



LICENSING AND SAFETY COMMITTEE

WEDNESDAY 9 JUNE, 2021 AT 6.00PM

At Walsall Town Hall, Leicester Street, Walsall, WS1 1PT

Membership:

- Councillor Waters (Chair)
- Councillor Kaur (Vice-Chair)
- Councillor C. Bott
- Councillor Clarke
- Councillor Cooper
- Councillor Ditta
- Councillor Ferguson
- Councillor Hussain
- Councillor Gandham
- Councillor Nawaz
- Councillor Sarohi
- Councillor Samra
- Councillor Sears
- Councillor Smith

Quorum: **Five Members**

Democratic Services, The Council House, Lichfield Street, Walsall, WS1 1TW

Contact Name: **Matt Powis** Telephone: (01922) **654764**

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please contact the person above**

AGENDA

PART I - PUBLIC SESSION

1. Apologies.
2. Declarations of Interest.
3. Establishment of Taxi/Private Hire Liaison Group – Report **enclosed**
4. Establishment of Taxi Licensing Sub-Committees 'A' and 'B' – Report **enclosed**.
5. Establishment of a Licensing Sub-Committee to determine applications under the Licensing Act, 2003 and Gambling Act, 2005 – Report **enclosed**.

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The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

Agenda Item 1

Apologies

Declarations of Interest

Establishment of Taxi/Private Hire Liaison Group



Licensing and Safety Committee – 9 June 2021

Taxi/Private Hire Liaison Group

1. Summary of report

The purpose of the report is to suggest the re-establishment of the Taxi/Private Hire Liaison Group and appoint Members thereto.

2. Recommendations

- 2.1 That a Taxi/Private Hire Liaison Group be established in accordance with the terms of reference appended hereto;
- 2.2 That the number of members appointed to the Taxi/Private Hire Liaison Group be determined by the committee;
- 2.3 That members be appointed to the Taxi/Private Hire Liaison Group.
- 2.2 That meetings of the Group will be held as a when required at 6.00p.m.

3. Background information

- 3.1 The suggested membership and Terms of Reference for the Liaison Group are appended to this report.
- 3.2 In view of the fact that paid officers of the Council are members of the Group, the regulations relating to political balance need not be applied.
- 3.3 For Members' information during the period 2019 to 2021, all Members of the Licensing and Safety Committee were appointed to the Group.
- 3.4 Members are asked to note that, should it be necessary, additional meetings could be convened.

4. Resource considerations

- 4.1 **Financial:** Within Budget: Yes.
- 4.2 **Legal:** Legal Services consulted: Yes.
- 4.3 **Staffing:** Nothing arising from this report.

5. Citizen impact

Nothing arising from this report.

6. Community safety

Nothing arising from this report.

7. Environmental impact

None.

8. Performance and risk management issues

Nothing arising from this report.

9. Equality implications

None.

10. Consultation

Hackney Carriage and Private Hire Associations.

Background papers

Previous reports and correspondence with the Hackney Carriage and Private Hire Associations.

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Membership and Terms of Reference

(a) Membership

- Representatives of Licensing and Safety Committee
(The number to be determined by the Committee) or other nominees
- Head of Public Safety, or nominee
- 1 Representative of West Midlands Police
- 1 representative from Taxi Licensing Office
- 2 representatives from each of the following:-
 - (i) Taxi Owners Association and
 - (ii) Private Hire Association (or their equivalent)

(b) Quorum

- 2 representatives of Licensing and Safety Committee
- 1 representative from each (i) Taxi Owners Association and (ii) Private Hire Association (or their equivalent)
- 1 representative from Taxi Licensing Office

(c) Purpose

The purpose of the Liaison Group is to discuss any matters of concern relating to taxi/private hire matters generally and any matters specifically referred to it and to make recommendations thereon to the Licensing and Safety Committee.

(d) Frequency of Meetings

Meetings may be arranged as and when the need arises. The notes of the meeting shall be received by the Licensing and Safety Committee, together with any recommendations made by the Liaison Group.

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**Establishment of Taxi
Licensing Sub-
Committees A and B**



Walsall Council

Licensing and Safety Committee – 9 June, 2021

Establishment of Taxi Licensing Sub-Committees

1. Summary of report

It is requested that Committee establish two taxi Licensing Sub Committees named Taxi Licensing Sub Committee 'A' and Taxi Licensing Sub Committee 'B' and appoint members to each Committee.

2. Recommendations

- 2.1 (a) That Taxi Licensing Sub Committee 'A' and Taxi Licensing Sub Committee 'B' be established to deal with taxi licensing applications under the Local Government (Miscellaneous Provisions) Act, 1976 for the 2021/22 municipal year.
- (b) That 7 members of the Licensing and Safety Committee be appointed to each of the sub committees noting that in previous years the sub committees have followed political balance as follows:-
- X4 Conservative
 - X3 Labour
- (c) That a Chair and Vice-Chair be appointed to each of the Sub-Committees.
- (d) To note that that Taxi Licensing Sub Committee 'A' shall convene at 10.00 a.m. and that Taxi Licensing Sub Committee 'B' shall convene at 6.00 p.m.

3. Background information

- 3.1 In June, 2006, the Committee was asked to approve delegations to officers within the Public Protection Unit to deal with the backlog of taxi/private hire applications under the Local Government (Miscellaneous Provisions) Act, 1976.
- 3.2 At that time, the Committee resolved not to approve the delegations, opting instead for the establishment of Sub-Committees to deal with applications.

- 3.3 At a meeting of the Licensing and Safety Committee held on 3rd April, 2019, members resolved to authorise officers to exercise their existing delegations to:-
- Determine applications for Private Hire and Hackney Carriage Driver Licences and Private Hire and Hackney Carriage Driver Licences where to issue a licence would be in accordance with the Council's Policy;
 - Determine discrete plate applications on new vehicles (when an existing approval is already in place for a previous vehicle and there has not been a material change) subject to the vehicle meeting all necessary requirements;
 - Determine enforcement matters whereby a driver has accumulated 9 points on their licence and there are no other matters, or only minor issues of concern.
- 3.4 The approval to allow officers to exercise their delegations will ensure that each sub-committee focus on complex cases or matters where the Committees judgement is required.

4. Resource considerations

- 4.1 **Financial:** The costs of any appeals to the Magistrates Court by any person aggrieved by the refusal of Walsall Metropolitan Borough Council to grant a private hire/hackney carriage licence, or any conditions attached to the grant of a drivers licence will be met from within existing budgetary provisions.

The costs of any appeals to the Magistrates Court by the suspension or revocation of a private hire/hackney carriage licence will be met from within budgetary provisions.

- 4.2.1 **Legal:** Section 51(1) of the Local Government (Miscellaneous Provisions) Act, 1976 states that a District Council shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:-

Provided that a District Council shall not grant a licence;

- (a) Unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
 - (b) To any person who has not, for at least twelve months, been authorised to drive a motor car or is not, at the date of the application for a driver's licence, so authorised.
- 4.2.2 There is no legal definition of a "fit and proper person", the ordinary meaning must, therefore, be attached to these words. The Licensing Authority may make such enquiries as they deem necessary to establish whether an applicant is a "fit and proper person". The application for a private hire/hackney carriage licence requires the applicant to disclose any convictions and a routine check is made with the Criminal Records Bureau, which is an executive agency of the Home Office, for confirmation of any convictions or pending convictions. Information

relating to motoring convictions is obtained from the applicant's driving licence or by application to the DVLA for a mandate.

4.2.3 Members should consider each case on its own merits, including:-

- (i) the nature of the offence;
- (ii) how long ago the offence was committed;
- (iii) age of the person when convicted;
- (iv) any other relevant facts considered appropriate;
- (v) was the offence an isolated incident;
- (vi) any change in the person's circumstances from when the offence was committed.

4.2.4 The fact that an applicant has convictions does not necessarily mean he/she is unfit to hold a driver's licence. A balanced judgement should be made about a person's suitability to hold a licence looked at as a whole in the light of all information available.

4.2.5 There is case law to support a Licensing Authority's decision to ensure, as far as possible, that those licensed to drive a private hire or hackney carriage vehicle are suitable persons to do so.

4.2.6 A District Council may attach to the grant of a licence such conditions as they may consider reasonably necessary.

4.2.7 Section 52 of the 1976 Act states that any person aggrieved by:-

- (i) the refusal of the District Council to grant a licence under Section 51 of the Act; or
- (ii) any conditions attached to the grant of a driver's licence may be appealed to a Magistrates Court.

4.2.8 Any appeal must be made to the Magistrates Court within 21 days of notification of such a decision.

4.2.9 Suspension and revocation of drivers licences.

(1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a District Council may suspend or revoke or (on application, therefore, under Section 46 of the Act of 1847 or Section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:-

- (a) that he has, since the grant of the licence:-
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or

- (ii) been convicted of an offence under, or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
- (b) any other reasonable cause;
- (2) (a) Where a District Council suspend, revoke or refuse to renew any licence under this section, they shall give to the driver notice of the grounds on which the licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall, on demand, return to the District Council the drivers badge issued to him in accordance with Section 54 of this Act;
- (b) If any person, without reasonable excuse, contravenes the provisions of this section, he shall be guilty of an offence and liable on summary conviction, to a fine not exceeding level 1 (on the standard scale);
- (3) Any driver aggrieved by a decision of a District Council under this section may appeal to a Magistrates Court.

4.3 **Staffing:** Nothing arising from this report.

5. Citizen impact

Nothing arising from this report.

6. Community safety

Nothing arising from this report.

7. Environmental impact

None.

8. Performance and risk management issues

Nothing arising from this report.

9. Equality implications

None.

10. Consultation

None.

Background papers

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Establishment of a
Licensing Sub-
Committee in relation
to the Licensing Act,
2003 and Gambling
Act 2005.



Licensing and Safety Committee – 9 June 2021

Establishment of a Licensing Sub-Committee - The Licensing Act, 2003 and the Gambling Act, 2005

1. Summary of report

The purpose of the report is to seek the Committee's approval to establish a Licensing Sub-Committee for the 2021/22 Municipal Year to determine applications under the Licensing Act, 2003 and the Gambling Act, 2005.

2. Recommendations

- 2.1 That a Licensing Sub-Committee be established for the 2021/22 municipal year in accordance with Section 9 of the Licensing Act, 2003 to determine applications under that legislation in circumstances as set out in Appendix 1 attached to this report and under the Gambling Act 2005 in the circumstances detailed in appendix 2 attached to this report;
- 2.2 That membership of the Sub-Committee shall comprise three Members of the Licensing and Safety Committee on a rota basis, subject to availability.
- 2.3 That Committee notes that a Chair shall be appointed at each meeting of the Licensing Sub Committee.
- 2.4 That the Director of Public Health be authorised to determine applications under the Licensing Act 2003, in the circumstances identified in appendix 2 attached to this report.

3. Background information

The Licensing Act

- 3.1 The Licensing Act, 2003 introduced a completely new licensing regime in England and Wales. In particular, it transferred authority to issue licences to sell or supply alcohol from the Magistrates Court to the Council. The Council is known under the new regime as the Licensing Authority.
- 3.2 The Act places a duty on the Licensing Authority to determine its policy with respect to the exercise of its licensing functions and publish that policy before it starts the exercise of those functions.

- 3.3 The Licensing Authority must consult various statutory bodies and representatives of local businesses and residents before determining its policy. This process was duly undertaken by officers and the Council's first statement of licensing policy was published by 7 January, 2005, as required by the Secretary of State.

The Gambling Act

- 3.4 The Gambling Act 2005 received Royal Assent on 7th April 2005. It puts in place a comprehensive new framework for the regulation of gambling. The Act came into force in September 2007.
- 3.5 The Act places a duty on the Local Authority to determine its statement of principles with respect to the exercise of its functions, and publish that policy before it starts the exercise of those functions. The Council publicly consulted on the draft statement of principles between 26th July and 16th October 2006, and has incorporated some proposed amendments within the statement of principles. This statement has to be reviewed from time to time and be published at least every three years.

On 6th November 2006 Council received a report detailing the Draft Statement of Principles and resolved to:

- (1) Adopt the draft Statement of Principles
- (2) Delegate to the Licensing and Safety Committee the exercise of powers contained in the Gambling Act 2005.

The appendix to this report summarises the lowest level of delegation that is permitted under sections 154 and 155 of the Gambling Act 2005. These sections do not, however, apply to certain functions under the Act (for example, the removal of the automatic gaming exemption for alcohol-licensed premises under section 284). Licensing authorities will, in relation to those functions, need to ensure that they are familiar with any changes that have been made to the relevant legislation dealing with the allocation of responsibility for functions between the authority as a whole, and the executive.

- 3.6 Since the implementation of the legislation, a number of applications have been processed by the Council, none of which have had to be referred to a Licensing Sub-Committee for determination.

4. Resource considerations

The Licensing Act

- 4.1 **Financial:** The Secretary of State at the time gave an assurance that the fees proposed would fully cover all the costs of the Local Authority in implementing the new licensing regime. The calculations included the cost of start up, consultation and establishing the statement of licensing policy. However, it was agreed that after the regime had become fully operational, there will be an

independent review of the costs of the regime and fee levels, by the Audit Commission.

- 4.2.1 **Legal:** The 2003 Act provides that decisions and functions may be taken and carried out by Licensing Committees, Licensing Sub-Committees, or in appropriate cases, by officers supporting the Licensing Authority, under a scheme of delegations (see appendix to the report). The Licensing Authority will follow the scheme of delegations outlined in Paragraph 3.63 of the guidance issued under Section 182 of the Licensing Act, 2003. The purpose of the scheme of delegations is to assist with the speedy determination of applications in a cost effective and efficient manner. Section 9 of the Licensing Act, 2003 provides that the powers that have been delegated to the Licensing Committee may, in turn, be delegated to Sub-Committees of three Members from the Licensing Committee for all of its functions. The Sub-Committees of three need not be politically balanced under the legislation as long as the Licensing Committee itself is politically balanced.

The Gambling Act

- 4.1 **Financial:** The Gambling (Premise Licence Fees) (England and Wales) Regulations came into force on 21st May 2007. These regulations provide for licensing authorities to determine fees, subject to prescribed maximum limits.

On the 2nd July 2006 Council received a report detailing fees and charges to be made under the Gambling Act 2005. It resolved to:

- (1) Determine the proposed fees to be charged in respect of the Gambling Act 2005.
- (2) Delegate the authority to determine future fees in respect of the Gambling Act 2005 to the Licensing and Safety Committee.

- 4.2 **Legal:** Section 154 of the Gambling Act 2005 provides that all decisions relating to premises licences are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003.

Decisions that are delegated to a licensing committee may be further delegated to a sub-committee of the licensing committee, which may arrange for them to be taken by an officer of the authority. However, the following decisions may not be made by an officer (i.e. they must be made by either the sub-committee or the licensing committee):

- determination of an application for a premises licence where representations have been made and not withdrawn;
- determination of an application for variation of a premises licence where representations have been made and not withdrawn;
- determination of an application for transfer, following representations by the Commission'
- determination of an application for a provisional statement where representations have been made and not withdrawn; and
- review of a premises licence.

5. Staffing: Nothing arising from this report.

6. Citizen impact

Nothing arising from this report.

7. Community safety

Nothing arising from this report.

8. Environmental impact

None.

9. Performance and risk management issues

Nothing arising from this report.

10. Equality implications

None.

11. Consultation

None.

Background papers

Guidance to Licensing Authorities, 2nd Edition, June 2007, Gambling Commission.

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Appendix 1 – Delegation of powers to the Licensing Committee, Sub-Committees and officers of Walsall Council to determine licensing applications under the Licensing Act, 2003 and supporting legislation

Matter to be dealt with	Full Committee	Sub-Committee (3 Elected Members of Licensing Committee)	Head of Economy and Environment
		Power to determine any application under the Licensing Act, 2003	
Application for personal licence		If a Police objection	If no Police objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Application for interim authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant Authority considering the application		All cases	
Determination of a Police objection to a temporary event notice		All cases	

Appendix 2 - Summary of licensing authority delegations permitted under the Gambling Act

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X (if delegated by full council)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Applications for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises Licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Application for other Permits			X
Cancellation of licensing premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X indicates the lowest level to which decision can be delegated