

Public Document Pack

Blackpool Council

28 October 2016

To: Councillors G Coleman, Cox, Hobson, Humphreys, Hunter, Hutton, Maycock, Mitchell, Owen, Roberts, Ryan, Scott, Singleton and L Taylor

The above members are requested to attend the:

LICENSING COMMITTEE

Tuesday, 8 November 2016 at 6.00 pm
in Committee Room A, Town Hall, Blackpool

A G E N D A

1 DECLARATIONS OF INTEREST

Members are asked to declare any interests in the items under consideration and in doing so state:

- (1) the type of interest concerned; and
- (2) the nature of the interest concerned

If any member requires advice on declarations of interests, they are advised to contact the Head of Democratic Governance in advance of the meeting.

2 MINUTES OF THE LAST MEETING HELD ON 25 MAY 2016 (Pages 1 - 4)

To agree the minutes of the last meeting held on 25 May 2016 as a true and correct record.

3 FREQUENCY OF VEHICLE TESTS (Pages 5 - 10)

To consider proposed amendments to the testing regime, outlined in the Hackney Carriage and Private Hire Licensing Policy, for Hackney Carriage and Private Hire Vehicles.

4 HORSE DRAWN HACKNEY CARRIAGE LICENSING POLICY (Pages 11 - 46)

Following consultation, to consider the proposed Horse Drawn Hackney Carriage Licensing Policy.

5 REVIEW OF SEX ESTABLISHMENT POLICY

(Pages 47 - 76)

Following consultation, to consider the updated Sex Establishment Policy.

6 LICENSING SERVICE UPDATE

(Pages 77 - 80)

To update the Committee on the details of licences applied for, dealt with and appealed in the period 1 January 2016 to 21 October 2016

Venue information:

First floor meeting room (lift available), accessible toilets (ground floor), no-smoking building.

Other information:

For queries regarding this agenda please contact Lennox Beattie, Executive and Regulatory Manager, Tel: 01253 477157, e-mail lennox.beattie@blackpool.gov.uk

Copies of agendas and minutes of Council and committee meetings are available on the Council's website at www.blackpool.gov.uk.

Present:

Councillor Hutton (in the Chair)

Councillors

Cox	Humphreys	Owen	Scott
Elmes	Maycock	Roberts	Singleton
Hobson	Mitchell	Ryan	L Taylor

In Attendance:

Sharon Davies, Head of Licensing Service

Bernadette Jarvis, Senior Democratic Governance Adviser

Mark Marshall, Licensing Health and Safety Enforcement Manager

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 MINUTES OF THE LAST MEETING HELD ON 1 MARCH 2016

Resolved: That the minutes of the last meeting held on 1 March 2016 be approved and signed by the Chairman as a correct record.

3 FORMATION OF A PUBLIC PROTECTION SUB-COMMITTEE

The Committee considered the constitution of a Public Protection Sub-Committee for the forthcoming Municipal Year. Members also considered whether to appoint the Chairman and Vice-Chairman of the Public Protection Sub-Committee at this meeting.

Resolved:

1. To agree to the constitution of a politically balanced Public Protection Sub-Committee with a membership of 7 (5 Labour and 2 Conservative)
2. To note the membership of the Public Protection Sub-Committee as Councillors Hutton, Mitchell, Owen, Singleton, L Taylor, Maycock and Robertson BEM.
3. That the functions assigned to the Public Protection Sub-Committee continue to be those as set out in Part 3 of the Council's Constitution.
4. To agree to appoint the Chairman and Vice-Chairman of the Public Protection Sub-Committee at this meeting.
5. To appoint Councillor Hutton as Chairman of the Public Protection Sub-Committee.
6. To appoint Councillor L Taylor as Vice-Chairman of the Public Protection Sub-Committee.

4 SEX ESTABLISHMENT LICENSING POLICY REVIEW

The Committee considered the draft revised Sex Establishment Policy.

Mrs Davies, Head of Licensing Service, reported that the existing Sex Establishment Policy had been in place since its development in 2011 and as such was due for a review. The draft Policy had been attached to the Agenda for Members' consideration and did not contain any significant changes to the existing Policy.

Mrs Davies confirmed that she had already considered amending the draft Policy to provide further clarity on the information relating to the number of sex establishments permitted in Bloomfield, Claremont and Talbot wards and the rights and grounds for appeal against the refusal to grant or impose conditions on a licence. The Committee endorsed the suggested amendments.

Following concerns raised by a Member of the Committee relating to the draft Policy allowing an exception to the prohibition of physical contact between performers and customers, namely the leading of a customer by the hand, Mr Marshall, Licensing Health and Safety Enforcement Manager, confirmed that it was common practice to allow an element of reasonable interaction between customers and performers and that the aim of the draft Policy was to prevent inappropriate contact. Following a general discussion, Members agreed that no changes should be made to this aspect of the draft Policy prior to consultation, should the Committee be minded to approve a period of consultation on it.

Responding to questions from a Member of the Committee, Mrs Davies confirmed that although the draft Policy sought to limit the number of sex establishments, each application would be considered on its merits.

Resolved: To approve a public consultation on the draft Sex Establishment Policy including the agreed amendments, for a period of six weeks from 31 May 2016.

NOTE: Councillor Singleton entered the meeting part way through the discussion on this item but did not take part in the voting.

5 REVIEW OF STATEMENT OF LICENSING POLICY

Mrs Davies reminded the Committee that at its meeting on 15 September 2015, it had agreed to accept the recommendations from the Night Time Economy Working Group. She reported on the recommendations that would require changes to the Statement of Licensing Policy which included the creation of zones in the town centre with the aim of encouraging different types of applications and a review of the existing Town Centre Saturation Area to ascertain its impact on investment in the area.

A further recommendation asked for the Licensing Committee to endorse an accreditation scheme for licensed premises in Blackpool to reward good operators and encourage improvements in others. Mrs Davies reported on a compliance manual that had been distributed to all Business Improvement District (BID) members.

MINUTES OF LICENSING COMMITTEE MEETING - WEDNESDAY, 25 MAY 2016

Responding to questions from the Committee, Mrs Davies confirmed the intention for the accreditation scheme to be based on star ratings following an inspection of the premises.

Members of the Committee discussed concerns regarding the safeguarding of children in licensed premises. It was noted that protecting children from harm was a Licensing Objective and as such would be considered in the granting, renewal or variation of licensing applications. It was also noted that legislation dictated that Licensing Panels could only consider applications that had received relevant objections based on the Licensing Objectives. Mrs Davies confirmed that all Councillors were notified of all licensing applications with full details provided to Councillors for applications within their ward.

Resolved:

1. To approve the review of the Statement of Licensing Policy and informal consultation with the Responsible Authorities.
2. To endorse the creation of a licensing premises accreditation scheme and request that a copy of the proposed scheme be brought to the next meeting of the Licensing Committee for consideration.

6 LATE NIGHT LEVY

The Committee considered the option of implementing a Late Night Levy for Blackpool.

Mrs Davies, Head of Licensing Service, explained the reasons for the recommendation not to proceed with the implementation of a Late Night Levy at this time which included the current lack of flexibility in how it could be applied and Home Office guidance suggesting that businesses that contributed to the Business Improvement District (BID) should be exempt which would result in a significant reduction in the amount of funding received. She advised the Committee of the possibility of a future amendment to the Late Night Levy to provide the Council with greater discretion on its application.

Mrs Davies circulated additional information that had been received from the Association of Licensing Multiple Retailers supporting the recommendation not to proceed with a Late Night Levy at this time.

The Committee was advised of the estimated revenue that could be realised from the Levy and the impact of any exemptions and reductions on the potential income. The significant up-front costs of implementing the Late Night Levy were also outlined to the Committee.

During an in-depth discussion, Members acknowledged the significant problems that continued to exist within the town centre and expressed concern at the apparent lack of progress in tackling the problems since the Council's decision not to proceed with the implementation of the Early Morning Restriction Order (EMRO).

The Committee agreed that action needed to be taken to address the problems but were mindful of the costs associated with implementing the Late Night Levy. The Committee noted the review currently being undertaken by Government which could result in

MINUTES OF LICENSING COMMITTEE MEETING - WEDNESDAY, 25 MAY 2016

changes to the Levy with greater discretion being given to Councils and whilst it agreed that a Late Night Levy was not a suitable option for Blackpool at this time it requested the opportunity to review the situation in six months time, taking into account any amendments to the legislation.

Resolved: That a Late Night Levy was not a suitable option for Blackpool at this time and to request that a report to review the situation be brought back to Committee in six months time.

Chairman

(The meeting ended 6.53 pm)

Any queries regarding these minutes, please contact:
Bernadette Jarvis, Senior Democratic Services Adviser
Tel: 01253 477157
E-mail: Bernadette.jarvis@blackpool.gov.uk

Report to:	Licensing Committee
Relevant Officer:	Sharon Davies, Head of Licensing Service
Date of Meeting	8 November 2016

FREQUENCY OF VEHICLE TESTS

1.0 Purpose of the report:

- 1.1 To consider proposed amendments to the testing regime, outlined in the Hackney Carriage and Private Hire Licensing Policy, for Hackney Carriage and Private Hire Vehicles.

2.0 Recommendation(s):

- 2.1 To recommend the Executive to amend the Hackney Carriage and Private Hire Licensing Policy so that new vehicles are to be tested once in their first year.

3.0 Reasons for recommendation(s):

- 3.1 Following implementation of the new testing regime this potential amendment to the policy has been identified and is supported by the view of the Council's mechanics

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

Not to agree the proposed amendment to the testing regime for Hackney Carriage and Private Hire Vehicles.

4.0 Council Priority:

- 4.1 The relevant Council Priority is: "The economy – maximising growth and opportunity across Blackpool"

5.0 Background Information

- 5.1 The Licensing Committee approved the Hackney Carriage and Private Hire Licensing Policy at its meeting on 1 March 2016. The policy was then confirmed by the Executive at its meeting on 7 March 2016 (decision EX19/2016 refers). This policy changed the frequency of testing for vehicles as detailed below:

Previous regime

1-5 years old	1 inspection per year
5-10 years old	2 inspections per year
Over 10 year old	3 inspections per year

New regime

Up to 14 years	2 tests per year*
Over 14 years	3 tests per year

* The Public Protection Sub-Committee retained the right to order a vehicle to be tested three times a year.

- 5.2 Since the implementation of these changes representations were received from an Private Hire Vehicle Operator questioning the need for newer vehicles to be tested so frequently especially in the case of electric vehicles where in their opinion there was relatively little for a mechanic to check.
- 5.3 The Council's mechanics at Layton Depot were consulted about this request and responded with their view that vehicles under one year old only need to be inspected once in the first year, however from then on they should be tested twice a year as a matter of good practice this is because some vehicles are doing in excess of 30,000 miles a year and this impacts on the mechanics of the vehicle as well as the interior and exterior cosmetic appearance. The mechanics did not agree with the assertion that there was very little to check on an electric vehicle.
- 5.4 Members are asked to amend the testing regime and require vehicles less than one year of age to be tested just once in the first twelve months to reflect the expert advice being given to them by the mechanics.
- 5.5 Attached at Appendix 3a for information is a summary of the vehicle inspections that were carried out in August and September 2016.
- 5.6 Does the information submitted include any exempt information? No

5.7 List of Appendices:

Appendix 3a – Summary of vehicle inspections August/September 2016

6.0 Legal considerations:

6.1 None.

7.0 Human Resources considerations:

7.1 None.

8.0 Equalities considerations:

8.1 There are no equalities considerations arising from this proposal.

9.0 Financial considerations:

9.1 None.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 Consultation has taken place with the mechanics at Layton Depot who undertake the inspections.

13.0 Background papers:

13.1 None.

This page is intentionally left blank

Appendix 3a Pit Test results

September 2016

	Number of vehicles	%
Total tests	110	
Pass	58	51.78
Fail – retest same day	14	12.5
Fail – retest different day	38	33.93

	Pass	Fail – retest same day	Fail – retest different day
Hackney Carriage	25	11	26
Private Hire	33	3	12

Hackney Carriages

Total Tested 62

% first time passes 40%

Private Hire Vehicles

Total Tested 48

% first time passes 69%

Age of vehicles

Age of vehicles tested

Hackney Carriages

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Tested	3	0	0	0	5	4	4	7	6	2	0	0	0	0	2	10	9	10
Passed	3	0	0	0	2	2	0	3	3	0	0	0	0	0	0	5	5	2
Failed	0	0	0	0	3	2	4	4	3	2	0	0	0	0	2	5	4	8

Private Hire

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Tested	6	6	0	0	5	7	4	8	5	2	3	2	0	0	0	0	0	0
Passed	5	5	0	0	5	5	3	4	2	2	0	2	0	0	0	0	0	0
Failed	1	1	0	0	0	2	1	4	3	0	3	0	0	0	0	0	0	0

August 2016

	Number of vehicles	%
Total tests	101	
Pass	64	63
Fail – retest same day	7	7
Fail – retest different day	30	30

	Pass	Fail – retest same day	Fail – retest different day
Hackney Carriage	30	3	15
Private Hire	34	4	15

Hackney Carriages

Total Tested 48

% first time passes 62.5%

Private Hire Vehicles

Total Tested 53

% first time passes 64%

Age of vehicles

Age of vehicles tested

Hackney Carriages

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Tested	0	0	0	0	1	4	5	5	4	2	0	0	0	1	0	9	5	12
Passed	0	0	0	0	1	3	3	5	1	2	0	0	0	0	0	4	2	9
Failed	0	0	0	0	0	1	2	0	3	0	0	0	0	1	0	5	3	3

Private Hire

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Tested	13	4	2	5	3	2	3	7	7	6	1	0	0	0	0	0	0	0
Passed	13	4	1	4	1	0	1	4	3	4	0	0	0	0	0	0	0	0
Failed	0	0	1	1	2	2	2	3	4	2	1	0	0	0	0	0	0	0

Report to:	Licensing Committee
Relevant Officer:	Sharon Davies, Head of Licensing Service
Date of Meeting	8 November 2016

HORSE DRAWN HACKNEY CARRIAGE LICENSING POLICY

1.0 Purpose of the report:

1.1 Following consultation, to consider the proposed Horse Drawn Hackney Carriage Licensing Policy.

2.0 Recommendation(s):

2.1 The Committee is requested to agree the content of the proposed policy and recommend its adoption to the Executive.

3.0 Reasons for recommendation(s):

3.1 The current horse drawn hackney carriage licensing policy was approved in 2011 and requires updating.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

The Licensing Committee could decide not to approve the policy which could mean that the Council would be reaching decisions using an outdated document.

The Licensing Committee could amend the policy before recommendation to the Executive.

4.0 Council Priority:

4.1 The relevant Council Priority is: "The economy – maximising growth and opportunity across Blackpool"

5.0 Background Information

- 5.1 The Horse Drawn Hackney Carriage Licensing Policy is not a statutory policy. This means that there is no requirement for the Council to adopt one, although it is good practice to do so as it sets out the Council's approach to issuing licences and enforcement. Decisions made in accordance with the policy are more likely to be upheld in the event of an appeal.
- 5.2 The current policy has been in existence since 2011 and the 2015 Scrutiny Report on Licensed Horse Drawn Hackney Carriages recommended that officers undertake a full review of the policy.
- 5.3 In February 2015, the Casey Report into Child Sexual Exploitation (CSE) was published. That report devoted two chapters to taxi licensing and the involvement of taxis in Child Sexual Exploitation. A subsequent Serious Case Review from Oxford also highlighted the involvement of taxi drivers in Child Sexual Exploitation – on this occasion they were not the perpetrators, however they were used to take young people to places where they were then abused. The reports highlighted the importance of ensuring that only suitable people are licensed as drivers and that those who are licensed receive appropriate training on safeguarding issues. Whilst the reports outlined above related to the drivers of motorised vehicles, the same principles also apply to Horse Drawn Hackney Carriage Drivers.
- 5.4 The Licensing Committee approved a draft policy for consultation at its meeting in March 2016. Consultation with the trade took place until June 2016. There were no formal written responses to the consultation however the draft policy was discussed in detail at the Landau Liaison meeting held on 12 May 2016 and amendments to paragraph 5.5 of the draft policy have been made to take into account the comments made at the meeting.
- 5.5 The proposed policy is attached at Appendix 4a. To take effect the policy must receive approval from the Executive so if the Licensing Committee supports the proposed policy, it will be asked to recommend the Executive to approve the policy.

5.6 Does the information submitted include any exempt information? No

5.7 List of Appendices:

Appendix 4a – Proposed policy

6.0 Legal considerations:

6.1 None.

7.0 Human Resources considerations:

7.1 None.

8.0 Equalities considerations:

8.1 There will be a possible impact from requiring applicants to demonstrate a basic level of English language. This can however be mitigated by the intention to signpost applicants who cannot meet the required standards to relevant training.

9.0 Financial considerations:

9.1 None.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 Consultation took place with the trade and interested stakeholders until 10 June 2016. The consultation with the trade included the Landau Liaison meeting outlined in paragraph 5.5 of the report on the 10 May 2016.

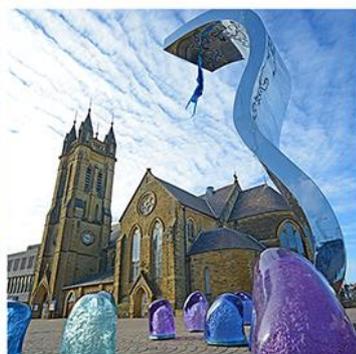
13.0 Background papers:

13.1 None.

This page is intentionally left blank

Appendix 4a: Draft Horse Drawn Hackney Carriage Licensing Policy

Blackpool Council



Draft Horse Drawn Hackney Carriage Licensing Policy

Contents

1. Introduction	3
2. Aims and Objectives	3
3. Delegations	4
4. Horse Drawn Hackney Carriage Drivers	4
5. Horse Drawn Hackney Carriage Vehicles	11
6. Compliance and Enforcement	15
Appendix A - Criminal Convictions Policy	17
Appendix B – Code of Conduct for Licence Holders	29
Appendix C – Driver’s Dress Code	30
Appendix D – Code of Conduct when working with vulnerable passengers	31

Draft Horse Drawn Hackney Carriage Licensing Policy

1. Introduction

Blackpool Council is responsible for the regulation of horse drawn hackney carriages within the Borough of Blackpool.

When developing this policy the following have been taken into consideration:

- The aims and objectives of this policy (see below)
- Current legislation
- Regulators Code 2014
- Local Government Association template Criminal Convictions Policy 2015

This policy sets out the application requirement and standards that must be met by the horse drawn hackney carriage trade licensed by Blackpool Council. When carrying out its regulatory functions, the Council will have regard to this policy. Each application or enforcement measure will be considered on its own merits however where it is necessary to depart substantially from the policy, clear and compelling reasons will be given.

2. Aims and objectives of the licensing policy

The principal purpose of horse drawn hackney carriage licensing is to protect the public and promote public safety. The Council's aim is to facilitate well run and responsible businesses which display sensitivity to the wishes and needs of the general public

Blackpool Council will carry out this licensing function with a view to promoting the following:

- The protection of the public, safeguarding children and the vulnerable and the prevention of crime and disorder,
- The safety and health of the public and drivers
- Carriage safety, comfort and access
- The welfare of the horses used in connection with the carriages.

The Council aims to ensure that the horse drawn hackney carriage services offered within the Borough are of a good standard. The application and compliance procedures are designed to ensure these standards are maintained, monitored for compliance and appropriately enforced.

Draft Horse Drawn Hackney Carriage Licensing Policy

3. Delegations

Under the Council's Constitution, the Public Protection Sub-Committee has the authority to discharge non-executive regulatory functions with respect to horse drawn hackney carriage licensing. The Sub-Committee will determine applications, contraventions, suspensions and revocations.

The Head of Licensing Services has delegated powers to grant licences where there are no criminal or other concerns that give rise to doubts over the suitability of the applicant to hold a licence.

The Head of Licensing Services or in their absence the Licensing Enforcement and Health and Safety Manager, after consultation with the Chair or in their absence Vice-Chairman of the Public Protection Sub-Committee may:

- Issue warning letters on behalf of the Sub-Committee
- Suspend horse drawn hackney carriage drivers with immediate effect

Horse drawn hackney carriages may be suspended by the Head of Licensing Services or in their absence the Licensing Enforcement and Health and Safety Manager, if it cannot be established that the carriage is suitably insured.

4. Horse Drawn Hackney Carriage Drivers

An applicant must satisfy the Council that they are a fit and proper person to become licensed. Once licensed the driver must remain a fit and proper person throughout the duration of the licence.

4.1 Fit and Proper Person Test

Licensed drivers are in a position of trust. The legislation requires that licences can only be granted if the Council is satisfied that the applicant is a fit and proper person.

Whilst there is no definition of a fit and proper person, decisions from Courts over the years have come to the conclusion that the Council is effectively asking the following question

Draft Horse Drawn Hackney Carriage Licensing Policy

“Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?”

During the application process the Council will undertake a number of checks to gather the information necessary to assess the suitability of the applicant.

Factors that will be taken into account when reaching a decision include:

- Age – a licence will not be granted to a person under the age of 18
- Criminality (whether the applicant has any criminal convictions or cautions)
- Driving licence – length held and penalty points endorsed
- Right to work in the UK
- Medical Fitness
- General conduct/standards of behaviour
- Conduct of the applicant during the application process
- Previous licensing history
- Ability to communicate and understand English

This is not an exhaustive list of matters that will be considered and further information will be sought from other agencies such as Lancashire Constabulary, Safeguarding Boards and other licensing authorities as appropriate.

4.2 Making an application

It is the policy of the licensing authority that every application for a licence to drive a Horse Drawn Hackney Carriage must be accompanied by satisfactory evidence of the following matters (and that applications that are incomplete will not be deemed to have been made until such time as they are completed) -

- That the applicant has the right to live and work in the country
- An enhanced criminal record check and evidence that they are not on a child and/or vulnerable adult barring list
- A certificate of their current medical fitness to Group 2 standard

Applications will not be considered until the following has been established:

- That the applicant has adequate literacy and numeracy skills to provide the service that they wish to be licensed for

Draft Horse Drawn Hackney Carriage Licensing Policy

- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for
- That the applicant has completed training specific to the service that they wish to be licensed to provide (including in respect of safeguarding, sexual exploitation, disability and dementia awareness and equality and diversity)

4.2.1 Application form

Applicants are expected to act with honesty and integrity throughout the application process. There is an expectation that information requested, for example previous convictions and cautions, will be fully and accurately disclosed. Applicants are required to disclose all convictions and cautions including those that would normally be considered spent as horse drawn hackney carriage drivers are included as exceptions within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975.

Care should be taken when completing the form as failure to make full and accurate disclosure can in itself result in refusal of the application.

Renewal applications where a DBS is required must be submitted at least **six weeks** prior to the expiry of the previous licence to ensure that the DBS certificate is received and the new licence and badge can be issued before the expiry of the current licence.

Once the licence has expired renewal applications cannot be accepted and all applications will be treated as “new”. Applications submitted less than one calendar month before expiry will be able to rely on existing medical and DBS clearance (if in date) however applicants will be unable to drive until their new badge has been issued to them – this may take a few days.

4.2.2 Disclosure and Barring Service Check

A criminal record check of a driver is seen as an important safety measure. An enhanced disclosure through the Disclosure and Barring Service (DBS) is required as these disclosures include details of live and spent convictions, police cautions and other relevant information from the Police.

Before an application will be considered, the applicant must provide a current enhanced disclosure certificate. In this context “current” means less than three months old. DBS certificates are ordinarily applied for through the Council’s Licensing Service however a certificate obtained elsewhere will be acceptable if it is less than three months old and has been processed in relation to both the child and adult workforce employment position (this is specified on the certificate).

Draft Horse Drawn Hackney Carriage Licensing Policy

It should be noted that the DBS send the certificate to the applicant direct. The original certificate must be produced to the Licensing Service to progress the application.

A licence will not be granted or renewed in the absence of a current enhanced DBS certificate.

So that the licensing authority receives relevant information as quickly as possible in order to take appropriate and proportionate action to protect public safety, it is the licensing authority's policy to require applicants to register for the DBS's update service and to nominate the licensing authority to receive updates. Registration lasts for 1 year and costs £13 per year. Licensees are expected to maintain this registration and nomination throughout the duration of their licence.

More information about the DBS can be found on their website at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>.

Applicants with periods of residency outside the UK

If a new applicant has spent six continuous months or more overseas the Council will need to see evidence of a criminal record check from the country/countries visited covering the period before an application can be made.

4.2.3 Relevance of Convictions and Cautions.

In assessing whether the applicant is a fit and proper person to hold or retain a licence, the Council will consider each case on its merits having regard to its policy on convictions and cautions which can be found at Appendix A.

4.2.4 Medical Assessment

Previously only horse drawn hackney carriage drivers over the age of 65 have been required to submit evidence of their medical fitness before being licensed. It is now proposed to bring medicals for horse drawn hackney carriage drivers into line with those already in existence for motorised hackney carriage drivers

The DVLA recommend that hackney carriage and private hire drivers should be subject to the Group 2 medical standards applicable to applicants for licences to drive buses and lorries, therefore with effect from 1st September 2016 the authority proposes to introduce this medical standard for both new applicants and existing horse drawn hackney carriage drivers applying for renewal.

Applicants are required to undergo a medical assessment on first application, on reaching the age of 45 years then every 5 years thereafter until the age of 65 when annual examinations will

Draft Horse Drawn Hackney Carriage Licensing Policy

be required. Holders of current PSV and/or HGV licences where the holder is able to produce proof of a current medical examination will not be required to undergo further assessment.

Where there is any doubt as to the medical fitness of the applicant, the Council may require the applicant to undergo and pay for a further medical examination by a doctor appointed by the Council.

Licence holders must advise the licensing service of any deterioration or other change in their health that may affect their driving capabilities – this includes, but is not restricted to the list of conditions which must be notified to the DVLA. Where there remains any doubt about the fitness of the applicant, the Public Protection Sub-Committee will review the medical evidence and make a final decision.

No licence shall be issued until medical clearance (if required) has been established.

Exemption Certificates

Licensed drivers are under a legal duty to carry guide, hearing and other prescribed assistance dogs in their vehicles without additional charge. Drivers who have a medical condition which is aggravated by exposure to dogs may apply to the Council for exemption from the duty on medical grounds. If an application is successful they will be issued with an exemption certificate and a notice of exemption. The notice of exemption must be displayed in a prominent position in the carriage.

4.2.5 Driving Test

The licensing authority needs to be satisfied that the applicant for a new horse drawn hackney carriage driver's licence is an experienced carriage driver capable of working safely in an area with a large volume of pedestrian and vehicular traffic. A more stringent and rigorous driving test for prospective horse drawn hackney carriage drivers has been developed to include both a theory and an extended practical test.

With effect from the date of implementation new applicants for horse drawn hackney carriage drivers will be tested as follows:

- a) Theory test - this test can be either written or oral;
- b) Off-road test – to examine a driver's control of the carriage, ability to perform manoeuvres, knowledge of animal husbandry and ability to attach the dung catching device; and
- c) Promenade test – extended test on the Promenade testing ability to
 - manoeuvre in traffic, and
 - parking on ranks

Draft Horse Drawn Hackney Carriage Licensing Policy

Once a new applicant has passed all three elements of the test and received both medical and DBS clearance they will be issued with a provisional licence which would allow the driver to operate under the supervision of an experienced horse drawn hackney carriage driver approved by the Council for this purpose. Once the provisional driver has satisfactorily completed 100 hours driving experience they may be issued with a full horse drawn hackney carriage driver's licence.

Applicants who have been licensed previously by Blackpool Council will not be required to pass a knowledge test if their last licence expired less than three years prior to the date of the new application.

4.2.6 Safeguarding Training

One of the aims of this policy is to protect the public and safeguard children and the vulnerable. For this reason the Council believes that it is appropriate for licensed drivers to undertake basic safeguarding training.

To ensure a consistent approach to this training across Lancashire a training package has been prepared. The intention is that this will be delivered to new applicants as part of the knowledge test.

It is important that all licensed drivers receive the same level of training therefore all existing drivers will be required to undertake the training which will consist of a power point presentation and a short test. The intention is to work with the licensed trade to agree appropriate timescales. Comments are invited on how the training should be delivered to existing drivers.

4.2.7 Right of driver to work in the UK

The Council will require all applicants for new licences to provide documentary evidence to confirm that they may legally work in the UK. Examples of documents that may be provided include (but are not limited to):

- A UK passport confirming that the holder is a British Citizen (or citizen of another EEA country including Switzerland)
- Passport or other travel document endorsed to show that the holder is allowed to stay in the UK and undertake paid employment
- Full UK birth/adoption certificate
- An immigration document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and undertake paid employment

Draft Horse Drawn Hackney Carriage Licensing Policy

- A work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to undertake paid employment.

When an applicant is subject to immigration controls, a licence will not be issued for longer than the period that the applicant has permission to undertake paid employment in the United Kingdom.

4.3 Standards expected of a licensed driver

4.3.1 General Conduct

The standards expected of licensed drivers are set out in the Code of Good Conduct. This code, set out at Appendix B should be read in conjunction with the other statutory and policy requirements set out in this document.

4.3.2 Dress Code

It is recognised that the horse drawn hackney carriage trade plays an important part in portraying a positive image of Blackpool.

Anything that serves to enhance the professional image of the trade and promotes the concept that the drivers of licensed vehicles are professional vocational drivers is to be welcomed.

To ensure that the objectives above are met a dress code for licensed drivers has been set see Appendix C.

4.3.3 Code of Conduct when working with vulnerable passengers

It is essential that young, elderly and other vulnerable people are safeguarded and protected whilst being transported in a licensed carriage. Accordingly a specific Code of Conduct must be complied with when working with vulnerable passengers. This Code can be found at Appendix D.

Draft Horse Drawn Hackney Carriage Licensing Policy

5 Horse Drawn Hackney Carriages

5.1 Limitation of numbers

The grant of a hackney carriage licence may be refused for the purpose of limiting the number of licensed taxis, if the local authority is satisfied that there is no significant demand for the services of hackney carriages in the area which is unmet.

Blackpool Council does limit the number of hackney carriages to 256 motorised and 44 horse-drawn. The need for this limit is reviewed periodically (approximately every three years) by a competent company appointed to conduct the review on behalf of the Council, the findings of which are available on request.

5.2 Carriage Specification

The Council is permitted a wide discretion in deciding what it will and will not licence by Section 47(2) of the 1976 Act:

(1) A district council* may attach to the grant of a licence of a hackney carriage under the Act of 1847 such conditions as the district council may consider reasonably necessary

(2) Without prejudice to the generality of the forgoing subsection, a district council may require any hackney carriage licensed by them under the Act of 1847 to be of such design or appearance or bear any such distinguishing marks as shall clearly identify it as a hackney carriage.

(*A District Council is deemed by the Act to include Unitary Authorities)

The basic requirements for a carriage are:

- Must be driven by only one horse;
- Four wheels;
- A compartment for passengers to be carried in;
- Capable of carrying a minimum of four and up to six passengers (dependent upon construction)
- Be constructed to a suitable standard and quality to be a licensed carriage
- In the opinion of the Council appointed inspector safe for use as a hackney carriage vehicle on a road.

There is no prescribed style of carriage. Whilst it is open to operators to source new styles of carriage, the ultimate decision on licensing rests with members of the Public Protection Sub-

Draft Horse Drawn Hackney Carriage Licensing Policy

Committee. Applicants proposing to licence a carriage other than a traditional style landau will be required to produce the carriage to the Sub-Committee for inspection and approval.

5.3 Carriage Testing

All carriages to be licensed for the forthcoming year must be presented for inspection and testing on the date appointed by the licensing authority. All licence holders will be given advance notice of the dates and location of the annual test.

All carriages must be produced with a full set of tack, although in the case of multiple licence holders, each carriage need not be produced with its own horse.

From time to time it will be necessary to have a carriage inspected either after accident damage or where there is to be a change of carriage part way through the season. Private arrangements must not be made with the Council appointed inspector, instead, all inspections must be arranged through the licensing service and a licensing/enforcement officer must be present when the inspection takes place.

5.4 Signage

Every licensed carriage must display a plate to the rear which indicates the licence number and licence expiry date together with any additional information that the Authority may from time to time prescribe.

5.5 Horses

Horses must be suitable and at least 4 6 years old to be used in connection with any horse drawn hackney carriage.

~~The Council will issue any new horses with a 'trial certificate' which allows the horse to be used in connection with a horse drawn hackney carriage for 1 month to allow assess the horse to be assessed for its suitability to be used as a working horse.~~

All horses used in connection with a horse drawn hackney carriage (including those on trial) must be inspected by a qualified equine veterinary surgeon. A veterinary certificate for the horse must be produced to the Council every 12 months.

Draft Horse Drawn Hackney Carriage Licensing Policy

5.6 Application Process

The Council will consider all applications for horse drawn vehicle licences on their own merits.

A valid application will consist of:

- Vehicle application form
- Public liability insurance
- Vets certificate and horse passports for the horses to be used.
- Fee

An application will not be considered until all of the required documents have been produced.

Applications for carriages that are in the opinion of the licensing service of traditional landau design or have previously received approval from the Sub-Committee may be granted under delegated powers. All other carriages must be approved by the Sub-Committee before they can be licensed.

Successful applicants will be issued with a horse drawn hackney carriage licence together with the licence plate which must at all times be displayed at the rear of the vehicle.

Unsuccessful applicants will be informed of their right to appeal against the decision to the Magistrates' Court within 21 days of receipt of the formal notice of refusal.

5.7 Grant and renewal of licences

Vehicle licences will be issued for a period of 12 months. Each carriage will be issued with a plate to be affixed to the rear stating amongst other things the number of passengers that may be carried, usually six. For the avoidance of doubt the Council considers that the maximum number of people that may be in/on a carriage at any time in addition to the number of passengers stated on the licence is the driver plus a trainee driver/groomsman (if necessary). The only people permitted to sit next to the driver are a groomsman/trainee driver.

5.8 Change of Vehicle

Historically, the licensing service have permitted vehicle licence holders who wish or need to change their vehicle to do a vehicle change to enjoy the benefit of the unexpired portion of the licence. The only charge for this was for the vehicle plates/disc.

The proposal is that this practice will cease and from the date this policy comes into force licence holders wishing to change vehicles must apply for a new vehicle licence. This decision has been

Draft Horse Drawn Hackney Carriage Licensing Policy

taken due to the number of these applications now being received and the fact that it is the correct approach lawfully. Refunds for complete months outstanding on the existing licence will be given.

5.9 Conditions

The Council may attach such conditions as it considers reasonably necessary to the grant of a vehicle licence.

The following conditions are attached to all horse drawn hackney carriage licences:

1. No horse shall be harnessed to, or used in connection with the licensed vehicle unless within the preceding twelve months, a veterinary surgeon has examined the horse and issued in respect of it a certificate of fitness in a form approved by the Council. This certificate shall be returned to the Licensing Service forthwith
2. Vets papers relating to the horse in harness should be available for inspection on request by an authorised officer
3. A horse which is harnessed to or used in connection with a licensed hackney carriage shall not be used for more than seven hours of work in any one day.
4. If in harness for seven consecutive hours the horse shall during that period have a break of not less than one hour and shall be fed and watered,
5. No horse shall be harnessed to or used in connection with the licensed vehicle unless it is fitted with an identifying microchip, the number of which has been notified to the Licensing Service
6. All carriages must be fitted with a dung catching device while the carriage is in use on any public highway. If requested to do so by a licensing enforcement officer, a tight leather strap must be placed between the bungee and the lock to prevent the bungee from sliding back.
7. Lights and signals (where so directed) should be fitted to the carriage at all times and should be capable of being lit by the driver. Between dusk and dawn lighting on a carriage is restricted to two standard rear position lamps and two standard front position lamps only
8. The table of fares as prescribed by Blackpool Council shall be displayed in the carriage in such a manner that it is capable of being easily viewed by the passengers being conveyed in the carriage.
9. When carrying members of the public, only persons registered with/licensed by Blackpool Council in respect of horse drawn hackney carriages and the fare paying passengers may be carried on the vehicle. Members of the public must be seated within the carriage and must not sit next to the driver.

Draft Horse Drawn Hackney Carriage Licensing Policy

5.10 Accidents

If at any time a licensed vehicle is involved in an accident, however minor, the driver must inform the licensing service as soon as possible and in any event within one working day. An accident report form must then be completed and submitted to the licensing service within 72 hours of the accident occurring (except in exceptional circumstances when the licensing service may agree to the report being filed outside of that time limit).

The vehicle must be presented for inspection at the Council appointed carriage inspector as soon as possible after the accident has taken place at the licence holder's expense. The inspection should be booked via the licensing service. Failure to present the vehicle for inspection may result in the vehicle licence being suspended until such time as the vehicle is produced for examination.

5.11 Fares

The Council sets the maximum rates that may be charged by horse drawn hackney carriage vehicles.

6 Compliance and Enforcement

6.1 Enforcement

The principal purpose of hackney carriage licensing is to protect the public and promote public safety. To this end the Council aims to provide an efficient, targeted and proportionate regulatory service to those it regulates.

The Regulator's Code was brought into force in 2014 which states that the Council should:

- Carry out their activities in a way that supports those they regulate to comply and grow,
- Provide simple and straightforward ways to engage with those they regulate and hear their views,
- Base their regulatory activities on risk,
- Share information about compliance and risk,
- Ensure clear information guidance and advice is available to help those they regulate meet their responsibilities to comply,

Draft Horse Drawn Hackney Carriage Licensing Policy

- Ensure that their approach to their regulatory activities is transparent.

Where appropriate, referrals will be made to other agencies. This will include but is not limited to the Police, HM Customs and Excise, DVLA and the Children's and Adult Safeguarding teams.

The Council will respond to complaints made by the public and referrals from other agencies and bodies. In addition officers will undertake proactive inspections and testing as either day to day activity or as a part of programmed operations.

6.1.1 Disciplinary Hearings

Licence holders may be referred to the Public Protection Sub-Committee for committing offences, failure to comply with any part of this policy, or for other any other conduct which impacts on their fitness to be a licence holder. The Sub-Committee will consider the impact of the offending/conduct on the individual's fitness to hold a licence and take such action as is appropriate in the circumstances.

Warnings

These may be issued for minor infringements. A warning letter will remain on file for a period of three years and will be referred to in the event that the licence holder is taken before the Sub-Committee for any other reason.

Suspensions

Carriages can be suspended in accordance with section 68 Local Government (Miscellaneous Provisions) Act 1976 if an officer is not satisfied as to the fitness of a vehicle.

Drivers can be suspended under section Local Government (Miscellaneous Provisions) Act 1976. This suspension can be ordered to take immediate effect.

Revocations

Both vehicle and drivers licences may be revoked by the Sub-Committee.

If the seriousness of the case merits revocation, this course of action will be available to the Sub-Committee even if it is the first enforcement action taken against the driver/vehicle.

Draft Horse Drawn Hackney Carriage Licensing Policy

Appendix A - Taxi and PHV Licensing Criminal Convictions' Policy

1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a horse drawn hackney carriage driver's licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person.
 - That the person does not pose a threat to the public.
 - That the public are safeguarded from dishonest person.
 - The safeguarding of children, young persons and vulnerable adults.
- 1.3 The term "fit and proper person" for the purposes of licensing is not legally defined and in assessing whether someone is "fit and proper" the Council will consider the following together with any other relevant information:
- Criminality
 - Human rights
 - Period of holding a driver's licence
 - Number of penalty points endorsed on driving licence
 - Right to work
 - Medical fitness
 - Conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
 - Previous licensing history of existing and former licence holders.

In addition the Council will also consider further information provided by sources such as Lancashire Constabulary (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

- 1.4 This policy provides guidance to any person with an interest in horse drawn hackney carriage licensing. In particular, but not exclusively:
- Applicants for drivers' licenses
 - Existing licensed drivers whose licences are being reviewed

Draft Horse Drawn Hackney Carriage Licensing Policy

- Licensing officers
- Members of the Licensing Committee and Public Protection Sub-Committee
- Magistrates hearing appeals against local authority decisions

1.5 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Public Protection Sub-Committee. Whilst officers and the Sub-Committee will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

2. General policy

2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.

2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a. Remain free of conviction for an appropriate period; and
- b. Show adequate evidence that her or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence).

(Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence).

2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

3 Appeals

3.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

Draft Horse Drawn Hackney Carriage Licensing Policy

- 3.2 Any licensed driver whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a horse drawn hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

- 5.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a horse drawn hackney carriage drivers' licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for,
 - How serious the offence(s) were,
 - When the offence(s) were committed,
 - The date of conviction,
 - Circumstances of the individual concerned,
 - Sentence imposed by the court,

Draft Horse Drawn Hackney Carriage Licensing Policy

- The applicant's age at the time of conviction,
 - Whether they form part of a pattern of offending,
 - Any other character check considered reasonable (e.g. personal references),
 - Any other factors that might be relevant.
- 5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within seven days of being arrested, receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).
- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing office on 01253 478343 in confidence for advice.
- 5.4 The licensing authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information. A copy is available on request.
- 5.5 Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 5.7 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 5.8 For renewal applications and current licence holders the policy will not be applied retrospectively where there are no new concerns or convictions. The policy will be applied to existing licence holders if any additional convictions are incurred or they are otherwise brought to the attention of the Council for conduct that would call into question a person's suitability to hold a licence.
- 5.9 Offences not covered by this Policy will be considered by the Council when determining whether the applicant/licensed driver is a fit and proper person.

Draft Horse Drawn Hackney Carriage Licensing Policy

6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence to those below and the conviction is less than 10 years prior to the date of application:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm which is racially aggravated
 - Grievous bodily harm with intent
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Common assault with racially aggravated
 - Violent disorder
 - Resisting arrest
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Draft Horse Drawn Hackney Carriage Licensing Policy

- 6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence to those below and the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage
 - Racially-aggravated offence
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:
- Common assault
 - Assault occasioning actual bodily harm
 - Affray
 - S5 Public Order Act 1986 offence (harassment, alarm or distress)
 - S.4 Public Order Act 1986 offence (fear of provocation of violence)
 - S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - Obstruction
 - Criminal damage
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.
- 6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

7. Possession of a weapon

- 7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.
- 7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

Draft Horse Drawn Hackney Carriage Licensing Policy

8. Sex and indecency offences

- 8.1 As licensed drivers can carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinized. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period free of conviction for such offences before a licence will be granted.
- 8.2 Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:
- Rape
 - Assault by penetration
 - Offences involving children or vulnerable adults
 - Sexual assault
 - Indecent assault
 - Exploitation of prostitution
 - Grooming, trafficking for sexual exploitation or other sexual exploitation related offences
 - Possession of indecent photographs, child pornography etc.
 - Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- 8.3 Before an application will be considered, an applicant should be free of conviction for at least 10 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Indecent exposure
 - Soliciting (kerb crawling)
 - Or any similar offences (including attempted or conspiracy to commit).
- 8.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.
- 8.5 A licence will not normally be granted if an applicant has more than one conviction for a sexual/indecency offence.

Draft Horse Drawn Hackney Carriage Licensing Policy

9. Dishonesty

- 9.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For all these reasons, a serious view is taken of any conviction involving dishonesty.
- 9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:
- theft
 - burglary
 - fraud
 - benefit fraud
 - handling or receiving stolen goods
 - forgery
 - conspiracy to defraud
 - obtaining money or property by deception
 - other deception
 - taking a vehicle without consent
 - and any similar offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.
- 9.4 Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not normally be issued with a licence.

10. Drugs

- 10.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.
- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.

Draft Horse Drawn Hackney Carriage Licensing Policy

- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.
- 10.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

11 Driving offences involving the loss of life

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- or any similar offences

12 Drink driving/driving under the influence of drugs/using a mobile phone whilst driving

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least three years, after the restoration of the driving licence following a

Draft Horse Drawn Hackney Carriage Licensing Policy

drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

- 12.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research for example which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:
- are much less aware of what's happening on the road around them
 - fail to see road signs
 - fail to maintain proper lane position and steady speed
 - are more likely to 'tailgate' the vehicle in front
 - react more slowly, take longer to brake and longer to stop
 - are more likely to enter unsafe gaps in traffic
 - feel more stressed and frustrated.

<http://www.rosipa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>

- 12.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.
- 12.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

13 Licensing offences

- 13.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since .
- 13.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

Draft Horse Drawn Hackney Carriage Licensing Policy

14 Insurance offences

- 14.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.
- 14.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.
- 14.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

15 Outstanding charges or summonses

- 15.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 15.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

16 Non-conviction information

- 16.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.
- 16.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

Draft Horse Drawn Hackney Carriage Licensing Policy

17 Cautions

- 17.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

18 Licences issued by other licensing authorities

- 18.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.
- 18.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

19 Summary

- 19.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 19.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 19.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Draft Horse Drawn Hackney Carriage Licensing Policy

Appendix B - Code of Conduct for Licence Holders

This code of conduct should be read in conjunction with the other statutory and policy requirements set out in this document.

Licence holders shall endeavour to promote the image of the horse drawn hackney carriage trade by:

- Complying with the Code of Conduct;
- Complying with all the conditions of their licence, the Horse Drawn Hackney Carriage Licensing Policy and where applicable the hackney carriage byelaws
- Behaving in a civil, orderly and responsible manner at all times

Licence holders shall:

- Maintain their carriage in a safe and satisfactory condition at all times;
- Keep their carriage clean and suitable for hire to the public at all times;
- Attend punctually when undertaking a pre-booked hiring;
- Assist, where necessary, passengers into and out of the carriage

At taxi ranks and other places where hackney carriages ply for hire by forming queues, drivers shall in addition to the above:

- Rank in an orderly manner and proceed along the rank in order, moving along promptly
- Remain in or near to the carriage

Licensed drivers shall

- Pay attention to personal hygiene and dress so as to present a professional image to the public;
- Be polite and helpful to passengers
- Treat all customers with dignity and respect regardless of their sex, race, disability, sexual orientation, trans gender, religion or belief
- Drive with care and due consideration for other road users and pedestrians
- Obey all traffic order and directions at all times
- Not consume alcohol
- Not use a hand held mobile phone whilst the carriage is in motion
- Not smoke whilst on the vehicle

Draft Horse Drawn Hackney Carriage Licensing Policy

Appendix C - Driver Dress Code

The purpose of a driver's dress code is to seek a standard of dress that provides a positive image of the horse drawn hackney carriage trade in Blackpool to enhance a professional image of licensed drivers and ensure that public and driver safety is not compromised.

Acceptable Standard of Dress

All clothing worn by the driver must be clean and in good condition, and the driver must have good standards of personal hygiene.

As a **minimum** standard, males should wear knee length shorts/long legged trousers and a shirt which has a full body and as a minimum short sleeves.

As a **minimum** standard, females should wear knee length shorts/long legged trousers, skirt or dress and a shirt / blouse which has a full body and as a minimum short sleeves.

Footwear

Footwear for all drivers shall fit around the heel of the foot.

Unacceptable Standard of Dress

The following are deemed to be unacceptable:

- (a) Clothing that is not kept in a clean condition, free from holes and rips.
- (b) Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.
- (c) Sportswear (e.g. football / rugby kits, track suits, beach wear etc.).
- (d) Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.
- (e) Drivers not having either the top or bottom half of their bodies suitably clothed.
- (f) The wearing of hoods or other clothing that obscures the driver's vision or their identity

The above lists are not exhaustive and Authorised Officers of the Council will assess whether standards of dress are acceptable or not. In such instances, the Officer's decision will have effect as though it were included in the above lists and the licensed driver will be required to comply accordingly.

Draft Horse Drawn Hackney Carriage Licensing Policy

Appendix D - Code of Conduct when working with vulnerable passengers

A vulnerable passenger is a person whose age or disability means that they are more susceptible to harm than a typical passenger. This may be a child, elderly person and someone with learning difficulties for example. It can include someone who is vulnerable due to an excessive level of intoxication.

The code of conduct aims to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. Licensed drivers should adopt the following practices:

Drivers should carry photo ID at all times and wear it in accordance with the conditions of licence/byelaws

The driver/operator must confirm that appropriate provision has been made for the vulnerable person prior to accepting the booking or commencing the journey. This does not necessarily mean that the driver/operator is responsible for the provision of appropriate measures however they should check that they are in place.

When making a journey with vulnerable passengers photo identification should be produced to the carer responsible for the vulnerable person. If necessary you should obtain a record of the carer's contact details if there is no chaperone.

If a vulnerable passenger is refused service a responsible person should be informed so that alternative arrangements can be made. For example this situation may arise if the customer has an assistance dog and the driver has a medical exemption granted by the Council.

Always ask if a vulnerable person needs help do not assume

Drivers should remain professional at all times and should not:

- Touch a vulnerable person inappropriately
- Make offensive or inappropriate comments (such as the use of swearing or sexualised or discriminatory language)
- Behave in a way that may make a vulnerable passenger feel intimidated or threatened
- Attempt to misuse personal details obtained via the business about a vulnerable person.

A log should be maintained by drivers where a service has been provided to a vulnerable passenger including any incidents occurring/actions taken or refusals of service.

Draft Horse Drawn Hackney Carriage Licensing Policy

If you are concerned about the safety, welfare or behaviour of a vulnerable person you should report this to the police by telephoning 101 (or in appropriate cases by calling 999)

If you are concerned about someone else's conduct you should report your concerns to the Council's licensing department 01253 478343, the police on 101 or Crimestoppers 0800 555111

Report to:	Licensing Committee
Relevant Officer:	Sharon Davies, Head of Licensing Service
Date of Meeting	8 November 2016

REVIEW OF SEX ESTABLISHMENT POLICY

1.0 Purpose of the report:

1.1 Following consultation, to consider the updated Sex Establishment Policy.

2.0 Recommendation(s):

2.1 The Committee will be requested to consider the draft revised Sex Establishment Policy and recommend it to the Executive.

3.0 Reasons for recommendation(s):

3.1 Council policies should be reviewed on a regular basis. The Sex Establishment Policy has been in force since 2011.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

The Licensing Committee could decide not to approve the policy which could mean that the Council would be reaching decisions using an outdated document.

The Licensing Committee could amend the policy before recommendation to the Executive.

4.0 Council Priority:

4.1 The relevant Council Priority is: "The economy – maximising growth and opportunity across Blackpool"

5.0 Background Information

- 5.1 In 2011 Blackpool Council adopted amendments to the Local Government (Miscellaneous Provisions) Act 1982 which brought sexual entertainment venues under the same licensing regime as sex shops and sex cinemas.
- 5.2 A Sex Establishment Policy was developed detailing the application process, the limitation on numbers of licences that would be issued and the standard conditions that would be applied to sex shops and sexual entertainment venues. This policy has been in force since 2011 and is due for review.
- 5.3 A draft policy was considered and approved for consultation by the Licensing Committee at its meeting on 25 May 2016. A copy of the draft policy was sent to all licence holders for comment. The draft was also made available on the Council's website. One response was received from Darker Enterprises. This response is attached at Appendix 5a.
- 5.4 The draft policy has been reviewed in the light of the consultation response received. This has resulted in a number of amendments being made. The changes are marked in red in the proposed policy which is attached at Appendix 5b
- 5.5 Members of the Committee are asked to consider the proposed policy and recommend to the Executive that it is adopted as the Council's policy.

5.6 Does the information submitted include any exempt information? No

5.7 List of Appendices:

Appendix 5a – Reponse to consultation
Appendix 5b - Proposed Policy

6.0 Legal considerations:

6.1 There are no legal considerations

7.0 Human Resources considerations:

7.1 There are no Human Resources considerations.

8.0 Equalities considerations:

8.1 There are no equalities considerations.

9.0 Financial considerations:

9.1 There are no financial implications arising from the recommendations contained in this report.

10.0 Risk management considerations:

10.1 None

11.0 Ethical considerations:

11.1 There are no ethical considerations.

12.0 Internal/ External Consultation undertaken:

12.1 Informal consultation has taken place with the Licensing Enforcement Team

13.0 Background papers:

13.1 None

This page is intentionally left blank

Licensing Administration
Unit 3, Chancerygate Business Centre,
33 Tallon Road, Hutton,
Brentwood, Essex, CM13 1TE
Tel: 0208 114 1007
Email: licensing@darkerltd.co.uk

Sharon Davies
Principal Solicitor
Licensing Services
Blackpool Council
PO Box 4
Blackpool
FY1 1NA

Your Ref: LIC

13TH September 2016

Dear Ms Davies,

Draft Sex Establishment Licensing Policy 2016

As the holder of Sex Shop license, we submit our comments in respect of this as requested.

Our first submission is that the document should not be called a policy despite the contents of Para. 3. This terminology implies something of a binding nature. As each and every application under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 must be considered on the situation 'at the time the application is made', a pre-determined policy might be considered a fetter on the decision making process. We would submit that the use of the words 'guidelines' would be preferable to policy. It would be less acceptable, but slightly clearer, if the term 'policy guidelines' were used instead of 'policy'.

We also make some specific comments below.

In Para 3, we suggest that the following be amended to read:

- *At the hearing, the applicant and any objectors, **who made objections within the statutory period**, will be given.....*

This would avoid any problems over late objections.

Just before Para 3.1, there is a reference to '*parties*' in relation to communication of the decision. We submit that the use of the Term 'Parties' may give the impression that the hearing is between parties. The Courts have held that this is not the case. We suggest that 'all parties' be amended to read 'the applicant and the objectors'.

We have some reservation with respect to certain aspects of Para 3.2.

We note that the opening sentence begins 'The council will need to be satisfied that the applicants.....'. This is contrary to the basic approach of the Act. Para 3.1 shows that a licence can only be refused on the grounds laid down in the Act. The presumption is that an application will be granted unless one of the grounds for refusal is met **and** that the grounds for refusal cannot be addressed by the imposition of appropriate conditions.

Whilst we would submit that we would satisfy sub-para f), it would often be impossible to employ individuals who meet it. Most applicants will not have worked in our business as there are a limited number of retail outlets which are geographically widespread. We recruit persons who we think will make suitable employees and train, and subsequently monitor them.

In the section referring to 'unlikely to be granted', sub-para b) would seem to be superfluous. If someone had been convicted in respect of running an unlicensed sex-establishment, they would be covered by a). If not, could an unproven allegation of what is a highly technical offence, be held against them.

Para 3.3 would seem possibly to be open to the argument made in our opening submission.

Para 3.8 states the situation in respect of appeals. However, we feel that a reference should be included to emphasise that any decision is subject to the right to apply for Judicial Review.

Finally, we note that there is no reference to the basis upon which fees are determined. Given the current case referred by the Supreme Court to the European Union Court of Justice, and, in particular, the opinion expressed by the Advocate General, it is likely to be of importance that a council can demonstrate the basis upon which the fees are set.

We trust the foregoing is clear, but if you have any questions, we will be happy to answer them

Yours sincerely



Janice Singleton
Licensing Admin
For & on behalf of
Darker Enterprises Limited

Appendix 5b: Proposed Sex Establishment Policy 2016

Blackpool Council



Proposed Sex Establishment Policy 2016

Contents

1. Introduction	03
2. Making an application	05
2.1 Advertising of applications	06
2.2 Objections	07
3. Determination of applications	07
3.1 Refusal of licences	08
3.2 Suitability of applicants	09
3.3 Number of Sex Establishments	11
3.4 Location of licensed premises	12
3.5 Conditions	12
3.6 Duration of licences	12
3.7 Revocation of licences	12
3.8 Appeals	13
4. Complaints and Enforcement	13
4.1 Complaints	13
4.2 Enforcement	13
5. Cancellation of licences	14
Appendix A – Standard conditions for sex shops	15
Appendix B - Standard conditions for sexual entertainment venues	17

Proposed Sex Establishment Policy 2016

1. Introduction

This policy statement sets out Blackpool Council's approach to the regulation of sex establishments in the Borough.

Nothing in this policy undermines the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

The policy covers the operation of the following:

1.1 Sex Shops

A sex shop is defined as any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –

- a) Sex articles; or
- b) Other things intended for use in connection with, or for the purpose of stimulating or encouraging –
 - i) Sexual activity; or
 - ii) Acts of force or restraint which is associated with sexual activity.

1.2 Sex Cinemas

A sex cinema is defined as any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which –

- a) Are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage –
 - i) Sexual activity; or
 - ii) Acts of force or restraint which are associated with sexual activity;
- or
- b) Are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions.

But does not include a dwelling house to which the public is not admitted.

Proposed Sex Establishment Policy 2016

1.3 Sexual Entertainment Venues

A sexual entertainment venue is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

“Relevant entertainment” means –

- a) Any live performance; or
- b) Any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

The following premises are not sexual entertainment venues:

- a) Sex shops and sex cinemas;
- b) Premises which provide relevant entertainment on an infrequent basis i.e. premises where –
 - i) No relevant entertainment has been provided on more than 11 occasions within a 12month period;
 - ii) No such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - iii) No such occasion has lasted longer than 24 hours; or
- c) Other premises or types of performance or displays exempted by an order made by the Secretary of State.

1.4 Waivers

Schedule 3 of the 1982 Act makes provision for the Council to grant a waiver from the requirement to hold a sex establishment licence in any case where it considers that to require a licence would be unreasonable or inappropriate. A waiver may be for such a period as the Council thinks fit.

The Council does not consider it would be appropriate to permit waivers from the requirement to hold a sex establishment licence in respect of sexual entertainment venues particularly as the legislation allows relevant entertainment on an infrequent basis of no more than 11 occasions within a 12month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

Proposed Sex Establishment Policy 2016

The Council may at any time give a person who would require a licence but for a waiver notice that the waiver it to terminate on a date not less than 28days from the date the notice is given.

Whilst each application will be considered on its own merits by the Public Protection Sub-Committee in light of the exemption in relation to the provision of relevant entertainment on an infrequent basis the Council takes the view that waivers are unlikely to be appropriate in relation to relevant entertainment and would only be covered in exceptional circumstances.

2. Making an Application

Applications for the grant, renewal, variation or transfer of a licence must be made on the prescribed form which is available upon request from the Licensing Service or at www.blackpool.gov.uk. Applications can be submitted on paper or electronically.

New applications or variations which involve a change of layout must be accompanied by a plan of the premises to which the application relates. The plan must show:

- a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- b) The location of points of access to and egress from the premises;
- c) the location of escape routes from the premises;
- d) In a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- h) In the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- i) The location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and

Proposed Sex Establishment Policy 2016

j) The location of a kitchen, if any, on the premises.

2.1 Advertising of applications

Applications must be advertised on/near the premises to which the application relates and in a newspaper circulating in the Borough.

On the premises

A notice must be displayed at or on the premises to which the application relates for a period of not less than 21 consecutive days from the day the application was given to the Council. The notice must be in such a position that it can be conveniently read by members of the public.

The notice must be on paper sized A4 or larger containing the information detailed below printed legibly in black ink.

In the newspaper

Applicants must give public notice of the application by publishing an advertisement in a local newspaper that circulates in the Blackpool Borough no later than 7 days after the date the application is made.

The notice must state:

- a) Details of the application and activities proposed to be carried on,
- b) The full name of the applicant,
- c) The postal address of the premises, or where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- d) The date, being 28 days after the day on which the application was given to the Council, by which representations may be made to the Council in writing.

A specimen notice is available upon request from the Licensing Service or on our website www.blackpool.gov.uk.

Proposed Sex Establishment Policy 2016

2.2 Objections

Objections must be made in writing (email is acceptable) within the period of 28 days from the date on which the application is given to the Council and should include the following:

- The name and address of the person or organisation making the objection,
- The premises to which the objection relates, and
- An indication whether the objector consents to their name and address being disclosed to the applicant.

No weight will be given to any objection that does not contain the name and address of the person making it.

An objection must state the grounds on which the objection is made. Persons making an objection are encouraged to provide full reasons for their objection and, where possible, demonstrate how their reasons are relevant to the mandatory and discretionary grounds for refusal (if any) as set out in this policy.

No weight will be given by the Council to objections made on moral grounds or those that are in the opinion of the Council, frivolous or vexatious.

Where an objection is received, the applicant will be notified of the general grounds of the objection. The name and address of the objector will not be disclosed to the applicant unless the objector has consented to this.

3 Determination of applications

When considering applications, the Council will have regard to:

- (a) the Local Government (Miscellaneous Provisions) Act 1982;
- (b) any supporting regulations;
- (c) this Statement of Licensing Policy.

Proposed Sex Establishment Policy 2016

This does not, however, undermine the rights of any person to apply for a licence and have the application considered on its individual merits, nor does it override the right of any person to make objections on any application where they are permitted to do so under the Act.

All applications for new sex establishments and variations of existing licences will be determined by the Public Protection Sub-Committee irrespective of whether objections have been received. The Sub-Committee will also consider renewal applications where the Lancashire Constabulary have made comments or objections have been received. At the hearing the applicant and any objectors **who made objections within the statutory period** will be given the opportunity to address the Sub-Committee.

Uncontested applications for renewal will be determined by the Head of Licensing.

When determining an application the Council will take account of any comments made by the Police and any objections made. Each application will be considered on its own merits.

Where a hearing has taken place before the Public Protection Sub-Committee, unless otherwise advised, its decision will be given at the end of the hearing and ~~all parties~~ **the applicant and the objectors** will receive written confirmation of the decision together with reasons within seven days.

3.1 Refusal of Licences

The Local Government (Miscellaneous Provisions) Act 1982 provides mandatory and discretionary grounds for refusal of a licence.

3.1.1 Mandatory Grounds

A licence **must not** be granted to:

- a) A person under the age of 18;
- b) A person who has had a similar licence revoked within the previous 12 months;
- c) A person, other than a body corporate who is not resident in the United Kingdom, or was not so resident throughout the period of six months immediately preceding the date when the application was made;

Proposed Sex Establishment Policy 2016

- d) To a body corporate who is not incorporated in the United Kingdom;
- e) To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.1.2 Discretionary Grounds

A licence may be refused on the following grounds:

- a) The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason [see paragraph 3.2](#);
- b) If the licence were to be granted, renewed or transferred the business to which it relates would be managed by, or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such licence if he made the application himself;
- c) That the number of sex establishments in the relevant locality at the time of the application is made is equal to or exceeds the number which the authority considers appropriate for that locality [see paragraph 3.3](#);
- d) That the grant or renewal of the licence would be inappropriate having regard
 - o To the character of the relevant locality [see paragraph 3.4](#); or
 - o To the use to which any premises in the vicinity are put; or
 - o To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.2 **Suitability of applicants.**

The Council will need to be satisfied that the applicants for a sex establishment licence are suitable to operate the business by ensuring:

- a) that the operator is honest;

Proposed Sex Establishment Policy 2016

- b) That the operator is qualified by experience **and/or knowledge** to run the type of sex establishment. That the operator understands the general conditions and will comply with them;
- c) That the operator is proposing a management structure which will deliver compliance with operating conditions, for example through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and **in the case of a sexual entertainment venue**, policies for the welfare of performers;
- d) **If the application is for a sexual entertainment venue**, that the operator can be relied upon to act in the best interests of the performers e.g. in how they are remunerated, the facilities provided, how they are protected and how and by whom their physical and psychological welfare is monitored;
- e) That the applicant can be relied upon to protect the public e.g. transparent charging and freedom from solicitation; and
- f) That the operator can show **either** a track record of management of compliant premises, or that he/she **has an understanding of the rules governing the type of licence applied for** ~~will employ individuals who have such a track record.~~

All applications will be considered but they are unlikely to be granted if any of the following apply:

- a) The applicant has a criminal record. Offences that will be considered particularly relevant include convictions for:
 - Dishonesty,
 - Violence,
 - Sexual offences,
 - Drugs,
 - People trafficking;
- b) The applicant has previously been involved in running an unlicensed sex establishment;

Proposed Sex Establishment Policy 2016

- c) If the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves.

3.3 Number of Sex Establishments

The Local Authority may refuse an application if it is satisfied that the number of sex establishments of a particular kind in the relevant locality at the time the application is made, is equal to or exceeds the number which the authority considers is appropriate for that locality. The Council is able to determine that the appropriate number for a locality is nil.

Blackpool Council has determined that in the Bloomfield, Claremont and Talbot Wards:

- The number of sex shops shall be two.
- The number of sex cinemas shall be nil.
- The number of sexual entertainment venues shall be 4.

In all other wards the number shall be nil for all categories of sex establishments.

Proposed Sex Establishment Policy 2016

3.4 Location of licensed premises

In considering whether the grant or renewal of a licence would be inappropriate having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Licensing Authority will consider whether the grant of the application would be inappropriate having regard to its proximity to:

- Residential areas;
- Premises which are sensitive because they are frequented by children, young persons or families including, but not limited to educational establishments and leisure facilities such as parks, libraries or swimming pools;
- Shops used by or directed at families or children;
- Premises sensitive for religious purposes for example, churches, mosques and temples;
- Places and/or buildings of historical/cultural interest and tourist attractions;
- The Promenade.

3.5 Conditions

The Council recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises.

The conditions that may be attached to a sex shop licence are shown in Appendix A and conditions that may be attached to a sexual entertainment venue are shown in Appendix B.

3.6 Duration of licence

Licences will be granted for one year unless a shorter period is specifically stated.

3.7 Revocation of licences

The Council may revoke a licence on any of the grounds contained within the Act which include (please note this list is not exhaustive):

- the licence holder no longer being fit and proper;
- Poor operation of the premises.

Proposed Sex Establishment Policy 2016

The Council will not revoke a licence without first giving the holder of the licence the opportunity of appearing and making representations before the Public Protection Sub Committee.

3.8 Appeals

There is a right of appeal against the refusal to grant, renew, vary or transfer a licence, the imposition of conditions on a licence and the revocation of a licence.

Appeals must be made to the Magistrates' Court within 21 days starting from the date the aggrieved party is notified of the decision.

It is important to note that appeals only lie against the mandatory refusals on the basis that the mandatory ground does not apply to the applicant/licence holder. Further no appeal lies against the Licensing Authority's decision made on the discretionary grounds namely:

- That it is inappropriate to grant or renew a licence on the grounds of the character of the locality or the number of premises in it; or
- The use of the premises in the vicinity or the layout, character or condition of the premises.

4. Complaints and Enforcement

4.1 Complaints

Where possible and appropriate the council will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

4.2 Enforcement

The Council is responsible for the administration and enforcement of the licensing regime and will have regard to the Quality Standards Enforcement Concordat. The Council will carry out its regulatory functions in a fair, open and consistent manner.

Specifically, the Council is committed to:

- (a) be proportionate – to only intervene when necessary and remedies will be appropriate to the risk posed;

Proposed Sex Establishment Policy 2016

- (b) be accountable – to justify decisions, be subject to public scrutiny and allow opportunities to resolve differences before enforcement action is taken, unless immediate action is needed;
- (c) be consistent – to implement rules and standards fairly;
- (d) be transparent – to be open and to provide clear explanations of what is needed, by when and the rights of appeal.
- (e) target its regulatory action at cases in which action is needed.

The Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the conditions attached to the licence.

However, proportionate but firm action will be taken against those who commit offences or consistently break the law or breach the conditions of the licence.

The Council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the Council will undertake its role and how the principles of effective enforcement will be achieved.

This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on the Council's website: www.blackpoolcouncil.gov.uk

5. Cancellation of licences

The licence-holder may surrender the licence at any time and may request the Council in writing to cancel the licence.

In the event of the death of a licence-holder, the licence will be deemed to have been granted to his personal representatives and will remain in force for 3 months from the date of death, unless previously revoked.

Where the Council are satisfied that it is necessary for the purpose of winding up the estate of the deceased licence-holder, it may extend or further extend the period in which the licence remains in force.

Proposed Sex Establishment Policy 2016

Appendix A

Standard conditions for sex shops

Exhibition of licence

1. The licence or a clear copy shall be conspicuously exhibited at all times to the satisfaction of the Council in the premises, in such a position that it can be easily seen by all persons using the premises. The licence shall be adequately protected against theft, vandalism or defacement.

Times of opening

2. The premises shall not be open to the public before 9.00 am and shall not be kept open after 11.00 pm on any one day.
3. The premises shall not open on Christmas Day.

Conduct of premises

4. The licensee shall maintain good order in the premises.
5. No person under the age of 18 shall be admitted to the premises or be employed in the business of the sex establishment.
6. No poster, photograph, sketch or painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside, or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.
7. The whole of the exterior of the premises shall be of a material or covered by a material which will render the interior of the premises invisible to passers-by.

Change of use

8. No change of use of any portion of the premises from that approved by the Council shall be made until the Council's consent has been obtained thereto.
9. No change of use of any portion of the premises from a sex cinema to a sex shop or from a sex shop to a sex cinema shall be effected without the consent of the Council.
10. No part of the premises shall be used as a sex encounter establishment or be used in conjunction with any premises so used (whether licensed or not) without the consent of the Council.

Proposed Sex Establishment Policy 2016

Goods available

11. All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.
12. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed prominently within the sex establishment.
13. No film or video work shall without the consent of the Council be exhibited, sold or supplied on or from the premises unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licence holder by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video work so certified.

Proposed Sex Establishment Policy 2016

Appendix B

Standard conditions for sexual entertainment venues

External Appearance

1. There shall be no advertisement or promotional material used by the premises that is unsuitable to be viewed by children. Any exterior signage shall be discreet and shall not display any imagery that suggests or indicates relevant entertainment takes place at the premises. Any external displays or advertising may only be displayed with the prior approval of the Licensing Service, Blackpool Council.
2. Windows and openings to the licensed premises, other than entrances, shall not be obscured otherwise than with the consent of the Council but shall have suspended immediately behind them, plain light coloured screens or blinds of a type and design approved by the Council.
3. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Council's Delegated Officer and shall be subject to ratification by the Council's Licensing Committee or Public Protection Sub Committee.
4. No advertisements or other notices or items shall be displayed so as to be visible from the exterior of the premises, subject to conditions 1 and 3.
5. The Council shall approve the design of the front elevation of the premises which shall include reference to the name of the premises, its postal address, opening hours, website address and any security grilles/shutters.
6. As a general rule the name of the premises shall be of an un-contentious nature and light colours used throughout to the Council's approval.
7. The exterior and entrance to the licensed premises shall be suitably screened so as to prevent any part of the interior being visible from outside the shop.
8. There shall be a solid outer and inner door fitted with automatic closures with such devices being maintained in good working order.
9. On the external facing of the inner door, there shall be displayed a warning notice as supplied by the local authority.

Proposed Sex Establishment Policy 2016

Control of entry to the premises

10. No person under the age of 18 shall be on the licensed premises.
11. The Challenge 25 proof of age scheme shall be operated at the premises whereby any person suspected of being under 25 years of age shall be required to produce identification proving they are over 18 years of age. The only acceptable forms of identification are recognised photographic identification cards, such as driving licence or passport.
12. The premises shall maintain a refusals log whereby on any occasion a person is refused entry details shall be recorded. The log must be made available on request by Lancashire Constabulary or an authorised officer of the Council.
13. The price for entrance and any compulsory purchases within the venue should be clearly displayed.

Performances of sexual entertainment

14. No person under the age of 18 shall be on licensed premises.
15. All areas within the premises shall display signs advising clients of the club rules and conditions of the licence regarding improper performances.
16. There shall be no physical contact between performers and customers at any time, before, during or after the performance, with the exception of leading a customer by the hand to and from an area permitted for performances of sexual entertainment.
17. No performances shall include any sex act with any other performers, patrons, employees, contractors, or with the use of any objects.
18. Full nudity is not permitted. Performers and employees must at all times wear at least a G string or similar clothing covering the genitalia.
19. Customers must remain seated for the duration of the performance.
20. Any person connected with or employed by the business who can be observed from outside the premises must be fully dressed. Scantily clad individuals must not exhibit in the entrance way or in the area surrounding the premises. (Scantily clad means that there is partial nudity or underwear is visible)
21. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except within the toilets or within the performers dressing rooms and staff areas.

Proposed Sex Establishment Policy 2016

22. At all times during a performance, performers shall have unrestricted access to a dressing room.
23. Patrons or members of the audience shall not take photographs or record digital images of performers by any means.
24. Exit routes for performers must be kept clear.

Protection of performers

25. There shall be a written code of conduct for performers. All performers shall be required to certify their agreement to comply with the code and a record shall be kept on the premises and be made available upon request by the police or an authorised officer of the Council. The code shall include the following:
 - The licence conditions relating to performances of sexual entertainment,
 - House rules,
 - Internal disciplinary procedure and details of any financial penalties that may be imposed. This should include a system to ensure that performers suffering a genuine sickness or domestic emergency are not made subject to unfair punitive financial penalties,
 - Drugs monitoring,
 - No contact with customers outside the club,
 - The arrangements for breaks and smoking facilities provided,
 - Copies of approved forms of ID supplied by each performer i.e. passport, photo card driving licence or PASS card.
26. Performers shall be provided with secure and private changing facilities.
27. Means to secure personal property shall be provided for the performers.
28. Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area. If no smoking area is provided a maximum of 3 performers may be permitted to take a break at any one time.
29. The licence holder shall implement a written policy to ensure the safety of performers when leaving the premises following any period of work.
30. All fees and charges for performers shall be stated in writing and prominently displayed in the changing area.

Proposed Sex Establishment Policy 2016

Management

31. All performers shall be required to provide valid photographic identification prior to first employment at the premises. Acceptable forms of identification are recognised photographic identification cards such as driving licence or passport. Records shall be kept detailing the identification produced and must be made available to an authorised officer on request.
32. All performers and staff should be eligible to work in the UK and proof of eligibility records shall be kept on the premises.
33. All performers who engage in an evening of work at the premises shall sign a document to confirm the start and finish time of the shift. The document should be dated and contain the performer's true name as well as the stage name. These records shall be kept for a minimum period of six months and shall be produced on request by an authorised officer.
34. Employment records for performers and staff shall be kept for a minimum of six months following the cessation of their employment.
35. Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council.
36. Where the licence holder is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for in the management of the body is to be notified in writing to the council within fourteen days of such change and such written details as the council may require in respect of any new director secretary or manager are to be furnished within fourteen days of a request in writing from the Council.
37. The name of the person who has been approved by the Council as being responsible for the day to day management of the licensed premises shall be prominently displayed within the licensed premises.
38. No person under the age of 18 shall be admitted to the licensed premises or employed by the licensee to work at the licensed premises.
39. The licensee shall ensure that no part of the licensed premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
40. Neither the licence holder nor any employee or other person shall seek to obtain custom for the licensed premises by means of personal solicitation, by means of flyers, handouts or any like thing, outside or in the vicinity of the licensed premises.

Exhibition of the licence

41. The copy of the licence and these conditions shall be displayed in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in a conspicuous position at the premises for the customers to see.

Proposed Sex Establishment Policy 2016

CCTV

42. CCTV shall cover all public areas of the premises including all areas where performances of sexual entertainment are conducted.

Maintenance and Repair

43. The licence holder shall maintain the licensed premises in good order, repair and state of cleanliness at all times.
44. Should an authorised officer take issue with the condition of any parts of the premises internal or external, notice will be given in writing and must be rectified within a period of 28days from the date of the notice. Any appeal against such notice must be made in writing to the licensing service within 14days of issue. The appeal will be determined by the Public Protection Sub Committee.
45. The licence holder shall take appropriate measures to ensure that refuse from the premises are kept secure from public accessibility pending removal from site.
46. The licence holder shall comply with any fire prevention and safety measures that may be required by the Fire Authority or suitably competent local authority officer.

General

47. No part of the premises shall be let.

Proposed Sex Establishment Policy 2016

Proposed Sex Establishment Policy 2016

This page is intentionally left blank

Report to:	Licensing Committee
Relevant Officer:	Sharon Davies, Head of Licensing Service
Date of Meeting:	8 November 2016

LICENSING SERVICE UPDATE

1.0 Purpose of the report:

1.1 To update the Committee on the details of licences applied for, dealt with and appealed in the period 1 January 2016 to 21 October 2016.

2.0 Recommendation(s):

2.1 To note the update on licences considered, dealt with and appealed.

3.0 Reasons for recommendation(s):

3.1 One of the responsibilities of the Committee is to receive reports on the work of the licensing service

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

None, the report is for information only.

4.0 Council Priority:

4.1 The relevant Council Priority is "The economy – maximising growth and opportunity across Blackpool"

5.0 Background Information

5.1 During the period 1 January 2016 to 21 October 2016., the Licensing Service received 44 applications for new Premises Licences.

The following were granted administratively as no objections were received:

Harry Ramsden's -5th floor Blackpool Tower

Harry Ransden's – Tower Lounge

Blackpool Magician's Academy – 56-60 Counce Street

Jokerz Bar – 93 Promenade

Number 25 Hotel – 25 Alexandra Road

Jacks - Unit 1 Coral Island

HMV Diner – Units 6/7 Coral Island

The Rugby's – 55 Reads Avenue

Pine Lodge Hotel – 3 Havelock Street

Franklyn Hotel – 33 Charnley Road

Prince Albert Hotel – 11 Yates Street

Buddy's Takeaway – 89 Dickson Road

Tower View Hotel – 31 Bethesda Road

AA Central Hotel – 64A Reads Avenue

Dutchman Hotel – 267-269 Promenade

Pembroke Private Hotel – 17 Banks Street

Newholme Hotel – 26 Hornby Road

Friends Bar and Restaurant – 68 Central Drive

Regent Cinema – 181/189 Church Street

Lister Hotel – 34 Hornby Road

Urban Munchtime – 84/86 Talbot Road

Royal Boston Hotel – 34/34 Queens Promenade

The Lumada – 100 Albert Road

Seniors – 2 All Hallows Road

Bucharest – 47/49 Talbot Road

Hogarths – 22/28 Clifton Street

Squires Convenience – 301 Squires Gate Lane

Gaiety's Bar – 169 Promenade

New Odyssey Hotel – 2/4 Burlington Road West

Locals Mini Market – 113/115 Lytham Road

Polo Market – 67 Waterloo Road

5.2 The following applications were considered by a Licensing Panel and refused

Radom Euro Shop – 239 Dickson Road

Bolton News – 90/92 Bolton Street

Tipples Off Licence – 87 Central Drive

- 5.3 The following applications were considered by a Licensing Panel and granted:
Lawsons Showground – time limited licence
Lawton Hotel – 58/62 Charnley Road
- 5.4 The following applications are being processed
189 Lytham Road – last date for representations 15 November 2016
Newsagents, 60 Coronation Street – last date for representations 14 November 2016
Bar 1, 9-17 Bloomfield Road – last date for representations 17 November 2016
- 5.5 The Licensing Panel has reviewed the following licences:
Cressington Hotel – 8/10 Barton Avenue – licence revoked
Northlands Hotel – 31/33 Hornby Road – licence revoked
Ned Kelly’s – 19/23 Clifton Street – licence revoked
North Parade Guest House – 68/70 Dickson Road – conditions added
Lolly’s Hotel – 26 Regent Road – licence revoked.
- 5.6 During the same period, the Licensing Service also received 12 variation applications, 28 minor variation applications, 194 vary Designated Premises Supervisor applications, 127 transfers of Premises Licences, 121 Temporary Event Notices and 50 Late Temporary Event Notices.
- 5.7 There is one appeal currently before the Magistrates’ Court:
Tipples Off Licence – appeal against refusal of licence
- 5.8 Does the information submitted include any exempt information? No
- 5.9 **List of Appendices:**
None.
- 6.0 **Legal considerations:**
- 6.1 None
- 7.0 **Human Resources considerations:**
- 7.1 None.
- 8.0 **Equalities considerations:**
- 8.1 None.

9.0 Financial considerations:

9.1 None.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 None.

13.0 Background papers:

13.1 None.