasional Use Notice**

**19.0 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

Unlicensed family entertainment centres (FEC's) will perhaps be most commonly located at places such as seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons. Unlicensed FEC's will be able to offer only category D machines in reliance on a gaming machine permit.

19.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

19.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (24.6)

19.3 **Statement of Principles** - This licensing authority will expect the applicant to show that there are policies and procedures in place to ensure that children and vulnerable adults are not harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures such as training for staff as regards knowledge of organisation such as GamCare who can help problem gamblers, training on suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

19.4 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

It should be noted that a licensing authority cannot attach conditions to this type of permit.

## **20.0 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

20.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

It is important that Operators are aware of the rules concerning exempt gaming on their premises. A clear understanding of limits on stakes and prizes and record keeping together with age verification and supervision can be found via the Gambling Commissions Code of Practice for Equal Chance Gaming.

20.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be a help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare. Where premises are applying for additional machines these would normally be granted where the premises comply with the Gambling Commission’s Code of Practice. An application for a permit for up to four machines would normally be considered by Officers without the need for a hearing.

20.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

20.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

20.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **21.0 Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))**

A prize gaming permit is a permit issued by the Council to authorise the provision of facilities for gaming with prizes on specified premises.

21.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

21.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.
- clear policies that outline the steps to be taken to protect children from harm

21.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

21.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

### **22.0 Club Gaming and Club Machines Permits**

22.1 Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). Guidance will be referred to when considering all permit applications.

22.2 This licensing authority notes that the Gambling Commission’s Guidance states at paragraph 25.46: The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take into

account a number of matters as outlined in section 25.47 – 25.49 of the Gambling Commissions Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted ‘wholly or mainly’ for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

22.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant’s premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

22.4 There is also a ‘fast-track’ procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast track procedure. As the Gambling Commission’s Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

22.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **23.0 Temporary Use Notices**

23.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

23.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

23.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the

relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

- 23.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to licensing authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 23.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to licensing authorities.

#### **24.0 Occasional Use Notices**

The intention behind occasional use notices is to permit licensed betting operators (with appropriate permission from the Gambling Commission) to use tracks for short periods for conducting betting where the event upon which the betting is to take place is of a temporary, infrequent nature. The occasional use notice dispenses with the need for betting premises licences for the track in these circumstances.

- 24.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. The licensing author will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

#### **25.0 Small Society Lotteries**

These are lotteries operated by non-commercial societies, as defined in Section 19, which states that a society is non-commercial if it is established and conducted:

- For charitable purposes;
- For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than private gain.

It must not be possible for the purchaser of a ticket in a small society lottery to win by virtue of that ticket (whether in money, money's worth, or partly the one and partly the other) more than £25,000.

The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Authority believes that a society's principal office is situated in another area, it will inform the society and the other relevant authority as soon as possible.

- 25.1 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:
- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held).
  - Submission of incomplete or incorrect returns
  - Breaches of the limits for small society lotteries
- 25.2 Non commercial gaming is permitted if it takes place at a non-commercial event as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds are for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:
- By or on behalf of a charity or for charitable purposes;
  - To enable participation in or support of, sporting, athletic or cultural activities

## **PART 4**

### **Licence Conditions & Codes of Practice (LCCP)**

- 26.0 The Gambling Commission released an updated version of LCCP in April 2018. The code strengthened the social responsibility code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The code requires operators;

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- To have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.
- To have a range of measures with regard to marketing to ensure social responsibility that are transparent and not misleading.
- To produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.

### **27.0 Risk Assessments**

- 27.1 Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence and are to be presented to the licensing authority upon application. The code requires all operators of; Casino's, AGC's, Bingo Premises, FEC's and Betting shops to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks posed by the provision of gambling facilities at each of their premises.
- 27.2 Operators should note that via the Ordinary Code they should make the risk assessment available when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the council's inspection regime and may be requested when officers are investigating complaints.



27.3 The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council expects the following matters to be considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall

27.4 The Council expects the following matters to be considered by operators when making their risk assessment.

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, Council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

## **28.0 Local Area Profile**

The Council has considered the local area profile and feels the main issues will be covered by the risk assessments required under the LCCP.

## PART 5

### GAMBLING-RELATED HARM

#### Introduction

Between 61 and 73 percent of British adults gamble to some extent each year. For the majority of these people, gambling is a harmless and sociable activity. However, between 0.4 and 1.1 percent of British adults are estimated to be ‘problem gamblers’ who experience harm as a consequence of their gambling. A further 4 percent are estimated to be ‘at-risk gamblers’ who may go on to become problem gamblers.<sup>1</sup>

Problem gambling has been defined as “gambling to a degree that compromises, disrupts or damages family, personal or recreational pursuits”<sup>2</sup>. Males are 5 times more likely than females to be problem gamblers. Problem gambling also varies by age with young people aged 16-24 the most likely to be affected. Problem gambling disproportionately affects people on low incomes and those from ethnic minorities. Individuals of Asian/Asian British heritage and Black/Black British heritage are more likely to be problem gamblers than people who identify as White/White British<sup>3</sup>.

For problem gamblers, harms can include higher levels of physical and mental illness, debt problems, relationship breakdown and criminality. Problem gambling is also associated with domestic violence and substance misuse. Harms from gambling affect far more people than just the problem gambler: it is estimated that for every harmful gambler, between 6 and 10 additional people are directly affected (such as friends, family or colleagues)<sup>4</sup>. Problem gambling also has a significant impact on public finances due to increased costs to the welfare, housing, health and criminal justice sectors. For these reasons, gambling-related harm is increasingly recognised as a public health issue.

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<sup>1</sup> Institute for Public Policy and Research (2016). Cards on the table. The cost to government associated with people who are problem gamblers in Britain.

<sup>2</sup> Lesieur, H. R. & Rosenthal, M. D. (1991). Pathological gambling: A review of the literature (prepared for the American Psychiatric Association Task Force on DSM-IV Committee on disorders of impulse control not elsewhere classified). *Journal of Gambling Studies*, 7 (1), 5-40.

<sup>3</sup> See 1 above.

<sup>4</sup> Local Government Association and Public Health England (2018). Tackling gambling related harm A whole council approach.

## **Gambling in Oldham**

There are a range of premises that offer gambling facilities in Oldham. These include 1 bingo hall, 31 betting offices and 5 adult gaming centres. In line with national trends, it is likely that many more people are now gambling online. While the Authority does not regulate online gambling, it is still recognised as a potential source of harm.

The overall prevalence of gambling and problem gambling is currently unknown in Oldham. However, there is evidence to indicate that online gambling activity is higher in Oldham than the England average and that activity is higher in more deprived areas of the borough.

## **Support and advice**

The National Gambling Helpline provides confidential advice, information and emotional support to anyone experiencing problems with gambling. The helpline number is 0808 8020 133.

Residents who are experiencing gambling-related harm can also seek advice and support from a number of local agencies. Contact details for these organisations can be found on the Oldham Council website: <https://www.oldham.gov.uk/gamblinghelp>.

## **The role of the Authority**

In July 2018, the Local Government Association and Public Health England published guidance which sets out a 'whole council approach' to tackling gambling-related harm<sup>5</sup>. The Authority will work with local partners to implement recommendations from the guidance. These include measures to raise awareness of problem gambling among the public and professionals; education activities for children and young people; and treatment and support for people experiencing gambling-related harm.

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<sup>5</sup> See 4 above.

**APPENDIX A**

**RESPONSIBLE AUTHORITIES**

Any application **must** be sent to :-

Trading Standards & Licensing Manager  
 Oldham Council  
 Sir Robert Peacock House  
 Vulcan Street,  
 Oldham, OL1 4LA

Notice of the application **must** also be sent to the following Responsible Authorities on the prescribed form:

The Fire Safety Team Greater Manchester Fire & Rescue Oldham Command Headquarters, Broadway Chadderton Oldham, OL9 0JX	HM Revenue & Customs Excise Processing Teams BX9 1GL United Kingdom
Safeguarding Children Board Oldham Council Rock Street Centre Rock Street Oldham, OL1 3UJ	Planning Section Oldham Council Level 3 Civic Centre West Street, Oldham, OL1 1UQ
Greater Manchester Police Police Licensing Officer Sir Robert Peacock House Vulcan Street Oldham, OL1 4LA	Environmental Health Oldham Council Chadderton Town Hall Middleton Road, Chadderton Oldham, OL9 6PP
Gambling Commission	

Victoria Square House Victoria Square Birmingham, B2 4BP	
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**Report to LICENSING COMMITTEE**

## **Executive Hire Policy**

**Portfolio Holder:**

Cllr A. Shah – Cabinet Member for Neighbourhoods

**Officer Contact:** Deputy Chief Executive – People & Place

**Report Author:** John Garforth – Trading Standards & Licensing Manager

**Ext. 5026**

**6 November 2018**

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**Reason for the Report**

The reason for this report is to provide Members with feedback from the private hire trade following a consultation on the proposed Executive Hire Policy.

**Recommendations**

Members are asked to note the report and feedback any comments on its content.

**Executive Hire Policy**

**1. Background**

- 1.1 Over recent years, the private hire trade has become more diverse and there is now a much wider range of vehicles and services available to customers/passengers.
- 1.2 It is important that policies recognise the wide range of private hire services that are now available, and have a licensing regime in place that facilitates the licensing of businesses which operate professionally and safely. At the same time the licensing regime should offer adequate protection to prevent the licensing and operation of businesses which are non-compliant and do not offer the necessary level of public protection.
- 1.3 The main distinction between standard and Executive Private Hire can broadly be described as the type of client catered for, the type of service offered, and the cost of the service provided. Drivers of Executive Private Hire Vehicles must hold a valid private hire drivers licence issued by the same local authority that issued the Executive vehicle and operator licence. The legislation requires that all licensed drivers (private hire and hackney carriage) are fit and proper to hold such a licence. The standards required by the Licensing Authority in terms of driving skills, medical fitness, criminal/motoring convictions, knowledge of licensing requirements, safeguarding and regional topography knowledge is deemed to be same for both standard and Executive Private Hire drivers.

**2 Current Position**

- 2.1 The proposed Executive Hire Policy attached at Appendix 1 went out for consultation to the private hire trade on Monday 1<sup>st</sup> October 2018 for a period of 28 days. At the time of writing this report, the consultation period is still open and due to close on Sunday 28<sup>th</sup> October 2018. The responses will then be collated and analysed.
- 2.2 A verbal update regarding the responses will be provided.
- 2.3 Members are asked to consider the attached proposed policy prior to moving forward for approval at December 2018 Council.

**3 Recommendations**

- 3.1 Members are asked to note the report and feedback any comments on its content.

**4 Preferred Option**

- 4.1 N/A

**5 Consultation**

- 5.1 Yes

**6 Financial Implications**

- 6.1 None



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7        **Legal Services Comments**

7.1       Under section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976, the Council may attach such conditions to the grant of a private hire vehicle operator's licence as the Council considers to be reasonably necessary. Under section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976, the Council may attach such conditions to the grant of a private hire vehicle licence as the Council considers to be reasonably necessary. Any person aggrieved by any conditions attached to a private hire vehicle operator's licence or a private hire vehicle licence may appeal to the magistrates' court.  
(A. Evans)

8.        **Co-operative Agenda**

8.1       Not applicable

9        **Human Resources Comments**

9.1       Not applicable

10       **Risk Assessments**

10.1      Not applicable

11       **IT Implications**

11.1      None

12       **Property Implications**

12.1      None

13       **Procurement Implications**

13.1      None

14       **Environmental and Health & Safety Implications**

14.1      None

15       **Equality, community cohesion and crime implications**

15.1      None

16       **Equality Impact Assessment Completed?**

16.1      No

17       **Key Decision**

17.1      No

18       **Key Decision Reference**

18.1      N/A

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19      **Background Papers**

19.1   None

20      **Appendices**

20.1   Appendix 1 – Executive Hire Policy

## **Executive Hire Policy**

### **1. Background**

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 provides the legal framework for the Licensing of the private hire trade. Over recent years, the trade has become more diverse and there is now a much wider range of vehicles and services available to customers/passengers.
- 1.2 It is important that policies recognise the wide range of private hire services that are now available, and have a licensing regime in place that facilitates the licensing of businesses which operate professionally and safely. At the same time the licensing regime should offer adequate protection to prevent the licensing and operation of businesses which are non-compliant and do not offer the necessary level of public protection.

### **2. What is Executive Private Hire?**

- 2.1 There is no legal definition which determines the difference between Executive and Standard Private Hire. In each instance it will involve a booking being accepted by a licensed private hire operator and an appropriately licensed vehicle and driver meeting the requirements of the booking. The main distinction between standard and executive private hire can broadly be described as the type of client catered for, the type of service offered, and the cost of the service provided.
- 2.2 In determining whether a booking is considered to be executive hire, regard will be had to several factors, including
  - How the booking is made, e.g. written contract.
  - How payment is made, any payment should be made in advance of the journey and not direct to the driver.
  - The type of the vehicle used to undertake the journey.
  - Dress code/attire worn by the driver - shirt and tie is expected to be worn.
  - The business plan/model provided by the Private Hire Operator.
  - The vehicle used to undertake executive private hire work will be a licensed vehicle, high value, high specification vehicle exempted from the requirement to display licence plates and signage, but compliant with licensing requirements and conditions associated with private hire licensing requirements.

- 2.3 Operators will be expected to prove and declare to the Council that it has and will continue to meet the above requirements before exemptions for vehicles they operate are considered.

### **3 Operator Conditions**

- 3.1 Bookings for executive hire work should be kept as a separate record and not recorded with standard private hire records.

### **4 Executive Private Hire Vehicles**

#### **4.1 Type of vehicle**

Executive private hire Vehicles are expected to meet the same criteria as standard licensed hire vehicles with the following exceptions:

- The vehicle must be an executive/ prestige type vehicle, examples of makes and models would include BMW series 7, Mercedes S and E classes, Lexus GS and LS, Jaguar XJ and Audi A8 (this list is not exhaustive).
- As an executive hire vehicle, the vehicle would normally be expected to be less than 3 years of age when first licensed as an executive private Hire vehicle.
- Manufacturers' tints on windows are permitted but tinted film is not permitted to be added after manufacture.
- The vehicle cannot be fitted with a data head, taxi meter or radio.
- A licensed executive private hire vehicle will be exempted from displaying licensed plates, a small disc will be required to be displayed in the windscreen and the vehicle licence must be available for inspection in the vehicle at all times.
- A licensed executive hire vehicle will not be permitted to display any form of advertising including company or private hire operator details. Business cards in respect of the Executive Private Hire Operator details will be permitted.

### **5. Drivers of Executive Private Hire Vehicles**

- 5.1 Drivers of Executive Private Hire Vehicles must hold a valid private hire drivers licence issued by the same local authority that issued the Executive vehicle and operator licence. The legislation requires that all licenced drivers (private hire and hackney carriage) are fit and proper to hold such a licence. The standards required by the Licensing Authority in terms of driving skills, medical fitness, criminal/motoring convictions, knowledge of licensing requirements, safeguarding and regional topography knowledge is deemed to be same for both standard and executive private hire drivers. A driver who holds a private hire drivers licence can drive standard or executive hire vehicles.

### **6. Applications for Exemption**

- 6.1 Those wishing to be considered for an exemption to be applied for their vehicle must completed the application form of which a sample is attached at **Appendix 1**.



**Report to LICENSING COMMITTEE**

## **Ministerial Working Party on Taxis Update**

**Portfolio Holder:**

Cllr A. Shah – Cabinet Member for Neighbourhoods

**Officer Contact:** Deputy Chief Executive – People & Place

**Report Author:** John Garforth – Trading Standards & Licensing Manager

**Ext. 5026**

**6 November 2018**

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**Reason for the Report**

The reason for this report is to advise Members of the outcome of the Department for Transport Ministerial Working Party review of Taxi and Private Hire Licensing.

**Recommendations**

Members are asked to note the report and feedback any comments on its content.

## Ministerial Working Party on Taxis Update

### 1 Background

- 1.1 In September 2017 the Transport Minister requested that a working party be convened to review the current regulatory regime for taxis and private hire as he did not consider it fit for purpose.
- 1.2 A working party was convened and was chaired by Professor Mohammed Abdel-Haq from the University of Bolton. Other members of the group included trade representatives of trade groups, the Local Government Association, Transport for London, Suzy Lamplugh Trust, two Members of Parliament and the Competition and Markets Authority. Oral and written evidence was also taken.
- 1.3 The Report was published in September 2018 and a response from the Minister is eagerly awaited. A copy of the Report is attached at Appendix 1.

### 2 Current Position

- 2.1 The working party have made thirty four recommendations in their report. This includes the following key issues:
- An urgent revision of existing legislation is required;
  - There should be national minimum standards for drivers, vehicles and operators;
  - Updated Government guidance should be issued
  - Metro Mayors should emulate the model of licensing in London by combining authorities into one licensing area;
  - Power to cap the numbers of licences to meet local need for taxis and PHVs;
  - Fixed penalty notices to be introduced for minor licensing offences;
  - All licensed vehicles should be fitted with CCTV
  - Mandate the use of a central national database; and
  - Review the evidence for restricting the hours licensed drivers can work similar to bus and lorry drivers.

### 3 Recommendations

- 3.1 Members are asked to note the report and feedback any comments on its content.

### 4 Preferred Option

- 4.1 N/A

### 5 Consultation

- 5.1 N/A

### 6 Financial Implications

- 6.1 None

### 7 Legal Services Comments

- 7.1 The Minister's response to the Report will identify which, if any, of the recommendations are to be progressed. Many of the recommendations in the Report will require legislation to implement them. There will be opportunities to comment on any proposals at that stage.

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In the meantime, there are a number of recommendations that do not require new legislation. The Council can therefore review its current compliance on these matters.

8. **Co-operative Agenda**

8.1 Not applicable

9 **Human Resources Comments**

9.1 Not applicable

10 **Risk Assessments**

10.1 Not applicable

11 **IT Implications**

11.1 None

12 **Property Implications**

12.1 None

13 **Procurement Implications**

13.1 None

14 **Environmental and Health & Safety Implications**

14.1 None

15 **Equality, community cohesion and crime implications**

15.1 None

16 **Equality Impact Assessment Completed?**

16.1 No

17 **Key Decision**

17.1 No

18 **Key Decision Reference**

18.1 N/A

19 **Background Papers**

19.1 None

20 **Appendices**

20.1 Appendix 1 – Working Party Report

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# Taxi and Private Hire Vehicle Licensing

## Steps towards a safer and more robust system

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# Acknowledgement

In preparing this study and throughout the work of the Task and Finish Group the expertise, endeavour and understanding of its members has been exceptional.

Whilst preparing and writing this report I have been supported throughout this process by the officials at the Department for Transport; without exaggeration I conclude that none of what has been achieved would have been possible without the support of these officials who personify all that is admired about the British Civil Service.

I would like to wholeheartedly thank all those who have shared with the Group their valuable knowledge and experience in the trade and its regulation, and their views on the way forward.



**Professor Mohammed Abdel-Haq**

Chairman, the Task and Finish Group on Taxi and Private Hire Vehicle Licensing

# Foreword

This report is about public wellbeing. Its genesis and mission were framed by the vision of the then Minister of State at the Department of Transport, the Rt. Hon. John Hayes CBE MP. In commissioning me to lead this vital work, he made clear that in his view the current regulatory regime for the taxi and private hire vehicle (PHV) sector is no longer fit for purpose.

In scoping the work together we were determined, above all, to chart a future which ensured public safety for all, a working environment for those in the trade which guaranteed fair working conditions and whilst maintaining a competitive, dynamic market, preserve the character, integrity and aesthetics of this time-honoured trade.

It is clear that the status quo whereby taxi and PHV licensing is inconsistent, ineffective and incompatible with the protection of vulnerable people must not be allowed to continue. Alongside other incidents of criminality, the events in Rotherham, Rochdale, Oxford and elsewhere have brought the fundamental flaws in the licensing regime into the sharpest possible focus; these oblige uncompromising determination to make taxis and PHVs safe for all.

Our efforts should also be informed by the Prime Minister's determination that the economy must work for all, and that those who, despite their hard work and skill, are 'just about managing' to provide for their families, must not become victims of the 'sweated economy' by those who accept little or no regard to the notion of social responsibility.

I have drawn on the insight of those who know best, and worked with a first-class group of colleagues. It is their sharp minds, commitment, professionalism and cool heads that have enabled the critical thinking and discussions that underpin my recommendations. Members of the Group have strongly held, sometimes polar opposite opinions and, while this means that it has not always been possible to reach a consensus, I am of no doubt that all have the best interests of passengers and the trade foremost in their thoughts. I am grateful to them all.

I learned from the collective wisdom of the Group that there is no single solution to the challenges facing the taxi and PHV sector. So, each aspect of this study and the consequent recommendation is dependent on others. The report aims to produce a holistic ecosystem and solution to the problems it was devised to address and, as a result, to set out a comprehensive platform for the changes necessary to protect and promote the public interests in the common good.

I would like to make it clear that it is in the public interest to allow, indeed encourage, competitive markets. The arrival of new businesses and new modes of business are the healthy expressions of a market economy. So, provided that public safety and employee working conditions are assured and that appropriate emphasis is placed on congestion, air quality and similar concerns, market change can be welcome.

Licensing conditions should be demanding, arguably to a greater degree than at present, but should not, in effect, prohibit market entry for new businesses.

As my task is now complete, the onus falls to the Secretary of State for Transport Chris Grayling, MP and his Ministers, in particular Nusrat Ghani, and Parliamentarians to take the ideas of the report further and to begin to craft the legislation that it will, in some instances, require. In other instances, I trust that Parliament and the Department will lead the cultural change which is necessary to ensure that passengers, workers, operators, and neighbouring authorities are treated fairly. I look forward to the Government's prompt response to this report in order to maintain the momentum for improvement. Undue delay would risk public safety.

**Professor Mohammed Abdel-Haq**

Chairman, the Task and Finish Group on Taxi and Private Hire Vehicle Licensing.

# 1. List of Recommendations

## Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

## Recommendation 2

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (**see recommendation 6**). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

## Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision.

Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

## Recommendation 4

In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm.

Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.

### **Recommendation 5**

As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades.

Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks.

Government should convene a panel of regulatory experts to explore and draft the definition.

### **Recommendation 6**

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

### **Recommendation 7**

Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

### **Recommendation 8**

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.

### **Recommendation 9**

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.

### **Recommendation 10**

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (**recommendation 2**) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (**recommendation 11**).



**Recommendation 11**

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHV and taxi – see **recommendation 6**) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

**Recommendation 12**

Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

**Recommendation 13**

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London.

**Recommendation 14**

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

**Recommendation 15**

All ridesharing services should explicitly gain the informed consent of passengers at the time of a booking and commencement of a journey.

**Recommendation 16**

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

### **Recommendation 17**

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

### **Recommendation 18**

As Government and local authorities would benefit from a reduction in crime in licensed vehicles both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

### **Recommendation 19**

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

### **Recommendation 20**

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

### **Recommendation 21**

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

### **Recommendation 22**

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of conduct as well as crimes, by taxi and PHV drivers (and applicants) is disclosed ensuring that licensing authorities are informed immediately of any relevant incidents.

### **Recommendation 23**

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All those cases must be recorded, and the database checked for all licence applications and renewals. Licensing authorities must record the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (**recommendation 24**).

### **Recommendation 24**

As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

### **Recommendation 25**

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

### **Recommendation 26**

All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training. The content of the training must form part of national minimum standards.

### **Recommendation 27**

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consideration of the appropriate boundary between taxis/PHVs and public service vehicles (PSVs).

### **Recommendation 28**

Licensing authorities must require that all drivers are able to communicate **in English** orally and in writing to a standard that is required to fulfil their duties, **including in emergency and other challenging situations.**

**Recommendation 29**

All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability quality and awareness training. This should be mandated in national minimum standards.

**Recommendation 30**

Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency, the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective.

**Recommendation 31**

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

**Recommendation 32**

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible to report disability access refusals.

**Recommendation 33**

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV or taxi operator.

**Recommendation 34**

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry drivers.

## 2. Group membership and task

### Introduction

- 1 The Task and Finish Group was brought together between July and August 2017 by the then Minister of State for Transport the Rt Hon John Hayes CBE MP, and met for the first time in September 2017.
- 2 The Group's objectives were confirmed in the Terms of Reference agreed by its members. The Group was tasked with:
  - Considering evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified. Specifically:
  - Identifying the current priority concerns regarding the regulation of the sector, based on evidence of impact and scale across England;
  - Considering, in particular, the adequacy of measures in the licensing system to address those issues;
  - Considering whether it would advise the Government to accept the recommendations made in the Law Commission's May 2014 report on taxi and PHV legislative reform relevant to the issues, and;
  - Making specific and prioritised recommendations, legislative and non-legislative, for action to address identified and evidenced issues.

#### **Chairman of the Task and Finish Group**

Mohammed Abdel-Haq is a professor in Banking and a Director of the Centre for Islamic Finance at the University of Bolton. Prof Abdel-Haq has a wealth of practical experience in a long career in banking in major financial institutions including Citi Bank, Deutsche Bank, and HSBC. He is the CEO of Oakstone Merchant Bank, Director of the Centre for Opposition Studies at the University of Bolton.

Professor Abdel-Haq was a member of the Council of the Royal Institute for International Affairs (Chatham House) from 2011-2014. In 2011 Prof Abdel-Haq was appointed Chairman of the UK Ministerial Advisory Group on Extremism in Universities and FE Colleges. He was Vice President of The Disability Partnership. Several of his articles on various issues related to public life have been published. Prof Abdel-Haq is a Freeman of the City of Oxford, a member of Amnesty International, a Fellow of the Royal Society of Arts. Prof Abdel-Haq was a Prospective Parliamentary Candidate for Swansea West in the 2005 General Election.

- 3 Membership of the Task and Finish Group:
- Helen Chapman - Director of Licensing, Regulation & Charging, Transport for London
  - Rt Hon Frank Field MP - - Member of Parliament for Birkenhead
  - Saskia Garner - Policy Officer, Personal Safety, the Suzy Lamplugh Trust
  - Ellie Greenwood - Senior Adviser (Regulation), Local Government Association
  - Dr Michael Grenfell - Executive Director, Enforcement, Competition and Markets Authority
  - Anne Main MP - Member of Parliament for St Albans
  - Steve McNamara - General Secretary, Licensed Taxi Drivers' Association
  - Mick Rix - National Officer for Transport and Distribution, GMB union
  - Donna Short - Director, National Private Hire and Taxi Association
  - Steve Wright MBE - Chairman, Licensed Private Hire Car Association
- 4 To ensure that the Group heard views from a wide cross-section of the sector, it sought written evidence from a range of stakeholders, and further invited a selection of organisations to give oral evidence to the Group. The Group received submissions from 39 organisations and heard evidence from 11.
- 5 Secretariat functions for the Group were provided by officials in the Department for Transport.
- 6 Group members were each able to submit a short summary of their views of this report if they wished to do so; those summaries are attached at Annex A.

## 3. Market function and regulation

### Current regulation

- 3.1 The UK Government is responsible for setting the regulatory structure within which local licensing authorities in England license the taxi and PHV trade. Regulation of taxi drivers in Scotland, Wales and Northern Ireland is devolved to the Scottish Government, Welsh Government and Northern Irish Assembly respectively. This report is focussed on the sector in England only.
- 3.2 Taxi and PHV licensing in England is decentralised; there are 293 licensing authorities. The national legislation is enabling in its nature, giving licensing authorities the discretion to set standards for drivers, vehicles and PHV operators that they deem to be appropriate. There are significant variations in both policy and practice between licensing authorities.

### A changing industry

- 3.3 The Task and Finish Group heard from many stakeholders about the age of the legislation that underpins taxi and PHV licensing, and how it is no longer fit for the modern world. Taxi licensing in England outside Greater London rests on the Town Police Clauses Act of 1847, which of course pre-dates the motor car. PHV licensing outside Greater London rests on the Local Government (Miscellaneous Provisions) Act 1976; significantly less old, but still pre-dating the mobile phone and the internet, both of which are increasingly important means of booking taxis and PHVs. Greater London PHV legislation is newer still, passed in 1998, but this still pre-dates near universal mobile phone use, and smartphone apps.<sup>1</sup>
- 3.4 Legislation has been out of date for many years now, but it seems that the rise of smartphone booking apps, in particular, has thrown the need for an urgent update on legislation into sharp focus. PHV legislation was written for a world where radio signals were unlikely to reach outside the licensing authority area, and people had to go to a local minicab office, or telephone it using a landline, to book a car. The new way of using apps to book PHVs has an ease (as well as safety features and usually value for money) that has proved very popular with passengers, but the law was not written with such technology in mind and so it can be hard to apply to what is happening in reality.
- 3.5 The effectiveness of the highly localised taxi and PHV licensing system has become unsustainable in the face of new internet and smartphone app-based technology and the public's widespread adoption of those methods of arranging taxi and PHV trips. Government, both central and local, should acknowledge such changes and manage

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<sup>1</sup> For simplicity, this report does not describe the separate legislation that licenses PHVs in Plymouth, the Plymouth City Council Act 1975. For the level of detail in this report, it is sufficient to say that its provisions are broadly the same as those in the Local Government (Miscellaneous Provisions) Act 1976.



them to ensure that alongside the benefits being achieved, any negatives are minimised for passengers, the trade and wider communities.

- 3.6 We should also recognise that the changes in how the sector works are being driven by public demand. It is unacceptable to require the public to restrict its reasonable demands to support an outdated framework. It is the market and regulation that must adapt while maintaining high standards.
- 3.7 This report makes a number of specific recommendations about what Government and licensing authorities should do with their taxi and PHV powers, but there is an urgent overarching need to update legislation to reflect much better the reality of the way the trade is operating today. The Government implicitly acknowledged as much by asking the Law Commission to review the legislation in 2011, and it is deeply regrettable that the Government has not yet responded to the report and draft bill which the Commission subsequently published in 2014. Had the Government acted sooner the concerns that led to the formation of this Group may have been avoided.

### Recommendation 1

Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.

- 3.8 Regardless of technological change, the Government should legislate for national minimum standards for the licensing of drivers, vehicles and operators. These minimum standards should be set at a high but still proportionate level that would in practice reduce the need (actual or perceived) for individual authorities to add their own further checks or conditions - **'minimum' should not be understood or treated as meaning 'minimal'**.
- 3.9 The current level of discretion given to local licensing authorities has resulted in very significant and unacceptable variations in standards. Failures by some authorities to uphold high standards for the assessment of drivers, for example, have contributed to the involvement of the taxi and PHV trade in well-documented sexual abuse and exploitation of hundreds of children.
- 3.10 Significant variation in standards and the application of these in the licensing of drivers provides an opportunity for individuals to 'forum shop' for licences. Although factors such as service levels and total licensing cost (i.e. inclusive of fees and training requirements) may provide the motivation for most individuals that seek to obtain a licence from an authority other than that in which they intend to predominantly work, this also enables individuals who would not be deemed 'fit and proper' by one authority to potentially obtain a licence elsewhere. The Government has a responsibility to set a national framework that enables safe and effective licensing, and local authorities have a wider responsibility towards all people both within and beyond their boundaries. Better information sharing amongst authorities is also essential, and this is discussed further in Chapter Four.
- 3.11 The Law Commission recommended that all PHV standards should be set at a national level without the ability for licensing authorities to add additional local conditions, but that taxi standards should be 'minimum standards' which could be supplemented locally. This, in the Commission's view, reflected the more localised



nature of taxi markets, particularly the ability to be hired immediately on the street and the requirement for local knowledge that this brings.

- 3.12 However, other recommendations made in this report would restore the link between licensing authorities and PHVs operating in their area and so national minimum standards are more appropriate in this framework. Taxis and PHVs serve a range of very different localities across England, and local licensing authorities should not be prevented from applying extra conditions to their drivers or vehicles where there is an evidenced need. An example of this might be vehicle conditions, to help address local air quality challenges.

### **Recommendation 2**

Government should legislate for national minimum standards for taxi and PHV licensing - for drivers, vehicles and operators (**see recommendation 6**). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England.

Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however, be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.

- 3.13 In advance of national minimum standards, the Department for Transport's Best Practice Guidance should be updated; both this and the forthcoming Statutory Guidance should be more directive, to make clearer the requirements and standards that the Government considers are necessary.
- 3.14 All licensing authorities should adopt the Department's recommendations, which should be viewed as the pre-cursors to national minimum standards. Early adoption of these recommendations will therefore assist in the transition for the industry. It will also assist joint working by licensing authorities and in particular support stronger cross-border enforcement activity. The Task and Finish Group heard about current and developing best practice in areas such as Merseyside, West Yorkshire and Greater Manchester. Common standards are the keystone of effective enforcement within regions, giving enforcement officers one set of rules to check drivers and vehicles against, regardless of which authority issued the licences.
- 3.15 There are few barriers that prevent the licensing of operators and drivers in multiple areas, but this is not true for the licensing of vehicles, as requirements in different areas may be contradictory. These variations can include colour; livery; vehicle age restriction both at first licensing and maximum age; whether tinted windows are permissible; seat configuration; engine size (or if electric vehicles can be licensed); and visible signage/ID conditions. It is in the interest of licensing authorities (ease of enforcement), passengers (increased availability) and the trade (increased flexibility to meet demand) for multiple licensing to be possible.

### Recommendation 3

Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations after very careful consideration and in exceptional circumstances. In this event licensing authorities should publish the rationale for this decision.

Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.

- 3.16 In the long term, greater consistency in licensing that will result from national minimum standards raises the question of the appropriate 'level' of taxi and PHV licensing - that is, which administrative level should undertake this function.
- 3.17 The licensing regime should be rationalised. People are increasingly mobile and the licensing regime should reflect the way in which the public use taxi and PHV services. There may be significant benefits to raising the administrative level of taxi/PHV licensing in some areas, whether as part of wider reform or as a distinct proposal.
- 3.18 An example of the benefits that may accrue from raising the licensing level can be seen in the way the system operates in Greater London in comparison to other large urban areas. Transport for London licenses 108,709 vehicles and 142,199 drivers. By way of contrast, Greater Manchester has 10 authorities licensing a total of 13,392 vehicles and 18,085 drivers<sup>2</sup>.
- 3.19 Without Transport for London, London's 33 local authority districts would be able to set its own policies, requirements, taxi fare rates etc. In addition, each of these would have to replicate the associated administration, likely resulting in increased licensing costs which may ultimately increase passenger fares. Importantly, this would also result in immense enforcement problems in the absence of agreements between the districts to enable their enforcement officers to take action against each other's licensees.
- 3.20 The variance in the costs of obtaining licences (fees and to meet requirements) in different licensing areas within one conurbation can be considerable, by matters of hundreds of pounds. The example of licensing in Greater Manchester was highlighted in the Urban Transport Group's report 'Issues and options for city region taxi and private hire vehicle policy'<sup>3</sup> (see fig. 1). The time and cost it takes to obtain a licence can also vary greatly and influence licensing behaviour, exacerbating the number of 'out-of-area' drivers. It is unsurprising that a driver, who is indeed fit and proper by any measure, may still choose to license in a neighbouring authority even if the costs are higher if they will get their licence in a few months rather than two years, and therefore start earning much sooner.
- 3.21 It has not been possible within the timeframe of the Task and Finish Group to make a recommendation as to precisely which authorities (and how many) should be

<sup>2</sup> Data as of 31 March 2017 - <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

<sup>3</sup> [http://www.urbantransportgroup.org/system/files/general-docs/UTG%20Taxi%20and%20PHV%20Report\\_FINALforweb.pdf](http://www.urbantransportgroup.org/system/files/general-docs/UTG%20Taxi%20and%20PHV%20Report_FINALforweb.pdf)

responsible for taxi/PHV licensing across the country. However, direct electoral accountability must be maintained to ensure that the needs of all residents in any expanded licensing areas are considered.

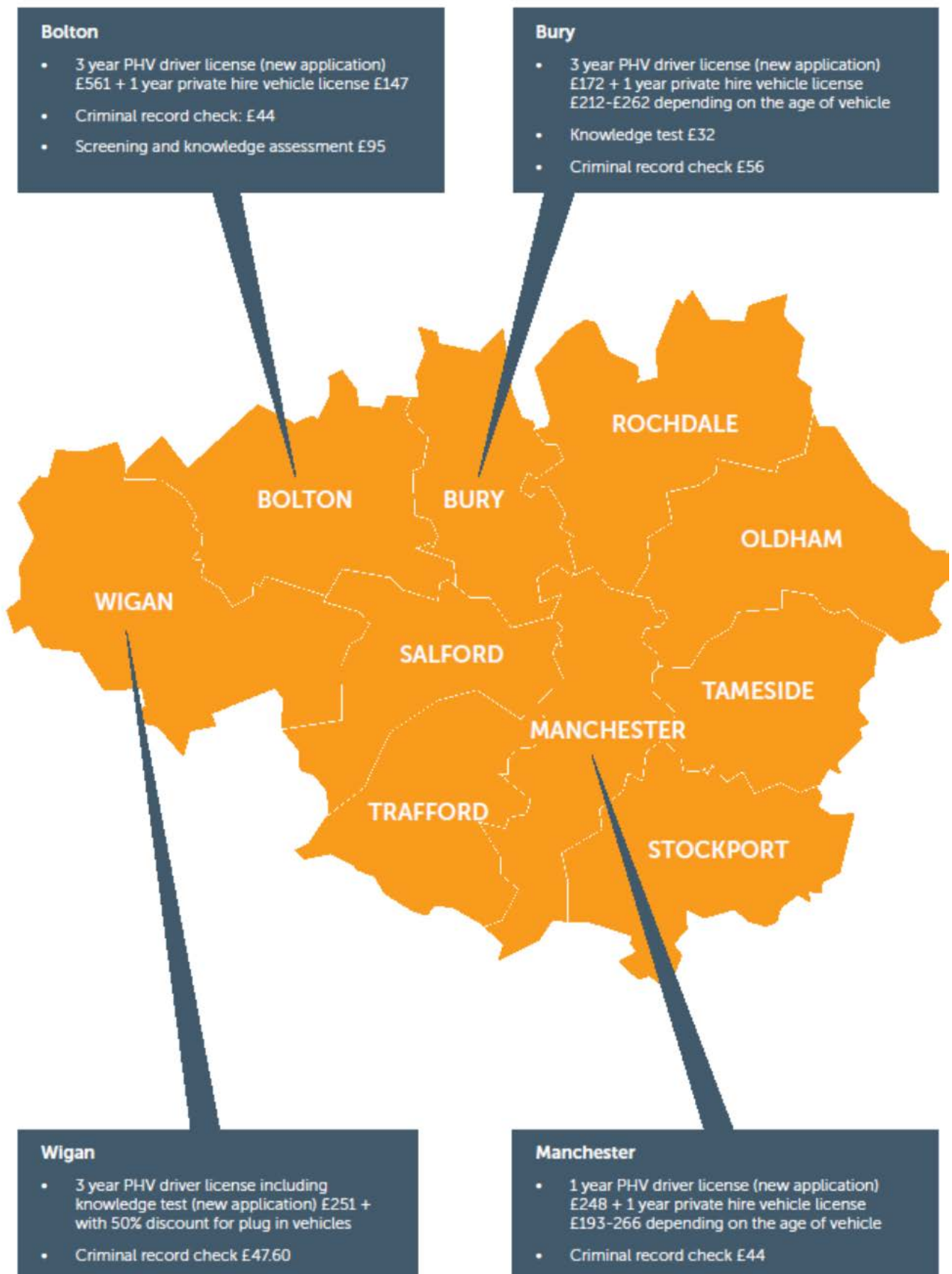
- 3.22 There seems a clear case that large urban areas, particularly those with Metro Mayors, should each be covered by one taxi and PHV licensing authority. Outside those areas, Government should strongly encourage much greater collaboration and joint working between neighbouring authorities, and subsequently review over time whether formal consolidation of more licensing areas is needed.
- 3.23 Where taxi licensing is concerned, larger licensing authorities areas could still retain more localised requirements of taxi regulation, such as quantity restrictions, fare setting, local knowledge testing at the same granular level as now (if deemed beneficial) through the use of taxi zones as are already used in a number of licensing authority areas.

**Recommendation 4**

In the short term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm.

Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years

Figure 1 - Licensing in Greater Manchester <sup>4</sup>



<sup>4</sup> <http://www.urbantransportgroup.org/resources/types/reports/ Taxi issues and options-city-region-taxi-and-private-hire-vehicle-policy>

## The two tier system

- 3.24 Only taxis are available for immediate hire, be it hailed in the street or at a designated rank. Nevertheless, the potentially very short gap between booking a PHV via an app and getting in the vehicle, may appear similar to members of the public to getting a taxi. Indeed the speed and convenience of using an app might be an easier and more attractive option in some circumstances than hailing a taxi.
- 3.25 This increased ease and speed of PHV hiring has significantly eroded the differentiation in service and the potential additional earnings that taxis' ability to ply for hire can provide. The regulation of the sector has not adapted to reflect this erosion. The Task and Finish Group unanimously agreed that there is still merit in the two-tier taxi and PHV system. For example, the setting of maximum fare tariffs for taxis provides an important element of passenger protection, as people are not able to research fares with alternative providers when hiring immediately. This can protect both visitors to an area, who may have no notion of the distance of their journey and what this might reasonably cost, and also local residents who are protected from the charging of excessively high fares when demand is high. At the same time, the unregulated fares of PHVs enable price competition to the benefit of many consumers.
- 3.26 The Group received many submissions which requested that a statutory definition of 'plying for hire' and 'pre-booked' should be introduced to make clearer the different services that taxis and PHVs can provide.
- 3.27 The Law Commission deliberated whether 'plying for hire' should be defined as part of its work, and ultimately recommended that different terms should be defined. In my view, if we are to be supportive of the two-tier system, it is inevitable that we must be able to effectively distinguish those two tiers. Defining 'plying for hire' is essential to that.

### **Recommendation 5**

As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades.

Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks.

Government should convene a panel of regulatory experts to explore and draft the definition.

- 3.28 Taxi 'radio circuits' or taxi smart phone apps undertake a similar function as PHV operators but are not subjected to a 'fit and proper test' as they do not require a licence. PHV operators are under an obligation to ensure that the drivers and vehicles used are licensed by the same authority and that vehicles are insured and in a suitable condition.
- 3.29 A freedom of information request found that in in the 12-month period running from 08 January 2016 to 07 January 2017, 1,290 Transport for London licensed taxis were reported for not having a second MOT test, six months from the date the taxi licence



was granted. However, it is unknown whether any of these vehicles were used for 'taxi radio circuit' work. Transport for London's data for the period April to December 2017 indicated that 27.1% of PHVs and 35.8% of taxis stopped were non-compliant<sup>5</sup>. In both cases, the total number non-compliant vehicles may be higher as these vehicles were identified as a result of 'on-street' enforcement.

- 3.30 It is true, of course, that unlike PHVs where there must be an operator to take a booking for the transaction to be legal, taxis are able to ply for hire. The booking recording function of a PHV operator evidences that a journey has been pre-booked and is essential in ensuring compliance and preventing a PHV from working illegally as a taxi. However, data from Transport for London's Black cabs and Minicabs Customer Satisfaction Survey (Q3 2016/17) evidence that a decreasing proportion of taxi journeys are engaged by hailing or at a rank, down from 83% in 2013 to 66% in 2016. This trend suggests that it is now appropriate for these intermediaries to be regulated in the same way as PHV operators are.

### **Recommendation 6**

Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).

- 3.31 Central Government and local regulators must acknowledge that new technology has fundamentally changed the market and act if the two-tier system is to remain viable. The competition between taxis and PHVs has increased, but taxis are often subject to additional regulation and, where purpose built vehicles are required, significantly higher costs than their PHV counterparts. If the benefits of a two tier system (e.g. there is a higher proportion of wheelchair accessible vehicles (WAVs) in the taxi fleet) are to be maintained, regulators should consider ways to support the taxi trade. The way to do this is not by 'punishing' the PHV trade, but by reducing the additional cost burden that WAV owners face.
- 3.32 Central Government has already recognised the different costs the two sectors can face; the maximum Plug-in-Taxi Grant (for the purchase of wheelchair accessible zero-emission capable (ZEC) purpose-built taxis) is £7,500, compared to the £4,500 maximum Plug-in-Car Grant available for other vehicles; this kind of approach should be explored further. Government and licensing authorities should explore additional financial assistance that could be provided to off-set the additional costs of WAV and/or ZEC vehicles.
- 3.33 There are various mechanisms that could encourage more rapid adoption of ZEC vehicles in area where air quality is or may become an issue; Transport for London's delicensing scheme, for example, provides a payment of up to £5,000 to delicense older (10+ years old) vehicles. All new taxis licensed by Transport for London must now be ZEC.
- 3.34 Taxis, particularly in London, are perceived by the public as reliable "work horses" on the roads for long hours every day. This perception could be at the forefront of changing opinions and attitudes towards electric vehicles, in general, and specifically

<sup>5</sup> <https://tfl.gov.uk/cdn/static/cms/documents/phv-licensing-compliance-and-enforcement-january-2018.pdf>

as viable options for commercial and small goods vehicles. The wider benefits of supporting drivers to get such vehicles on the roads could be considerable.

- 3.35 Funding could be allocated to subsidise a tiered taxi and PHV licensing structure that exempts or reduces fees for zero emission capable vehicles and/or those which are wheelchair accessible. This would assist those who make the additional investment to use wheelchair and/or accessible vehicles such as the 'black cab' and reflect the additional benefits these would provide the public.

**Recommendation 7**

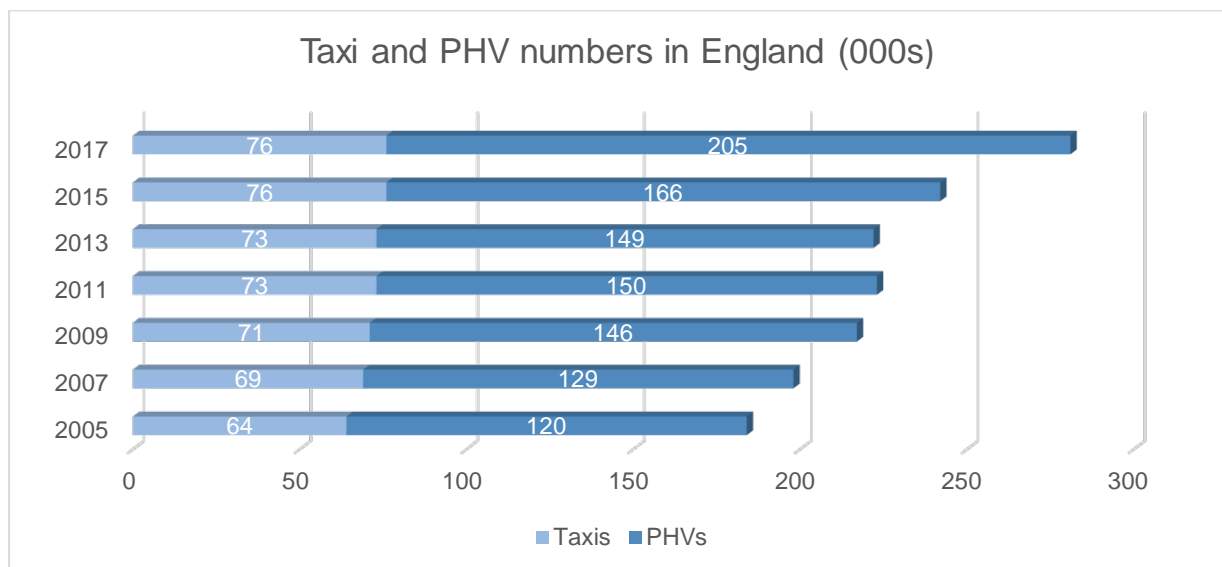
Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.

**A growing industry**

- 3.36 The sector has seen rapid growth in recent years. The total number of licensed taxis and PHVs in England reached record levels in 2017, increasing by 26% since 2011 to 281,000<sup>6</sup>. This growth has not been uniform across the two tiers, but was driven by the 37% increase in PHVs over the period, compared to the 3% increase in taxis. In 2017, 73% of all licensed vehicles in England were PHVs; in 2011 this proportion was 67%.

- 3.37 The increase in licensing numbers is also inconsistent across England; to give just some examples, the number of PHVs licensed by Transport for London increased by 39% between 2011 and 2017 to 87,400; in the same period, the number of PHVs licensed by Wolverhampton City Council increased by 434% to 2,949; but decreased by 37% in Tandridge District Council to just 46.

**Figure 2 - Taxis and PHVs in England (DfT survey 2017)<sup>7</sup>**



<sup>6</sup> <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

<sup>7</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/62761/taxi-private-hire-vehicles-2017.zip](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/62761/taxi-private-hire-vehicles-2017.zip)

- 3.38 Currently, licensing authorities outside Greater London have the ability to restrict the number of taxis they license. As of 31 March 2017, 90 English authorities do, to balance the supply and demand of services. Legislation does not currently allow PHV licences to be restricted in such a way, and the Group received a number of submissions arguing in favour of changing this.
- 3.39 Granting licensing authorities the power to cap the number of PHVs could give them an extra tool to help reduce levels of congestion in areas where high numbers of PHVs operate and thereby address in part air quality issues. To use the power for those purposes would require a public interest approach, not merely the "unmet demand" test currently applied to allow the limiting of taxi numbers.
- 3.40 There are potential drawbacks to licence restriction, including administrative burden, restriction of competition and restriction of work opportunities for drivers. Carrying out a clear, well evidenced and considered public interest test before a numbers restriction can be applied would enable an authority to weigh up those factors and make a balanced decision.
- 3.41 This matter was considered as part of the Law Commission's review, albeit in the case of taxis rather than PHVs, but their consideration of what a public interest test should include could equally apply to both segments of the trade. Any test should include matters such as:
- the interests of taxi and PHV users, particularly those of disabled people
  - the interests of licensees
  - the need to avoid traffic congestion, and
  - the need to preserve the environment
  - and for taxis, the need to avoid excessive queues at ranks

### **Recommendation 8**

Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.



## Cross-border and out-of-area working

### Background

- 3.42 Although taxis and PHVs are locally licensed, the passenger journeys they can carry out are not restricted solely to their licensed area.

#### Cross-border / out of area working: a simplified summary

- **Taxis** can only ply for hire (to be flagged down or hired from a rank) in their licensed area, but can generally undertake pre-booked work anywhere.
- A **PHV** driver, vehicle and operator must all be licensed in the same area for a journey to be carried out legally - but the journey itself does not need to be in that licensed area: e.g. a London-licensed vehicle and driver can be booked through a London-licensed operator to carry out a passenger journey that takes place entirely in St Albans.
- A **PHV** booking can also be sub-contracted: e.g. a St Albans-licensed operator could take a booking, and arrange for another operator to carry it out: this could be another St Albans-licensed operator, or an operator licensed by any other authority, who would need to fulfil the booking using a driver and vehicle licensed by the same authority as they are.

- 3.43 The ability for a PHV journey to take place anywhere, so long as the driver, vehicle and operator are all licensed by the same authority, comes from the original licensing legislation (the 1998 Act for London, and the 1976 Act elsewhere). It was always possible for a PHV operator to sub-contract a booking to an operator licensed in the same area. Greater London operators have always been able to sub-contract bookings to operators in other areas, and that ability was extended to PHV operators outside Greater London by Section 11 of the Deregulation Act 2015.

- 3.44 Although all PHV operators have always been able to accept bookings regardless of the start and end point of a journey, in practice the advertising of their services and the ability of operators to maintain contact with drivers reduced the likelihood of booking requests from distant locations being received.

### The issue

- 3.45 New technology has changed the landscape. The members of the public who use apps for booking PHVs carry with them the ability to request a vehicle anywhere. It is not necessary for the subcontracting process to be undertaken to facilitate the dispatching of an out of area driver to fulfil a booking. An operator could currently, if it chose to, operate nationally on a single licence. It is unlikely that this is what was intended when the legislation was drawn up, and it underlines that it is no longer fit for purpose.
- 3.46 Not all 'cross-border' work is a concern: many journeys will naturally start within one licensing authority and end in another, and the framework should allow this. In areas near to the boundaries of licensing authorities, and particularly in city and urban locations with multiple authorities, there will be high levels of cross-border working. Operators will sometimes fulfil bookings out of their licensing area to reduce dead

mileage, or meet vehicle type requirements (e.g. wheelchair accessible vehicles) when none are available locally. A passenger may have confidence in the safety and quality of a service that a particular operator provides and would prefer to use that favoured operator regardless of the start and/or end points of their journey. This is perhaps more likely in the executive and chauffeur segment of the PHV market.

- 3.47 However, the Group have heard from many sources about the increasing numbers of drivers who now work entirely at (sometimes considerable) distance from the authority that licensed them. The Group saw no evidence of precise numbers but anecdotal evidence is that it is widespread, particularly of drivers licensed by Transport for London but living in cities far away making it highly unlikely that they would travel to London before working. Figure 3 show a map of the home addresses of Transport for London licensed drivers by postcode.
- 3.48 It is difficult for licensing authorities to be effective in monitoring the activities of drivers who are working in this way. The enforcement officers of one authority cannot undertake enforcement action against taxis or PHVs licensed by other authorities. An authority could send its enforcement officers to carry out checks in known 'hot-spots' for its drivers, but while this seems reasonable for an adjoining licensing area, it seems an inefficient solution when the distances involved can be so great. In conjunction with the earlier recommendation on national minimum standards, all licensing authorities should have the powers to take enforcement action against those standards regardless of where a specific driver or vehicle is licensed. So, for example, a Bristol City Council licensing enforcement officer should be able to stop and question any taxi or PHV driving in Bristol regardless of which authority issued the licence. The Group heard evidence that taxis and PHVs can carry passengers across different boundaries and nobody can monitor their compliance or question them. This is simply wrong.

#### **Recommendation 9**

All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.

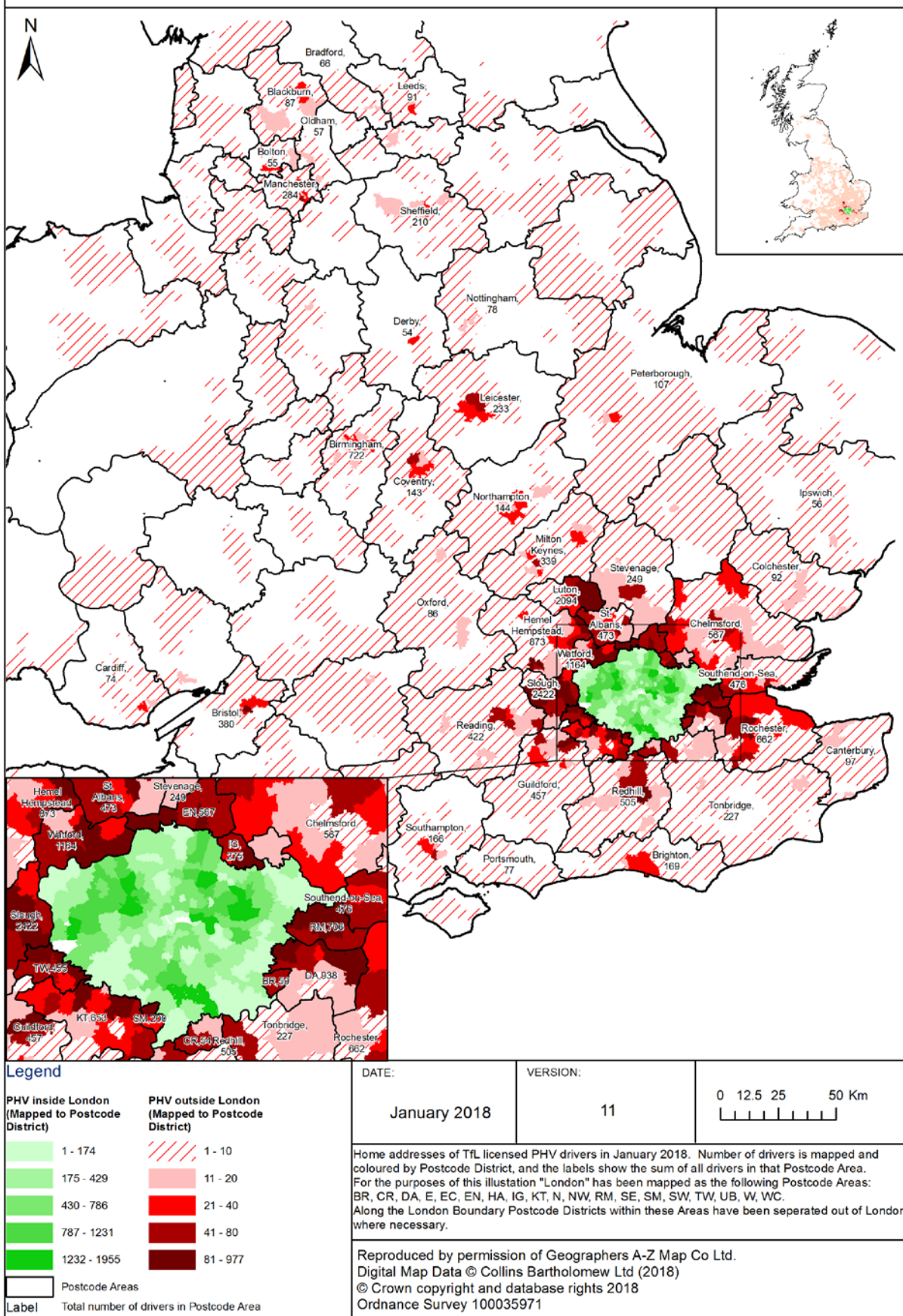
#### **Recommendation 10**

Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (**recommendation 2**) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (**recommendation 11**).

- 3.49 This report has already recommended that licensing authorities should be able to restrict the number of taxi and PHV licences they issue. However, without a method to prevent vehicles licensed in other areas from working within the "capped" area, any restriction could be easily circumvented by someone licensing elsewhere and simply working remotely within the "capped" area.

**Figure 3 - Home postcodes of active Transport for London licensed PHV drivers, January 2018**

**Figure 4: Prevalence of active London-licensed private hire drivers with home addresses outside London**



- 3.50 A number of submissions to the Group supported a proposed restriction that taxi and PHV journeys should only be permitted where the start and/or end point are within the licensing area of the driver, vehicle and (for PHVs) operator. This was primarily proposed to address concerns over the drivers operating predominantly or exclusively outside of the area in which they are licensed.
- 3.51 That proposal is the most effective on the table. There would be a need to carefully consider any flexibilities that may be needed to allow for specific destinations to continue to be served without disruption (e.g. airports), business models to continue (e.g. in the chauffeur / executive hire sector), or specific services for the disabled to not be disrupted.
- 3.52 All those matters would need careful further work, to reduce the risk of causing damage legitimate business models and passenger choice. The potential negative aspects of the proposed restriction would be greatest in inner-city areas which have many boundaries. Without the reduction of licensing authorities proposed in recommendation 4, and the resulting larger areas, all parties would be detrimentally affected. With small geographic areas and more borders, passengers in these areas may no longer be able to use their favoured PHV operator even if these were the closest but simply as a consequence of being the wrong-side one of the many boundaries.
- 3.53 Rationalising the number of licensing areas in these locations would have benefits in its own right, but would also significantly reduce the negative impacts of a start/end point restriction.

### **Recommendation 11**

Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHVs and taxis – see **recommendation 6**) are licensed. Appropriate measures should be in place to allow specialist services such as chauffeur and disability transport services to continue to operate cross-border.

Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.

### **Licensing fee income**

- 3.54 Taxi and PHV licensing fees must be set on a cost recovery basis. They should reflect the true costs of the regime, and should not be used by licensing authorities to make profit or be subsidised by the council tax payer. Licensing authorities should ensure that the administration, compliance and enforcement of taxi and PHV licensing is sufficiently funded to enable an efficient process.
- 3.55 Resourcing functions based on revenue received approaches the issue the wrong way around. Licensing authorities should of course aim to deliver value for money by working efficiently, but that is not the same as at the lowest possible cost. Licensing authorities should first establish what resources are required to adequately administer and enforce the regime and set the licensing fees based on this. For example, the Group received evidence of how the funding of a police intelligence liaison officer can significantly improve cooperation and the flow of information. The resourcing of initiatives such as this may be beneficial but prove prohibitive for some



of the smaller licensing authorities, the restructuring proposed in recommendation 4 would result in authorities operating at a scale which enable them to resource these activities but removing administrative duplication and spreading the costs across a wider pool of licensees.

### **Recommendation 12**

Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

## **Pedicab regulation in London**

- 3.56 One result of having different taxi legislation applicable to London and the rest of England is that pedicabs (sometimes called rickshaws) cannot be regulated in the former. Case law has established that they are classed as "stage carriages" in the context of London taxi law, and therefore out of scope of taxi regulation. While there should be a place for a safe and responsible pedicab trade, particularly in Central London, there has been much justified criticism in recent years of rogue pedicab operators taking advantage of tourists with excessive charges and absence of safety checks.
- 3.57 It is not acceptable that Transport for London is unable to regulate pedicabs to ensure a safe service; the Government announced in 2016 that it would rectify this, and the legislation should be brought forward as soon as possible.

### **Recommendation 13**

Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London.

## **Fixed Penalty Notice for minor compliance infringements**

- 3.58 The enforcement of minor licensing infringements can be excessively burdensome on licensing authorities and frustrates their efforts to raise standards within their area. There are important benefits to setting a culture where licensees know that they must adhere to the basics or else face sanctions, freeing up officials and enabling them to focus on more serious matters.
- 3.59 Transport for London has proposed that it should be enabled to issue Fixed Penalty Notices to PHV drivers as it already is to taxi drivers who have breached minor licensing requirements such as failing to wear their badge. Transport for London's view is that this immediate financial deterrent would expand the enforcement options available to them to increase compliance and reduce the need to resort to more expensive measures that ultimately increase licensing fees for the majority of drivers that are compliant. The Local Government Association's initial submission to the working Group also called on licensing authorities to have modern enforcement tools such as Fixed Penalty Notices and stop notices.

3.60 Transport for London has elected not to make use of the powers it currently has to issue Fixed Penalty Notices until it is able to apply the same to PHVs. As stated elsewhere in this report, the two tiers of the trade should as far as practicable be treated equitably. Elsewhere in this report the case has been made for greater consistency in regulation across England in part to underpin national enforcement powers of national standards. Therefore it would be appropriate for the powers to issue Fixed Penalty Notices to be available to all licensing authorities, for both taxis and PHVs.

#### **Recommendation 14**

The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.

## Ridesharing

3.61 Ridesharing services in this context refers to the sharing of taxis or PHVs for hire by individuals that are unknown to each other prior to the beginning their trips. This form of service may provide members of the public with cheaper fares as costs are shared, and better utilise the capacity of vehicles, thereby reducing congestion and pollution. But there are potentially increased risks, too.

3.62 The limited time available to the Group has required that attention was focussed on key areas of urgent concern. While the issue of ridesharing has not been considered in depth, it should be clear to all that use these services that that they consent to sharing a confined space with people that are unknown to them. Operator and drivers should be required to make this clear when booking and at the start of a journey.

3.63 Where a taxi or PHV is no longer used entirely for exclusive private hire, the arguments in favour of mandating CCTV are enhanced; the argument that CCTV may represent an invasion of privacy is reduced greatly if not entirely negated, as there can be no argument that the vehicle is a private space. The use of CCTV is discussed further in Chapter Three.

#### **Recommendation 15**

All ridesharing services should explicitly gain the informed consent of passengers at the time of the booking and commencement of the journey.

## 4. Safety in taxis and private hire vehicles

### Public protection

- 4.1 One of the most important considerations of any regulatory system is safety. It is of paramount importance that passengers using taxis or PHVs can get into a vehicle knowing that their driver has been rigorously checked and deemed to be a suitable person to carry passengers. The enclosed nature of a taxi or PHV affords a potential opportunity to a person who wishes to take advantage of the vulnerable. It is important to recognise that in different circumstances, it may be either the passenger or the driver who is vulnerable.
- 4.2 The vast majority of licensed taxi and PHV drivers in the UK are decent and law-abiding people. Nevertheless, there have been recent and numerous cases of licensed drivers participating in, or enabling, child sexual exploitation as well as isolated opportunistic attacks on passengers. Following these horrendous offences, many licensing authorities have acted to address the failings that contributed to enabling these incidents. The lessons from the Casey and Jay reports and the impact on the lives of those affected by these and other failures must not be forgotten. To do otherwise would compound the harm and injustice done to the victims. No licensing authority should consider that the lessons learned do not apply to them merely because there have not been significant reports of such activity in their area: many of the previous offences in these cases have only become known many years after the event. Neither central government nor licensing authorities can provide absolute assurances of safety, but licensing authorities have the powers to mitigate the risks now. In the long term it is for central government to act to enable the mandating of standards to force any complacent authorities to act.
- 4.3 The Policing and Crime Act 2017 gave the Government the power to issue Statutory Guidance to local licensing authorities on the way taxi and PHV licensing powers should be used to protect children and vulnerable adults. That guidance should ultimately form the core of the national safety standards for both the taxi and PHV sector, and it should be issued as soon as possible.
- 4.4 Until national minimum standards for the taxi and PHV sector are introduced, the Statutory Guidance provides an opportunity to take a significant step towards in greater consistency in how the safety elements of the 'fit and proper' test are applied.

- 4.5 The application of high standards with regard to safety would provide increased public confidence in the sector and mitigate the potential for drivers to seek out areas where standards are applied less rigorously.

### **Recommendation 16**

The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.

- 4.6 Under the current highly devolved regulatory framework, local licensing authorities have a pivotal role in the effectiveness of guidance. Once the guidance has been issued, licensing authorities should play their part and give it due consideration. The Department for Transport should also monitor the overall effect of the guidance; the policies outlined will only be as successful as their implementation.
- 4.7 Until such time as the Government brings forward legislation to mandate national minimum standards, licensing authorities should work collectively to increase consistency. As the recommendations made in the Statutory and Best Practice Guidance are the Government's views, it is reasonable to assume that these would be considered as the basis for national minimum standards. As noted earlier in this report, licensing authorities would not be acting in the long-term best interests of the trade to divert far from the recommendations, as this may result in a period of significant change in standards and requirements at a later date.

## **CCTV**

- 4.8 The Group received a number of submissions and heard from witnesses about the benefits of having CCTV in taxis and PHVs. There were numerous positive comments regarding the potential benefits that CCTV might provide to both passengers and drivers. The vast majority of taxi and PHV passengers receive a good and safe service but the few drivers that abuse their position of trust undermine public confidence in passenger safety. CCTV can reaffirm or increase passenger confidence.
- 4.9 CCTV would not just protect passengers. In England and Wales, approximately 53% of taxi and PHV drivers are non-white, a much higher than average percentage of the workforce. The Group heard from the United Private Hire Drivers that 50% of drivers it surveyed had been threatened or assaulted and that 57% had been racially abused while working.
- 4.10 Where both cameras and audio recording is used, those who verbally and physically abuse drivers would do so knowing that the attack would be recorded, providing invaluable evidence to enforcement agencies. There are also incidents of false allegations being made against drivers, and CCTV evidence can protect drivers from potentially losing their licence and their livelihood.



4.11 Only a small number of licensing authorities in England currently require CCTV in their licensed vehicles<sup>8</sup>; however, there is a strong case for having CCTV in taxis and PHVs, and licensing authorities which do not already mandate CCTV should do so. The concern most commonly raised is the costs of installing and maintaining CCTV systems. These do not however appear to be unreasonable for owners of licensed vehicles to bear given an assumed operational life of a system and the potential for reduced damage to the vehicle. The majority of taxis and PHV are owner driven - these could benefit from reduced abuse and assaults by passengers, reduced fare evasion and potentially increased passenger usage through greater confidence in the sector.

### **Recommendation 17**

In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards.

To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.

4.12 It is however not just the driver and passenger that CCTV can benefit. Licensing authorities are better able to make an informed decision whether to take no action, suspend or revoke a licence following a complaint. This evidence can be used at court should the driver appeal a decision, and it may even prevent the driver guilty of misconduct from launching an appeal. Society as a whole benefits from increased protection from crime.

4.13 Yet mandating CCTV in vehicles will incur extra cost for many small businesses, the vast majority of drivers currently consider as such. Recognising the benefits to society, ways of helping with individual and small business costs should be seriously explored.

### **Recommendation 18**

As Government and local authorities would benefit from a reduction in crime in licensed vehicle both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.

4.14 Technology has advanced rapidly in recent years and what may once have been an expensive and difficult to achieve is now common place. GPS has provided an accurate and reliable way to track vehicles for many years now. These advances can further public safety (driver and passengers) by recording the movements of vehicles and provide valuable evidence in proving or disproving an allegation. As part of the

<sup>8</sup> <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2017> (Table 0106)

work that will be required to set an appropriate minimum standard for CCTV systems in taxis and PHVs, the Government should also consider whether and how GPS tracking could also be included.

- 4.15 As discussed previously in this report, the public often view taxis and PHVs as providing identical services. Plying for hire by PHVs and unlicensed vehicles is illegal and should not be tolerated under any circumstances. However, when the public see a licensed PHV they may attempt to hire this immediately through confusion between the two-tiers of the system. Raising public awareness of the differences between taxis and PHVs protects all parties; passengers use the appropriately insured and licensed drivers and vehicles, taxi drivers receive the benefits of their exclusive right to 'ply for hire' in recognition of meeting the relevant requirements and law-abiding PHV drivers will not face confrontation from refusing to carry passengers that have not pre-booked.

### **Recommendation 19**

National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only.

All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.

## **Background checks and information sharing**

- 4.16 To enable licensing authorities to make the best decisions on applications they receive, and to support greater consistency, they should have as complete as possible a picture of the applicant's background. It is welcomed that all licensing authorities require an enhanced Disclosure and Barring Service (DBS) check for all drivers<sup>9</sup>; however, only 77% report that they currently also check the barred list for both taxi and PHV drivers, and there is no reason why this should not be 100%. This can be carried out at no extra charge.

<sup>9</sup> Department for Transport's 2017 Taxi and Private Hire statistics <https://www.gov.uk/government/collections/taxi-statistics>

4.17 The DBS update service is an online subscription that allows individuals to keep their standard or enhanced DBS certificate up to date and allows employers and regulators to check a certificate online. This subscription service therefore allows taxi and PHV drivers licensing authorities (as a nominee with the individual's consent) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. This will more cheaply and easily allow licensing authorities to undertake checks other than at first application or renewal. Drivers are licensed for three years and vehicles usually on year however vehicles are routinely checked every 6-12 months to ensure they continue to meet the standards required. Interim checks on the continued suitability of driver does not therefore seem disproportionate.

#### **Recommendation 20**

All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards.

All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.

#### **Recommendation 21**

Government must issue guidance, as a matter of urgency, that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.

4.18 There is a concern that critical information about the risk posed by a driver is not always being shared with licensing authorities by the police, under the Common Law Police Disclosure (CLPD) provisions. It is vital that licensing authorities have access to this 'soft intelligence'; patterns of behaviour such as complaints against drivers (regardless of whether they were working) even when these do not result in arrest or charge may be indicative of characteristics that raise doubts over the suitability to hold a licence. Provision of this helps authorities to build a fuller picture of the potential risks an individual may pose. This information may tip the 'balance of probabilities' assessment that licensing authorities must undertake.

4.19 The CLPD provisions enable new information obtained by the police to be rapidly passed on to licensing authorities, rather than information becoming known to them through a DBS check some time after an incident. However, a survey carried out by the Institute of Licensing of its local authority members in 2017 shows that less than 25% of respondents consider that the current data sharing agreements are satisfactory. This process can be of huge benefit to protecting the safety of

passengers and it is imperative that the maximum protection this provides is being delivered.

### **Recommendation 22**

The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of behaviours as well as crimes by taxi and PHV drivers (and applicants) is disclosed to and to ensure licensing authorities are informed immediately of any relevant incidents.

- 4.20 The current efforts of the Local Government Association to create a register of drivers who have been refused or revoked taxi or PHV driver licences, in conjunction with the National Anti-Fraud Network (NAFN), are to be welcomed. It was disappointing to see that the Private Members Bill brought by Daniel Zeichner MP, which would have made use of such a register mandatory, failed to pass its Second Reading in the House of Commons on 2 February when the bill was "talked out".
- 4.21 Without that Bill, it is hoped that all licensing authorities will use the register as only complete coverage will make the most of the benefits. It is unacceptable that a driver could have a licence refused or revoked on safety grounds by one authority, but gain a licence in an another authority by virtue of not disclosing that history. A DBS check may not provide the cause for a refusal or revocation by another authority; this would depend, for example, on whether the decision was based on previous convictions or on 'soft-intelligence' received. The register will enable past revocations or refusals to be flagged, and the authority considering an application to seek further information from the refusing authority.
- 4.22 Even with that information, decisions must still be made in accordance with the policies of the authority that is handling the application - a refusal in one area must be fully understood and should not be an automatic bar to a licence being issued elsewhere; for example, if one refusal has been made on the basis of a conviction, but sufficient time has now passed during which the applicant has demonstrated continued good character to comply with the authority's convictions policy. The system will provide an extra safeguard for the public, not a blacklist of drivers; licensing authorities will continue to make independent judgements whether, on the balance of probabilities, an individual is fit and proper. The purpose of this database is to assist licensing authorities in this assessment by enabling as fully a picture of an individual as possible to be considered.

### **Recommendation 23**

All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All refusals and revocations must be recorded, and the register checked for all licence applications and renewals. Licensing authorities must retain the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (**recommendation 24**).

- 4.23 In addition, a broader national database of all taxi and PHV licences, for drivers vehicles and operators should be introduced. This would be a significant aid to cross-border enforcement, complementary to the national enforcement powers recommended. In the current absence of such powers, it would still improve the ability of authorities to be able to identify where driver and vehicles are licensed in order to report concerns or issues to the "home" licensing authority, or indeed the police.

#### **Recommendation 24**

As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.

### **Training and engagement**

- 4.24 It is important that drivers are equipped with the skills and knowledge they need to identify situations where vulnerable passengers may be at risk. Over half of licensing authorities currently require their drivers to undertake child sexual abuse and exploitation (CSAE) awareness training, and this is good practice that all licensing authorities should follow. It is not sufficient to wait for evidence of a 'problem' within a licensing area before doing this.
- 4.25 As part of that training, and their wider engagement with drivers, licensing authorities should remember that their network of checked and trained, professional drivers can be an important source of intelligence about signs of abuse and neglect amongst their passengers. Poorly checked and trained drivers may pose risks, but well trained and supported drivers can be an important part of the solution. An example of the positive contribution the trade can play is that of Cherwell District Council driver Satbir Arora, whose awareness prevented a 13-year-old girl from meeting a 24-year-old male who was convicted of attempted abduction and the distribution and making of indecent images.

#### **Recommendation 25**

Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.

## Improving decision making

- 4.26 Implementing national standards, including those on the consideration of convictions, will be a huge step toward greater consistency in licensing decisions. There have been examples of individuals that have been issued licences despite convictions for serious offences. However all licensing decisions are ultimately made by individuals, not policy documents. It is essential therefore that those involved in the determination of licensing matters have received sufficient training to discharge their duties effectively and correctly. This training should cover licensing procedures, natural justice, understanding the risks of child sexual exploitation, consideration of 'soft intelligence', and disability and equality, in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions.

### **Recommendation 26**

All individuals involved in the licensing decision making process (officials and councillors) must have to undertake appropriate training. The content of the training must form part of national minimum standards.

## Use of Passenger Carrying Vehicle (PCV) licensed drivers

- 4.27 Driving a Public Service Vehicle (a vehicle that can carry 9 or more passengers e.g. a minibus or bus) for hire or reward requires a PCV licence. PCV driver licences are issued by the Driver and Vehicle Licensing Agency (on behalf of Traffic Commissioners). Unlike taxi or PHV drivers, applicants for a PCV licence are not subject to any routine DBS checks (neither basic nor enhanced).
- 4.28 Applicants for a licence to drive passenger minibuses and buses must complete an application form and declare any convictions for non-driving offences as well as those relating to driving hours, roadworthiness or loading of vehicles as well as any.
- 4.29 The declaration of any offences will result in the DVLA notifying the relevant Traffic Commissioner so the applicant's suitability to hold the licence, in relation to their conduct, may be reviewed. Traffic Commissioners may grant refuse, suspend or revoke driving entitlement, taking into account passenger safety.
- 4.30 However, a number of areas have experienced issues whereby individuals whose taxi or PHV licence or application have been refused or revoked have applied to the Driver and Vehicle Licensing Agency and obtained a PCV licence, and these individuals have then carried passengers driving a minibus. In some cases, people who have had their licence revoked have even continued to work for the same operator.
- 4.31 This is an issue that has clear implications for passenger safety. Although it may technically be outside the scope of taxi and PHV licensing, there are evidently clear overlaps in practice. It is not acceptable that individuals that are deemed to be unfit to carry passengers in a vehicle that seats fewer than nine passengers are able to do under a different licensing system, simply because there are additional seats in a vehicle.

### **Recommendation 27**

Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consider the appropriate licensing boundary between taxis/PHVs and public service vehicles (PSVs).

## Language skills

4.32 It is important that drivers are able to converse effectively, and particularly so in emergency situations. Drivers should be able to:

- Converse with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
- Provide a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
- Provide a legibly written receipt upon request.

### **Recommendation 28**

Licensing authorities must require that all drivers are able to communicate **in English** orally and in writing to a standard that is required to fulfil their duties, **including in emergency and other challenging situations.**



## 5. Accessibility

### The importance of the taxi and PHV market

- 5.1 As an introduction to this chapter, from the following quote from the evidence received from the Disabled Persons' Transport Advisory Committee (DPTAC) sets the scene appropriately:

'For those who cannot use public transport, either due to the nature of their conditions or because they live in areas with a poor public transport service, taxis can be the key element allowing them to live independently.'

**Submission from DPTAC, November 2017**

- 5.2 Evidence received by the Group highlighted that consideration of accessibility needs is essential in any reform of the sector. If the Government enacts national standards, accessibility considerations should be an integral part of their development, not a mere add-on. In the short term, it is important that licensing authorities use the powers they already have to improve access and passenger experience.

### Training

- 5.3 The 2017 taxi and private hire statistics show that only 38% of licensing authorities in England require their taxi drivers to undertake disability equality training, and 35% require it for their PHV drivers. This training should be a national requirement as part of national standards, but licensing authorities have the power to require it now and should do. It is important that drivers working in a sector that can be a lifeline for those unable to use public transport understand that position, and how they can best support their passengers.

#### **Recommendation 29**

All licensing authorities should use their existing powers to require that their taxi and PHV drivers undergo disability equality and awareness and equality training. This should ultimately be mandated as part of national minimum standards.



## Vehicle types and access

- 5.4 As can be seen in figures 4 and 5, the proportion of vehicles licensed by different authorities that are wheelchair accessible varies considerably. The 2017 statistics show that 63% of authorities require their taxi fleets to be a wheelchair accessible vehicle (WAV). These figures show that in England (excluding London) 41% of taxis are WAVs but this is only part of the story; in over a quarter of authorities, 5% or fewer of taxis are accessible. The situation is even worse for PHVs - nearly two-thirds of authorities have a fleet in which 5% or fewer of PHVs are wheelchair accessible.
- 5.5 Standard (non-WAV) vehicles remain important too: most disabled people do not use wheelchairs, and many people will find saloons easier to get in and out of. Mixed fleets are important, reflecting the diverse needs of passengers, but nonetheless, levels of WAV PHVs in particular (given the significant increase in PHVs in recent years) appears low in even the most populous areas. I have outlined one way in which licensing authorities can seek to increase availability in paragraph 3.35.

### **Recommendation 30**

Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective.

- 5.6 It is welcome that in 2017, the Government brought sections 165 and 167 of the Equality Act 2010 into force, ensuring that drivers of wheelchair vehicles that a licensing authority designates for this purpose cannot charge wheelchair users more than non-wheelchair users, and must provide appropriate assistance.

### **Recommendation 31**

Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.

- 5.7 It is illegal for a taxi or PHV driver to refuse to carry an assistance dog, unless the driver has obtained a medical exemption certificate from their licensing authority. Despite this, a recent campaign by the Guide Dogs for the Blind Association indicates that nearly half of guide dog owners surveyed had experienced an access refusal in the past year. This is unacceptable, and licensing authorities should ensure that strong action is taken when instances are reported. Driver awareness is also

critical, and the earlier recommendation in favour of mandatory disability equality training would address this.

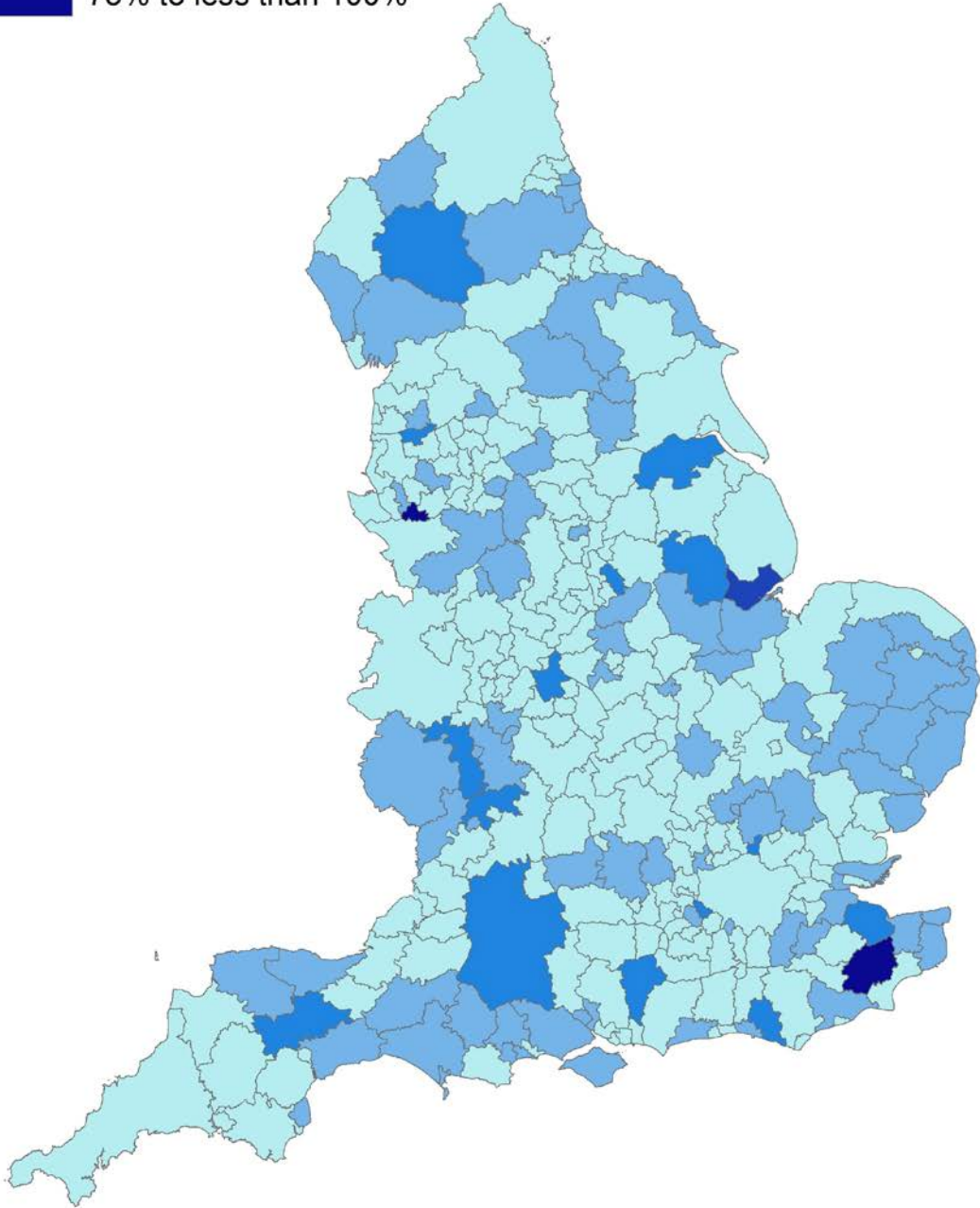
**Recommendation 32**

Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible for passengers to report disability access refusals.

Figure 4 - Wheelchair accessible PHVs in England<sup>10</sup>

**Percentage of accessible PHVs**

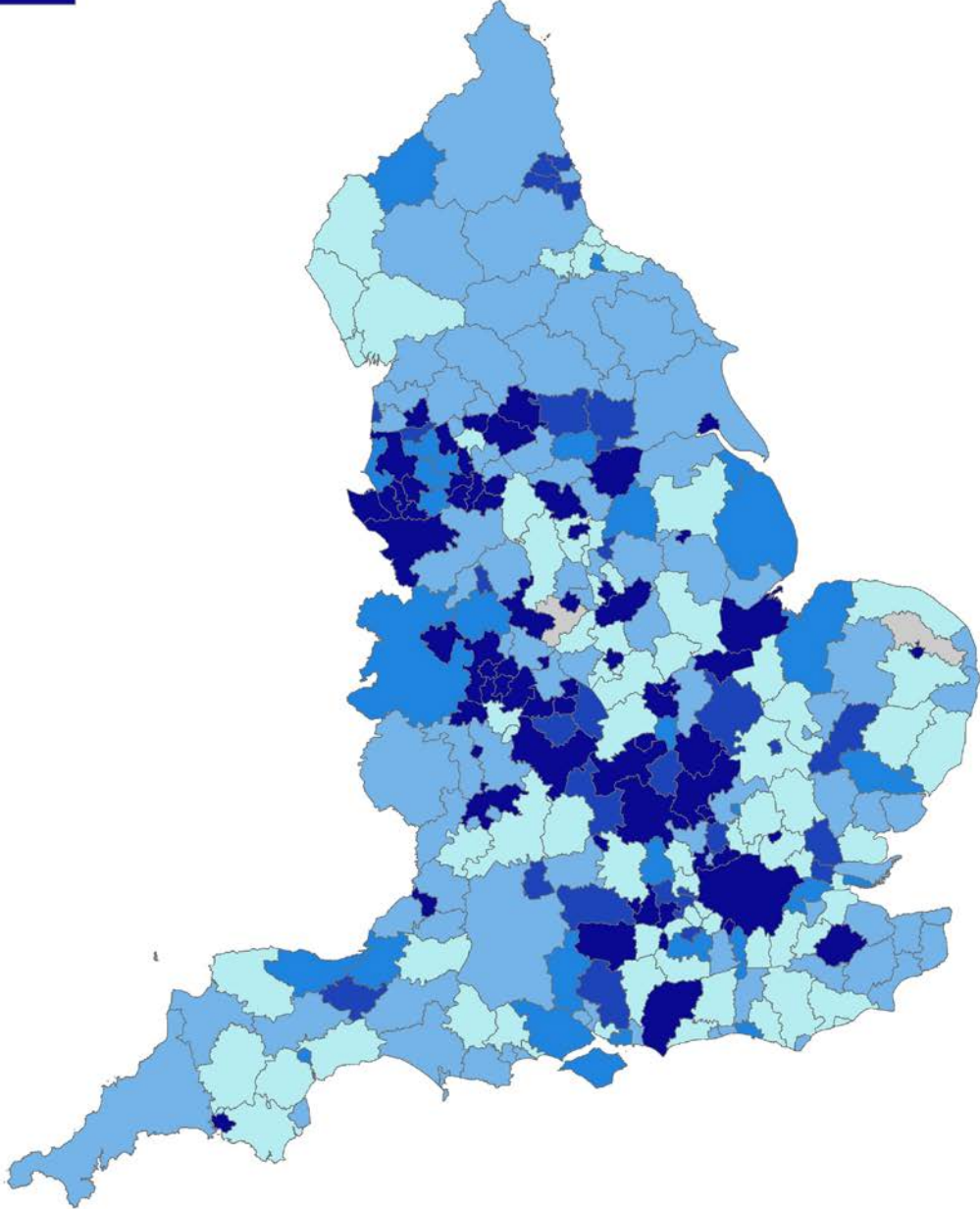
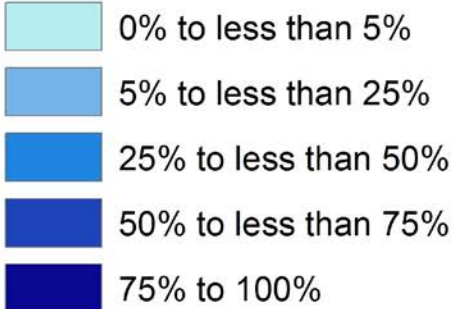
- 0% to less than 5%
- 5% to less than 25%
- 25% to less than 50%
- 50% to less than 75%
- 75% to less than 100%



<sup>10</sup> Information provide by licensing authorities - <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

Figure 5 - Wheelchair accessible taxis in England<sup>11</sup>

**Percentage of accessible taxis**



<sup>11</sup> Information provide by licensing authorities - <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicles-statistics-england-2017>

## 6. Working conditions

### Characteristics of employment in the sector

- 6.1 Traditionally a large proportion of taxi and PHV drivers have been self-employed. In the PHV sector, the 'traditional' working model is largely based on drivers paying a fee to the operator to gain a place on its list of drivers. Although this does not guarantee an income, drivers are able to decide whether to renew this relationship at the end of the period, or in the interim should they not receive what they consider sufficient fares.
- 6.2 This absence of guaranteed income is now being repeated in the 'gig economy' PHV model, the difference being that the fee(s) paid to the operator is usually taken as a percentage of each fare. The 'gig economy' was defined as 'the exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short-term and payment by task basis' in the Department for Business, Energy and Industrial Strategy's [2018] research paper<sup>12</sup>.
- 6.3 However, even in the 'gig economy' PHV model, the relationship between the PHV operator and driver has changed very little from the 'traditional' model. Drivers still require an operator to act as the intermediary between them and the passenger. This means that PHV operators have control over the fare levels and the number of journeys a driver may receive.
- 6.4 The introduction of new technology in the private hire market has enabled new ways for the PHV operator to bring together drivers and passengers. This experience is not unique to this sector nor is the use of such technology unique to new entrants. There are many long-established companies that now use apps both in the PHV and taxi markets. At the same time I am aware that there are a number of ongoing legal disputes regarding the legal status of individuals that work in the PHV trade. While the reporting of these cases has focused on those involving app-based PHV operators the relationship between driver and operator appears similar in both the established and disruptive operator business models
- 6.5 On 7 February the Government's 'Good Work'<sup>13</sup> document, which was published in response to the 2017 'Good Work – The Taylor Review of Modern Working Practices'<sup>14</sup>, acknowledged Taylor's seven point plan was important to achieve the overarching ambition that all work in the UK should be decent and fair. The second of the points is focused on seeking clarity in the gig economy. It acknowledges that platform-based working offers opportunities for genuine two-way flexibility, and that these should be protected. However, it also recognises the importance of ensuring fairness both for those who work in this way and those who compete with them. It

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<sup>12</sup> <https://www.gov.uk/government/publications/gig-economy-research>

<sup>13</sup> <https://www.gov.uk/government/news/governments-response-to-the-taylor-review-of-modern-working-practices>

<sup>14</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf)

proposes that 'worker' status should be maintained but it should make it easier for individuals and businesses to distinguish 'workers' from those who are legitimately self-employed.

- 6.6 While it was not in the remit or expertise of the Group to decide the employment status of drivers, it did hear about and consider working practices in the sector. In particular, concerns were raised about the balance of risk and reward for PHV drivers and the effects this has on their welfare and, potentially for public safety.

## Working practices and earnings

- 6.7 The Group heard concerns that drivers, of both taxis and PHVs, are working longer hours to maintain existing incomes due to the increasing numbers of drivers. Of particular concern was the suggestion that drivers may be working excessively long periods without adequate breaks and the possible consequences of this for public safety.
- 6.8 All operators must meet their statutory obligations to drivers. Where drivers are 'workers' or employees, operators must ensure that none takes home less than they are entitled under National Living Wage legislation. Operators however should have a duty of care to support their drivers regardless of their employment status. Such an approach would obviously benefit drivers but it is also in operator's interests to support good working environments. It can support the retention of good drivers and lead to benefits for passengers; a driver who is content with their relationship with the operator may provide a better service and lead to repeat custom.

## The role of PHV licensing authorities

- 6.9 It is outside the expertise and scope of a local licensing authority to determine the employment status of drivers working with its licensed PHV operators. However, licensing authorities do have a responsibility to ensure that operators are 'fit and proper'. If a licensing authority has evidence of an operator persistently flouting employment law (for example, making no changes in response to an employment tribunal that is not being appealed, or can be appealed no further), that should legitimately be seen as casting doubt on whether that operator is "fit and proper", and would be worthy of thorough consideration.

### **Recommendation 33**

The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV operator.

## Working/driving hours and safety

- 6.10 As already noted, the Group heard the view from some stakeholders that erosion in drivers' earnings has resulting in drivers working for increased, and potentially excessive, hours to maintain their income. It is self-evident that, at some threshold,



tiredness and long hours of driving in any vehicle poses a risk to public safety through reduced alertness and response times. The Group did not see independent evidence of how many hours drivers are working however it heard from industry experts that the taxi and PHV industry is one which has historically lent itself to long working hours generally.

- 6.11 At present, taxi and PHV drivers are not subject to the Road Transport (Working Time) Regulations 2005<sup>15</sup>. Drivers can therefore choose the hours they work, and there are no rules that limit the number of hours they can work in a day or week.
- 6.12 That appears potentially problematic. A minibuss driver has limits on how long they can work and when they must take rest breaks. There is no logical reason why a taxi or PHV driver (possibly the same person as the minibuss driver) should be permitted to carry paying passengers in a car for an unlimited length of time. A taxi/PHV driver still needs to be aware of the road and environment around them and be able to respond in a timely way to changes.
- 6.13 However, there are many questions of detail which it has not been possible to consider in full for this report. The European Union rules on drivers' hours and working time are complex, as the scenarios detailed in the Department's guidance<sup>16</sup> illustrates. The appropriateness of these rules for the taxi and PHV sector is also open to debate; for example, limiting the number of driven hours may seem more appropriate than including times when a person is available and waiting for work. By its nature, the periods when taxis and PHVs are "available to answer calls to start work" (referred to as 'period of availability' in the guidance) would contribute to working hours but could not be considered as a rest period for the purposes of calculating driving hours according to the current rules.
- 6.14 The biggest challenge is how any limit(s) would be monitored and enforced; monitoring may require a tachograph system such as that used in buses and HGVs to be fitted to all taxis and PHVs. This may record the working/driving hours but consideration would need to be given to whether licensing authorities would monitor compliance or whether this would be done by the Traffic Commissioners (as for buses and HGVs). Despite these issues, this report favours driving time restrictions in principle if evidence indicates this is required on safety grounds and if a workable and proportionate way of doing so can be found. I think that Government should look at these issues in much greater detail than we reasonably can be done here.

#### **Recommendation 34**

Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver.

- 6.15 In the meantime, it is worthwhile noting again that local licensing authorities have a key role to play in maintaining safety. Drivers have a responsibility to themselves, their passengers and the public to ensure they are fit to drive, and this requires drivers to be open and honest with licensing authorities (as well as the DVLA) on any health issues that may mean they should not be driving. Where concerns about the operation of taxis and PHVs are brought to the attention of licensing authorities they could – and should – take immediate action against drivers and operators if there is

<sup>15</sup> <http://www.legislation.gov.uk/ukSI/2005/639/contents/made>

<sup>16</sup> <https://www.gov.uk/government/publications/eu-rules-on-drivers-hours-and-night-driving-time>

any evidence of unsafe activity. A fit and proper operator should neither encourage nor condone excessive working or driving hours.



# Annex A- Comments by Group Members

**Helen Chapman**

**Director of Licensing, Regulation & Charging, Transport for London**

Transport for London (TfL) is the largest taxi and private hire licensing authority in England with almost a quarter of a million taxi and private hire licensees. In London, like many parts of the rest of the UK and globally, we have seen significant change in the taxi and private hire sector in recent years which we anticipate will continue to change in line with consumer needs.

Regulation is required to ensure the safety of passengers engaging with taxi and private hire services but it is right that this regulation is reviewed and modernised to reflect the modern world and the changing needs of passengers.

On behalf of the Mayor of London and TfL I am grateful for the opportunity to have formed part of the Department for Transport Working Group. It has been a worthwhile and rewarding experience to work as part of a group looking at regulatory practices to meet the needs of a changing world while remaining focussed on passenger safety and convenience. I would like to thank the Chair for his efforts in navigating a course through the often strongly held views of the Group and invited guests to produce a report of real substance with the safety of passengers at its heart.

We agree wholeheartedly with many of the recommendations put forward by the report which, if adopted, will deliver fundamental improvements in public safety and improvements in delivering a world class two tier taxi and private hire service. Many of these recommendations for primary legislative change have previously been raised by the Mayor and TfL and, indeed, many London based taxi and private hire stakeholders and we are delighted to have these views shared by the Chair of the Working Group.

Proposals within the report, in particular a solution to address the common practice referred to as cross border hiring, national minimum standards, national enforcement capabilities and statutory definitions to define the two tier system will produce a model of licensing and regulation that helps to enhance passenger safety and is not only fit for today but is also future-proofed and flexible to meet the changing demands of passengers.

We remain ready to support Government in implementing these recommendations, particularly those that require national legislation. As the largest licensing authority we can provide expert support and guidance to any panels that are formed to take forward these sensible recommendations.

We would like to comment on a number of recommendations from a TfL perspective:

**Recommendation 2** – we strongly support the introduction of national minimum standards and that these minimum standards should be set at a high level for safety.

We would like to thank the Chair for the common sense approach in recommending that licensing authorities can go further than the minimum, where required, to meet local needs. This is particularly important in London to retain the ability to set standards to meet air quality challenges and to continue to deliver the Knowledge of London for taxi drivers.

**Recommendation 5** – The two tier system has worked well in London for many years and London’s taxis are frequently voted the best in the world. Recommending a statutory definition for plying for hire and pre-booked services is sensible and long overdue. We would like to formally register our interest in joining the panel of regulatory experts to help draft appropriate definitions.

**Recommendation 8** – we welcome the Chair’s recommendation to allow local licensing authorities to set a cap on the number of taxi and private hire vehicles. The growing number of private hire vehicles in the capital is causing significant challenges in tackling congestion, air quality and appropriate parking controls. However, we note and strongly agree that there should be a proven need to set a cap by having a public interest test so monopolies cannot be formed. Once again, we remain ready to assist Government in defining an appropriate public interest test.

**Recommendation 11** – cross border hiring has been commonplace in the industry for many years but with the introduction of app based services in the industry and the expansion in the number of private hire drivers and vehicles, it requires an urgent solution so as not to undermine public safety and confidence in using private hire services. TfL explored this issue in detail and in February 2018 we published a detailed policy paper with proposals to address this issue. The paper was presented to the Working Group and we are delighted to see this is being taken forward as one of the key recommendations for change.

**Recommendations 25 and 29** we are fully supportive of these two proposals, however, we believe that an assessment is the more appropriate “minimum standard”. As a licensing authority our role is to assess the fitness of an applicant rather than to train them to be fit. However, for some authorities they may wish to provide this training above and beyond the minimum standard and this flexibility could be accommodated.

**Recommendation 30** - All taxis in London are Wheelchair Accessible and we recognise the need to enhance the provision for Wheelchair Accessible Vehicles in the private hire fleet. However, this recommendation, as written, will be difficult to achieve as vehicles are licensed separately to private hire operators and therefore it isn’t easy to introduce a minimum quota of wheelchair accessible vehicles.

We look forward to working with the Government to see these recommendations brought forward and ensure a modern, sustainable and two-tier taxi and private hire system for the future.

## **Rt Hon Frank Field MP**

### **Member of Parliament for Birkenhead**

Mohammed Abdel-Haq has written a superb report. It follows a thorough, comprehensive evidence-gathering process conducted by the Working Group under his chairmanship.

The House of Commons debate, in which the Minister announced the creation of the Working Group, centred on the pay, working conditions and living standards of taxi and private hire drivers.

This report addresses each of those important points. In doing so, it puts forward sound recommendations to restore the integrity of the National Living Wage – the cornerstone of the Government’s labour market policy – while ensuring adequate rates of pay and decent working conditions for drivers are put at the heart of what it means to be a ‘fit and proper’ operator.

The implementation of those recommendations, alongside many others in this report, will perform the crucial role of constructing minimum standards upon which the taxi and private hire industry can continue to thrive and innovate.

**Saskia Garner**

**Policy Officer, Personal Safety, the Suzy Lamplugh Trust**

Suzy Lamplugh Trust would like to commend the Chair on the completion of this final report and express our thanks for being included in the Task and Finish Group. We are delighted that most of the recommendations from our research report, *Steering Towards Safety in Taxi and Private Hire Licensing*, have been included in the report. We fully endorse the content of the report, with the exception of the comments below, which should not defer from our recognition of what has been achieved.

We have no position on **Recommendation 4** which recommends combining licensing areas. This is because we think the problems of inconsistency between neighbouring licensing authority policies would be resolved with the introduction of national minimum standards.

We would like to emphasise, in relation to **Recommendation 8**, the importance of the public interest test to determine whether a cap on numbers will increase or reduce personal safety. Our concern would be a situation where a cap resulted in demand out-weighting supply, which may put passengers at risk if they are unable to hire a licensed vehicle for their journey.

We do not support **Recommendation 11** as we do not believe there is a personal safety reason for limiting the start and end-point of a journey. We believe that the current practice of drivers choosing which licensing authority to obtain their licence from based on less stringent safety checks would be resolved by the introduction of national minimum standards.

In point 3.8 of the report we would request that the word ‘proportionate’ be defined, to ensure that the high standards set are in no way compromised by this stipulation.

In addition to what has been included in the report, Suzy Lamplugh Trust would like to recommend the addition of the following recommendations:

**Inclusion of taxi and PHV drivers as a regulated activity**

This would enable the offences under the Safeguarding Vulnerable Groups Act 2006, relating to a barred individual working or seeking to work in regulated activity, to apply.

**No deregulation of licensing**

Suzy Lamplugh Trust is also concerned about the proposed deregulation of licensing requirements for PHV drivers as set out in the 2016 Tourism Action Plan. This would effectively allow individuals to have access to members of the public including vulnerable adults and children in a private vehicle, without any prior safety checks. There should therefore be no de-regulation of existing laws that protect personal safety within taxi and PHV licensing.

**Prohibition of taxis or PHVs for use by non-taxi/PHV licensed drivers**

The prohibition of PHVs and taxis for personal use by non-PHV or taxi-licensed drivers must be introduced in London. This is to prevent drivers who do not hold a PHV or taxi licence, and who therefore have not been subject to safety checks, from picking up passengers who may assume they do hold a PHV or taxi licence as they are driving a licensed vehicle. While we are aware that PHVs should always be pre-booked, research carried out by the Suzy Lamplugh Trust in September 2017 showed that one in five people (21%) think that minicabs can be hailed on the street, and a quarter of people (26%) believe minicabs can take passengers who approach

them while parked. In addition, our research showed that over half (57%) have taken a taxi or minicab without asking to see the driver's ID badge first.

## Ellie Greenwood

### Senior Adviser (Regulation), Local Government Association

As the organisation representing licensing authorities, the Local Government Association (LGA) is pleased to have been part of this working group. The LGA is supportive of the vast majority of recommendations in this document, many of which we have been actively calling for over several years, and the objectives underpinning them. Encouragingly, it has been clear throughout the process of the working group how much consensus there is on key issues including updating the legislation, a strengthened and consistent approach to safeguarding standards and the need to address out of area working.

The LGA has worked closely with its members in recent years to support them to strengthen taxi and PHV licensing; producing guidance, running training events and, most recently, commissioning the development of the national register of licence refusals and revocations. The focus of all this work has been to ensure authorities are doing all that they can to safeguard people using taxis and PHVs.

In doing this, we have also consistently urged Government to take the much needed step of modernising outdated taxi and PHV legislation.

It is to be hoped that the report of an independent Chairman marks a turning point on this, and that Government now moves swiftly to take it forward and introduce new legislation. The report recognises that the taxi and PHV market has changed beyond recognition since the existing framework was introduced. As we said in our original submission to the working group, this has too often left councils and Transport for London on the front line of competing, costly legal challenges as to whether new business models fit within an obsolete framework. It is ultimately Government's responsibility to ensure we have a regulatory framework that is fit for purpose and protects people, and it must now do so.

The LGA and its members recognise and accept that as markets change and develop, so too regulation and regulators themselves must adapt. But we believe that local authorities must continue to be central to the licensing process and are pleased that the report recognises the importance of retaining local flexibility in taxi / PHV licensing, in terms of the ability to set local conditions (alongside national minimum standards) and the proposal for a power to set local caps.

There is a strong case to be made for greater collaboration across licensing authorities: on local policies, standards and enforcement of taxi and PHV licensing. The LGA urges all of its members to move forward on this cooperatively and quickly.

In some places, there may be also be a good case for reviewing licensing authority borders. But licensing authorities need to reflect local areas, economies and taxi / PHV markets, and will therefore look different in different places, as they do currently. Any process of revising licensing authority boundaries needs to be led from the bottom up, based on functional economic geography, and should in the first instance be encouraged as a voluntary approach.

It should also be linked to the fact that, beyond the licensing function, the map of local government is evolving. Combined authorities, metro mayors and proposed reorganisation in two tier areas may impact the way in which licensing authorities are structured and operate. These developments should provide the foundation for any changes to the map of licensing authorities, to help maintain the local democratic accountability that the report highlights, while also ensuring that licensing authorities do not become remote from the communities that they serve and seek to safeguard.

It is positive that the report envisages a voluntary approach on this issue, and recognises that Government can help to encourage this – for example, through funding for licensing authorities to develop new models and legislation enabling authorities to form shared licensing areas.

A particular issue for many local areas and licensing authorities has been the growth in out of area working over recent years. The LGA believes that drivers should operate predominantly in the areas where they are licensed, and welcomes the recognition of this issue in the report. We are also pleased that the report recognises the concerns that the LGA and its members have raised about the very limited oversight of drivers of PCVs. It is vital that this safeguarding issue is addressed quickly, building on the work the LGA is doing to develop the national register of refusals and revocations.

Finally, we would caution that while undoubtedly desirable, there may be practical and financial barriers to local licensing authorities introducing some of the report's recommendations, such as mandating minimum numbers of wheelchair accessible vehicles, or (in particular) mitigating additional costs faced by the trade (on zero emission or wheelchair accessible vehicles, or CCTV). However, we look forward to working with Government to explore the options available in these areas.

**Dr Michael Grenfell**

**Executive Director, Enforcement, Competition and Markets Authority**

The Competition and Markets Authority has a statutory duty to promote competition for the benefit of consumers. This draws on the insight that, generally, consumers benefit from choice and also from the effect of competitive pressures on suppliers of services and goods, giving those suppliers an incentive to provide their services and goods to a high standard of quality, at a competitive price and with a desire to innovate; where there is effective competition, that is the only way that suppliers can win and retain business.

Applying this to the taxi and private hire vehicle (PHV) sector, competition provides operators with the incentive to give passengers value for money, by way of higher service standards, affordable fares and innovativeness in service provision.

The CMA recognises the need for robust regulation to protect passengers where market competition cannot wholly do this – for example, as regards safety standards. But we consider that such regulation should be proportionate and should be no more onerous than is necessary, with the concern that excessive or unnecessary regulation can create barriers to competition and new market entry, which would be counterproductive for the interests of passengers, depriving them of the benefits of competition (described above) as regards quality standards, price and innovation.

The benefit of price competition – affordability of taxi and cab fares for millions of ordinary people, and particularly the less affluent – should not be regarded as merely a ‘nice-to-have’ add-on. It is extremely important, including for some of the most vulnerable citizens in our society. It is also relevant to safety considerations; if people are unable to afford a taxi or cab fare (for example, after an evening out), they might well choose ways of transport that are considerably less safe – such as unlicensed vehicles, or themselves driving under the influence of alcohol – endangering themselves and others.

Having regard to these considerations, representing the CMA I have sought to engage with the serious work of the Group in what I hope has been in a constructive and cooperative spirit. As the Chairman says in his Foreword, there have been *‘strongly held and sometimes polar opposite opinions’* among members of the Group, and this is surely almost inevitable given the diverse range of interests and perspectives represented on the Group. It has been the Chairman’s task to draw useful insights from the range of expertise in the Group and produce a series of practical recommendations – designed to improve the sector and be workable – even if there is not complete consensus or unanimity about these.

My view is that the Chairman has been very successful in this.

I am happy to endorse the vast majority of the recommendations.

The only significant qualifications that I would wish to put on record are:

- As regards **Recommendation 8**, I am concerned that a numerical cap on the number of providers of taxi/PHV services risks having the effect of artificially and unnecessarily constraining competition, to the detriment of passengers – depriving them of the best prospect of high service standards, value for money and innovation in service provision.

I welcome the report’s recognition, in paragraph 3.40, of the risks of this and the consequent need to carry out *‘a clear, well-evidenced and considered public interest test before a number of restrictions can be applied’*.



Nevertheless, I am not convinced that the case for any kind of cap or numbers has been adequately made out.

In any event, I would urge that, even if there were to be such a cap, the factors taken into account in a public interest test should at least include, in addition to those listed in paragraph 3.41:

*‘the effects on competition, including on service standards and affordability of fares, bearing in mind that the absence of affordable fares can induce people to travel by less safe modes of transport’.*

- As regards **Recommendation 11**, I am concerned that limiting taxi and PHV operations to the area of pick-up or destination where the provider is licensed narrows the choice available to passengers and weakens competitive pressures, to the potential detriment of passengers (as described above).

Nevertheless, I fully recognise the concern that this recommendation is designed to address – namely, the risk of ‘forum shopping’ by providers, undermining regulatory safeguards applied by licensing authorities.

The report proposes some mitigating measures, specifically:

- Larger licensing areas (as proposed in Recommendation 4); I think that giving effect to this is a necessary precondition to Recommendation 11.
- The notion that operators should not be restricted from applying for and holding licences with multiple authorities, subject to meeting both national standards and any additional requirements imposed by the relevant licensing authority; in my view, this will be effective so long as the cost of multiple licensing is not so onerous as to represent a barrier to operators taking it up.

Finally, I should like to record that, in spite of the differences of opinion between members of the Group, it has been a huge privilege to work alongside such talented and well-informed individuals, who have brought their particular expertise and skills to bear on these difficult issues, and have consistently done so with a view to advancing the public interest, improving the sector and protecting the position of passengers and drivers.

I am in addition impressed by, and grateful for, the secretariat of officials from the Department for Transport who provided support and advice to the Group with admirable efficiency and professionalism.

As for our Chairman, Professor Mohammed Abdel-Haq, he had, as I have noted, the unenviable task of bringing together these disparate perspectives to form a coherent and workable set of recommendations; he is to be warmly commended on his achievement in doing so, and on conducting the Group’s meetings throughout in a spirit of courtesy and good humour. It has been an honour to be a member of his Group.

## Anne Main MP

### Member of Parliament for St Albans

It has been a pleasure to serve on the working group set up to advise and contribute to debate on the future of Taxi and Private Hire Vehicle licensing. The group has worked on this issue for a considerable period of time and there has been healthy debate throughout the process.

It is a considerable achievement that Professor Mohammed Abdel-Haq has been able to compile a report that has received backing from the many different viewpoints represented on the group.

Whilst I endorse almost all of the recommendations made in the report, I do want to share my concerns about three of the more contentious issues that we have not been able to find consensus on during our meetings;

#### **Recommendation 8**

I am concerned with the proposed power for local authorities to cap taxi and PHV vehicle licences. Whilst I appreciate that a public interest test will mitigate the potential issues with this proposal, I am still not convinced that it will benefit public safety or competition in the industry.

One of the issues that this seeks to address is ‘forum shopping’ by drivers who seek PHV licences from those authorities that are seen as easier, quicker and cheaper to get a licence from. The structure of the report suggests a significant strengthening of the licensing requirements across all local authority areas which I feel reduces any need for capping powers.

Combined with a more effective method of reducing drivers licensing in one area and working predominately in another, along with considerably higher licensing standards for all authority areas then I do not believe there is a requirement for a cap. Which I believe would reduce competition and do little to protect passenger safety.

#### **Recommendation 11**

I am still not convinced, based on evidence we have heard and read from many different stakeholder groups, that this is the best way to effectively license taxi and PHVs going forward. Although many firms will be totally unaffected by this, I believe there will be considerable implications for smaller PHV companies who regularly operate across several invisible local authority boundaries.

The aim of this recommendation is to prevent drivers being licensed in one part of the country from working predominately somewhere else. I had hoped we would have found a more creative way of reducing this problem whilst still retaining local autonomy, as I fear this recommendation is overly burdensome and is not a practical solution that fits in with passengers’ demands in the modern PHV industry.

I hope that the government will consult on this particular issue widely and seek to find a better and more creative solution that will protect the integrity of local authority licensing and retain healthy competition across boundaries that passengers have come to expect.

#### **Recommendation 17**

I do not believe the case has been made for the mandatory enforcement of CCTV in all taxis and PHVs. I support the aims of this recommendation, CCTV will be helpful for the prevention and conviction of crime involving taxi and PHV journeys.

However, I believe that local authorities should have the autonomy to decide on whether or not mandatory CCTV is required for the area in which they cover. I also remain concerned about the financial implications for drivers and small PHV companies who will bear the cost for installation, maintenance and recording of the footage in a data compliant manner.

I do believe the case has been made for drivers or companies choosing to have CCTV. This could form part of proposals for drivers to choose to license themselves at a higher level for passenger safety. A suggestion would be that if drivers choose to have CCTV installed, and license themselves at a higher level, this could allow them to operate across different LA boundaries other than the one they are licensed in.

I hope the government give careful consideration to the recommendations in this report. I believe there is a need to modernise the legislation governing the taxi and PHV industry and there are many sound proposals within this report that should be acted upon.

I would like to register my thanks to Professor Abdel-Haq and the team at the Department for Transport who have worked very hard to pull together this excellent report. I am also grateful to the other working group members who have contributed to a lively and informed debate.

**Steve McNamara**

**General Secretary, Licensed Taxi Drivers' Association**

The Licensed Taxi Drivers' Association agrees with the need to stop some drivers, particularly PHV drivers working through apps, from working excessively. However, we are concerned that the proposed measures set out in this report, especially the installation of tachographs, are neither practical nor proportionate and will prove to be very costly for both regulators and drivers.

For those PHV drivers who use apps for all their business it would be relatively easy to introduce restrictions on how long they are logged into the app. However, it would be much harder to regulate the hours of taxi drivers. The installation of tachographs has previously been discussed to try and control the hours of taxi drivers but each time the relevant regulator has deemed it an excessive measure, as well as intrusive and costly.

The best way to tackle excessive driving hours is to remove the need for drivers to work these hours in order to make ends meet. The LTDA believes that if all PHV operators paid their drivers at least the national minimum wage the hours those drivers feel the need to work would fall substantially.

**Mick Rix**

**National Officer for Transport and Distribution, GMB union**

The report attempts to address in a number of key areas enhanced public safety provisions with national minimum standards.

The issues around cross border working, plying for hire are issues which have blighted the trade for a number of years. The report recommendations are serious attempt to address these concerns and tackle head on what is a serious problem.

The recommendations on workers rights being placed into license conditions for operators if adopted will be another nail in the coffin for those who seek to exploit drivers for their own gain.

GMB urges the report recommendations to be adopted by our law makers and that legislation should be brought forward as quickly as possible.

Finally I would like to thank our Chair, who along with his good humour and humility, kept everyone focussed. It was a pleasure to work with him.

**Donna Short**

**Director, National Private Hire and Taxi Association**

Firstly I would like to echo the sentiments of every member of this group and commend the Chair of the group, Professor Mohammed Abdel-Haq, for a very comprehensive, detailed and easy to read report to the Minister. It is my belief that the report reflects accurately and succinctly the thoughts and views of the majority of the group's members on most of the points raised during the meetings held over the past few months.

This has been an arduous task, given the complexity of existing taxi and private hire legislation – and its archaic and user-unfriendly state, which was the prime motivation for Transport Minister John Hayes MP to have set up the group in the first place. In that regard I would also wish to thank the officers of the Department for Transport for their administrative support and input into the production of the report, and indeed the entire process of hosting and overseeing all the group meetings.

There is no need for me to put down each recommendation and comment on all of them, as in reality I am in agreement with most of the recommendations. What is most important is for the Minister to consider each of the recommendations' aims and goals, and whether they would pass the test of "Is this really what Parliament intends if/when they revise the legislation?"

This presupposes that the current Minister will approve and "sign off" the report at the earliest possible opportunity, so that Government can start work on those recommendations that may be activated immediately without having to depend upon new primary legislation - which we have all been advised would not be feasible for this industry during the current session of Parliament.

May I give a huge personal thumbs-up to **Recommendations 17/18** (CCTV in all licensed vehicles, with a funding boost; the debate is as to voluntary or mandatory) and Recommendation 26 (the training of council officers and emphatically, Councillors on licensing committees).

There are some recommendations however which will certainly be more controversial than others; none more so than **Recommendation 11** concerning all journeys – both taxi and private hire – having to start and/or finish within the area in which all three elements (driver, vehicle and operator) are licensed.

Given that there would be concessions made for certain segments of the industry, this only slightly eases the blow of what would otherwise cause a serious restraint of trade. In my opinion such a fundamental ring-fencing of licensing restriction would stifle competition, stunt the growth of some of the larger companies and conglomerates, and possibly put some of the smaller private hire operations out of business.

In practical terms, hundreds of operations that depend almost entirely on airport transfers (these operations are not exclusively chauffeur/executive, but often cater for a mix of upmarket and "ordinary" private hire passengers), would be severely hampered in particular, as often their drivers are dispatched to pick up or drop off regular customers at any of the major airports from, say, the driver's own home without having set foot in his licensing area during that journey.

Above all, there could be severe risks posed to public safety, as the recommended ABBA [that all taxi and PHV journeys should start and/or end within the area for

which the driver, vehicle and operator are licensed] restriction limits customer choice to the extent that some passengers may end up stranded, often late at night, merely because their potential transport has the wrong plate on the vehicle. This cannot be right, nor in the best interests of the travelling public.

We understand that the practice of many drivers and operators at the present time of working entirely remotely from their own licensing district is not what Parliament intended in any existing legislation; nor is it safe for the public in all its ramifications; nor is it anything but damaging to bona fide firms that “do it right”. There must be some way to curtail this pandemic abuse of licensing practice; however I do not believe that Recommendation 11 is the way to accomplish this.

Unfortunately any potential alternatives are scuppered by two recent pieces of case law: that of **Skyline Taxis v Milton Keynes Council** from November 2017 (where the necessity of a “physical presence” of a private hire operator base in each district was discarded), and **Knowsley MBC v Delta and Uber** from March 2018 (which rules out the concept of “intended use policy” for private hire). This entire topic requires intense investigation.

The other recommendation which seems to have caused a great deal of controversy is **Recommendation 8**: to set a cap on the number of private hire vehicles. At present there are entirely too many licensed vehicles now in operation, and this on the surface has caused severe competition, longer drivers’ hours, congestion and air quality issues.

However, it is my view that a cap on private hire numbers at this time is a “closing the stable door after the horse has bolted” scenario: it is too late to have the desired effect of correcting the above problems, as numbers have already skyrocketed and the vehicles that are currently licensed cannot be taken off the road purely on numerical grounds.

There is still a perceived need for more drivers and vehicles in some districts, whilst there is an over-supply in others. To limit PHV numbers across the board would possibly endanger passengers in those areas where supply is short, to the extent that those passengers could seek transport in unlicensed vehicles, drive their own vehicle when over the alcohol limit, or even attempt to walk to their destination and put themselves at risk on the street during night time hours.

If national standards are brought in at the level whereby (a) licence-shopping outside the district becomes less attractive; (b) reciprocal implementation of authority by officers allows for stricter enforcement across borders; and (c) the standards for both drivers and vehicles preclude volumes of casual licensing of substandard vehicles, these factors in themselves would limit further numbers of licensed vehicles flooding the market.

It is my belief that market forces will prevail without an artificial ceiling; supply and demand of PHVs must be allowed to continue in the name of fair competition and public safety.

As for driver training (**Recommendation 25**), this is an area that needs serious consideration: there is no longer a Sector Skills Council to sanction and implement future training programmes; there is no longer a current structure of updated BTEC (underpinning knowledge) and NVQ (assessment) that could be applied nationally; and crucially there is little funding in place to assist applicants to gain this very important and necessary training. The situation needs careful examination, new funding sources and constructive reform as soon as possible.

Within **Recommendation 30** (wheelchair accessible vehicle provision) the most important criterion must be clarity: it must be stressed that the Government position favours a mixed fleet of both saloon and wheelchair taxis. If it is not possible to have a set percentage of WAVs agreed across the entire country, then there must be another way to provide such provision without making WAVs compulsory across the entire taxi fleet in any one district. This policy is discriminatory against ambulant disabled passengers: arthritics, stroke victims, partially blind passengers, as they often have great difficulty getting into and out of WAVs.

There are perceived practical difficulties in implementing **Recommendation 34**, the restriction of taxi and PHV drivers' hours. Government will have to come up with an alternative to tachographs in every licensed vehicle, which is the current method of tracking drivers' hours in the bus, coach and logistics industries.

My only concern in respect of a possible omission within the recommendations is any mention of medical standards for drivers. I appreciate that this may fall under the category of "fit and proper" (which still needs defining); however in our experience the DVLA Group 2 criteria for medical fitness to drive are not being adhered to, either in terms of the exam itself or its correct frequency of intervals, by far too many licensing authorities. This poses a serious risk to the travelling public, and should be addressed with some urgency.

The motto, credo and remit of this Association from its inception has always been "to raise standards in the trade, both actual and as perceived by the public". The view of members of the group, and indeed the report itself, mirror(s) those desires and sentiments, and it has been an honour and a privilege for me to have been chosen and to have taken part in the group meetings and discussions.

Time is of the essence if this industry is to be rescued from its current state of chaotic lack of coherence and direction. I cannot emphasise strongly enough that this report encapsulates and addresses in great detail and insight the difficulties currently at hand, and – unlike previous attempts at reforming the industry - it must be acted upon with alacrity and determination.



## Steve Wright MBE

### Chairman, Licensed Private Hire Car Association

The views below are based on known policy and positions of LPHCA members alongside the discretionary judgement I am constitutionally afforded as LPHCA Chairman.

Given there were so many different and interested parties providing input, I feel the quality of the Report and the proposal outcomes, are in the main excellent and I'd like to congratulate and commend the Chair, DfT Officials and Group Colleagues for the hard work, professionalism and spirit of collaboration, widely shown.

Inevitably there are a few areas of non-agreement and unless referenced below, the LPHCA fully endorses the proposals and more generally the superb quality of the report.

#### **Recommendation 8**

We cannot agree with recommendation 8 because it is, in our view, anti-competitive, protectionist, un-environmentally friendly and safety compromising, furthermore it would be extremely costly, as well as difficult to enforce and regulate.

We do not accept that the proposal should help authorities to solve challenges around congestion, air quality and parking, which can be resolved outside of Taxi & PHV licensing. Nor do we accept that it would ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions, which again is a matter that in our view is wholly outside of Taxi & PHV licensing.

This proposal, if adopted, could bring about shortage of supply and make it very difficult for hire and replacement vehicle companies to operate. This in turn could leave consumers at risk of being stranded because of volatile and unpredictable demand factors, such as the weather and seasonal demands (e.g. during, Diwali, Christmas & New Year periods).

This proposal also lacks any tangible safety benefits and in our view, it would compromise rather than enhance safety.

#### **Recommendation 11**

We cannot agree with recommendation 11 because it is anti-competitive, protectionist, un-environmentally friendly and safety compromising, furthermore it would be extremely costly, as well as difficult to enforce and regulate. It would also increase dead mileage, make the industry far less efficient, increase costs and potentially lead to demand outstripping supply, which has serious safety implications.

The notion that Operators could hold multiple licenses is unsound, unnecessary and cost-prohibitive. Some operators would need to hold scores and possibly hundreds of licenses to operate as they do now, the cost and administrative burden would take the Private Hire Industry into an area that we believe has no place in a modern economy.

This proposal, in our view, is also out of kilter with the Law Commission's recommendations, government policy and fair, progressive competition. It will be, without doubt, vehemently opposed by the Private Hire Industry and will badly let down consumers if taken forward. National standards, compliance and enforcement proposed by the Chair elsewhere will eradicate many of the current inhibiting factors

on Local Authorities to deliver 'fit for purpose' regulations, without such inhibitive measures.

This proposal looks to be borne out of so called 'Cross-Border hiring', something which has always been undertaken by PHVs without problem until the arrival of large 'App-Only' companies whose drivers show themselves publicly outside of the area they are licensed in.

The proposal, as drafted, would not solve 'Out of area working' as the entities that have caused this anomaly, will simply licence in every licensing authority, which will be beyond the scope of the vast majority of PHV operators in England.

A viable solution may be to only allow pre-booked and corporate journeys to be undertaken out of area, with PHV drivers only able to show their position / availability in the area they are licensed in.

This could be enshrined in the future definition of Plying for Hire recommended elsewhere, by establishing a clear distinction between Public and Private Hiring of PHV's and Taxis.

The notion that specialist services such as chauffeur and disability transport services could continue to operate cross border under exemption is problematic as defining what a chauffeur is would be difficult.

Nearly every PHV carries elderly, disabled, special needs and vulnerable passengers and many PHVs are not specialist vehicles, but nevertheless they are the preferred mode of door-to-door transport for such passengers. This proposal would have a negative impact on such passengers.

We therefore cannot endorse the proposal and point out there are far better ways to deal with 'cross-border' / 'out of area operation'. We believe safety would in fact, be compromised, rather than improved.

### **Recommendation 12**

We agree that Licensing Authorities should ensure that their licensing administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.

We must however ensure that such fees are proportionate, distributed appropriately and set at reasonable levels. Such fees should also be applicable to taxi & PHV drivers and operators and not have commercially inhibiting factors in the fees structure.

### **Recommendation 17**

We accept that CCTV has a great role to play regarding both passengers and driver safety. We have undertaken research with consumers, operators and drivers on both the merits and issues that CCTV can bring.

We accept 'in principle' the spirit of what is being sought by way of safety, but personal privacy, uncertainty of costs, who has access to the data and how this would affect entities that provide hire-cars for drivers when either broken down or following an accident are significant issues.

We therefore cannot agree with mandating CCTV across the board and would like government to undertake a full-blown regulatory impact assessment and have considerable dialogue with trade representatives and others, so we can get the right balance for CCTV to go forward in a viable way.

## **Recommendation 28**

We agree that Licensing Authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.

A problem area however comes within any written element, which in our view in London has been set way above the standard that is required for a PHV driver to fulfil their duties. We would like a fixed national standard of English to be in place that enshrines an oral test, the ability to plan a route and use an atlas & satnav. Good tests are already available and in use by some Local Authorities.

The level needed for written English is low because the only writing that most taxi or PHV drivers will need to do in the course of work is to write out a receipt. Since the introduction of English Language testing in London, there have been legal challenges, trade protests, heavily signed petitions, alongside the changing of requirements and implementation dates.

Proposed exemptions have been dropped and a great deal of hardship, unnecessary stress and cost has also been the consequence, alongside serious unresolved issues for dyslexic drivers. The British Dyslexia Association are in contact with TfL and the LPHCA on very real problems that the written element is causing.

TfL's current English Language requirements has caused the Mayor of London to have two meetings with Trade Representatives to date. The requirement date has been moved back several times (now to 30th April 2019) and the Mayor has stated that further dialogue could be needed in 2019 to get things right.

As well as the above, taxi drivers in London are exempted, whilst PHV drivers are not, which is something we are looking at on the basis of equality and discrimination. It is also very questionable why someone who has been working in the PHV industry for many years needs to be retrospectively tested for their English.

It should be remembered that every PHV driver in London has passed a driving test and for many years all PHV drivers have undertaken a TfL approved topographical assessment.

We propose that an agreed pan-England standard of assessment is needed, rather than every Local Authority doing its own thing, at differing costs and standards.

## **Recommendation 30**

We are very supportive of measures that improve disabled vehicle provision but around 90% of disabled passengers are not wheelchair bound and rely on normal PHVs for their transport, with many actually preferring non-wheelchair accessible vehicles.

Mandating fleet quotas would bring considerable problems for PHV Operators as well as many drivers who are majoritively self-employed and now move between fleets. We would therefore like government to facilitate dialogue with PHV trade representatives and disabled groups like the Disabled Persons Transport Advisory Committee (DPTAC) to discuss how Private Hire can play a greater role in providing appropriate vehicles.

## **SUMMARY**

The LPHCA believes that following the Law Commission Review and Professor Mohammed Abdel-Haq's excellent report, a number of these recommendations could

be brought in fairly quickly as there appears to be wide ranging consensus on key areas.

We also feel that for certain recommendations like English Language, enhanced DBS and barred lists checks, use of the National Anti-Fraud Network (NAFN) database, etc., that an absolute standard should be put in place. This would ensure that inconsistency, which has traditionally been the root cause of licensing problems, is eradicated.