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21 July 2014

To: All Councillors

As a Member of the **Licensing & Appeals Committee**, please treat this as your summons to attend the meeting on **Tuesday 29 July 2014 at 6.00 pm in the Council Chamber, Town Hall, Matlock.**

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sandra Lamb', with a stylized flourish at the end.

Sandra Lamb
Head of Corporate Services

AGENDA

1. APOLOGIES

Please advise Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE DAY PRECEDING THE MEETING.**

3. MINUTES OF LAST MEETING

26 March 2014

4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

5. ANIMAL WELFARE LICENSING – ADOPTION OF MODEL LICENCE CONDITIONS **3 - 6**

To consider the recommendation that a short consultation exercise (4 weeks) be undertaken with proprietors of animal boarding establishments, dog breeding establishments and pet shops licensed by the District Council (and any new or prospective applicants) in respect of adopting the Model Licence Conditions and Guidance for these 3 types of establishments. Also, subject to a satisfactory consultation period and a further report to the November Committee, consider the recommendation that the Model Licence Conditions for these 3 types of establishments be granted or renewed with effect from 1 January 2015.

6. REVIEW OF TAXI AND PRIVATE HIRE LICENSING POLICY – UPDATE REPORT **7 - 20**

To receive an update on the review of the Council's Taxi and Private Hire Licensing Policy and to consider the extension of the consultation on the Council's draft Taxi Licensing Policy to enable stakeholders to take account of the Law Commission's proposed recommendations for changes to the current legislation.

7. LICENSING ACT 2003 AND GAMBLING ACT 2005 – ANNUAL PROGRESS REPORT **21 - 26**

To note a report providing a summary of work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Section during the last financial year, and the previous two financial-year periods, to allow comparisons to be made.

Members of the Committee: Councillors Mrs Jacque Bevan (Chairman), Tom Donnelly, Richard FitzHerbert, Steve Flitter, David Frederickson, Mrs Cate Hunt, Angus Jenkins, Anthony Millward, Mrs Jean Monks (Vice Chairman), Mike Ratcliffe, Mrs Judith Twigg, and Mrs Carol Walker.

LICENSING AND APPEALS COMMITTEE
29 JULY 2014

Report of the Head of Regulatory Services

ANIMAL WELFARE LICENSING – ADOPTION OF MODEL LICENCE CONDITIONS

SUMMARY

This report informs the Committee of revised Model Licence Conditions that have been developed by the Chartered Institute of Environmental Health (CIEH), in respect of Cat Boarding Establishments, Dog Breeding Establishments and Pet Shops (and other vendors) and seeks approval for adoption after consultation with the Trade.

The introduction of the Animal Welfare Act 2006 provided a timely opportunity for the existing licence conditions introduced in the early-mid 1990s to be reviewed in line with more modern legal and social animal welfare considerations highlighted in the Animal Welfare Act 2006. The CIEH consulted widely with a number of local authorities, national groups/organisations representing animal welfare and the trade before the final documents were produced. However, Officers recommend that the District Council should consult with proprietors of locally licensed premises with a view to adopting the revised conditions, to ensure that compliance will not place any disproportionate or unnecessary burden on business.

RECOMMENDATION(S)

- 1) That a short consultation exercise (4 weeks) be undertaken with proprietors of animal boarding establishments, dog breeding establishments and pet shops licensed by the District Council, (and any new or prospective applicants), in respect of adopting the Model Licence Conditions and Guidance for these 3 types of establishments.
- 2) That any objections received during the consultation period will be considered by the Head of Regulatory Services and a further report will be submitted to the November meeting of this Committee for consideration.
- 3) That subject to no objections being received during the consultation period, the revised Model Licence Conditions for Cat Boarding Establishments, Dog Breeding Establishments and Pet Vendors, are adopted and attached to all 3 types of licences granted or renewed with effect from 1st January 2015.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the District Council's corporate priorities, in particular to maintain safe and healthy communities; and the aim to provide excellent services.

1 REPORT

1.1 Local Authorities are responsible for licensing animal welfare-related establishments. These include Animal Boarding Establishments (commercial catteries/kennels for dogs and/or cats); Pet Shops; Dog Breeders; Horse Riding Establishments; Zoos; and Dangerous Wild Animals.

1.2 Licences are generally granted for a 12-month period. There are exceptions - a licence to keep dangerous wild animals is renewable every 2 years, a riding establishment licence can be granted provisionally for a 3-month period; and a licence to operate a zoo is renewable every 4-6 years. Zoos are subject to a much more stringent inspection regime with visits from vets and other animal experts taking place regularly throughout the life of the licence rather than at the application stage or on receipt of any complaints about the premises or the way in which the business operates.

1.3 Licensed Animal Welfare Establishments in Derbyshire Dales

The following numbers of licences granted to premises in the Derbyshire Dales are currently in force:

- 16 licences to keep an Animal Boarding Establishment;
- 6 licences to run a Pet Shop;
- 4 licence to Breed Dogs;
- 3 licences to operate a Riding Establishment; and
- 1 licence to keep Dangerous Wild Animals.

There are no longer any premises licensed as a Zoo in the Derbyshire Dales.

1.4 In 2006 when the Animal Welfare Act was introduced, most of the legislation governing these licensable activities had been in force for several decades:

- Animal Boarding Establishments Act 1963
- Pet Shops Act 1951 (as amended 1983)
- Dog Breeding Establishments Act 1973 and 1991
- Breeding and Sale of Dogs (Welfare) Act 1999
- Horse Riding Establishments Acts 1964 and 1970
- Zoos Act 1981
- Dangerous Wild Animals Act 1976 (as amended 2010)

So far the only model licence conditions to be reviewed and revised are as follows.

1.5 Revised Model Licence Conditions for Cat Boarding Establishments – November 2013

The CIEH first produced model licence conditions and guidance for Cat Boarding Establishments in 1995. The Animal Boarding Act 1963 requires anyone who wishes to keep an animal boarding establishment, ie in this context a cattery, to be licensed by the local authority and abide by the conditions of the licence. The main conditions relate to suitable accommodation, adequate supply of suitable food, drink and bedding material, exercise and visit, prevention and control of spread of infectious disease etc;

The revised document published in 2013 is aimed at all officers tasked with inspecting, advising and licensing catteries. It may also be useful to anyone planning to build boarding catteries offering them a better understanding of their legal requirements under the 1963 Act, the Animal Welfare Act 2006 and other related legislation, before embarking on opening an establishment.

As the document is fairly lengthy it is not produced as an appendix but can be emailed on request or can be viewed by pasting the following link into your browser.

<http://www.cieh.org/WorkArea/showcontent.aspx?id=49634>

A paper copy of the document will be available at the meeting for information.

1.6 Revised Model Conditions for Dog Breeding Establishments – January 2014

The 1973 Breeding of Dogs Act ('the 1973 Act') requires proprietors of breeding establishments to be licensed. Under the authority of the 1973 Act, local authorities may issue licences to proprietors of breeding establishments stipulating conditions which must be complied with by the licensee.

To assist them in doing this the British Veterinary Association in 1978 published guidelines for local authorities and their veterinary inspectors. Those guidelines were updated in 1998 in light of developments since the 1973 Act.

In 2012 as a result of a specific request by Defra a working party came together to update the guidance again to include the provisions that must be taken into account under the Animal Welfare Act 2006. This new version also incorporates guidance with regards to puppy rearing, socialisation and habituation, produced through the Animal Welfare Foundation / RSPCA Puppy Contract and the Dogs Trust and Kennel Club Puppy Plan.

As the document is fairly lengthy it is not produced as an appendix but can be emailed on request or can be viewed by pasting the following link into your browser.

<http://www.cieh.org/WorkArea/showcontent.aspx?id=50814>

A paper copy of the document will be available at the meeting for information.

1.7 Model Conditions for Pet Vending Licensing 2013

The Model Conditions set out in this document published by the CIEH are the working group's recommendations for the basic minimum standards considered necessary to ensure the health, safety and welfare of animals in pet shops.

These Model Conditions should not be considered as a complete manual on animal husbandry. It is a living document which will be revised from time to time to take into account new knowledge of animal physiology and behaviour as well as advances and development in standards of animal welfare. Local authorities in England, Scotland and Wales issue licences to proprietors of pet shops and other pet vendors under the provisions of the Pet Animals Act (1951).

Before granting a licence the local authority must be satisfied that the animals are kept in accommodation that is suitable; that they are supplied with appropriate food and drink; and are adequately protected from disease and fire. The local authority may attach conditions to the licence, may inspect the licensed premises at all reasonable times and may refuse a licence if the standards at the premises are unsatisfactory or if the terms of the licence are not being complied with.

The Animal Welfare Act 2006 has increased the minimum age at which a person can buy an animal to 16, and prohibits giving animals as prizes to unaccompanied children under this age. In Scotland there is a prohibition on giving animals as prizes.

As the document is fairly lengthy it is not produced as an appendix but can be emailed on request or can be viewed by pasting the following link into your browser.

<http://www.cieh.org/WorkArea/showcontent.aspx?id=47606>

A paper copy of the document will be available at the meeting for information.

1.8 Adoption of the Model Conditions

It is suggested that if there are no objections to the proposed model conditions these should be adopted for introduction with the any new licences granted or any existing licences renewed on or after 1 January 2015.

2 **RISK ASSESSMENT**

2.1 Legal

There are no risks arising directly from this report. The conditions have been developed and published by leading regulatory/advisory bodies in consultation with animal welfare and trade organisations. Adopting these model conditions will improve consistency in set-up and compliance costs for businesses and in enforcement standards for local authorities across the Country. As a result, the risk of legal challenge should be significantly reduced.

2.2 Financial

There are no financial risks arising from this report. Any costs arising from the adoption of the Model Conditions, including officer time, will be met from existing budgets.

3 **OTHER CONSIDERATIONS**

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

4 **CONTACT INFORMATION**

Eileen Tierney, Licensing Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 **BACKGROUND PAPERS**

Date	Description
September 2013	CIEH Model Licence Conditions for Pet Vending Licensing 2013
November 2013	CIEH Model Licence Conditions and Guidance for Cat Boarding Establishments
January 2014	CIEH Model Licence Conditions and Guidance for Dog Breeding Establishments

6 **ATTACHMENTS**

None.

LICENSING AND APPEALS COMMITTEE
29 JULY 2014

Report of the Head of Regulatory Services

REVIEW OF TAXI AND PRIVATE HIRE LICENSING POLICY – UPDATE REPORT

SUMMARY

This report provides the Committee with an update on the review of the District Council's Taxi and Private Hire Licensing Policy.

Details of the Law Commission's most recent recommendations to Government for a national reform of taxi licensing law is also provided.

Approval is sought to extend the consultation on the District Council's draft Taxi Licensing Policy, taking account of the Law Commission's proposed recommendations for changes to the current legislation.

RECOMMENDATIONS

- 1) That the consultation exercise in respect of the proposed draft Taxi Licensing Policy, submitted to the November 2013 meeting of this Committee, be extended to the Trade and other stakeholders to allow comment on the recently published proposals of the Law Commission, and the Deregulation Bill in respect of taxi licensing law.
- 2) That any comments received during the consultation exercise will be taken into account and a final draft of the District Council's Taxi and Private Hire Licensing Policy will be submitted to a future meeting for consideration.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the District Council's corporate priorities to increase business growth and job creation, and to maintain safe and healthy communities; and the aim to provide excellent services.

1 REPORT

- 1.1 At the November 2013 meeting of this Committee a report recommending a review of the District Council's Taxi and Private Hire Licensing Policy was considered. Approval was granted to carry out a consultation exercise with the Trade on the draft policy produced in Appendix 1 of the report.
- 1.2 At that meeting it was also reported that the Law Commission's report to Government on its proposals for a national reform of taxi and private hire services legislation would not be available until April 2014. The Commission's interim report produced 12 months

earlier had indicated that the final report and a draft Bill would be available by the end of December 2013.

1.3 At the March 2014 meeting of this Committee it was reported that as part of the review of the District Council's Taxi Licensing Policy, the Local Trade had raised some issues with the policy and administration processes, that early indications had shown could also be national issues and subject to change as a result of the Law Commission's recommendations, eg whether there is a genuine need for driver knowledge tests for private hire drivers who have to be pre-booked in any event; the period for which driver licences should be granted. Currently a driver licence can be granted for any period between 1 and 3 years); and the ability for drivers/operators to challenge local licence conditions which seem unreasonable.

1.4 The Deregulation Bill 2013-14 to 2014-2015

Proposals in the Deregulation Bill introduced a complication to the local consultation exercise. At the March 2014 meeting it was reported that the day before the meeting the licensed taxi/private hire vehicle trade had received a letter from James Padden, Head of Taxi and PSV (Public Service Vehicle) Regulation at the Department for Transport. The letter drew attention to several changes to taxi and private hire vehicle legislation proposed by the Government, as part of the Deregulation Bill, which is now on its passage through parliament.

1.5 This is described as a Bill to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals; make provision for the repeal of legislation which no longer has practical use; make provision about the exercise of regulatory functions; and for connected purposes.

1.6 Mr Padden's letter explained that the following three measures had been added to the Deregulation Bill –

- Allowing private hire operators to sub-contract bookings to operators licensed in a different district.
- Allowing anyone with a DVLA driver's licence to drive a private hire vehicle when it is "off duty" and
- Making the duration of all taxi and private hire vehicle driver's licences renewable every 3 years and private hire vehicle operator licences renewable every 5 years, and only allowing licences to be issued for a shorter period where it can be justified. The aim being to reduce the financial and administrative burden of having to make more frequent renewals.

NB: Currently, in the Derbyshire Dales drivers' licences are renewable every year and Private Hire Operator licences are renewable every 3 years. Prior to the introduction of the Licensing Policy in February 2009 a 3-year driver's licence was granted.

1.7 His letter had described these measures as representing 'the first steps of a longer journey towards a deregulated trade, which would be continued when the Government was ready to take forward the more comprehensive reforms being proposed by the Law Commission'.

1.8 He had confirmed that the Law Commission was due to publish its report and draft Bill at the end of April 2014, and how the Government would then have a year in which to consider the report and prepare a response. This timescale meant that there would not be time to take forward a dedicated Taxi Bill before the next general election, which is why these three changes in particular were being introduced using the Deregulation Bill.

1.9 The Deregulation Bill had its second reading in the House of Lords on 7 July 2014 – where reference was made to the concerns expressed recently by campaigners, industry bodies and unions regarding the second of these 3 proposed changes in particular. It was felt that this deregulation would have severe safety implications, as effectively, anyone without a minicab licence (driver's badge) would be able to drive a private hire vehicle when it is "off duty."

1.10 Law Commission's Recommendations on Taxi Law Reform - Summary

Members will recall being informed at an earlier meeting that on 10 May 2012, the Law Commission published a consultation paper with its provisional proposals for reform for taxi and private hire licensing law. More than 3,000 responses to the consultation were received, the highest ever number of responses to a Law Commission consultation.

1.11 On 23 May 2014 a 290 page report was published which explained and set out the Law Commission's recommendations to Government, together with a draft Bill.

The full report can be accessed by pasting the following link into your browser <http://lawcommission.justice.gov.uk/areas/taxi-and-private-hire-services.htm>
[A copy of the full report will be available at the meeting for reference].

1.12 The Law Commission's 84 recommendations to Government are detailed in pages 267-277 of the report document. The information contained in these pages is reproduced in **Appendix 1**, for information.

1.13 The Law Commission has summarised its recommendations as follows:

- Retain the current two-tier system, distinguishing between taxis (currently termed hackney carriages) and private hire vehicles (which can only be pre-booked); and as is current practice, only taxis should be allowed to be hailed or pick up passengers from ranks.
- The introduction of national standards for all taxis and private hire vehicles, set by the Secretary of State, with the power for local licensing authorities to set additional standards for taxi services only. Local authorities would, however, remain responsible for issuing licences and enforcement in relation to both taxis and private hire vehicles.
- Make it easier for providers of private hire services to work cross-border, and give licensing officers new enforcement powers to deal with vehicles and drivers licensed in different areas.
- Introduce tougher penalties on touting (actively soliciting customers), including impounding.
- Retain the exemption that applies to wedding and funeral cars as part of primary legislation; but pedicabs and other types of vehicles such as stretch limousines would be subject to regulation.
- Licensing authorities should retain the right to limit the number of taxis working in their licensing area – provided that it is reviewed every three years and is subject to consultation.

- The introduction of mandatory disability awareness training for all taxi and private hire drivers.

1.14 The Next Step

Members will recall that at the March 2014 meeting it was considered prudent to take account of as many as possible of the national issues whilst reviewing the District Council's own policy, to ensure that it will not be compromised by legislative changes in 12 months' time. Further consultation with the local trade was recommended.

- 1.15 In April 2014 Officers received notification that the Law Commission's report would definitely be published on 23 May 2014. Since then discussions have taken place with some of the Trade who were made aware of the Law Commission's recommendations through representatives from their national trade organisations.
- 1.16 It is suggested that the draft policy document presented to Members at the November 2013 meeting is further reviewed with the Trade and now with other stakeholders, who were not previously consulted while more information on possible changes to the law were awaited.
- 1.17 It is also suggested that those comments already received from the Trade should be reconsidered, in light of any possible changes that may be necessary to avoid conflict with the Law Commission's recommendations outlined in this report.
- 1.18 It is recommended that a final draft Policy is presented to the next appropriate meeting of this Committee for consideration.

2 RISK ASSESSMENT

2.1 Legal

The Council's Policy in this matter underpins the decision making process and ensures that our administration of this function has a robust basis. Ensuring that the Policy is up to date enables the Council to manage the risks of delivering this service for the Communities served, for those involved in the trade and for the Council as an organisation. Therefore the legal risk is low.

The Council also has a statutory duty under Section 149 of the Equality Act 2010 to ensure that in exercising its function it seeks to, eliminate discrimination, advance equality and foster good relations.

2.2 Financial

There are no financial risks directly arising from this report other than officer time.

3 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

4 CONTACT INFORMATION

Eileen Tierney, Licensing Manager
Tel: 01629 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

<u>Date</u>	<u>Description</u>
23.5.2014	Law Commission Reforming the Law – Tax and Private Hire Services (Law Com No 347)

6 ATTACHMENTS

Appendix 1 – Law Commission Report Recommendations (Appendix B)
pages 267- 277.

LAW COMMISSION REFORMING THE LAW TAXI AND PRIVATE HIRE SERVICES

APPENDIX B (Pages 267-277 of the full report) LIST OF RECOMMENDATIONS

CHAPTER 2 – RETAINING THE TWO TIER SYSTEM

Recommendation 1

We recommend retaining the two-tier system. Regulation should continue to distinguish between taxis, which can be hailed or use ranks, and private hire vehicles, which can only be pre-booked. (*Page 16*)

CHAPTER 3 – REFORM OF DEFINITIONS AND SCOPE

Recommendation 2

We recommend that the offences relating to plying for hire should be abolished. We propose replacing the concept of plying for hire with a new scheme of offences, resting on the principal prohibition of carrying passengers for hire without a licence, alongside a new offence making it unlawful for anyone other than a local taxi driver to accept a journey starting “there and then”. (*Page 22*)

Recommendation 3

We recommend a statutory definition of pre-booking in order to create a clear distinction between the work of a taxi in its licensing area and the work of a private hire vehicle. (*Page 22*)

Recommendation 4

We recommend that the term “hackney carriage” should be replaced in legislation with the word “taxi”. The term “private hire vehicle” should remain unchanged. (*Page 24*)

Recommendation 5

We recommend that only the providers of licensed taxi services should be allowed to describe themselves using the term “taxi” on vehicles or in advertising materials. (*Page 24*)

Recommendation 6

Operators across England and Wales (dispatchers under our Bill) should be under a duty to provide a price or an estimate of the fare on request, as is already the case in London. (*Page 26*)

Recommendation 7

We recommend that taxis picking up passengers outside their licensing area should be subject to a pre-booking requirement, which would be statutorily defined for the first time. This would require provision of an estimate of the price for the journey in advance, if requested, and record-keeping obligations. These requirements could be further refined through national standards as set by the Secretary of State. (*Page 32*)

Recommendation 8

We do not recommend the introduction of record-keeping requirements in respect of taxis except where they are picking up passengers outside their licensing area. (*Page 32*)

Recommendation 9

We recommend that local authority stopping officers should have a new enforcement power to require licensed vehicles to move on where the officer considers that:

- (1) there is a reasonable likelihood that the public may believe the vehicle is available for immediate hire;
- (2) the vehicle is causing an obstruction to traffic flow; or
- (3) the driver is attempting to take work away from ranked taxis. (*Page 33*)

Recommendation 10

We recommend introducing a new offence which makes it unlawful for anyone other than a locally licensed taxi driver to accept a booking for a journey starting there and then. (*Page 34*)

Recommendation 11

We recommend that compellability should be retained in its current form. It should be open to licensing authorities to express compellability as a time or distance from the point of hire, or as extending to the boundaries of a licensing zone. Licensing authorities should also be able to extend the compellable distance up to seven miles beyond the boundary of the licensing area, or twenty miles in the case of Transport for London. (*Page 37*)

Recommendation 12

Licensing authorities should have the power to make a determination that in their areas, taxis should be under a duty to stop when hailed. In such areas, it would be an offence for a taxi driver in a vehicle displaying a “for hire” sign to fail to stop in response to a hail, without reasonable excuse. (*Page 38*)

Recommendation 13

Licensing authorities should be under a duty to consult on the need to alter rank provision; and to consider whether new ranks should be appointed, or current ones moved or removed, on a periodic basis not exceeding every three years. (*Page 39*)

Recommendation 14

We recommend that those acting in the course of a business who pass taxi or private hire bookings to providers who they know or suspect to be unlicensed should be guilty of an offence. (*Page 41*)

Recommendation 15

We do not propose to require intermediaries working solely with licensed taxis (which we refer to as “radio circuits”) to be licensed. (*Page 44*)

Recommendation 16

We recommend that licensed operators (in future to be referred to in legislation as “dispatchers”) should be retained as a necessary element of the regulation of private hire services. (*Page 46*)

Recommendation 17

We recommend that operator licensing should only cover dispatch functions, and no longer apply to the invitation or acceptance of bookings as such. However, if it is shown that an individual or company accepted a hire vehicle booking, a presumption should arise that that person also “dispatched” the driver.

This ensures the continued accountability of those who, in the course of business, accept hire vehicle bookings from the public. *(Page 48)*

Recommendation 18

It should also be an offence, in the course of business, to dispatch an unlicensed vehicle or driver. It would also be an offence for a person to dispatch a private hire vehicle and driver unless that person holds a dispatcher's licence. It would be a defence if the driver and vehicle were reasonably believed to hold appropriate taxi licences. *(Page 48)*

Recommendation 19

Persons accepting a hire vehicle booking in the course of business should be under a duty to provide information to the hirer in respect of any person on to whom they passed the booking. *(Page 48)*

CHAPTER 4 – DEFINITIONS AND SCOPE

Recommendation 20

We recommend that our proposed reforms should extend to all of England and Wales, including London and Plymouth. *(Page 55)*

Recommendation 21

Taxi and private hire licensing should cover vehicles regardless of their form or construction, including non-motorised vehicles. *(Page 57)*

Recommendation 22

We recommend that taxi and private hire licensing requirements should only cover services provided for commercial gain. *(Page 63)*

Recommendation 23

We recommend that taxi and private hire licensing should not cover the carriage of a passenger as an ancillary or incidental part of another service. *(Page 63)*

Recommendation 24

We recommend that, for the purposes of taxi, private hire and public service vehicle legislation, all passenger seats and spaces capable of carrying a standing passenger should be included when assessing vehicle carrying capacity. *(Page 66)*

Recommendation 25

We recommend that consideration be given to revising the criteria for licensing a vehicle as a "small public service vehicle" , making them more clearly centred on local bus services. *(Page 67)*

Recommendation 26

We recommend extending the reach of taxi and private hire licensing to larger vehicles in two circumstances:

- (a) on a mandatory basis, in respect of stretch limousines and novelty vehicles; and
- (b) on an optional basis, where providers want to use larger vehicles in a taxi or private hire business. *(Page 70)*

Recommendation 27

We recommend that the Secretary of State should have the power to exempt certain categories of vehicle or services used to carry passengers for hire from the requirement to hold a taxi or private hire licence. Licensing authorities would, however, retain the power to impose licensing requirements on vehicles used as taxis within their local licensing area. *(Page 71)*

Recommendation 28

We recommend that wedding and funeral cars should continue to be exempt from taxi and private hire licensing while the vehicle is being used in connection with a wedding or a funeral. *(Page 74)*

Recommendation 29

Non-professional use of licensed taxi and private hire vehicles, including by nonprofessional drivers, should be permitted, subject to a rebuttable presumption that such vehicles are being used professionally when they are carrying passengers. *(Page 77)*

CHAPTER 5 – COMMON NATIONAL STANDARDS FOR TAXI AND PRIVATE HIRE

Recommendation 30

We recommend the introduction of national standards for taxi and private hire services. *(Page 80)*

Recommendation 31

National standards should promote enforcement, protection of the environment and accessibility, in addition to safety. *(Page 82)*

Recommendation 32

National standards for taxi services should be comparable but not necessarily identical to national standards for private hire services. *(Page 82)*

Recommendation 33

We recommend that driver and vehicle standards should be set in secondary legislation by the Secretary of State. *(Page 84)*

Recommendation 34

The standard setting power of the Secretary of State should be subject to a statutory consultation requirement. *(Page 91)*

Recommendation 35

We recommend that the ability to apply for a vehicle licence should no longer be restricted to vehicle owners. *(Page 93)*

Recommendation 36

Applicants for vehicle licences should not be subject to a fit and proper person test. *(Page 95)*

Recommendation 37

We recommend that licensing authorities should not have a general power to impose individual conditions on the holders of taxi or private hire licences. *(Page 98)*

CHAPTER 6 – CRIMINAL OFFENCES SPECIFIC TO THE TAXI AND PRIVATE HIRE TRADES

Recommendation 38

We recommend that the Secretary of State should exercise the standard setting power to provide that a conviction for specified offences is a breach of a licensing condition, or incompatible with eligibility to hold a licence. *(Page 101)*

Recommendation 39

The Secretary of State should have the power to designate specific licence conditions, breach of which will amount to a criminal offence. *(Page 102)*

CHAPTER 7 – NATIONAL STANDARDS FOR PRIVATE HIRE

Recommendation 40

Private hire services should only be subject to national standards. Licensing authorities should no longer have the power to impose local conditions. *(Page 104)*

Recommendation 41

We recommend that dispatchers should continue to be subject to fit and proper person requirements as part of national standards. *(Page 105)*

Recommendation 42

We recommend that dispatchers should be subject to a statutory duty to maintain records in such form as may be prescribed by the Secretary of State. *(Page 107)*

Recommendation 43

Signage requirements for private hire vehicles should form part of the national standards determined by the Secretary of State. The Secretary of State should impose requirements that aim to ensure that the public are able to distinguish easily between taxis and private hire vehicles. *(Page 112)*

Recommendation 44

We recommend that operator/dispatchers should no longer be restricted to working only with drivers and vehicles whose licences are issued by the same licensing authority as the dispatcher. *(Page 115)*

Recommendation 45

Dispatchers should have the ability to sub-contract bookings to any dispatcher in England and Wales. *(Page 117)*

CHAPTER 8 – LOCAL TAXI STANDARDS

Recommendation 46

We recommend that licensing authorities should retain the power to set local taxi standards over and above national standards. *(Page 120)*

Recommendation 47

Licensing authorities should be required to consult on additional licensing conditions for taxi drivers and vehicles. *(Page 121)*

CHAPTER 9 – TAXI FARE REGULATION

Recommendation 48

Licensing authorities should retain the ability to regulate taxi fares, in respect of any journey within the compellable distance. (*Page 125*)

Recommendation 49

A taxi driver should be allowed to charge more than the metered fare for journeys starting inside the licensing area and ending beyond the compellable distance only if this is agreed in advance. In the case of pre-booked journeys starting outside the compellable distance the price or an estimate should be given on request and, if so, recorded. (*Page 125*)

Recommendation 50

We recommend that licensing authorities should retain the power to regulate fares charged for pre-booked taxi journeys. However, there should be no power to regulate third party booking fees, provided these are agreed in advance. (*Page 130*)

CHAPTER 10 – ADMINISTRATION OF THE LICENSING SYSTEM

Recommendation 51

The principle of cost recovery should continue to apply in respect of taxi and private hire licensing fees. (*Page 134*)

Recommendation 52

Licensing authorities should be able to collect and use licensing fees from taxi and private hire licensing only for the following purposes:

- (2) administration of the licensing system (including but not limited to processing applications for granting or renewing licences and carrying out inspections and tests);
- (2) statutorily required reviews of fare levels, rank provision, accessibility and existing quantity restrictions at least every three years;
- (2) enforcement of the licensing system including but not limited to the control and supervision of taxi and private hire services (whether licensed or unlicensed) and activities associated with suspending or revoking licences; and
- (2) providing taxi ranks. (*Page 134*)

Recommendation 53

We recommend that the Secretary of State should set a private hire licensing fee which could not be varied locally. Taxi licensing fees should continue to be set locally, but at a level no lower than the national private hire fee. (*Page 135*)

Recommendation 54

We recommend that the Secretary of State should have the power to set up a system of pooling private hire licence fees nationally, for the purposes of redistributing these to reflect enforcement needs, in accordance with such a scheme as may be prescribed. (*Page 136*)

Recommendation 55

Licensing authorities should have the power to combine their taxi and private hire licensing areas. (*Page 138*)

Recommendation 56

We recommend that licensing authorities should be under a duty to publish their driver, vehicle and operator licensing data in such form as the Secretary of State may require. *(Page 140)*

Recommendation 57

Licensing authorities should have a more flexible power to introduce and remove taxi licensing zones. This power would permit removal or introduction of zones within a licensing district. The power should be subject to consultation and a statutory public interest test. *(Page 143)*

CHAPTER 11 – QUANTITY RESTRICTIONS

Recommendation 58

We recommend that licensing authorities should continue to have the power to limit the number of taxi vehicles licensed in their area. *(Page 159)*

Recommendation 59

The power of licensing authorities to impose quantity restrictions should be subject to a statutory public interest test. Further, the Secretary of State should have regulation-making powers prescribing how the statutory test should be applied. *(Page 162)*

Recommendation 60

Decisions to restrict taxi numbers should be reviewed at least every three years and be subject to local consultation in accordance with such procedures as may be prescribed in regulations made by the Secretary of State. *(Page 162)*

Recommendation 61

In licensing areas where quantity restrictions already exist at the time of the introduction of our reforms, but not in other areas, vehicle licence holders should continue to be able to transfer their taxi licences at a premium. *(Page 166)*

CHAPTER 12 – ACCESSIBILITY

Recommendation 62

We recommend that taxi and private hire drivers be required to undergo disability awareness training of a standard set by the Secretary of State. *(Page 170)*

Recommendation 63

We recommend that the Secretary of State require information on how to complain about taxi and private hire vehicle services to be displayed in taxi and private hire vehicles. *(Page 171)*

Recommendation 64

We recommend that local licensing authorities should display complaint information in offices, libraries and on websites. *(Page 171)*

Recommendation 65

We recommend that licensing authorities conduct an accessibility review at three year intervals. *(Page 172)*

Recommendation 66

We recommend that the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to comply with the Equality Act 2010 as a condition of the licence. *(Page 175)*

Recommendation 67

We recommend that licensing authorities should reconsider rank design to ensure compliance with the Equality Act 2010. *(Page 177)*

Recommendation 68

We recommend that licensing conditions should provide that information about the licensing authority and local operators should be provided in alternative formats, as well as information about the types of vehicle available in their area. *(Page 177)*

Recommendation 69

We recommend that the Secretary of State should have the power to impose accessibility requirements on large operator/dispatchers. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers.
(Page 179)

CHAPTER 13 – ENFORCEMENT

Recommendation 70

We recommend that licensing officers who have been suitably trained and accredited should be given the power to stop licensed taxi and private hire vehicles in a public place for the purpose of checking compliance with licensing requirements. *(Page 183)*

Recommendation 71

The offence of touting should be retained. It should continue to be an offence of broad application which extends to all persons, whether licensed or unlicensed. *(Page 187)*

Recommendation 72

We recommend that there should be a new defence to touting, where the solicitation is in respect of a licensed taxi or private hire vehicle, if the soliciting occurs in a place which has been designated by that licensing authority for that purpose, and that conditions as may be specified by the licensing authority have been complied with. *(Page 187)*

Recommendation 73

We recommend that the Sentencing Council consider amending the Magistrate's Court Sentencing Guidelines in respect of taxi touting to take into account the vulnerability of the persons solicited as a relevant factor in sentencing. *(Page 189)*

Recommendation 74

We recommend that licensing authorities should have the power to impound vehicles used in connection with touting. *(Page 193)*

Recommendation 75

Fixed penalties should be among the sanctions available in respect of minor criminal offences under taxi and private hire legislation. *(Page 195)*

Recommendation 76

We recommend extending the power to suspend licences immediately on grounds of public safety to all licence types, in line with the current position in London. (*Page 196*)

Recommendation 77

Licensing officers should be able to take non-criminal enforcement action against vehicles, drivers and operators, licensed outside their licensing area. (*Page 198*)

Recommendation 78

We recommend that powers to revoke a licence should be available only to the licensing authority which issued that licence. However, enforcement officers in another area should have the power to:

- (a) suspend a licence when they consider this to be necessary in the interests of public safety; and
- (b) make recommendations to the home licensing authority as to appropriate sanctions, to which the home authority must have regard. (*Page 200*)

CHAPTER 14 – HEARINGS AND APPEALS

Recommendation 79

The right to appeal against refusals to grant or renew taxi and private hire licences or to suspend or revoke them should be limited to the applicant or licence holder. (*Page 202*)

Recommendation 80

We recommend that the first stage in the appeal process in respect of refusals, suspensions or revocations of licences should be the right to require licensing authorities to reconsider the original decision. Appellants should have the right to bypass this stage and proceed direct to the magistrates' court. (*Page 206*)

Recommendation 81

We recommend that all taxi and private hire licensing appeals should be heard in the magistrates' court. (*Page 209*)

Recommendation 82

We recommend the retention of an onward right of appeal to the Crown Court. (*Page 210*)

Recommendation 83

We recommend that applicants for a vehicle licence for an opt-in vehicle should have a right of appeal to the Upper Tribunal if their application is refused on the basis of an objection by the Senior Traffic Commissioner. (*Page 210*)

Recommendation 84

We recommend that a County Court judicial review procedure along the lines provided under the Housing Act 1996 should be available to challenge taxi conditions set by licensing authorities. (*Page 212*)

LICENSING AND APPEALS COMMITTEE
29 JULY 2014

Report of the Head of Regulatory Services

**LICENSING ACT 2003 AND GAMBLING ACT 2005
ANNUAL PROGRESS REPORT**

SUMMARY

This report provides a summary of the work relating specifically to the Licensing Act 2003 and the Gambling Act 2005, undertaken by the Licensing Section during the last financial year, and the previous two financial-year periods, to allow comparisons to be made.

RECOMMENDATION(S)

1. That the report be noted.
2. That the Licensing Team continues to contribute to the work of the Community Safety Partnership's VAL (Violence Alcohol and Licensing) Group, in particular in on-going partnership working with the Police to reinvigorate an active PubWatch Scheme in the Central area of the Dales.
3. That the Licensing Team continues to work with other Responsible Authorities, where possible, when carrying out the following number of planned compliance/enforcement visits in the District by 31 March 2015:
 - 10 visits to licensed gambling establishments (and ones with Permits);
 - 10 visits to alcohol and/or entertainment-licensed problem premises;

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the District Council's corporate priorities, and aims, in particular to maintain safe and healthy communities, increase business growth and job creation, and to provide excellent services.

1 BACKGROUND

1.1 The Licensing Act 2003

1.2 Members will be aware that the Licensing Act 2003 established a single integrated scheme for licensing premises which are used for the sale or supply of alcohol, and/or to provide regulated entertainment and/or to provide late night refreshment.

- 1.3** The types of premises in Derbyshire Dales that currently have a licence or other type of authorisation include pubs, clubs, micro-breweries, village/community halls and schools, supermarkets and off-licences, private residences, outdoor/festival sites and marquees/barns etc.
- 1.4** Since 7th February 2005, under the provisions of the Licensing Act 2003, the District Council, (in its role as the Licensing Authority), has processed and granted in the region of 500 premises licences and club premises certificates; 995 personal licences; and on average (each calendar year) some 450 temporary event notices (TENs). All of these authorisations have permitted one or more of the licensable activities specified in paragraph 1.1 of this report.
- 1.5** Each year a small number of Premises Licences and Club Premises Certificates are surrendered; this can be when the owner sells the premises and it is no longer being used for licensable activities; or when a business closes down for a variety of reasons.
- 1.6** However, each year a small number of new premises licences are also granted. These can be for existing licensed premises that have let the licence lapse inadvertently (eg. where the licence holder passes away or goes bankrupt and an application is not made within the legal timescale to transfer the licence to someone else so that the business can continue to operate as before. New licences are granted and existing licences varied for a variety of reasons including new businesses or one-off events in the District. eg: small music festivals, micro-breweries, themed/luxury bed and breakfast establishments, community shops in separate areas of existing licensed premises etc.

1.7 Implementation Progress

In July 2007, the first progress report was presented to this Committee providing information about the numbers of licence applications determined with effect from 24th November 2005, when the Licensing Authority became solely responsible for regulating those activities specified in paragraph 1.1 above and other activities which are no longer licensable such as providing facilities for music, dancing, entertainment or similar.

Members will recall that prior to the introduction of the 2003 Licensing Act, the Licensing Justices' at the Magistrates' Courts were responsible for licensing the sale and supply of alcohol, under the provisions of the 1964 Act.

- 1.8** During the last 8 years a progress report has been submitted annually for the Committee's information and consideration. In 2012 when changes were made to the Council's Committee structure it was agreed that there would be three meetings of the full Licensing and Appeals Committee and at its first meeting in 2012-13 the Committee agreed that an annual progress report would be submitted to the first meeting of each civic year – usually in July.
- 1.9** The following table details the number of applications made under the Licensing Act 2003, during 2013-2014, offering a comparison to figures for the 2 previous financial years.

1.10

Type of Application	Number of Applications Processed		
	2011-2012	2012-2013	2013-2014
New Premises Licences/Club Premises Certificates (CPCs)	17	10	14
Transfers	41	33	n/a
Variations (full)	10	15	5
Minor Variations	20	24	7
Variation of Designated Premises Supervisor (DPS)	74	87	n/a
Removal of DPS Mandatory Condition for Community Premises	3	0	0
New Personal Licences	58	48	n/a
Temporary Event Notices (TENs)	439	429	461

1.11 During the last year 3 applications for premises licences attracted representations (objections), which required the matter to be referred to and determined one of the Licensing and Appeals Sub-Committees. An appeal to the Magistrates' Court in Derby was lodged in respect of one of the applications. The District Council's decision to grant the licence was upheld.

1.12 Applications for Minor Variations

1.13 In October 2009, the Minor Variations application process was introduced. This allowed proprietors/operators to make small changes to their premises licences, as long as the proposed changes would not undermine the licensing objectives. Examples of permitted changes include:

Minor changes to the structure or layout of premises;

- Small adjustments to licensing hours;
- Conditions: removal of out of date irrelevant or unenforceable conditions or volunteering of conditions;
- Licensable activities: adding certain licensable activities.

1.14 The Government recommended that the decision making on Minor Variation applications should be delegated to officer level. There is no provision for hearings to be held to determine these applications. If objections are received the applications are refused, and a full variation application can be made, which would be subject to a hearing if any objections were received.

1.15 Members resolved that determining minor variation applications should be delegated to the Director of Community Services and to the Licensing Manager (formerly Licensing and Administration Manager).

1.16 Details of the 7 minor variation applications which have been determined by Officers under delegated powers during 2013-14 are tabled overleaf:

1.17

Date	Premises	Minor Variations
01/10/2013	Thailand No.1, Dale Road, Matlock	Removal of Public Entertainment Licence Conditions (PEL)
10/01/2014	The Peacock, Bakewell	Extension of Dinning area
13/01/2014	Co-op, Tideswell	Relocation of alcohol sales
25/02/2014	Peacock Hotel, Bakewell	Removal of PEL Conditions
18/12/2013	Baslow Village Hall	Removal of PEL Conditions
19/12/2013	Ashford-in-the-Water Memorial Institute	Removal of PEL Conditions
24/02/2014	Queen's Arms, Bakewell	Change of conditions to licence. (Please note that this application was refused)

2

2.1 Summary of Changes to Alcohol and Entertainment Licensing from April 2014

Below Cost Selling Order

On 28 May 2014, the Licensing (Mandatory Conditions) Order 2014 took effect, banning the sale of alcohol below the cost of VAT and duty. The Order introduces a new mandatory condition on all Premises Licences and Club Premises Certificates.

Plans to Abolish Personal Licences

The Government has announced that it will not be proceeding with its proposal to abolish the system of Personal Licences. Members will recall that a consultation last November sought views on the proposal to replace the scheme and introduce local initiatives as an alternative, such as imposing training conditions on individual premises licences. The Government published its response to the consultation, which in short, revealed little support for the proposal from the Trade or Responsible Authorities.

The personal licence system remains in place, but the Government has stated it still intends to remove the need to renew the licence every 10 years. It intends to implement this measure using the Deregulation Bill currently on its passage through Parliament. The Licensing Manager will keep the Committee informed of any progress, which needs to be made before next April as a huge percentage of Personal Licences were issued in 2005 for a 10 year period.

2.2 Community and Ancillary Sellers Notice (CAN)

The Government has tabled a proposal as part of the Deregulation Bill to introduce a new licensing process; the CAN – Community and Ancillary Sellers Notice. This follows on from a review of the Government's Alcohol Strategy, and is aimed at allowing small-scale low-risk alcohol sales over 36 months by Ancillary Sellers and Community Groups without the need for a premises licence or TEN, providing there is no objection from the Police or Environmental Health, or the Licensing Authority. These groups feel that the requirement for a premises licence is overly onerous and burdensome to what is mainly, the voluntary sector.

Secondary legislation will set out the details and how this will work in practice. The Government intends to consult before introducing such a system and if further details are received the next week the Licensing Manager will present a verbal update at the meeting.

2.3 The Gambling Act 2005

The following numbers of premises are currently licensed under the 2005 Act:

- 1 Adult Gaming Centre (Matlock Bath)
- 4 Bookmakers (Betting Shops)
- 5 Family Entertainment Centres (Matlock Bath)
- Occasional Use Notices (for Flagg Races and Pikehall Harness Racing)
- 8 Club Machine Permits (registered clubs)
- 170 (circa) Small Society Lotteries.

Members will be aware of a new action detailed in last year's Licensing Service Plan for which provided for inspections of all gambling establishments in the district to be carried out by the end of March 2014.

The District Council's Licensing Officer (Caroline Hill) together with colleagues in the Environmental Health Team carried out joint visits to 8 out of the 10 premises licensed for gambling. The 2 visits still outstanding a visit are premises in Matlock Bath that closed during the winter months – these will be given priority during the next 3 months before the end of the tourism season.

3 RISK ASSESSMENT

3.1 Legal

The report provides the Committee with information on how the Council is continuing to implement the Licensing Act 2003 and the Gambling Act 2005 in practical terms. The record demonstrates that the laws are being effectively implemented, with the risk being correspondingly low.

3.2 Financial

The budget position for administering the Licensing Act 2003 and the Gambling Act 2005 is shown in the table below.

	2011/12 Actual	2012/13 Actual	2013/14 Actual	2014/15 Budget
Total Expenditure	99,913	100,807	112,963	112,477
Total Income	109,327	114,274	106,878	107,750
Net Cost	-9,414	-13,467	6,085	4,727

It is considered that this budget is adequate for the provision of the service at the moment, and therefore the financial risk is low.

Members are reminded that earlier this year the Government consulted licensing authorities on whether or not licence fees for applications made under the Licensing Act 2003 should be set locally. The fees, set centrally, have not been increased since introduction in 2005. Local authorities already set their own fees in respect of the Gambling Act applications, which is done on a cost-recovery basis.

The locally set fees consultation finished in April 2014 and the Government is currently analysing the responses.

A Government response to the consultation is expected to be published in due course. The original timetable was to allow Licensing Authorities to introduce their own fees with effect from 1st April 2015 – it is hoped that Officers will have more detailed information to report to the Autumn meeting of this Committee.

4 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, environmental, climate change, health, human rights, personnel and property.

5 CONTACT INFORMATION

Eileen Tierney, Licensing Manager
Tel: 01629 761374
email: eileen.tierney@derbyshiredales.gov.uk

6 BACKGROUND PAPERS

Description	Date	File
Records of applications stored in Licensing Software Systems – LalPac and M3	2005 on going	CMS

7 ATTACHMENTS

None.