

BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

WEDNESDAY, 10 APRIL 2019 AT 10:00 HOURS
IN COMMITTEE ROOMS 3 & 4, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

A G E N D A

1 NOTICE OF RECORDING/WEBCAST

The Chairman to advise/meeting to note that this meeting will be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there are confidential or exempt items.

2 DECLARATIONS OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared a Member must not speak or take part in that agenda item. Any declarations will be recorded in the minutes of the meeting.

3 APOLOGIES

To receive any apologies.

3 - 10

4 MINUTES

To confirm and sign the Minutes of the meeting held on 13 March 2019.

11 - 22

5 REVIEW OF CHARGES FOR HIGHWAY SERVICES FOR 2019/2020

Report of the Acting Director of Regulation and Enforcement

23 - 82

6 MEDIUM TO LONG-TERM EMISSION STANDARD AND AGE POLICY

Report of the Acting Director of Regulation and Enforcement

<u>83 - 154</u>	7	<u>DEPARTMENT FOR TRANSPORT STATUTORY GUIDANCE</u>	Report of the Acting Director of Regulation and Enforcement
<u>155 - 158</u>	8	<u>CONDITIONS OF LICENCE FOR HACKNEY CARRIAGE VEHICLES</u>	Report of the Acting Director of Regulation and Enforcement
<u>159 - 162</u>	9	<u>OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:</u>	
<u>163 - 164</u>	10	<u>ACTION TAKEN BY THE CHAIR OF THE LICENSING</u>	Item Description
<u>165 - 186</u>	11	<u>PROSECUTIONS AND CAUTIONS</u>	Report of the Acting Director of Regulation and Enforcement
<u>187 - 188</u>	12	<u>SCHEDULE OF OUTSTANDING MINUTES</u>	To consider the schedule of outstanding minutes.
	13	<u>OTHER URGENT BUSINESS</u>	To consider any items of business by reason of special circumstances (to be specified) that in the opinion of the Chairman are matters of urgency.
<u>189 - 282</u>	13A	<u>SAFETY AT SPORTS GROUNDS ADVISORY GROUPS</u>	Report of the Assistant Director of Regulation And Enforcement.
	14	<u>AUTHORITY TO CHAIRMAN AND OFFICERS</u>	Chairman to move:- 'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

<p>LICENSING AND PUBLIC PROTECTION COMMITTEE 13 MARCH 2019</p>

**MINUTES OF A MEETING OF THE LICENSING
AND PUBLIC PROTECTION COMMITTEE HELD
ON WEDNESDAY 13 MARCH 2019 AT 1000
HOURS IN COMMITTEE ROOMS 3 AND 4
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Barbara Dring in the Chair;

Councillors Olly Armstrong, Bob Beauchamp, Nicky Brennan, Phil Davis, Adam Higgs, Nagina Kauser, Mike Leddy, Bruce Lines, Simon Morrall, Hendrina Quinnen, Mike Sharpe, Sybil Spence and Martin Straker-Welds.

NOTICE OF RECORDING/WEBCAST

- 1135 The Chair advised that the meeting would be webcast for live and subsequent broadcast via the Council's internet site (www.civico.net/birmingham) and that members of the press/public may record and take photographs except where there were confidential or exempt items.

DECLARATIONS OF INTEREST

- 1136 Members were reminded that they must declare all relevant pecuniary and non pecuniary interests relating to any items of business to be discussed at the meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

There were no declarations of interest.

APOLOGIES

- 1137 Apologies were received from Councillors Neil Eustace and Mary Locke for non-attendance.
-

MINUTES

- 1138 The Minutes of the meeting held on 13 February 2019, having been previously circulated were confirmed as a correct record and signed by the Chairman.
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The business of the meeting and all discussions in relation to individual reports are available for public inspection via the web-stream.

MEDIUM TO LONG-TERM EMISSION STANDARD AND AGE POLICY FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES

- 1139 The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 1)

The Chair reported that the above-mentioned item had been deferred to a future meeting and stated that as a result of this, there would be no debate taking place today.

Chris Neville, Acting Director of Regulation and Enforcement read out the following statement:-

Vehicle Age and Emissions Report

The vehicle age and emissions policy has been withdrawn from today's agenda in consultation with the Chair of your committee following representations made to the council this week by the RMT trade union and its threatened protest action that was due to take place this morning in the city centre.

The RMT has asked for the policy proposals to be amended. In particular they have asked the council to consider moving the proposed last date for new diesel vehicles to be licensed from 2021 to 2026. They have asked for drivers to be exempted from paying the daily £8 penalty charge for entering the Clean Air Zone for the duration of their current licence in 2021 and they would like the council to offer taxi drivers the same mitigation that is planned for people that live inside the Clean Air Zone who are on low incomes.

Very similar concerns were raised by other taxi and private hire trade representatives at a meeting I held with them last Thursday.

I have agreed to consult on these points again with the RMT and the wider group of trade representatives in the coming days.

However we all need to be mindful of the fact that the council has just received this week a letter from DEFRA giving approval to our application under the Clean Air Fund for support to businesses and residents to transition to cleaner vehicles. The council made an application for £50m. DEFRA has awarded Birmingham £37.9m, however the element specifically for taxi and private hire drivers has not been reduced and has now been confirmed at £14.75m, made

up of £7m for PH drivers, £5m for HC drivers and £2.75m for the council to deliver a hackney carriage leasing scheme.

The communication from government also contained the statutory instrument, which is a ministerial direction, requiring Birmingham to achieve legal limits for NO2 in the shortest possible time and by 2021 at the latest.

In considering the request from the RMT and other trade representatives, we will need to balance their wishes against the risk that the funding from government may be reduced if we dilute our proposals and we must also consider the legal duty placed on the city by the ministerial directive.

Chris confirmed that contact with trade representatives would be made within the next few days and suggested that a further report be brought to the next committee with the proposals having been re-visited.

At this juncture, the Chair reiterated that she would not be taking any questions from the floor at this stage and confirmed that they could be raised at the next trade meeting.

At 10:10 hours there was a five minute adjournment whereupon web-streaming ceased until the meeting re-commenced.

LICENSING AND PUBLIC PROTECTION - REVENUE BUDGET 2019/20

The following report of the Acting Director of Regulation and Enforcement Corporate Director Finance and Governance was submitted:-

(See Document No. 2)

Chris Neville, Acting Director of Regulation and Enforcement, made introductory comments relating to the report.

In response to Members' comments and questions the following points were captured:-

Chris Neville confirmed that 'WOC' (workforce organisation change) was a saving attached to the workforce and subsequently agreed that a glossary accompanying public reports would be beneficial.

Chris referred to the grant funded services which were:-

All England Money Lending Team also known as the Loan Shark Team – 50 officers that were hosted in Birmingham and funded by the Treasury.

He further referred to the Regional Investigation Team, which was a smaller team of 3 or 4 posts that was funded through the National Trading Standards, which was the overarching trading standards service for the country. He added that there were regional teams located across the country and although the council offered the service to the midlands, it was supported by regional funding.

The Chair highlighted that the budgets were ring-fenced to those projects due to the fact that they were grant funded.

Chris confirmed that any surplus underspend would go back into the general fund as a saving and where funds were ring-fenced would remain in the ring-fenced budget. While explaining why they were unable to generate any kind of surplus attached to prosecutions, agreed that it would be very useful if they could retain any underspend to offset savings for the following year, however, confirmed that all service areas had been requested to try and reduce their expenditure in order to help with the overall pressures faced by the city council.

In response to concerns relating to waste enforcement and the requirement for further investment in this area, the Chair confirmed that while there had been discussions with the Leader in this regard, there had been a shift in priority to another area of the council.

Chris confirmed that the new service would be part of Waste Management and although the budget would sit in Waste Management, the legal responsibility in terms of enforcement powers would sit within this committee and the committee would have oversight of the powers used by the team.

The Chair concluded by stating that there was a commitment that if this did not work successfully by a certain date then this could be re-visited.

The Chair put the recommendations in the report to the meeting which were unanimously agreed.

1140

RESOLVED:-

- (i) That the 2019/20 Revenue budget changes as detailed in Appendix 1 be noted;
- (ii) that the 2019/20 Service and Subjective Budget in Appendix 2 be noted;
- (iii) that the 2019/20 to 2022/23 budget in Appendix 3i be noted;
- (iv) that the 2019/20 budgeted employee establishment as detailed in Appendix 4 be noted; and
- (v) that the latest 2019/20 Reserves position as detailed in Appendix 5 be noted.

**OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
JANUARY 2019**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 3)

Emma Rohomon, Acting Head of Licensing, made introductory comments relating to the report.

The Chair put the recommendation to the meeting which was unanimously agreed.

1141 **RESOLVED:-**

That the report be noted.

PROSECUTIONS AND CAUTIONS – JANUARY 2018

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 4)

Chris Neville, Acting Director of Regulation and Enforcement, provided a detailed breakdown of the report.

The Chair put the recommendation to the meeting which was unanimously agreed.

1142 **RESOLVED:-**

That the report be noted.

FIXED PENALTY NOTICES ISSUED JANUARY 2019

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 5)

Mark Croxford, Head of Environmental Health, made introductory comments relating to the report.

The Chair put the recommendation to the meeting which was unanimously agreed.

1143 **RESOLVED:-**

That the report be noted.

ACTION TAKEN BY THE CHAIR OF THE LICENSING & PUBLIC PROTECTION COMMITTEE: JANUARY 2019

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See Document No. 6)

Emma Rohomon, Acting Head of Licensing, made introductory comments relating to the report and advised of the actions taken by the Chair in respect of the following licences:-

On 5 February 2019 the Licensing Enforcement Section received information from West Midlands Police: Driver 3325 was arrested on 1 February 2019 for possession of a firearm with intent to endanger life following a firearm incident. In the interests of public safety the Acting Director of Regulation and Enforcement acting in consultation with the Chair revoked the hackney carriage licence held by the driver with immediate effect in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

On 8 February 2019 the department was informed that a driver had collapsed at the wheel causing an accident although there were no persons injured. In the interests of public safety the Acting Director of Regulation and Enforcement acting in consultation with the Chair, suspended the private hire licence held by the driver 46809 with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

On 22 February 2018 the department was informed that a driver 104572 had become unconscious while driving a licensed private hire vehicle and as a result had crashed the vehicle and was now hospitalised. In the interests of public safety the Acting Director of Regulation and Enforcement acting in consultation with the Chair, suspended the private hire licence held by the driver 104572 with immediate effect, in accordance with Sections 61(1)(b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

The Chair put the recommendation to the meeting which was unanimously agreed.

1144

RESOLVED:-

That the report and verbal update be noted.

SCHEDULE OF OUTSTANDING MINUTES

The following schedule of Outstanding Minutes was submitted:-

(See Document No. 7)

Chris Neville, Acting Director of Regulation and Enforcement, confirmed that there were 2 reports listed for April 2019.

1145

RESOLVED:-

That all Outstanding Minutes be continued.

OTHER URGENT BUSINESS

The Chair was of the opinion that the following item be considered as a matter of urgency in order to expedite consideration thereof and instruct officers to act if necessary.

City Council Reviewing Arrangements for Appointment of Chairs of the Safety at Sportsground Advisory Groups

Chris Neville stated that in light of last Sunday's incident at St Andrews Football Ground, the city council was reviewing their arrangements for the appointments of chairs of the safety at sports ground safety advisory groups (SAG). He explained that for the benefit of new members, this Committee appoints chairs to those groups at the beginning of the Municipal Year.

He confirmed that a report would be brought to the next meeting in April 2019 based on legal advice. At present the advice given was that elected members should not be chairing the groups, however, they were still working with Legal Services in order to finalise the position.

Following Members comments' Chris explained briefly the safety and technical areas that the city council were looking to address with regard to elected members being appointed to sit on SAGS. He referred to the changes that had been made in the recent past with regard to the Constitution which was now somewhat reduced, and how they were looking to make sure that there was some legal authority behind the Committee's decision in order to appoint people in the future in these situations.

Councillor Leddy commented that the city council still held the responsibility of issuing the certificates for stadia around the city and that the removal of elected members from SAGs especially chairing which was an independent position, he considered would be a retrograde step. He therefore requested that officers and the Legal Services carefully reconsidered their decisions regarding these specific roles.

Chris agreed to take back the comments made.

1146

RESOLVED:-

That the comments be noted.

AUTHORITY TO CHAIR AND OFFICERS

1147

RESOLVED:-

In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee.

The meeting ended at 1040 hours.

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CHAIRMAN

BIRMINGHAM CITY COUNCIL

REPORT OF THE ASSISTANT DIRECTOR, HIGHWAYS & INFRASTRUCTURE TO THE
LICENSING & PUBLIC PROTECTION COMMITTEE10TH APRIL 2019

ALL WARDS

REVIEW OF CHARGES FOR HIGHWAY SERVICES FOR 2019/2020

1 SUMMARY

- 1.1 This report deals with the annual review of fees and charges for Highway Services within the delegations of this Committee.

2 RECOMMENDATIONS

- 2.1 That the Committee;
- Approves the City Council retained fees and charges, set out in Appendix 1, with effect from 29th April 2019,
 - Notes the fees and charges retained by the Highways Maintenance and Management Private Finance Initiative (HMMPFI) Service Provider, Amey, provided in Appendix 1, with effect from 7th June 2019.

3 BACKGROUND

- 3.1 The City Council's Financial Regulation 15.2 requires that Chief Officers, at least annually, report to and seek approval from Committee on a review of fees and charges levied for services provided. The last review for Highways Services was approved by the Public Protection Committee on 18th April 2018.
- 3.2 Following commencement of the Highway Maintenance and Management PFI Contract in June 2010, specific permits, under the legislation shown in Table 1 below, are prepared by the Council's Highway Maintenance and Management Service Provider, Amey.

Under the terms of the Highway Maintenance and Management PFI Contract, Amey is entitled to retain the fee / charge associated with the issue of certain permits. Table 1 below identifies the fee recipient for different specified licences / permit types;

Table 1. Recipient of fees and charges

Statutory Basis	Fee Recipient
Highways Act 1980:	
Section 115E – Street Cafés / Objects or Structures	Authority
Section 139 – Placement of Skips in the Highway	Authority
Section 142 – Plant and Maintain Trees Shrubs etc. in the Highway	Authority
Section 169 – Scaffolding and Cranes	Service Provider
Section 171 – Deposit of materials on the highway	Service Provider
Section 172 - Hoarding	Authority

Section 177 – Oversailing the Highway	Service Provider
Section 184 – Carting Over (Temporary Access)	Service Provider
New Roads and Street Works Act (NRSWA) 1991:	
Section 50 - Licence for Private Apparatus in the Highway	Authority

3.3 The key points in relation to this are:

- The setting of the levels of fees and charges retained by the Authority for such permits ultimately remains a matter for this Committee;
- For those permits where Amey retains the fees, this is at a level agreed between the City Council and Amey under the terms of the HMMPFI Contract;
- The maximum level of increase that Amey may request is restricted to the previous rate plus the HMMPFI contractual index (RPIx). This increase is contractually linked to the contract anniversary in June of each year; this increase is capped at 2.5% (January 2019 Index) for 2019/20 but may be rounded up to ensure clarity and consistency with other similar fees and charges;
- Those fees and charges received by the Service Provider (see Table 1) are therefore contractually controlled and are not able to be amended by the committee. They are included for the committee to note.

4 PROPOSALS

- 4.1 The fees and charges covered by this report have been reviewed in line with the Corporate Charging Policy. The fees retained by the Service Provider Amey are to be increased by 2.5% in line with the HMMPFI contractual requirements. Those retained by the Authority are to be increased by 5% to allow for inflation, the additional costs of superannuation, national insurance and pay award. These fees and charges, which have been rounded for ease of use and consistency, have been provided in Appendix 1 of this report.
- 4.2 The fees and charges have been compared to those of neighbouring West Midlands local authorities and other UK cities for similar services. The proposed charges are not significantly disparate to those of other authorities.
- 4.3 A new fee covering the administrative costs for processing development related bonds has been introduced.
- 4.4 Where new objects or structures are to be installed by third parties on the highway under s115E Highways Act 1980, a fee is added to cover the costs of this licence. Due to the wide variety of items that could be installed and the different locations these are included simply 'at cost' that will be determined on a case by case basis.

5 IMPLICATIONS FOR RESOURCES

- 5.1 Based on estimated usage of services, it is envisaged that implementation of the proposed fees and charges will generate sufficient income to meet budgeted income levels for 2019/20.

6 CONSULTATION

Senior officers and the Cabinet Member for Transport and Environment have been consulted.

7 IMPLICATIONS FOR POLICY PRIORITIES

- 7.1 The recommendations contained within this report are in accordance with Financial Regulations, the requirement to balance the Budget and the Corporate Charging Policy.
- 7.2 The extent to which the charges for the services covered by this report comply with the detailed requirements of the Corporate Charging Policy are identified and attached in Appendix 2.

8 IMPLICATIONS FOR EQUALITY AND DIVERSITY

- 8.1 Following an initial equalities assessment (Appendix 3) no specific implications have been identified for equality and diversity.

Appendices:

- Appendix 1: List of Proposed Revised Fees and Charges (separate spreadsheet)
- Appendix 2: Consideration of Policy requirement of Corporate Charging Policy
- Appendix 3: Equalities Analysis (separate document)
- Appendix 4: Public Sector Duty Statement Equality Act 2010.

Background Papers:

- Corporate Charging Policy

Contact Officers

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APPENDIX 2

CONSIDERATION OF POLICY REQUIREMENT OF CORPORATE CHARGING POLICY

Policy Ref	CORPORATE CHARGING POLICY REQUIREMENT	LICENSES & PERMITS
3a	Distinguished between controllable & non-controllable charges (Set by Government)	Controllable
3c	Considered/identified subsidies	No subsidies
3d	Budget adjusted to reflect policy objectives	Not applicable
3e	Differential charging considered	Not applicable
3f	Charges compared with competitors	Not applicable
3b	Maximises income, covers full cost	Covers cost
4	Discretionary services not charged for considered	Not applicable
7a	Charges simple to understand and administer	Yes
7b	Service users understand charges / payment method before service provided	Yes
7c	Method of payment considered	Yes – payments made through Cashiers
8a	Charges updated at least annually	Yes
8b	Charges take account of what market will bear	Yes, where applicable
8c	3 year Corporate Review of concessionary schemes	Not applicable

APPENDIX 4

PUBLIC SECTOR DUTY STATEMENT EQUALITY ACT 2010.

The Executive must have due regard to the public sector equality duty when considering Council reports for decision.

The public sector equality duty is as follows:

1	<p>The Council must, in the exercise of its functions, have due regard to the need to:</p> <ul style="list-style-type: none">(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2	<p>Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
3	<p>The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</p>
4	<p>Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:</p> <ul style="list-style-type: none">(a) tackle prejudice, and(b) promote understanding.
5	<p>The relevant protected characteristics are:</p> <ul style="list-style-type: none">(a) age(b) disability(c) gender reassignment

	(d) pregnancy and maternity
	(e) race
	(f) religion or belief
	(g) sex
	(h) sexual orientation

Item 5

Licensing & Public Protection Committee							Appendix 1
Highways Related Fees & Charges 2019/20			Note those Charges determined by the service provider are contractually controlled and are unable to be amended by the committee. They are included for the committee to note.				
Who Recieves the Charge	Statutory Basis	Service Area and Description of Chargeable Item	Further details relating to charge	Duration	18/19 Charge (excl VAT)	19/20 Charge (excl VAT)	VAT status
	Highway Related Charges						
		Highway Licences					
Authority	NRSAWA 1991, s50	New licence for private services in highway			£ 805.00	£ 845.00	Non Business (0%)
Authority	NRSAWA 1991, s50	Additional inspection fee for over 200 metres	Inspection fee for private services		£ 190.00	£ 200.00	Non Business (0%)
Service Provider	HA 1980, s177	New licence for overhanging canopies etc on public highway			£ 795.00	£ 835.00	Non Business (0%)
Service Provider	HA 1980, s177	Amendment to existing canopy etc licence			£ 435.00	£ 460.00	Non Business (0%)
		Street Café Licences					
Authority	HA 1980, s115E	Up to 5 tables	Single location	12 months	£ 815.00	£ 856.00	Non Business (0%)
Authority	HA 1980, s115E	5 tables or more	Single location	12 months	£ 1,195.00	£ 1,255.00	Non Business (0%)
		Licence to plant trees, shrubs, etc., in a highway.					
Authority	HA 1980, s142	New License to plant and maintain vegetation in highway.	per application (new item)		at cost	at cost	Non Business (0%)
		Highway Permits					
Service Provider		Application Fee (non refundable)	Where permit is granted by Authority		£ 85.00	£ 90.00	Non Business (0%)
Authority		Application Fee (non refundable)	Where permit is not granted by Authority		£ 85.00	£ 90.00	Non Business (0%)
		Individual Permits Fee					
Service Provider	HA 1980, s169	Scaffolding	Single location payable on approval	Up to 4 weeks	£ 155.00	£ 165.00	Non Business (0%)
Authority	HA 1980, s172	Hoarding	Single location payable on approval	Up to 4 weeks	£ 155.00	£ 165.00	Non Business (0%)
Service Provider	HA 1980, s184	Carting Over (Temporary Access)	Single location payable on approval	Up to 4 weeks	£ 155.00	£ 165.00	Non Business (0%)
Service Provider	HA 1980, s171	Deposit of Materials	Single location payable on approval	Up to 4 weeks	£ 155.00	£ 165.00	Non Business (0%)
Service Provider	HA 1980, s169	Crane	Single location payable on approval	1 day	£ 75.00	£ 80.00	Non Business (0%)
Service Provider	HA 1980, s169	Crane	Single location payable on approval	2 to 28 days	£ 155.00	£ 165.00	Non Business (0%)
Service Provider	HA 1980, s171	Excavation	Single location payable on approval	Up to 4 weeks	£ 155.00	£ 165.00	Non Business (0%)
		Permits for Projects with a Value up to £1million:					
Service Provider	HA 1980, s169	Scaffolding	Single location payable on approval	Over 28 days	£ 380.00	£ 390.00	Non Business (0%)
Authority	HA 1980, s172	Hoarding	Single location payable on approval	Over 28 days	£ 385.00	£ 400.00	Non Business (0%)
Service Provider	HA 1980, s184	Carting Over (Temporary Access)	Single location payable on approval	Over 28 days	£ 380.00	£ 390.00	Non Business (0%)
Service Provider	HA 1980, s169	Crane	Single location payable on approval	Over 28 days	£ 380.00	£ 390.00	Non Business (0%)
Service Provider	HA 1980, s171	Excavation	Single location payable on approval	Over 28 days	£ 380.00	£ 390.00	Non Business (0%)
Service Provider	HA 1980, s171	Deposit of Materials	Single location payable on approval	Over 28 days	£ 380.00	£ 390.00	Non Business (0%)
		Additonal Street Frontages					
Service Provider	HA 1980	Administration Fee per additional street frontage	per street		£ 85.00	£ 90.00	Non Business (0%)
		Extension or Amendment to Permit					
Service Provider	HA 1980	Administration Fee if less than 4 weeks	Partial Review of an approved permit		£ 85.00	£ 90.00	Non Business (0%)
		Large Development Highways Permit					
Authority	HA 1980	Project Value ≥£1million and over 4 weeks	% of scheme value.		0.15%	0.15%	Non Business (0%)
Authority	N/A	Administrative Fee for processing Development Bond	Per application with associated bond			£50.00	Non Business (0%)

Licensing & Public Protection Committee							Appendix 1
Highways Related Fees & Charges 2019/20			Note those Charges determined by the service provider are contractually controlled and are unable to be amended by the committee. They are included for the committee to note.				
Who Recieves the Charge	Statutory Basis	Service Area and Description of Chargeable Item	Further details relating to charge	Duration	18/19 Charge (excl VAT)	19/20 Charge (excl VAT)	VAT status
		Retrospective Highway Permit Issue					
Service Provider	HA 1980	Retrospective Highway Permit	Applicable where a permit has not been provided previously. To cover site inspection, retrospective review of operations and fast track permitting.		2 x equivalent pre-approved total permit value	2 x equivalent pre-approved total permit value	Non Business (0%)
		Skip Placements on the Highway					
Authority		Registration Fee	Company etc registration		No Charge	No Charge	Non Business (0%)
Authority	HA 1980, s139	Permit Fee	Per skip	7 days	£ 19.00	£ 20.00	Non Business (0%)
Authority	HA 1980, s139	Retrospective Permit Fee	Applicable where a permit has not been provided previously. To cover site inspections, retrospective review of operations and fast track permitting	7 days	£ 180.00	£ 190.00	Non Business (0%)
Authority	HA 1980, s139	Removal of non-permitted skips	per skip, or reasonable costs incurred, which may also result in a fine following conviction in a Magistrates Court)	Per skip	£ 210.00	£ 220.00	Non Business (0%)

Title of proposed EIA	Inclusive Growth Fees and Charges 2019/2020
Reference No	EQUA270
EA is in support of	Amended Function
Review Frequency	Annually
Date of first review	01/03/2020
Directorate	Economy
Division	Highways & Infrastructure
Service Area	
Responsible Officer(s)	<input checked="" type="checkbox"/> Jenny Bent
Quality Control Officer(s)	<input checked="" type="checkbox"/> Jamie Davies
Accountable Officer(s)	<input checked="" type="checkbox"/> Ravinder Sahota
Purpose of proposal	The annual review of fees and charges for Highway Services within the Licensing and Public Protection Committee
What sources of data have been used to produce the screening of this policy/proposal?	relevant reports/strategies
Please include any other sources of data	
PLEASE ASSESS THE POTENTIAL IMPACT ON THE FOLLOWING PROTECTED CHARACTERISTICS	
Protected characteristic: Age	Not Applicable
Age details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristic: Disability	Not Applicable
Disability details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristic: Gender	Not Applicable
Gender details:	There is no adverse impact on any of the protected groups and therefore this

	will not be applicable.
Protected characteristics: Gender Reassignment	Not Applicable
Gender reassignment details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristics: Marriage and Civil Partnership	Not Applicable
Marriage and civil partnership details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristics: Pregnancy and Maternity	Not Applicable
Pregnancy and maternity details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristics: Race	Not Applicable
Race details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristics: Religion or Beliefs	Not Applicable
Religion or beliefs details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Protected characteristics: Sexual Orientation	Not Applicable
Sexual orientation details:	There is no adverse impact on any of the protected groups and therefore this will not be applicable.

Please indicate any actions arising from completing this screening exercise.	N/A
Please indicate whether a full impact assessment is recommended	NO
What data has been collected to facilitate the assessment of this policy/proposal?	N//A
Consultation analysis	N/A
Adverse impact on any people with protected characteristics.	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Could the policy/proposal be modified to reduce or eliminate any adverse impact on any particular group(s)?	N/A
How will the effect(s) of this policy/proposal on equality be monitored?	N/A
What data is required in the future to ensure effective monitoring of this policy/proposal?	N/A
Are there any adverse impacts on any particular group(s)	No
If yes, please explain your reasons for going ahead.	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
Initial equality impact assessment of your proposal	N/A
Consulted People or Groups	N/A
Informed People or Groups	N/A
Summary and evidence of findings from your EIA	There is no adverse impact on any of the protected groups and therefore this will not be applicable.
QUALITY CONTORL SECTION	
Submit to the Quality Control Officer for reviewing?	Yes
Quality Control Officer comments	
Decision by Quality Control Officer	Proceed for final approval
Submit draft to Accountable Officer?	Yes
Decision by Accountable Officer	
Date approved / rejected by the Accountable Officer	
Reasons for approval or rejection	

Please print and save a PDF copy for your records

Yes

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Close

BIRMINGHAM CITY COUNCIL**REPORT OF THE ASSISTANT DIRECTOR OF
REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE****10 APRIL 2019
ALL WARDS****MEDIUM TO LONG-TERM EMISSION STANDARD AND AGE POLICY
FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES****1 Summary**

- 1.1 In October 2017 your Committee approved an emissions policy for hackney carriage and private hire vehicles that is consistent with the introduction in 2020 of a Clean Air Zone. It requires all licensed vehicles to meet the minimum emission standards of Euro 4 for petrol engines and Euro 6 for diesel engines.
- 1.2 In order to achieve compliance, drivers of vehicles that do not meet the standard must change their vehicle or install an approved retrofit device (where suitable devices exist). Whilst there is a wide choice of compliant vehicles available to private hire drivers, the availability of compliant hackney carriage vehicles is far more restricted.
- 1.3 In November 2018 your Committee approved a consultation to consider proposals for a medium to long-term vehicle emissions and age policy that set standards for vehicles from 2020 up to 2030. This report invites the Committee to agree the final version of the policy, which has been significantly amended to take account of the results of the public consultation.

2. Recommendations

- 2.1 That the recommended policies in Appendix 1 '**Hackney Carriage Vehicle Age, MOT and Retrofit Requirements**' from paragraphs 1 to 12 be approved.
- 2.2 That the recommended policies in Appendix 2 '**Private Hire Vehicle Age, MOT and Retrofit Requirements**' from paragraphs 1 to 12 be approved.

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3. Background

- 3.1 In December 2015 the Government announced that Birmingham would be one of six cities that would be required to put in place a Clean Air Zone in order to improve air quality. Those cities were London, Birmingham, Leeds, Nottingham, Derby and Southampton. That decision was reported to your Committee on 17th February 2016.
- 3.2 On 15th February 2017 the Licensing & Public Protection Committee agreed to consult on a draft vehicle emissions policy in the context of the Government's decision that Birmingham had to adopt a Clean Air Zone (CAZ) as one of a series of measures to improve air quality in the city due to the impact that pollution is having on the health of the population.
- 3.3 The consultation took place over 14 weeks between 1 March 2017 and 9 June 2017. The consultation was hosted on the Council's BeHeard website and was promoted through meetings with taxi and private hire trade representatives, social media and Birmingham City Council's principal website. Individual post cards were sent to every licensed hackney carriage and private hire driver or owner and every private hire operator to alert them to the consultation. The responses to the consultation were taken into account when this committee agreed its emissions policy on 23 October 2017.
- 3.4 On 26 July 2017, upon the direction of the Supreme Court, the Government published DEFRA's UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations (The UK Plan). Under that plan each city must adopt its own measures to improve air quality and final plans had to have been produced by December 2018. The Supreme Court ruled that the UK government must reach legal compliance with EU air quality standards 'in the shortest possible time.'
- 3.5 **Legislative Background.** The EU Air Quality Directive 2008/50/EC sets out the national targets on emission of pollutants, including nitrogen dioxide (NO₂). The directive and target emission levels are set out and implemented in England under the Air Quality Standards Regulations 2010 and 2016. Under S.82 Environment Act 1985 the Council is required to review air quality within its area and to designate Air Quality Management Areas (AQMA) where air quality objectives set out under the Air Quality (England) Regulations 2000 and 2002 are not achieved and to prepare an action plan detailing remedial measures to tackle the problem.
- 3.6 Birmingham is currently non-compliant in a number of areas of the city centre. The pressing urgency is that the Government issued the UK Plan for Tackling Roadside Nitrogen Dioxide Concentrations in July 2017 which identified Birmingham as one of the areas experiencing the greatest problem with NO₂ exceedances. Birmingham has responded to the Government's UK Plan by announcing the introduction of a Clean Air Zone (CAZ) with effect from 1st January 2020.

- 3.7 **Health & Social Care Overview and Scrutiny Report.** On 12th September 2017 Birmingham's Health & Social Care Overview and Scrutiny Committee published its report 'The Impact of Poor Air Quality on Health'. It identified that in Birmingham up to 900 deaths per year are linked to man-made air pollution. In adults air pollution is linked to heart disease, diabetes, asthma, obesity, cancer and dementia. In children it is linked to still births, infant deaths, low birth weight, organ damage and premature death. In high pollution areas children are four times more likely to have reduced lung function when they become adults. Taxi and private hire drivers are three times more exposed to pollution than anyone else. The report's first recommendation says:

There is now clear and compelling evidence that poor air quality has an impact on general population health and child development. The evidence also shows that diesel vehicle emissions are the most prevalent and impactful source of health-affecting air pollution in Birmingham. The City Council needs to demonstrate leadership and take ownership of this issue by developing a strategy to address this effectively, with particular emphasis on selected priority hotspot zones where the risk of public exposure is highest.

- 3.8 The most harmful types of pollution are nitrogen oxides and particulates (PM2.5 and PM10). Both pollutants are mainly created by road transport. The largest source is emissions from diesel cars and vans. Just fewer than 40% of cars in the UK now use diesel fuel.

- 3.9 The conclusion of the Scrutiny Report is copied below:

The impact of poor air quality on health and the need to take action urgently to tackle the problem is becoming increasingly clear. The evidence demonstrates that poor air quality is a major public health issue. In Birmingham, Public Health estimate that poor air quality causes approximately 900 premature deaths a year. It is rapidly becoming clear that exposure to air pollution is associated with a much greater public health risk than had previously been understood and evidence about associated adverse health effects is emerging all the time.

There is also growing recognition that air quality is a major cross-cutting issue. It has a wide impact and any effective response to the issue will require a joined-up approach across a number of Council areas of responsibility. It will also necessitate joint working together with communities, businesses and other partners across the city and across the wider West Midlands region with the West Midlands Combined Authority and the West Midlands Mayor.

Birmingham needs to respond to the challenge of improving air quality and achieving compliance with air quality limits as soon as possible. But local action alone will not be sufficient to produce a successful solution to reducing emissions. Responding to the problem successfully, achieving compliance and bringing about the scale of behaviour change needed will require a very clear and

consistent message to be communicated about the health implications of poor air quality. The City Council needs to continue to collaborate with the West Midlands Mayor to build on the vision set out in the Birmingham Connected Transport Strategy and to take a lead to get clarity and commitment about the measures needed to both support sustainable and inclusive growth and to achieve compliance with air quality limits across the region.

- 3.10 The report evidenced the need for all parts of the Council to take action to improve air quality. The Licensing and Public Protection Committee can play a key role in supporting the Council's aims through its hackney carriage and private hire vehicle licensing policies.
- 3.11 On 11th March 2019 the Ministerial Direction was made by Dr Therese Coffey MP (the Environment Act 1995 (Birmingham City Council) Air Quality Direction 2019) that requires Birmingham to implement its full business case in order to achieve legal nitrogen dioxide levels in the shortest possible time, and by 2021 at the latest. A copy of the Ministerial Direction is attached Appendix 4.

4. Vehicles Affected by the Emissions and Age Policy

- 4.1 The number of hackney carriage and private hire vehicles licensed by Birmingham by reference to their age as at 25th January 2019 is summarised in the table below.

Hackney Carriage Vehicles		Private Hire Vehicles		Totals
Age	Number	Age	Number	
Up to 5 years	49	Up to 5 years	562	611
5 to 10 years	103	5 to 10 years	1,676	1,779
10 to 15 years	443	10 to 15 years	1,741	2,184
Over 15 years	523	Over 15 years	166	689
Total	1,118	Total	4,145	5,263

5. Mitigation for Drivers Affected by the Emissions Policy

- 5.1 The following mitigation has already been put in place to support drivers whose vehicles do not meet the new CAZ emission standards.

Policy	Comments
LPG Retrofit Scheme	65 Hackney Carriage vehicles have been fitted with LPG conversions to make them compliant with the

	emissions standard. The cost was funded by the Department for Transport as a national pilot. The effectiveness of the project has now been assessed and approved by the CVRAS as a recognised retrofit solution for hackney carriage TX models. In 2018 the Department of Transport set up a Clean Vehicle Retrofit Accreditation Scheme (CVRAS) to provide independent evidence that a vehicle retrofit technology will deliver the expected emissions reductions and air quality benefits. Only approved conversions under the CVRAS scheme will be recognised as CAZ compliant.
LPG Retrofit scheme	The Licensing and Public Protection Committee resolved in October 2017 to allow hackney carriages that have been retrofitted with the LPG conversion to remain licensed until 31 December 2025 irrespective of their age.
Engine size of vehicles	In September 2018 The Licensing and Public Protection Committee approved the removal of the policy requirement for private hire vehicles to have a minimum engine size, enabling vehicles with smaller engines to be licensed, including electrically powered vehicles, thus widening the pool of vehicles available to drivers.
Dual hackney carriage and private hire drivers' badge	Approved by the Licensing and Public Protection Committee in October 2018. Hackney carriage drivers can have a joint hackney carriage and private hire drivers' badge to enable drivers who would like to transfer from hackney carriage to private hire to do so more easily.

- 5.2 On 7th March 2019 Dr Therese Coffey MP, Parliamentary Under Secretary of State for the Environment, wrote to the Leader of Birmingham City Council to approve the council's local plan to achieve compliance with the legal limit value for nitrogen dioxide in the shortest possible time and by no later than 2021. To support the introduction of the CAZ the Minister confirmed that Birmingham will receive £37,957,529 to help businesses and members of the public affected by the CAZ. In particular, £14.75m was ring fenced to support taxi and private hire drivers. The money has been allocated as follows:

Measure	Comments
We have been allocated £2.75m to enable BCC to buy 50 new ULEV hackney carriages. 10 of the 50 would be offered on short leases to drivers as a try before you buy scheme to help drivers to make a	We will consider whether we can increase the number of vehicles to more than

<p>purchasing decision. 40 of the 50 would be for short term rental, on possibly hourly rates, and could be targeted at older drivers nearing retirement to address the fact that they are less likely to be in a position to be able to purchase new vehicles.</p> <p>We have been awarded £5m for a package measures worth £5000 each for up to 1000 owners to offset the costs of running a ULEV hackney carriage vehicle and which would be paid over a 4-year period. Alternatively, drivers could use the £5000 to pay towards the cost of installing CVRAS approved retrofit technology (with an extension to our age policy as described below).</p> <p>We have been awarded £7m for private hire drivers: either £2,500 towards the running costs of a ULEV that is eligible for the Government's plug in car grant, or</p> <p>£2,000 towards the purchase price or lease of a hybrid electric vehicle (HEV) or ULEV that is not eligible for the plug in car grant, or</p> <p>£1,000 towards the purchase or lease of a petrol or diesel CAZ compliant vehicle.</p>	<p>50 by hiring them instead of purchasing them.</p>
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5.3 The letter from Dr Therese Coffey is attached at Appendix 5.

6. Proposed medium to long-term emissions and age policy for hackney carriage and private hire vehicles

6.1 Appendix 1 is a table that sets out our current vehicle age and emissions policies for hackney carriages, the proposals upon which we have consulted and the policies that are recommended for approval. Appendix 2 is the same, but for private hire vehicles. The tables allow committee members to see the degree to which the proposals have moved as a consequence of officers taking account of the responses to the consultation. Although the new recommendations are less onerous for drivers in the short term, they are predicted to achieve a higher uptake of ULEV vehicles in the long term. The entire fleet of hackney carriages is forecast to be ULEV 5 years earlier in 2035 compared to the original proposals and the entire private hire fleet is forecast to be ULEV 3 years earlier in 2033 compared to the original proposals.

7. Wheelchair Accessible Vehicles

- 7.1 Currently only side loading hackney carriages can be licensed for wheelchair access in Birmingham. By permitting rear loading hackney carriages we would open up a wider pool of less expensive vehicles to hackney carriage drivers, such as the Peugeot van conversion, for instance. However, there are arguments for and against. We also have the opportunity to approve wheelchair accessible private hire vehicles. This is a significant area of licensing policy in its own right and therefore will be considered in a separate report that will be brought to this Committee.

8. Comparison with London's Emissions Policy for Private Hire and Hackney Carriage Vehicles

- 8.1 In London the emissions standards for private hire vehicles are regulated by Transport for London via statutory instrument under the Greater London Authority Act 1999 and the Private Hire Vehicles (London) Act 1998. The Private Hire Vehicles (London PHV Licences) (Amendment) Regulations 2015 came into force on 1st November 2015 and set out the minimum vehicle emission standards for private hire vehicles. There is an absolute age policy of 10 years for private hire vehicles in London. A vehicle must be no older than 5 years to be licensed for the first time and it must be at least Euro 4.

Date	Standard
1 st January 2018 to 31 st December 2019	All PHV vehicles granted a licence for the first time must be Euro 6 (whether petrol or diesel) or a petrol hybrid that is a minimum of Euro 4.
1 st January 2020 to 31 st December 2022	All new (less than 18 months old) PHVs licensed for the first time will have to be zero emission capable. PHVs over 18 months old will need to have a Euro 6 engine when licensed for the first time.
From 1 st January 2023	All PHVs (of any age) will need to be zero emission capable when licensed for the first time.
From September 7 th 2020 all PHVs that do not meet Euro 4 petrol or Euro 6 diesel emissions standards will be subject to £12.50 per day charge to enter the Ultra Low Emissions Zone (ULEZ).	

- 8.2 The policy in London for hackney carriage vehicles is that from 1st January 2018 taxis presented for the first time will need to be Zero Emission Capable (ZEC). A first-time taxi vehicle licence will no longer be granted to a diesel taxi. ZEC taxis with petrol engines will need to meet the latest emissions standard (currently Euro 6). There is a maximum age limit for taxis of 15 years which will remain in place and taxis will be exempt from paying the charge to enter the Ultra-Low Emissions Zone. Taxis converted to LPG with approved TfL technology can be licensed for an additional 5 years. TfL has a target to license 9,000 ZEC taxis by 2020.

9. Consultation

- 9.1 Extensive consultation was conducted during 2017 lasting 14 weeks which produced 775 responses. The responses were considered and reflected in the policy that was agreed in October 2017.
- 9.2 During the summer of 2018 the Council engaged in widespread consultation with the general public on the impact of the Clean Air Zone. This included five 2-hour meetings specifically for taxi and private hire drivers and operators between 7th, 8th and 9th August 2018.
- 9.3 The draft policy that your committee approved on 21 November 2018 was put out to public consultation through the Council's BeHeard consultation portal, and through social media. Every licensed driver, vehicle owner and operator received a letter advising them of the consultation. Meetings were held with the trade representatives specifically to discuss these proposals on 5 December 2018, attended by the Chair of your committee, and 5 February 2019.
- 9.4 The public consultation received 1,379 responses, with a further 11 received by post or email. The responses have been analysed on behalf of Licensing by Element Energy Ltd, a strategic energy consultancy that has been engaged by Birmingham City Council to support the introduction of the CAZ. An analysis of the responses is at Appendix 3. The recommendations in this report have been influenced by the responses to the consultation.
- 9.5 This policy had been scheduled to come before the Committee on 13th March 2019, but was deferred following meetings with and representations by the RMT trade union, which threatened to take protest action in the city centre unless certain changes could be guaranteed to the policy. In particular they asked the council to
- Consider moving the proposed last date for new diesel vehicles to be licensed from 2021 to 2026.
 - Exempt drivers of hackney carriage vehicles that are older than 15 from paying the daily £8 penalty charge for entering the Clean Air Zone for the remaining duration of their current licence in 2021.

- To offer hackney carriage drivers the same mitigation that is planned for people that live inside the Clean Air Zone who are on low incomes.

9.6 Following receipt of the RMT representations, other trade organisations grouped themselves together under the umbrella of the Trade Representatives Working Group. This group asked for the same changes to the policy that the RMT had asked for, but went further, asking for:

- All hackney carriage and private hire drivers of vehicles that do not meet the CAZ emissions standards to be exempted from paying the CAZ daily charge
- The age limit for private hire vehicles to be extended from the proposed 12 years to 15 years
- The removal of the proposal for hackney carriages that are converted to LPG that are more than 15 years old to be required to take 2 MOT tests per year and be subject to the supplementary condition test.
- Licensing to agree to allow hackney carriage drivers to surrender and retrieve their vehicle plate (licence) for a period of up to 2 years if the plate is not on a vehicle

9.7 Meetings were held with the RMT on 22nd February and 11th March 2019 and with the Trade Representatives Working Group on 22nd March. A full meeting of the Hackney Carriage and Private Hire Trade Liaison Group was held on 28th March, attended by the Chair of this Committee and also attended by the Cabinet Member for Transport and Environment when all of the above counter proposals were considered.

9.8 The Council's response to the counter proposals is detailed below.

Counter Proposal from Trade Organisations	Council's Response
Consider moving the proposed last date for new diesel vehicles to be licensed from 1 st January 2021 to 1 st January 2026.	We are unable to accede to this request because it would allow drivers to continue to bring diesels into the trade for another 5 years. It would delay the date before which all diesels had been removed from the road from 2036 until 2041. It would put at risk the funding that Government has agreed to support the taxi and private hire trade, which has been granted on the basis of our business case which proposed a cut-off date of 2021. The Ministerial Direction makes clear that Birmingham must achieve compliance in the shortest possible time and by 2021 at the latest. If Birmingham does

	not achieve compliance by the 2021 deadline, one possibility is that it would be required to increase the CAZ daily charge to more than £8 in order to encourage vehicle owners to upgrade their vehicles.
Exempt drivers of hackney carriage vehicles that are older than 15 from paying the daily £8 penalty charge for entering the Clean Air Zone for the remaining duration of their current licence in 2021	<p>We are unable to accede to this request. The principle of the CAZ is that the daily charge should act as an encouragement to all non-compliant vehicle owners to change or retrofit their vehicle. The only exemption that the policy envisages is for drivers of vehicles that have entered a binding contract for a CVRAS retrofit who have been unable to complete the conversion because of a waiting list.</p> <p>The Ministerial Direction makes clear that Birmingham must achieve compliance in the shortest possible time and by 2021 at the latest.</p>
All hackney carriage and private hire drivers of vehicles that do not meet the CAZ emissions standards to be exempted from paying the CAZ daily charge	<p>We are unable to accede to this request. The principle of the CAZ is that the daily charge should act as an encouragement to all non-compliant vehicle owners to change or retrofit their vehicle. The only exemption that the policy envisages is for drivers of vehicles that have entered a binding contract for a CVRAS retrofit who have been unable to complete the conversion because of a waiting list.</p> <p>The Ministerial Direction makes clear that Birmingham must achieve compliance in the shortest possible time and by 2021 at the latest.</p>
To offer hackney carriage drivers the same mitigation that is planned for people that live inside the Clean Air Zone who are on low incomes.	This is not a licensing decision, it is a matter for the Cabinet Member for Transport and Environment, but if granted, it would allow drivers to be exempted from the CAZ daily charge for up to 2 years (for people living inside the CAZ) or for 1 year for people who live outside the CAZ but work inside it and who earn less than

	£30,000 per year
The age limit for private hire vehicles to be extended from the proposed 12 years to 15 years	We have agreed to extend the age limit for private hire vehicles from 8 years to 12 years. Private hire vehicles are, by their nature, not designed for the heavy usage that they receive as licensed vehicles. It is thought that to extend their life to 15 years would be excessive and detrimental to the image and reputation of the city. It is probable that a vehicle that was almost 15 years old at the implementation of the CAZ on 1 st January 2020 would be unlikely to meet the CAZ emission standards.
The removal of the proposal for hackney carriages that are converted to LPG that are more than 15 years old to be required to take 2 MOT tests per year and be subject to the supplementary condition test.	We cannot accede to this request. We have agreed to remove the age limit for LPG converted vehicles (subject to a structural integrity test) which means that vehicles could be over 20 years old at the time of conversion, enabling them to still be working in 2025 when they will be up to 25 years old. We feel that it is important that Licensing is reassured that vehicles are being properly maintained when they are this old, and given that they will have LPG tanks in their boot, which on the TX2 and TX4 models of hackney carriage is an area that is prone to corrosion.
Mohammed Rashid's Trade Representative's Working Group has asked Licensing to agree to allow hackney carriage drivers to surrender and retrieve their vehicle plate (licence) for a period of up to 2 years if the plate is not on a vehicle	Section 48 of The Local Government (Miscellaneous Provisions) Act and Section 40 of the Town Police Clauses Act 1847 (and case law) do not permit a plate to be disposed of separately from its vehicle. However, officers will bring a report to the Committee to consider a policy that would enable a hackney carriage driver to ask for a new hackney carriage vehicle licence within 24 months of the surrender of their original licence, subject to the Committee agreeing to an exemption from the moratorium on the issue of

	new hackney carriage vehicle licences.
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9.9 Other Concerns raised by trade representatives at trade meetings:

9.9.1 Trade representatives were concerned that after the 1st January 2021 cut-off for licensing new diesel vehicles, drivers of non-ULEV vehicles would be disadvantaged if their vehicle was written off as a total loss by an insurer, they would be unable to afford to replace it with a more expensive ULEV after 1st January 2021. In the light of this concern we have agreed to permit vehicle owners whose vehicle is written off by an insurer as a total loss to be able to replace it on a like-for-like basis with a vehicle that is not older than the vehicle that was written off, despite the fact that it is not ULEV.

9.9.2 We have agreed to remove the 6 months' time limit on exemption from payment of the CAZ daily charge for owners of vehicles awaiting conversion under a CVRAS approved retrofit scheme. This would have limited the period of exemption from 1st January 2020 until 30th June 2020. Instead, the exemption will apply until the date of conversion.

9.9.3 Drivers of 8 seater people carriers: it has been identified that there are no ULEV people carriers yet on the market, which would make compliance with the 2021 ULEV date impossible. Officers have agreed to look at this specific issue separately to consider whether an exemption would be appropriate. This could also have implications for private hire operators providing contracts for home to school transport. Trade representatives asked whether an exemption could be considered to allow Euro 5 vehicles up to 2 years beyond 2020.

9.9.4 Officers have agreed to the request to allow private hire vehicles that will be older than 12 years and hackney carriage vehicles that will be older than 15 years on 1st January 2020 to continue to be used until the expiry of their vehicle licence plate during 2020. This avoids all older vehicles all coming off the road simultaneously on 1st January 2020.

9.9.5 Under our current policy, vehicles that are not CAZ compliant on 1st January 2020 will no longer be licensed. To that end, we have not renewed vehicle licences beyond that date. A driver whose licence expires in April 2020, for instance, will have only been given a licence up until 31st December 2019. Upon approval of the revised policy, Licensing will be able to extend the vehicle licence of drivers affected to allow them a full 12 months.

9.9.6 Trade representatives were concerned that companies with fleets of vehicles should not be entitled to claim multiple times for financial support if this was at the expense of individual drivers. Officers have agreed to consider this point to ensure that priority is given to individuals.

- 9.9.7 Upon the committee's consideration of this report and its decision, officers will send a clear and comprehensive information pack to all drivers and operators to explain the policy and its consequences for them.

10. Implications for Resources

- 10.1 The cost of licensing vehicles is the same whatever their age or emissions. However, there is a risk to overall licensing income if the effect of the policies recommended in this report result in drivers and vehicle owners seeking licences from other authorities with lower standards or retiring from the trade completely.
- 10.2 The number of drivers licensed in one authority and working in another has become more prevalent since the Local Government (Miscellaneous Provisions) Act 1976 was amended by the Deregulation Act 2015 in respect of Sub Contracting by operators. In Birmingham we see large numbers of drivers and vehicles working here who are licensed by other authorities. The Chair of your Committee has lobbied the relevant ministers and MPs to try to change the legislation to restrict the ability of drivers to do this. When Birmingham introduces a fee paying charging Clean Air Zone, drivers licensed by other authorities using vehicles that do not meet Clean Air Zone standards would be required to pay to enter the zone irrespective of where they are licensed and this may remove any incentive to seek a licence elsewhere.

11. Implications for Policy Priorities

- 11.1 The Council's Vision and Priorities 2017-2020 document identifies four priorities for Birmingham namely: Children, Housing, Jobs and Skills, and Health. The recommendations in this report support the Council's main priorities at the highest level, in particular those for Health, Children, and Jobs and Skills. These include 'Creating a healthier environment for Birmingham', creating 'an environment where our children have the best start in life', and developing 'a modern sustainable transport system that promotes and prioritises sustainable journeys'.

12. Public Sector Equality Duty

- 12.1 Under the Duty we must have regard to the need to:
- Eliminate unlawful discrimination, harassment, and victimisation and other conduct prohibited by the Act
 - Advance equality of opportunity between people who share a protected characteristic and those who do not
 - Foster good relations between people who share a protected characteristic and those who do not.

- 12.2 We recognise that there will be financial consequences for large numbers of drivers and vehicle owners if they are required to replace their vehicles or to retrofit engines to achieve compliance with emission standards, however, these consequences arise because of the fact that they are licensed drivers and owners and are not attributable to a protected characteristic.
- 12.3 We have identified in paragraph 5 mitigation measures aimed at reducing the impact of these policies on drivers and by enabling an increased number of currently licensed hackney carriages to continue to work between 2020 and 2025 we will be protecting the rights of people with disabilities, and especially those who use wheelchairs.
- 12.4 On 1 March 2019 the Independent Workers Union of Great Britain (IWGB) started legal action against the Mayor of London, Sadiq Khan, claiming that the intention to make private hire drivers pay the £11.50 London congestion charge, but to make hackney carriages exempt, is a form of indirect discrimination because the majority of private hire drivers in London are BAME (Black, Asian and Minority Ethnic) and the majority of hackney carriage drivers are white.
- 12.5 In the policy recommended to your committee we have tried wherever possible to treat the private hire and hackney carriage trades equally and have proposed that any exemptions or allowances for one are made available to the other. The different age limits proposed for private hire vehicles compared to hackney carriages recognises that private hire vehicles are not constructed with the intention that they will be used as intensively as a hackney carriage and the cost of a ULEV hackney carriage is much higher than a ULEV private hire vehicle. There is no significant imbalance in the demographic make-up of the two trades, with private hire and hackney carriage drivers both being predominantly from BAME backgrounds.
- 12.6 An Equality Analysis has concluded that this policy will not result in an adverse impact based on categories of protected characteristics.

ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers:

Spreadsheet of all responses to the BeHeard consultation.

Responses to the consultation sent directly to the Acting Director.

D I R E C T I O N

ENVIRONMENT ACT 1995

Environment Act 1995 (Birmingham City Council) Air Quality Direction 2019

The Secretary of State, in exercise of the power conferred by section 85(5) of the Environment Act 1995^(a), gives the following direction.

In accordance with section 85(6) a copy of this direction will be published in the London Gazette.

The Secretary of State makes this direction having determined that it is necessary in order to meet obligations placed upon the UK under the EU Ambient Air Quality Directive^(b).

Citation, commencement and application

1.—(1) This direction may be cited as the Environment Act 1995 (Birmingham City Council) Air Quality Direction 2019 and comes into force on 12 March 2019.

(2) This direction applies to Birmingham City Council.

Interpretation

2. In this direction—

“the authority” means Birmingham City Council;

“AQP” means the UK plan for tackling roadside nitrogen dioxide concentrations 2017, drawn up by the Secretary of State in accordance with regulation 26(1) of the Air Quality Standards Regulations 2010^(c);

“local plan for NO₂ compliance” means the detailed scheme (excluding any associated mitigation measures) which Birmingham City Council identified as part of the AQP to deliver compliance with the legal limit value for nitrogen dioxide in the shortest possible time that was approved by the Secretary of State on 7 March 2019 and is summarised in Schedule 1.

Duty to implement the approved full business case option

3.—(1) The authority must take steps to implement the local plan for NO₂ compliance for the area for which it is responsible.

(2) The authority must ensure that the local plan for NO₂ compliance is implemented so that—

- (a) compliance with the legal limit value for nitrogen dioxide is achieved in the shortest possible time, and by 2021 at the latest;

^(a) 1995 c25.

^(b) 2008/50/EC OJ No. L 152, 11.06.08, p.1.

^(c) S.I. 2010/1001. A copy of the plan is available at: <https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017>.

- (b) exposure to levels above the legal limit for nitrogen dioxide are reduced as quickly as possible.

Variation, revocation or suspension

4. The authority must not vary, revoke or suspend its implementation of the local plan for NO₂ compliance pursuant to paragraph 3, without the prior written consent of the Secretary of State.

Guidance

5. The authority, in taking steps under this direction, must have regard to relevant guidance issued by the Secretary of State.

Thérèse Coffey MP
Parliamentary Under Secretary of State for the Environment
Department for the Environment Food & Rural Affairs

11 March 2019

SCHEDULE 1

Paragraph 2

Summary of local plan for NO₂ compliance measures

<i>Measures description</i>	<i>Deadlines</i>
Class D Charging Clean Air Zone	To be implemented as soon as possible and at least in time to bring forward compliance to 2021
Traffic Management Measures	To be implemented as soon as possible and at least in time to bring forward compliance to 2021
- action on all free on-street parking within the Clean Air Zone;	
- action on traffic travelling northbound on Suffolk Street Queensway (A38) that exits onto Paradise Circus to then access Sandpits Parade and southbound traffic from Paradise Circus accessing the A38;	
-action on Lister Street and Great Lister Street at the junction with Dartmouth Middleway.	

EXPLANATORY NOTE

(This note is not part of the direction)

This direction directs Birmingham City Council to implement its local plan for NO₂ compliance, in connection with duties in respect of air quality under Part 4 of the Environment Act 1995 and as

part of the UK plan for tackling roadside nitrogen dioxide concentrations 2017. Birmingham City Council's local plan for NO₂ compliance was approved by the Secretary of State on 7 March 2019, and it must now be implemented to ensure compliance with the legal limit value for nitrogen dioxide is achieved in Birmingham in the shortest possible time. Under section 85(7) of the Environment Act it is the duty of a local authority to comply with a direction given to it. A copy of this direction is available at for inspection at Seacole Building, 2 Marsham Street, London, SW1P 4DF.

Hackney Carriage Vehicle Age, MOT and Retrofit Requirements

Current Policy	Consultation Proposal	Recommended Policy	Commentary
<p>1. Emissions</p> <p>Birmingham City Council will not license or permit the use of any vehicle as a hackney carriage after 31 December 2019 that does not meet the minimum emission standards of Euro 4 for petrol engines, Euro 6 for diesel engines or is Ultra Low Emission or a Zero Emission Capable Vehicle.</p>	No Change from current policy	<p>The emission standard that is applicable to vehicles from 1st January 2020 will be repealed. In its place we will apply a strict age policy for hackney carriage vehicles which will be a maximum of 15 years (see section 2 below). This policy will apply from 1st January 2020.</p> <p>Vehicles that do not meet the CAZ emission standards for their type of fuel will not be exempted from paying the daily CAZ charge.</p>	<p>This is a significant change from the consultation proposal. The recommendation is to remove the emissions standard as the criteria for licensing vehicles and to replace it with a strict age policy. This will ensure that significantly more hackney carriages are still working after 1st January 2020. Whereas the proposed policy might result in only 31 hackney carriages able to work from that date (plus 65 that have already converted to LPG), the recommended policy would enable up to 493 vehicles (plus the 65 LPG conversions) to work after 1st January. It will however remove 625 of the oldest and most polluting vehicles from the road</p> <p>To exempt vehicles from the CAZ charge would remove any</p>

Current Policy	Consultation Proposal	Recommended Policy	Commentary
			incentive for owners to replace their vehicles with cleaner vehicles.
2. Age / Vehicle Licence Grant No vehicle over the age of 14 years will be granted a licence.	From 1 st January 2020 no hackney carriage vehicle may remain licensed after it reaches the age of 14 years unless it has already been converted under Birmingham's LPG pilot scheme, in which case it can remain licensed until 31 December 2025, regardless of its age.	From 1 st January 2020 no diesel hackney carriage vehicle will be granted a licence after it reaches the age of 15 years unless it has already been converted under Birmingham's LPG pilot scheme, in which case it can remain licensed until 31 December 2025, regardless of its age. With immediate effect a ULEV vehicle will have an age limit of 18 years.	We have increased the age limit for diesels from 14 years to 15 years which has the effect of aligning our policy to London and increasing the number of vehicles eligible to carry on working after 1 st January 2020. Allowing ULEV vehicles an additional 3 years acts as an incentive for drivers to buy them and recognises that a longer period is required for drivers to recover their investment given the higher purchase price of ULEVs.
3. Vehicle Licence Renewal	This was not an aspect of the original proposals and has arisen out of discussions with trade representatives.	No licences will be renewed after 1 st January 2020 for any vehicle that is more than 15 years old. Any vehicle that is more than 15 years old on 1 st January 2020 will remain licensed until the expiry of its vehicle	This is a significant change from the proposal. Under the proposal any vehicle that did not meet the CAZ emissions standard on 1 st January 2020 would have to stop work on that day. The recommended policy will see a

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		<p>licence before 1st January 2021.</p> <p>Vehicles that do not meet the CAZ emission standards for their type of fuel will not be exempted from paying the daily CAZ charge</p>	<p>gradual reduction in the number of vehicles that can continue to work throughout 2020 instead of a sudden loss of vehicles on 1st January 2020.</p>
<p>4. Supplementary Test Plus / Exceptional Condition Test</p> <p>No vehicle over the age of 14 years will have its licence renewed unless the vehicle is able to pass the <u>Supplementary Test Plus*</u>, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the <u>Supplementary Test Plus</u> on each occasion.</p> <p>*Also referred to as the 'Exceptional Condition Test'</p>	<p>We will discontinue the Supplementary Test Plus.</p>	<p>From 1st January 2020 we will discontinue the Supplementary Test Plus (exceptional condition test) except for the case of CVRAS retrofitted hackney carriages that are allowed to go over the 15 year age limit.</p>	<p>The recommendation is the same as the proposal with the addition of the provision for CVRAS retrofitted hackney carriages. This will require all vehicles to be replaced when they reach the 15- year age limit (subject to the exemption for CVRAS approved retrofitted technology and the higher age limit for ULEV vehicles) and will help to future-proof the fleet of licensed vehicles in relation to compliance with more stringent emission standards.</p>
<p>5. Licence Transfer</p> <p>A hackney carriage vehicle licence may only be transferred to another</p>		<p>A hackney carriage vehicle licence may only be transferred to another vehicle (that is to say separated from</p>	<p>We do not propose to change this policy. Maintaining this requirement means that each</p>

Current Policy	Consultation Proposal	Recommended Policy	Commentary
vehicle (that is to say separated from its related vehicle and moved to another vehicle) that is younger/newer than the age of the vehicle currently licensed.		its related vehicle and moved to another vehicle) that is younger/newer than the age of the vehicle currently licensed.	time that a vehicle is replaced it is always replaced with a newer vehicle.
6. MOT Test All vehicles are subject to a standard MOT test to determine its mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.		All vehicles are subject to a standard MOT test to determine its mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing. Any vehicle that is licensed after the age of 15 will be subject to 2 MOT tests per year.	We have increased the frequency of MOT tests to 2 per year for all vehicles that are older than 15 years. This will include ULEV vehicles and retrofit conversions.
7. LPG Retrofit Conversions 65 vehicles have been converted under the Birmingham pilot project, conducted with the Department of Transport and DEFRA. They have been approved to be licensed until 31 December 2025 irrespective of their age.	We will allow hackney carriage vehicles that are under 14 years old at 1 st January 2020 to be converted to LPG by an approved CVRAS garage and those vehicles may remain licensed until 31 December 2025, regardless of whether the cost of conversion is paid for by a government grant or privately by the vehicle owner.	With immediate effect we will allow any hackney carriage vehicles to be converted to LPG before 1 st January 2024 by an approved CVRAS garage, (regardless of the age of the vehicle) provided the garage is satisfied that the mechanical and structural condition of the vehicle is of a high enough standard that the vehicle is safe, and those vehicles may remain licensed until 31 December 2025, regardless of whether the cost of	This is a significant change from the proposal. Under our proposal the 14 year-age limitation would have restricted the pool of potential conversions to only 113. The recommendation will enable the owner of any TX type hackney carriage (i.e. the traditional London taxi cab shape) to put their vehicle forward for conversion, subject to it being in good enough

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		<p>conversion is paid for by a government grant or privately by the vehicle owner. If it becomes necessary to prioritise applications for government grant assistance towards the cost of conversion we will give priority to the youngest vehicles.</p> <p>Once a vehicle passes 15 years old it would be subject to two MOTs a year and our Supplementary Test Plus (exceptional condition test).</p>	<p>condition to last until 31 December 2025.</p> <p>At the time of writing there are no CVRAS approved retrofit conversions for non-TX type hackney carriages ('van conversions', such as Mercedes, Peugeot or Citroen).</p> <p>The requirement for vehicles over 15 to have two MOT tests and pass the Supplementary Test Plus will offer the Committee reassurance that these older vehicles are being maintained to a good standard.</p>
8. Availability of LPG Retrofit Conversions	This was not an aspect of the original proposals and has arisen out of discussions with trade representatives.	A hackney carriage that has been accepted by a CVRAS approved garage as being suitable for conversion may continue to be licensed after 1 st January 2020, despite not having been converted to LPG, and despite being more than 15 years old, provided the owner can evidence that they have entered into a binding contract with a CVRAS approved garage for an LPG	There is only one company approved by the CVRAS to convert TX hackney carriages to LPG in the Midlands. The garage is based in Alcester. The company in Alcester is carrying out conversions on taxis from London and has limited capacity to deal with the level of demand that may come from

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		conversion. This exemption will not go beyond 31 st December 2020.	Birmingham. Lengthy waiting lists are likely to develop. In order not to disqualify suitable vehicles from conversion because they cannot meet the 1 st January 2020 deadline due to the lack of supply, we are recommending that a hackney carriage that has been accepted by a CVRAS approved garage as being suitable for conversion may continue to be licensed after 1 st January 2020, despite not having been converted to LPG or being more than 15 years old, provided the owner can evidence that they have entered into a binding contract with a CVRAS approved garage for an LPG conversion.
9. Payment of the CAZ Daily Charge	This was not an aspect of the original proposals and has arisen out of discussions with trade representatives.	Vehicles that are waiting for an approved CVRAS retrofit conversion that have not been converted by 1 st January 2020 will be exempt from the daily CAZ charge provided the owner has entered into a binding contract	Allowing drivers an exemption from the daily CAZ charge recognises the fact that the inability of an owner to convert a vehicle may be due to factors beyond their control.

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		with a CVRAS approved garage for an LPG conversion, until such time that the conversion is completed.	
10. Owner Conversions	Any attempts by drivers to carry out their own conversions (such as by putting petrol engines into diesel vehicles) can only be done with the specific approval of Licensing and they will still be subject to the age rules	Any attempts by drivers to carry out their own conversions (such as by putting petrol engines into diesel vehicles) can only be done with the specific approval of Licensing and they will still be subject to the age rules. Only a CVRAS approved conversion gives the right to operate until December 2025 and an owner conversion will not be financially supported by the council.	The recommendation is the same as the proposal, but we have emphasised that owners own conversions do not provide the same benefits as a CVRAS approved conversion. The council does not guarantee that an owner conversion will be recognised for the purposes of a CAZ.
11. 2026 ULEV Requirement	That from 1 January 2026 all licensed vehicles (hackney carriage and private hire) must be Ultra Low Emission or Zero Emission Capable (ZEC) Vehicles. An Ultra-Low Emission Vehicle is defined by the Office for Low Emission Vehicles as emitting less than 50g CO ₂ /km and able to travel at least 70 miles without any emissions at all.	That from 1st January 2021 all newly licensed vehicles (vehicles licensed by Birmingham for the first time) must be Ultra Low Emission or Zero Emission Capable Vehicles. An Ultra-Low Emission Vehicle is defined by the Office for Low Emission Vehicles as emitting less than 50g CO ₂ /km and able to travel at least 70 miles without any emissions at all.	This is a significant change. Under the original proposal all vehicles would have to be ULEV or ZEC from 1 st January 2026, regardless of their age or of the fact that they would already be compliant with the minimum emission standards for the CAZ. The new recommendation would only require vehicles being licensed for the first time to be ULEV or ZEC capable, but would

Current Policy	Consultation Proposal	Recommended Policy	Commentary
			<p>allow vehicles that we already license to continue until the expiry of their age limit (which would be 15 years).</p> <p>A 2026 ULEV condition for new vehicles would have meant that there would be very low uptake of ULEVs up to 2025, at which point the majority of the fleet will have been replaced meaning there would probably not be significant deployment of ULEV hackney carriages until approximately 2040.</p> <p>By bringing forward the ULEV requirement on new vehicles from 2026 to 2021 ensures a reasonable level of ULEV deployment by 2025.</p>
12. 2030 ULEV Requirement	From 2030 we will only grant new licences to fully electric vehicles	From 2030, if technology options are on the market, to only grant new licences to fully electric vehicles and zero emission vehicles (e.g. battery	This change recognises that so much might change between now and 2030 in terms of technological development that

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		electric or hydrogen fuel cell vehicles). To be reviewed before 2025.	we would only seek to set out our direction of travel at this stage, and that a firmer policy should be developed before 2025 when we will have better knowledge about the availability of vehicles with alternative fuels.

Private Hire Vehicle Age, MOT and Retrofit Requirements

Current Policy	Consultation Proposal	Recommended Policy	Commentary
<p>1. Emissions</p> <p>Birmingham City Council will not license or permit the use of any vehicle as a private hire vehicle after 31 December 2019 that does not meet the minimum emission standards of Euro 4 for petrol engines, Euro 6 for diesel engines or is Ultra Low Emission or a Zero Emission Capable Vehicle.</p>	No Change from current policy	<p>The emission standard that is applicable to vehicles from 1st January 2020 will be repealed. In its place we will apply a strict age policy for private hire vehicles which will be a maximum of 12 years (see section 2 below). This policy will apply from 1st January 2020.</p> <p>Vehicles that do not meet the CAZ emission standards for their type of fuel will not be exempted from paying the daily CAZ charge.</p>	<p>This is a significant change from the consultation proposal. The recommendation is to remove the emissions standard as the criteria for licensing vehicles and to replace it with a strict age policy. This will ensure that significantly more private hire vehicles are still working after 1st January 2020. Under the proposed policy 3,621 vehicles would need to be replaced, under the recommended policy only 1,442 will need to be replaced which are the oldest and most polluting vehicles .</p> <p>To exempt vehicles from the CAZ charge would remove any incentive for owners to replace their vehicles with cleaner vehicles.</p>
2. Age / Vehicle Licence Grant	From 1 st January 2020 no private hire	From 1 st January 2020 no private hire	This is a significant change from

Current Policy	Consultation Proposal	Recommended Policy	Commentary
No vehicle over the age of 8 years will be granted a licence.	vehicle may remain licensed after it reaches the age of 8 years.	vehicle may remain licensed after it reaches the age of 12 years.	<p>our proposed policy, increasing the age limit for private hire vehicles from 8 to 12 years.</p> <p>This change has been recommended to make our policy consistent with that of Wolverhampton City Council which has an age policy of 12 years for private hire vehicles. If Birmingham introduces a lower age limit it would be creating an incentive for Birmingham drivers to acquire licences in Wolverhampton. They would be able to continue to work in Birmingham under a Wolverhampton operator.</p>
3. Vehicle Licence Renewal	This was not an aspect of the original proposals and has arisen out of discussions with trade representatives.	<p>No licences will be renewed after 1st January 2020 for any vehicle that is more than 12 years old.</p> <p>Any vehicle that is more than 12 years old on 1st January 2020 will remain licensed until the expiry of its vehicle licence before 1st January 2021.</p>	This is a significant change from the proposal. Under the proposal any vehicle that did not meet the CAZ emissions standard on 1 st January 2020 would have to stop work on that day. The recommended policy will see a gradual reduction in the number of vehicles that can continue to

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		Vehicles that do not meet the CAZ emission standards for their type of fuel will not be exempted from paying the daily CAZ charge	work throughout 2020 instead of a sudden loss of vehicles on 1 st January 2020.
<p>4. Supplementary Test Plus / Exceptional Condition Test</p> <p>No vehicle over the age of 8 years will have its licence renewed unless the vehicle is able to pass the Supplementary Test Plus*, in which case the vehicle licence may be renewed on a year by year basis, subject to passing the Supplementary Test Plus on each occasion.</p> <p>*Also referred to as the 'Exceptional Condition Test'</p>	We will discontinue the Supplementary Test Plus.	From 1 st January 2020 we will discontinue the Supplementary Test Plus (exceptional condition test) except for the case of CVRAS retrofitted vehicles that are allowed to go over the 12 year age limit.	The recommendation is the same as the proposal with the addition of the provision for CVRAS retrofitted vehicles. This will require all vehicles to be replaced when they reach the 12- year age limit (subject to the exemption for CVRAS approved retrofitted technology) and will help to future-proof the fleet of licensed vehicles in relation to compliance with more stringent emission standards.
<p>5. Licence Transfer</p> <p>A licensed private hire vehicle can only be replaced, swapped or changed with a vehicle that is less than 8 years old.</p>		A licensed private hire vehicle can only be replaced, swapped or changed with a vehicle that is less than 12 years old.	This ensures that the licence transfer requirement is consistent with the new recommended age limit.

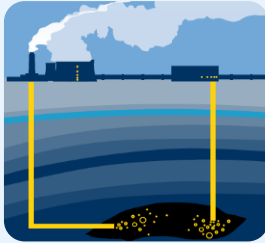
Current Policy	Consultation Proposal	Recommended Policy	Commentary
<p>6. MOT Test</p> <p>All vehicles are subject to a standard MOT test to determine its mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.</p>		<p>All vehicles are subject to a standard MOT test to determine its mechanical fitness and a more stringent supplementary test dealing with the vehicle's condition, appearance and suitability prior to licensing.</p>	<p>We do not propose to change the requirement for MOT testing vehicles that are not more than 12 years old.</p>
<p>7. Approved CVRAS Retrofit Conversions</p>		<p>With immediate effect we will allow any private hire vehicle to be fitted with approved CVRAS technology before 1st January 2024 by an approved CVRAS garage, (regardless of the age of the vehicle) provided the garage is satisfied that the mechanical and structural condition of the vehicle is of a high enough standard that the vehicle is safe, and those vehicles may remain licensed until 31 December 2025, regardless of whether the cost of retrofitting the vehicle is paid for by a government grant or privately by the vehicle owner. If it becomes necessary to prioritise applications for government grant assistance towards the cost of conversion we will give</p>	<p>This has been introduced to make our private hire vehicle policy consistent with our hackney carriage policy. However it should be noted that at the time of writing the CVRAS has not approved any technical solution for private hire vehicles.</p> <p>The requirement for vehicles over 12 to have two MOT tests and pass the Supplementary Test Plus will offer the Committee reassurance that these older vehicles are being maintained to a good standard.</p>

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		<p>priority to the youngest vehicles.</p> <p>Once a vehicle passes 12 years old it would be subject to two MOTs a year and our Supplementary Test Plus (exceptional condition test).</p>	
8. Availability of CVRAS Approved Retrofit Technology	This was not an aspect of the original proposals.	A private hire vehicle that has been accepted by a CVRAS approved garage as being suitable for retrofit technology may continue to be licensed after 1 st January 2020, despite not having been converted and despite the vehicle being over 12 years old, provided the owner can evidence that they have a binding contract with a CVRAS approved garage for the conversion. This exemption will not go beyond 31 st December 2020.	This has been introduced to be consistent with the hackney carriage policy recommendation in the event that lengthy waiting lists might develop if a suitable technical solution is approved.
9. Payment of the CAZ Daily Charge	This was not an aspect of the original proposals and has arisen out of discussions with trade representatives.	Vehicles that are waiting for an approved CVRAS retrofit conversion that have not been converted by 1 st January 2020 will be exempt from the daily CAZ charge provided the owner has entered into a binding contract with a CVRAS approved garage for an	Allowing drivers an exemption from the daily CAZ charge recognises the fact that the inability of an owner to convert a vehicle may be due to factors beyond their control.

Current Policy	Consultation Proposal	Recommended Policy	Commentary
		approved conversion, until such time that the conversion is completed.	
10. Owner Conversions	Any attempts by drivers to carry out their own conversions (such as by putting petrol engines into diesel vehicles) can only be done with the specific approval of Licensing and they will still be subject to the age rules.	Any attempts by drivers to carry out their own conversions (such as by putting petrol engines into diesel vehicles) can only be done with the specific approval of Licensing and they will still be subject to the age rules. Only a CVRAS approved conversion gives the right to operate until December 2025 and an owner conversion will not be financially supported by the council	The recommendation is the same as the proposal, but we have emphasised that owners own conversions do not provide the same benefits as a CVRAS approved conversion. The council does not guarantee that an owner conversion will be recognised for the purposes of the CAZ.
11. 2026 ULEV Requirement	That from 1 January 2026 all licensed vehicles (hackney carriage and private hire) must be Ultra Low Emission or Zero Emission Capable (ZEC) Vehicles. An Ultra-Low Emission Vehicle is defined by the Office for Low Emission Vehicles as emitting less than 50g CO ₂ /km and able to travel at least 70 miles without any emissions at all.	That from 1st January 2021 all newly licensed vehicles (vehicles licensed by Birmingham for the first time) must be Ultra Low Emission or Zero Emission Capable Vehicles. An Ultra-Low Emission Vehicle is defined by the Office for Low Emission Vehicles as emitting less than 50g CO ₂ /km and able to travel at least 70 miles without any emissions at all.	This is a significant change. Under the original proposal all vehicles would have to be ULEV or ZEC from 1 st January 2026, regardless of their age or of the fact that they would already be compliant with the minimum emission standards for the CAZ. The new recommendation would only require vehicles being licensed for the first time to be ULEV or ZEC capable, but would allow vehicles that we already

Current Policy	Consultation Proposal	Recommended Policy	Commentary
			<p>license to continue until the expiry of their age limit (which would be 12 years).</p> <p>A 2026 ULEV condition for new vehicles would have meant that there would be very low uptake of ULEVs up to 2025, at which point the majority of the fleet will have been replaced meaning there would probably not be significant deployment of ULEV private hire vehicles until approximately 2035.</p> <p>By bringing forward the ULEV requirement on new vehicles from 2026 to 2021 ensures a reasonable level of ULEV deployment by 2025.</p>
12. 2030 ULEV Requirement	From 2030 we will only grant new licences to fully electric vehicles	From 2030, if technology options are on the market, to only grant new licences to fully electric vehicles and zero emission vehicles (e.g. battery electric or hydrogen fuel cell vehicles). To be reviewed before 2025.	This change recognises that so much might change between now and 2030 in terms of technological development that we would only seek to set out our direction of travel at this stage, and that a firmer policy

Current Policy	Consultation Proposal	Recommended Policy	Commentary
			should be developed before 2025 when we will have better knowledge about the availability of vehicles with alternative fuels.



Appendix 3

Consultation on the proposed taxi licensing condition changes - report

1st March 2019

Element Energy Ltd

A study conducted for



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RECAP – Questions of the survey

Age limits

1. Do you agree with the proposal to limit the age of hackney carriage vehicles so that they cannot be licensed after the age of 14?
2. Do you agree with the implementation date for this proposal of 1 January 2020?
3. Do you agree with the proposal to limit the age of private hire vehicles so that they cannot be licensed after the age of 8 years?
4. Do you agree with the implementation date for this proposal of 1 January 2020?

Retrofit

5. Do you agree that we should extend the life of hackney carriages with approved CVRAS retrofit technology until 31 December 2025?

2026 ULEV stock condition

6. Do you agree that Birmingham should adopt this policy in order to improve air quality in the city?
7. Do you agree with the date that we have suggested for the implementation of this policy?

2030 BEV licencing condition

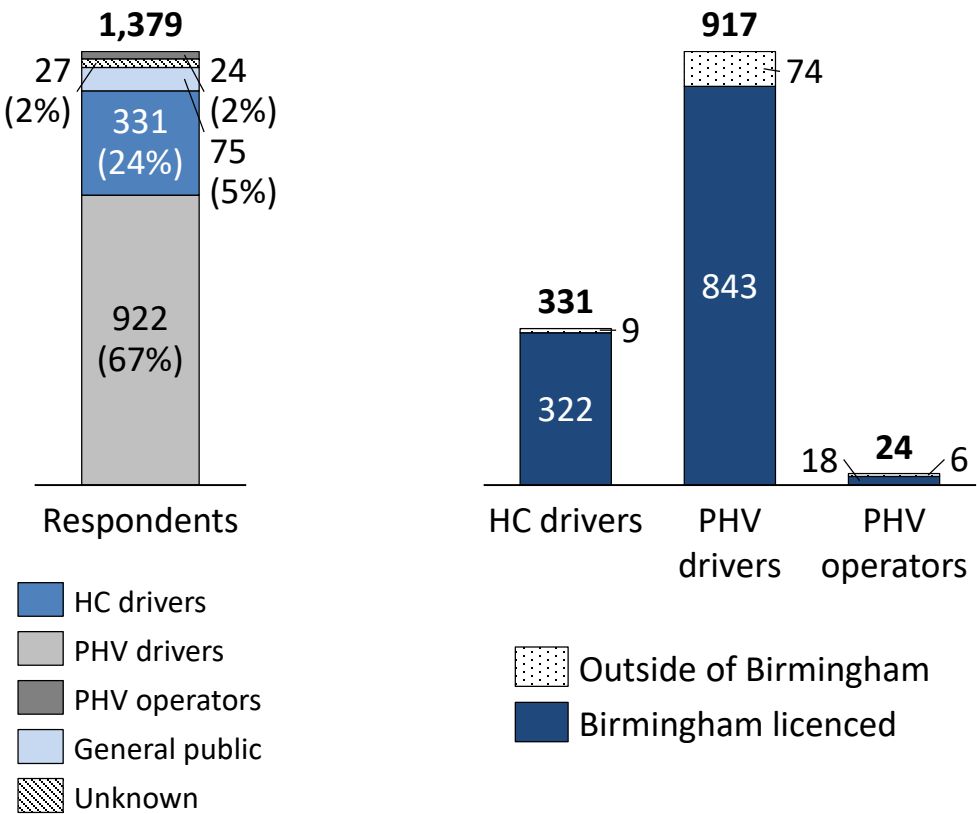
8. Do you agree that Birmingham should adopt this policy in order to improve air quality in the city?
9. Do you agree with the date that we have suggested for the implementation of this policy?

Other comments:

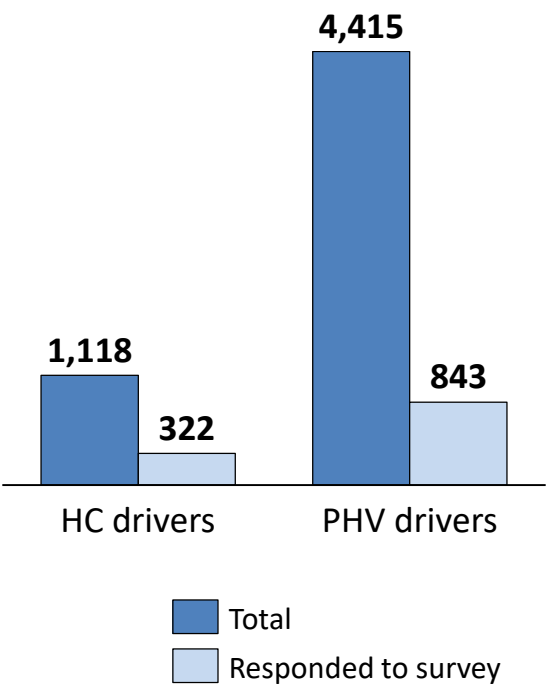
10. Please make any other comments here about our proposals, including alternative ideas or suggestions that you might have for an emissions and vehicle age policy

The survey was taken by 1,379 respondents, the majority of which were Private Hire Vehicles drivers

In total 1,379 respondents took the survey

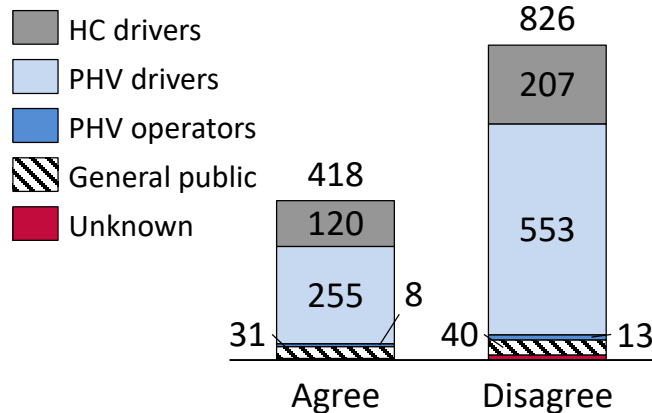


30% of HC drivers and 20% of PHV drivers responded to the survey



1. Do you agree with the proposal to limit the age of hackney carriage vehicles so that they cannot be licensed after the age of 14?

Number of respondents: 1,244



- ✗ "Some taxis (TX) are built to last just like the London buses, they should not be subject to a 14 year rule, because driver's can not recuperate the expense of purchase in that time- a 14 year rule will mean that less of these Iconic taxis are used"
- ✗ "We can't afford new cars, times are hard as too many Wolverhampton drivers in Birmingham "
- ✗ "If it passes the exceptional condition test every year why cant it continue to be licensed and used as a taxi regardless of its age"
- ✓ "I think this policy will help reduce the air pollution in future."
- ✓ "I do agree with this policy as the fleet of taxis are so old. I don't think they are fit for purpose"

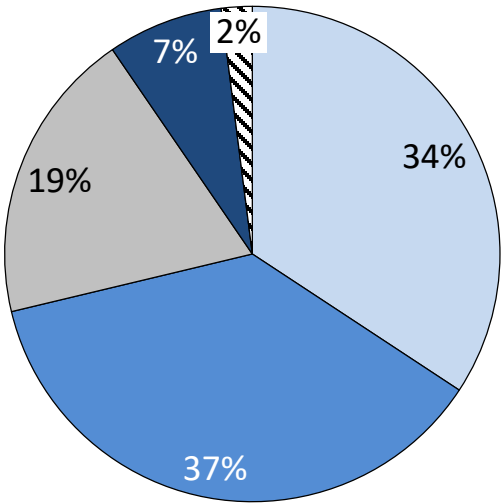
- There were numerous points of contention expressed in the responses. In summary:
 - There was a general question as to why vehicles could no longer be licensed if they had passed an exceptional condition test. This was particularly mentioned in reference to the CAZ emissions conditions with many drivers questioning why a vehicle has to be taken off the road if it passes emissions tests and has been deemed in excellent condition by an independent garage.
 - HC drivers did not feel like 14 years was a sufficient time period to see return on investment from the upfront the vehicle purchase. There were many who stated that being a HC driver within Birmingham would no longer be financially viable under these conditions.
- In contrast those that agreed with the policy mentioned:
 - The current fleet is not fit for purpose, enforcing an age limit ensures that standards of quality will be maintained as vehicles are likely to be of poor quality once they have reached 14 years.
 - Older vehicles are thought of as more polluting and this policy removes them from the road creating health benefits.

1. Do you agree with the proposal to limit the age of hackney carriage vehicles so that they cannot be licensed after the age of 14?

Agree

N= 418 in total, 147 provided comments

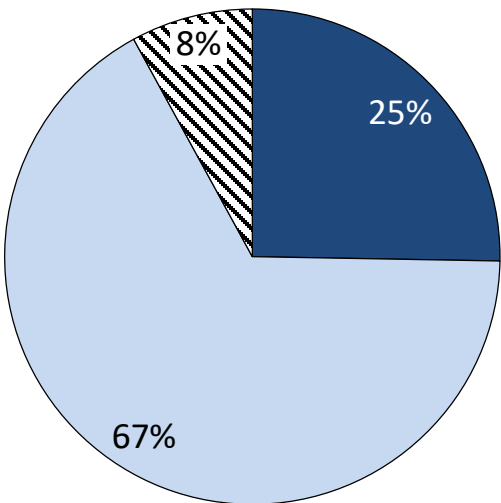
- Current fleet is not fit for purpose
- Vehicles over 14 years of age should not be on the road
- Older vehicles are more poluting so should be taken off the road
- Agree with the principle of an age limit but it should be increased from 14 years
- Other



Disagree

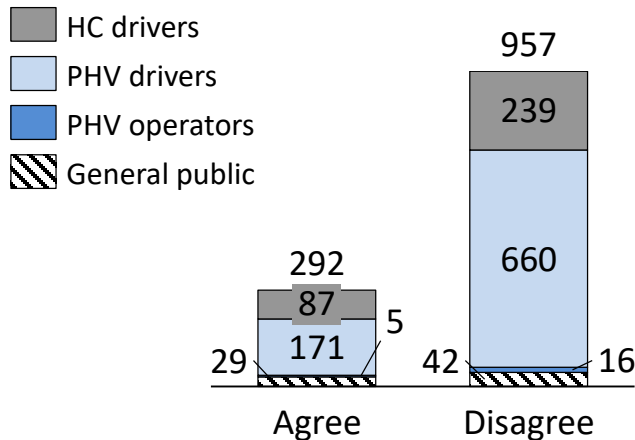
N= 826 in total, 565 provided comments

- If a vehicle is in good condition it should continue to be licenced
- 14 years is not sufficient time to see return on the investment of a new vehicle
- General disagreement or other



2. Do you agree with the implementation date for this proposal of 1 January 2020?

Number of respondents: 1,227









- ✗ "Not enough time given lots of changes happening need more time to reflect on changes and make the correct decision"
- ✗ "how are the drivers able to afford a euro 6 or electric vehicle? And have to make the leap from a tx2 model in such a short time?"
- ✗ "Drivers need more time, It took the council nearly 2 years to make consultations and still we are not sure what is happening?"
- ✗ The notice period is too short. It is unfair for drivers who have invested thousands recently. They should be given at least 3 to 4 years
- ✓ "This should have happened earlier we do need clean taxis in Birmingham."

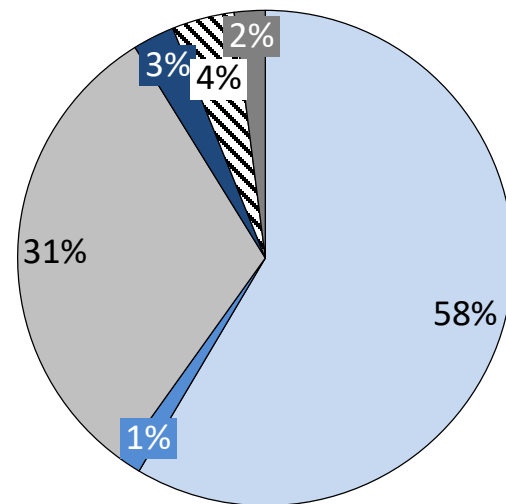
- Response to this policy was overwhelmingly negative and there were two themes that stood out:
 - This is not sufficient time for drivers to adapt to new licence conditions. This is especially true as the CAZ emission requirements have already put the industry under significant pressure. The impact of this has been exaggerated by the poor communication from the council. It was felt that, if this had of been communicated to the driver community earlier then they could have had more time to assess their options. Drivers generally rely on second hand vehicles which will not be available in sufficient volume by 2020
 - The cost of upgrading to a compliant vehicle makes this unfeasible and may drivers stated that they will struggle to continue as a HC driver when this is implemented. There is consensus that the time frame provided is not sufficient to come up with the necessary capital to upgrade vehicle. This is exacerbated by a trade struggling due to the influx of out of town drivers.
- The minority of respondents which did agree with the policy highlighted the critical nature of these changes and the fact that they can not be delayed any further. These respondents generally expressed an opinion that the time frame provided was sufficient for driver to adapt and upgrade their vehicle.

2. Do you agree with the implementation date for this proposal of 1 January 2020?

Agree




N= 295 in total, 75 provided comments

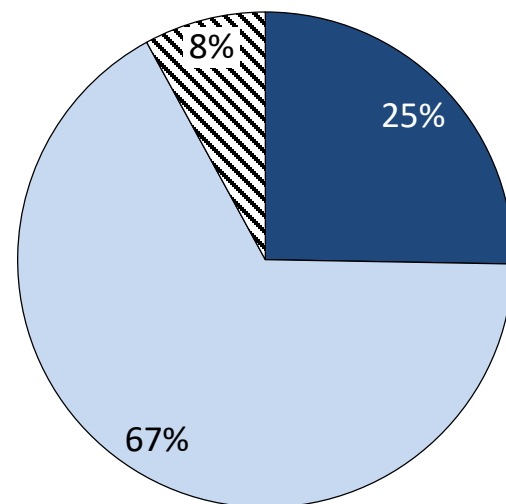
-  The switch to clean vehicles can not be delayed further
-  The driver community is already prepared for the new conditions
-  There is enough time for the driver community to make the necessary changes
-  The driver community will need government support to adapt to these conditions
-  Longer notice is needed to implement this policy
-  Other



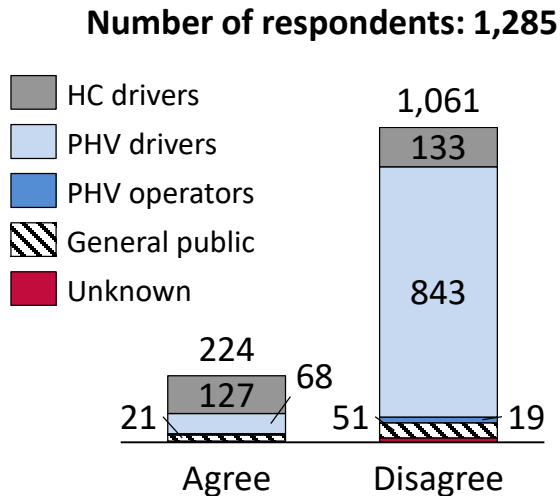
Disagree

N= 973 in total, 586 provided comments

-  There is not enough time for drivers to prepare for this change
-  The costs of adapting to this measure are unrealistic for drivers
-  Other



3. Do you agree with the proposal to limit the age of private hire vehicles so that they cannot be licensed after the age of 8 years?



- ✗ "Exceptional vehicles which meet the condition should be licensed as before, if not age limit should be 14 year's. PHV should not be discriminated by city council by limiting age to 8 years"
- ✗ "Average taxi driver will not buy a new car, so they will have already eaten in to most of the 8 year limit"
- ✗ "It is not fair to impose one set of standard for one type of vehicle then another for another"
- ✗ "Stop the Wolverhampton drivers working in Birmingham and help your drivers instead of forcing them further out of the trade"
- ✓ "Private hire vehicle are not purposely built for taxi service and 8 years is a long service for a normal car"

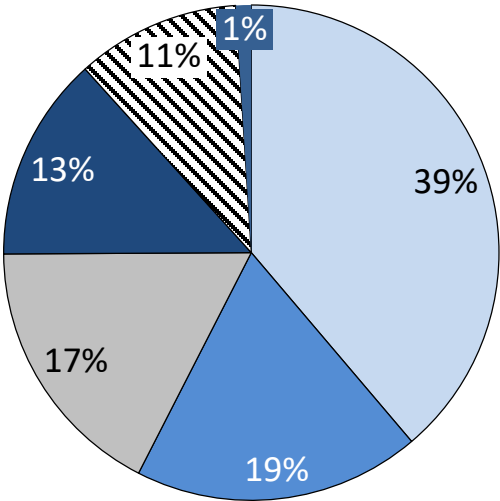
- There was a general disagreement with the principle of applying age limits as a licencing policy. It was felt that:
 - If a vehicle meets the CAZ emission limits then it is not causing public health concerns and therefore should be allowed to stay on the road as a Private Hire Vehicle
 - If a vehicle passes an exceptional condition test as well as an MOT then it should be continued to be licenced.
- It was felt that the cost of upgrading a vehicle will make continuing as a PHV driver unfeasible. Many examples were given, drivers seem to generally purchase cars when they are 3-5 years old. The 8 year age limit means that they must replace their vehicle every 3-5 years. This is seen as unaffordable.
- There was consistent comparison to the Hackney carriage licencing condition allowing vehicles to operate until they are 14 years of age. This was felt to be unfair.
- There were numerous references to policy making Birmingham drivers uncompetitive relative to surrounding councils.
- From the small portion that did agree with the policy, there was consensus that Private Hire Vehicles should not operate beyond 8 years as these are not specialist high mileage vehicles like Hackney Carriages. Therefore, there are concerns that beyond this age the fleet will not be fit for purpose.

3. Do you agree with the proposal to limit the age of private hire vehicles so that they cannot be licensed after the age of 8?

Agree

N= 224 in total, 75 provided comments

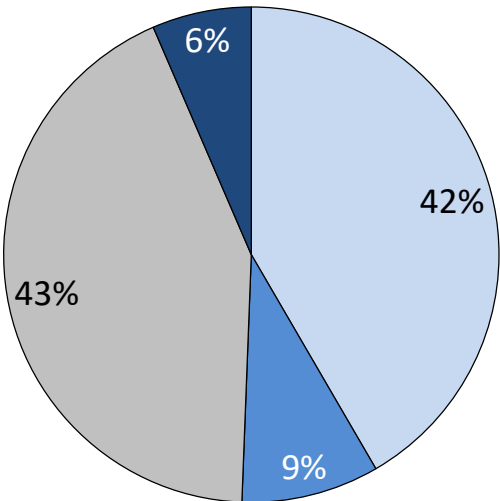
- Private Hire Vehicles should not be on the road after 8 years
- Private Hire Vehicles drivers have a wider range of affordable vehicle choices so should have areduced operating life time
- General agreement or other
- Current fleet is not fit for purpose
- Older vehicles are more polluting and should be removed from the fleet
- Age limit should be reduced to less than 8 years



Disagree

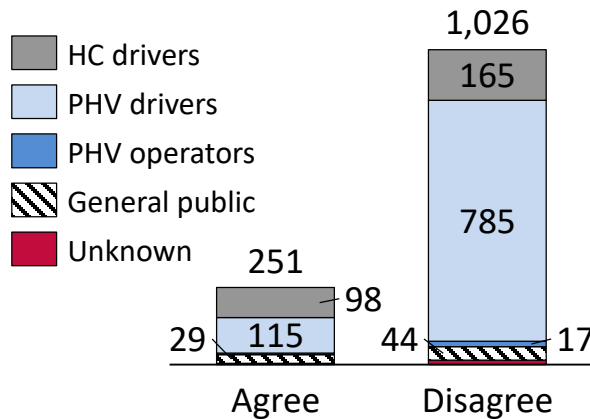
N= 1,061 in total, 787 provided comments

- There are major affordability issues as result of having to regularly upgrade vehicle
- Agreement in principle with an age limit though it should be more than 8 years
- Licence renewal should be based purely on emissions and vehicle condition as opposed to age
- This policy unfairly penalises PHV relative to HC drivers who get a 14 year age limit



4. Do you agree with the implementation date for this proposal of 1 January 2020?

Number of respondents: 1,258



- ✗ "Not enough time, Council have not been clear with this process, so how can you justify telling drivers at this late point.... it is not easy to save up for a new car"
- ✗ "With finance to pay for three or four years, how are you going to buy another car until he going to clear debt finance?"
- ✗ cap the amount of drivers allowed and stop cross border driving
- ✓ "private hire drivers will be able to upgrade their vehicle if needed in this time"
- ✓ "It will make Birmingham Licensed the nicest and cleanest looking private hire vehicles in the country"

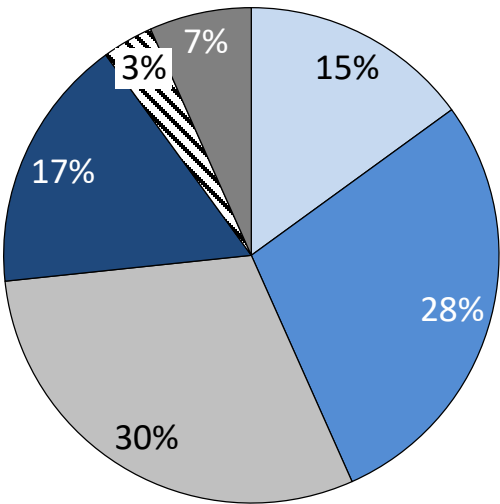
- There was an overriding feeling that this does not provide sufficient time to adapt to the new age limit:
 - Many drivers have already purchased vehicles to comply with the new emissions standards, this age limit means they will have to upgrade again soon after 2020.
 - Drivers do not feel that the council communicated this well meaning many are stuck in finance agreements with vehicles that will no longer be eligible.
 - The time frame is not adequate to save the capital to upgrade vehicle.
- The costs involved in vehicle upgrade mean many drivers will not be able to adapt in time and so will be forced out of the trade.
- Again, numerous reference to out of town drivers putting financial pressure on drivers.
- Those that did agree with the policy mentioned;
 - The need to cut emissions meaning older vehicles need to be removed from the fleet at the earliest opportunity.
 - The timeframe provided should be adequate to upgrade a PHV as they are more affordable and have a wider vehicle choice relative to HC drivers.
 - This policy needs to be enacted as soon as possible as the current fleet is not fit for purpose.

4. Do you agree with the implementation date for this proposal of 1 January 2020?

Agree

N= 251 in total, 62 provided comments

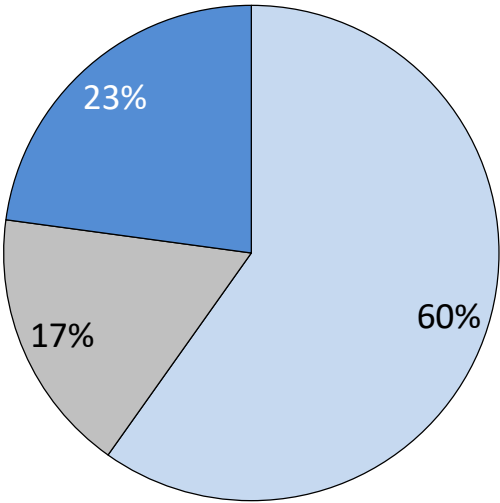
- Emissions within Birmingham need to be reduced as a matter of urgency
- This gives drivers sufficient time to adapt
- General agreement or other
- This policy needs to be implemented as soon as possible
- This policy needs to be enacted so that Birmingham is consistent with the rest of the UK
- PHVs are generally more affordable than Hackney carriages so drivers should be able to adapt in time.



Disagree

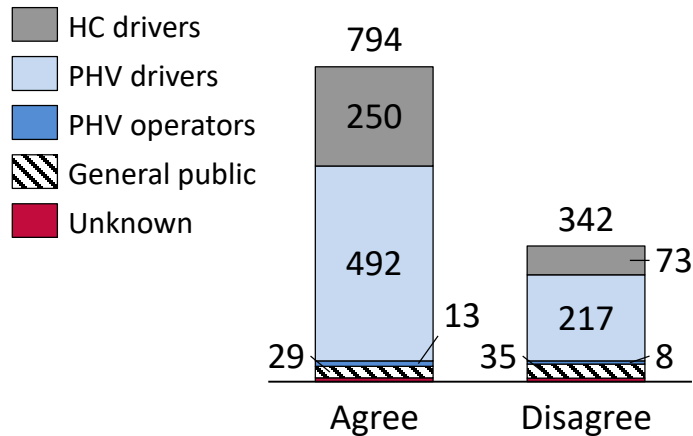
N= 1,026 in total, 566 provided comments

- This does not leave enough time for drivers to adapt to the policy.
- General disagreement with the policy
- The cost of upgrading vehicles means that this timeframe is not sufficient.



5. Do you agree that we should extend the life of Hackney carriages with approved CVRAS retrofit technology until 31 December 2025?

Number of respondents: 1,136



- ✓ "This will give us time to decide about our future in taxi trade"
- ✓ "The prohibitive cost of new electric and Euro 6 vehicles mean retrofit approved technology is a must."
- ✓ "Alternative options should equally be available for other models and I am aware that there are options for alternative models that could be explored further"
- ✗ This should be the same for private hire
- ✗ "20 year old vehicles seems like a backwards step in terms of improving the standard of taxis in Birmingham."

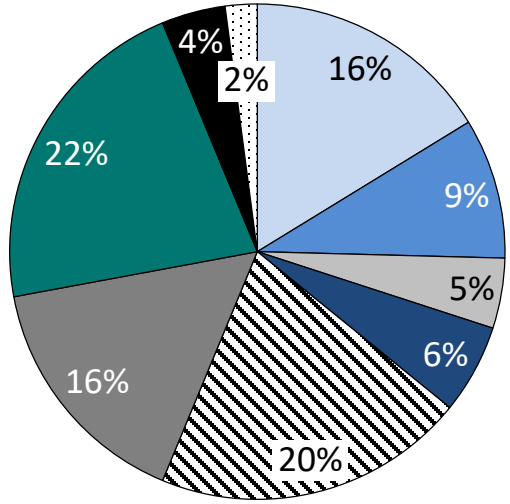
- The response was generally positive, especially from HC drivers. Most commented that a retrofit solution is seen as the only affordable option open to taxi drivers. The 5 year extension allows more time for drivers to save capital for a new vehicle and also consider the future of the taxi trade.
- Although there was general agreement there were concerns expressed:
 - Needs to be available to all HCs regardless of age and model.
 - Technology options needs to be expanded so drivers can organise the installation themselves on the open market.
 - The timeframe is not long enough and should be extended to 2030.
 - The measure should be extended to PHVs as they are currently be discriminated against vis there exclusion from this option.
 - There needs to be financial support to drivers, they should not be expected to cover the full cost of the technology.
- Of those that disagreed with the policy completely, many mentioned the unreliability of the technology as well as stating the taxis over the 14 year age limit should not be permitted to be on the road.

5. Do you agree that we should extend the life of hackney carriages with approved CVRAS retrofit technology until 31 December 2025?

Agree

- This gives more time to drivers to adapt to the licence conditions and consider the future taxi market
- This policy needs to be extended to all HC so not to discriminate against those with older non-eligible vehicles
- This policy needs to be extended to 2030
- The policy needs to be expanded to include other technology so drivers can go to the market themselves and install it.
- This is a way by which drivers will be able to stay in business
- This is a good policy to ensure that emissions are reduced and standards of quality remain high
- General agreement with the policy
- This policy should be extended to PHVs
- The council should provide grants to pay for the installation

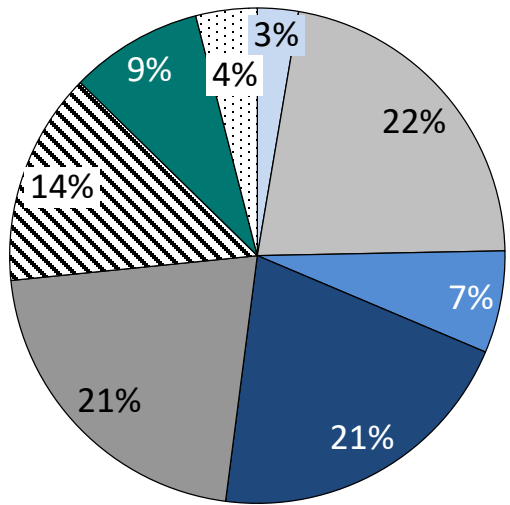
N= 794, n total, 241 provided comments



Disagree

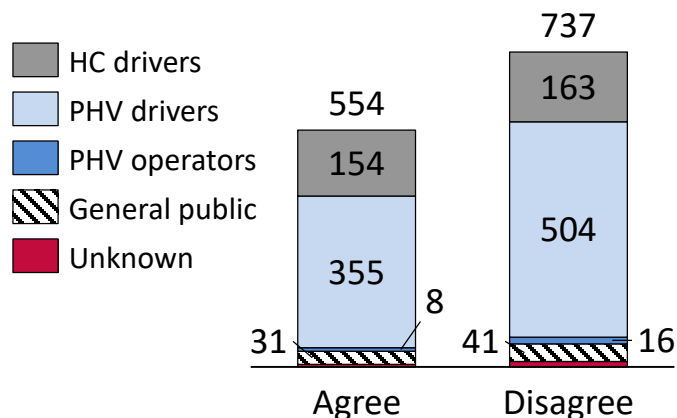
N= 342 in total, 149 provided comments

- Higher emissions than other technologies
- Vehicles should not be allowed to operate beyond their age limit
- The cost of the technology is too high
- This policy should be extended beyond 2025
- This policy should be extended to Privare Hire Vehicles.
- General Disagreement or other
- The retrofit technology offered is not fit for purpose
- This should be available to all Hackney carriages regardless of age or model



6. 2026 ULEV stock condition: Do you agree that Birmingham should adopt this policy in order to improve air quality in the city?

Number of respondents: 1,291



- ✓ "It may be better for the environment in the long term"
- ✓ "should not use taxi drivers as a scapegoat when other sectors give off much more emissions."
- ✓ "Alternative options should equally be available for other models and I am aware that there are options for alternative models that could be explored further"
- ✗ "If I were to get a brand new car in 2020 then in 2026 I would need raise more money to get ULEV."
- ✗ "There are currently no alternatives to the Euro 6 diesel apart from the LEVC vehicle Not affordable"
- ✗ "There are far more out of town drivers then Birmingham drivers"

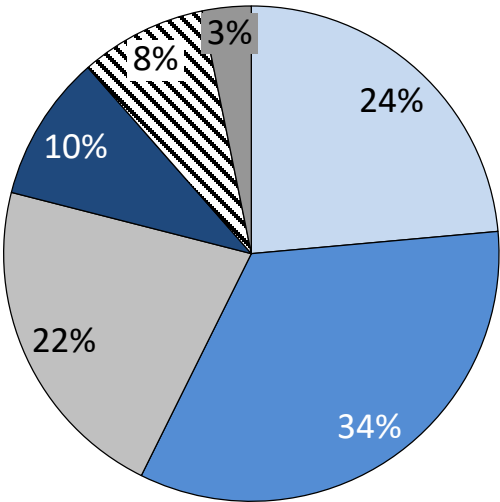
- There was a general consensus that emissions needed to be reduced. Those that agreed with the policy described it as a good balance between cutting emissions and helping drivers adapt to the new conditions. However, this group was in the minority with many respondents stating that although reductions are important, this was not the correct way to achieve it.
 - Drivers felt that taxis only contribute to a small proportion of total emissions but are hardest hit by the CAZ measures. They expressed a desire for the burden to be shared more equally between other emitters (e.g. trains, private vehicle drivers etc.).
 - Considering this there were requests for new licence condition to be delayed to give adequate time for drivers to prepare
- There was generally a negative response to the 2026 ULEV stock condition:
 - They felt this was very unfair to expect drivers to upgrade now and then again before 2026.
 - It was not felt that there is sufficient choice on the market for ULEV taxis and charging infrastructure within the city is not adequate.
- There was also frequent reference to drivers from other Councils making operating a taxi in Birmingham financially very difficult.

6. 2026 ULEV stock condition: Do you agree that Birmingham should adopt this policy in order to improve air quality in the city?

Agree

N= 554 in total, 159 provided comments

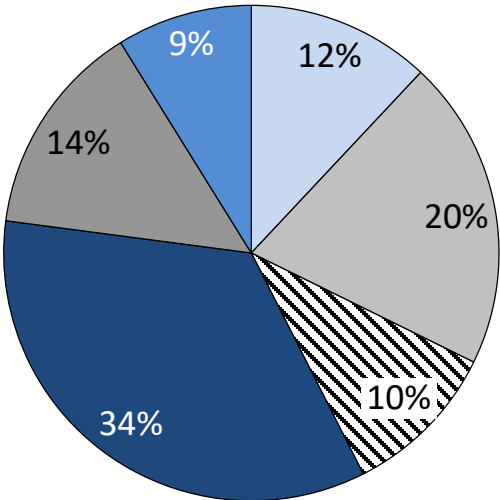
- General agreement or other
- This policy will help reduce emissions within the city
- Agreement with the policy, but funding support should be provided by the council.
- Agreement that Air Quality needs to be improved, but the timescales of implementation needs to be extended
- Agreement that Air Quality needs to be improved, but think drivers are being unfairly targeted when there are other larger source of pollution.
- This is a good policy to ensure that emissions are reduced and standards of quality remain high



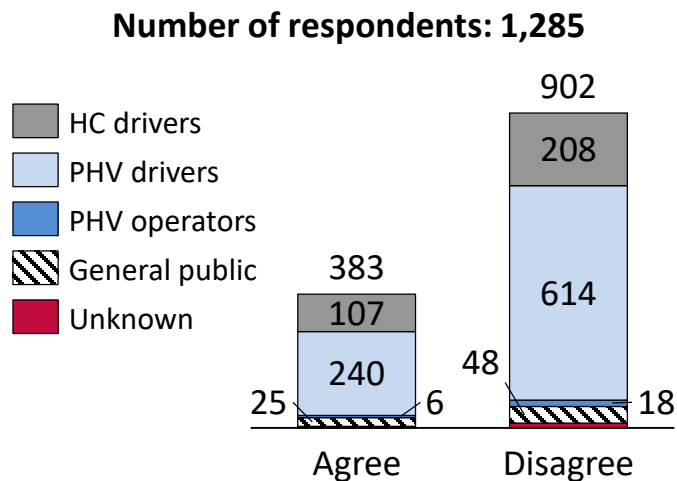
Disagree

N= 737 in total, 352 provided comments

- Drivers need longer to adapt to these measures
- Taxis only contribute a small proportion of total emissions, other sources can be targeted with a lesser negative financial impact on the community.
- General disagreement
- Drivers cannot afford to upgrade vehicle in this timeframe
- Disagreement with the ULEV stock condition in 2026. ULEVs are too expensive and there is not a large enough vehicle choice.
- The retrofit technology offered is not fit for purpose



7. 2026 ULEV stock condition: Do you agree with the date that we have suggested for the implementation of this policy?



- ✗ "euro 6 compliant taxis should be allowed to continue until 2030"
- ✗ "electric taxi is not proven. In winter it's giving you less than 50 miles on battery."
- ✗ "Age limiting with such a short notice....is a joke"
- ✗ "Financial impacts will make this date unreasonable."
- ✗ "Where are the charging points? Birmingham has no infrastructure in place"
- ✗ "The range of vehicles currently being produced are unreliable and until there is a vast improvementdate specified is far too early"
- ✓ "2026 is more than enough time for the drivers to make plans to adjust to the policy".
- ✓ "Clean environment, healthy living"

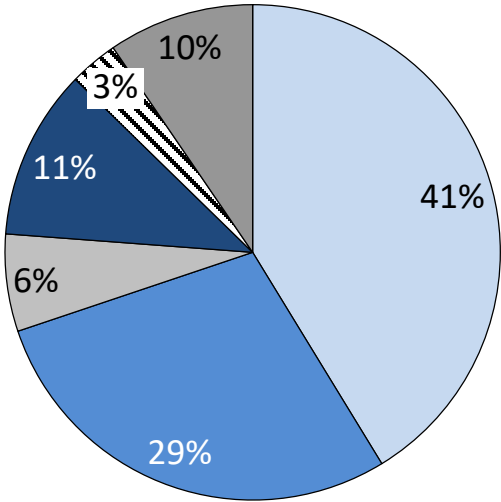
- The majority of respondents disagreed with this policy and there were common themes that appeared in numerous comments:
 - The date is too early and does not provide the driver community with enough time to adapt financially.
 - This date would mean that any Euro 6 purchased in 2020 would not be operated for its full life of 14 years. There can be no return on investment in such a short timeframe.
 - The costs involved in upgrading to a ULEV mean this move is not feasible. If drivers were forced to upgrade, significant government support would be required to prevent a large number of drivers going out of business.
 - The choice of vehicles is not expected to improve and drivers are limited in their choice.
 - There is little confidence in the technical readiness of ULEV taxis to perform the day to day duty cycle and a general concern over the lack of charging infrastructure in Birmingham.
- The minority of respondents who did support the policy cited:
 - The length of time being sufficient for drivers to adapt.
 - The resulting emission reductions.
 - The need to switch to ULEVs in as short a timeframe as possible.

7. 2026 ULEV stock condition: Do you agree with the date that we have suggested for the implementation of this policy?

Agree

N=383 in total, 63 provided comments

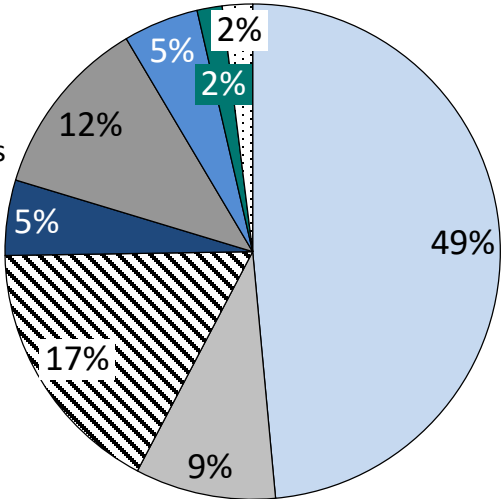
- The timeframe proposed is sufficient for drivers to organise an upgrade for their vehicle
- General agreement or other
- This policy will reduce harmful emissions and make the city's air cleaner
- The policy should be enacted as soon as possible
- Agreement with the policy timeframe but drivers must be supported to help adapt to the new conditions
- The timeframe should be extended to give drivers more time to adapt



Disagree

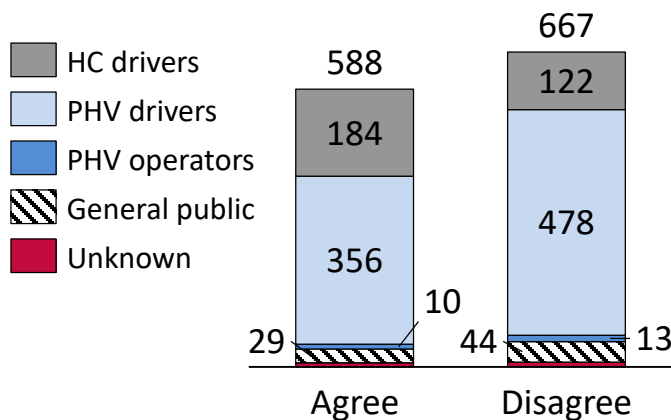
N= 902 in total, 305 provided comments

- The proposed implementation date is too early and does not give driver sufficient time to adapt to the new conditions
- Any vehicle bought new should be allowed to operate for a full life cycle, this policy contradicts this
- General or other
- If this is to be implemented, drivers will need significant financial support
- The cost of ULEVs make this timeframe unfeasible
- There is not sufficient vehicle choice. This combined with the uncertainty over technology and lack of public charging infrastructure make the implementation date unrealistic
- The process should be delayed until the market offering of vehicles becomes more clear
- The date should be brought forward



8. 2030 ZEV condition: Do you agree that Birmingham should adopt this policy in order to improve air quality in the city?

Number of respondents: 1,255



- ✗ "No infrastructure available for these vehicles and they cannot be used as taxis because they are only capable of doing 70 miles"
- ✗ "I think this should come into place at 2035 "
- ✗ "If a driver can't afford the new car he is effectively out of a job."
- ✗ "Long distance driving would not be practical"
- ✗ "Discriminatory action, penalizing one section of Birmingham's workforce"
- ✓ "Agree because it gives sufficient notice to drivers".
- ✓ Yes, only make the changes in 2030 and give drivers 10 years to adapt no changes until then."
- ✓ "Yes fully agree for the sake of environment"

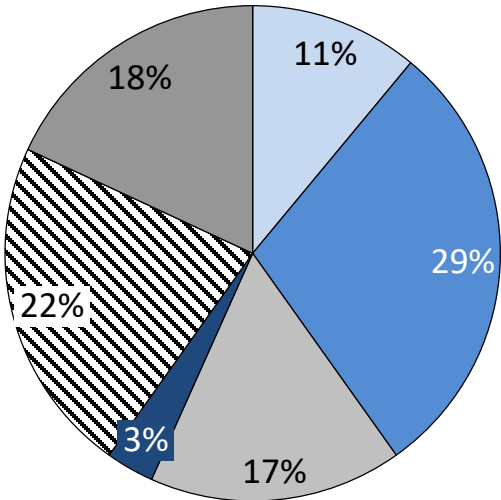
- In comparison to other policy proposals, this was more favourable received. This was in recognition that by 2030:
 - There will be a wider range of electric vehicles on the market.
 - The technology will have improved and be more suitable to day to day usage.
 - Large emission reductions must have been achieved.
 - Drivers will have had sufficient notice to prepare for a vehicle upgrade.
- There was emphasis that this policy should replace completely the condition requiring all vehicles to be ULEV by 2026.
- Despite this, the majority of the respondents still disagreed with the policy stating:
 - Concerns over the technology being suitable for the duty cycle of a taxi (range, lack of charging infrastructure etc.)
 - The limited effectiveness of such a policy compared to other emissions reducing policy options. Especially if similar standards are not enforced by neighbouring councils
 - The high cost and limited vehicle choice involved with upgrading to an electric vehicle with no financial support.
 - The time period not being sufficient

8. 2030 ZEV condition: Do you agree that Birmingham should adopt this policy in order to improve air quality in the city?

Agree

N=588 in total, 138 provided comments

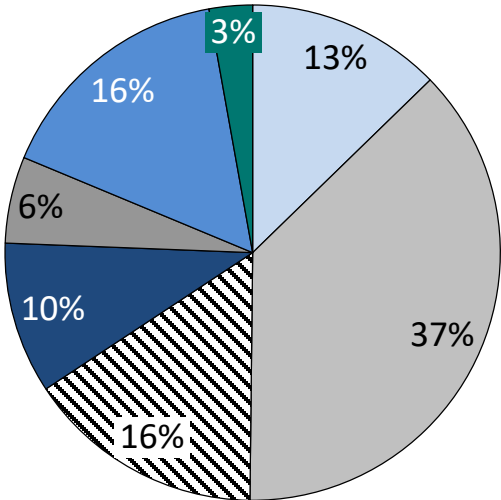
- By 2030 there will be a wide range of vehicles on the market
- Emissions need to be reduced
- Drivers have sufficient notice to prepare for this condition
- This condition should only be enacted if the 2026 ULEV stock condition is removed
- General or other
- The taxi community will need financial support to adapt to this condition



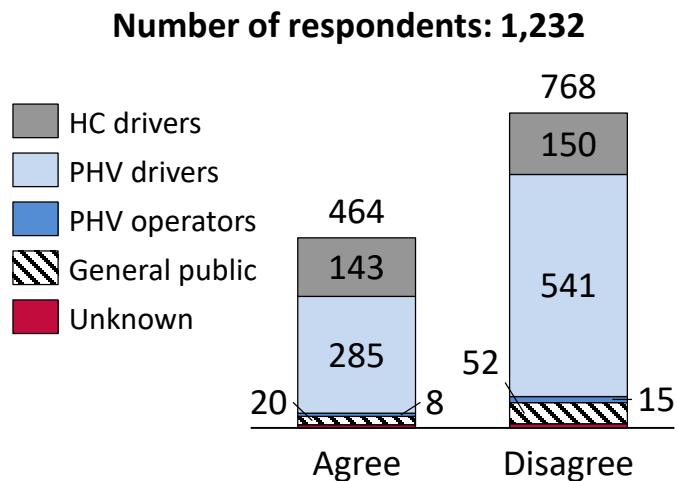
Disagree

N= 667 in total, 283 provided comments

- Electric vehicles are unsuitable to the duty cycle of a taxi, particularly and charging options for those without off-street parking
- The cost of electric vehicles makes upgrading unaffordable
- The taxi community is being unfairly discriminated against when there are other larger sources of emissions
- There is not a large enough range of electric vehicles options
- The timeframe proposed is too short, drivers need longer to adapt
- General or other
- Drivers will need financial support to upgrade to electric vehicles



9. 2030 ZEV stock condition: Do you agree with the date that we have suggested for the implementation of this policy?



- ✗ "It doesn't solve the problems of drivers, there should just be only age limit."
- ✗ "Electric vehicle technology may not be widely developed by date."
- ✗ "decision should be made nearer the time or it should be reviewed in 2025"
- ✗ "not viable because you need to understand the costs are not suitable on a driver's salary"
- ✓ "It's 11 years away and I'm assuming that by then electric cars will be more readily available and more common to buy. Therefore reducing purchase prices".
- ✓ "Sooner would be better."
- ✓ "providing there are viable and economical vehicles available..."

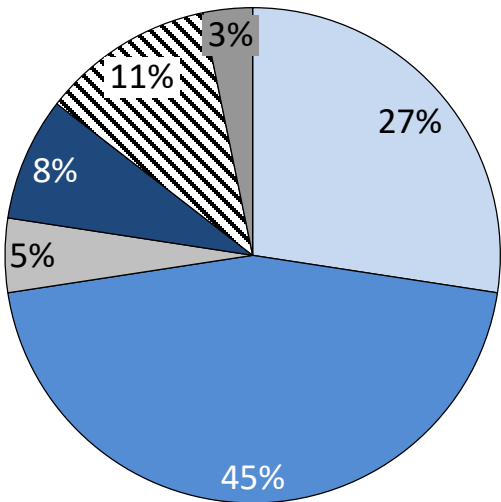
- Those respondents that did agree with this policy generally focused on:
 - The 2030 date meaning that drivers had a 10 year period after the CAZ charges being introduced. This was seen as ample time to prepare.
 - The advancements in electric vehicle technology which are expected by 2030.
- Again the majority of respondents disagreed with the policy. There did seem to be misunderstanding of the policy, with many thinking that it applied to the vehicle stock as a whole rather than just newly registered vehicles. Other objections included:
 - The 2030 date is too early to enforce a switch to electric vehicles. There was a belief stated that the technology will not be sufficient by then to make electric vehicles a feasible vehicle choice, especially considering the very high capital cost involved in purchasing electric vehicles. This was made worse by an uncertain provision of infrastructure within Birmingham.
 - A feeling that this was not an effective solution to air quality issues. Particularly that hybrid or Euro 6 vehicles presented an environmentally friendly option. By enforcing stricter regulations, drivers are being unfairly discriminated against.
 - A need for further consultation on this measure.

9. 2030 ZEV stock condition: Do you agree with the date that we have suggested for the implementation of this policy?

Agree

N=464 in total, 69 provided comments

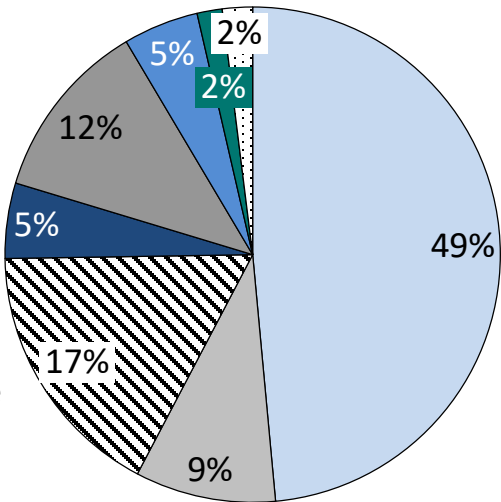
- General or other
- There is sufficient time for drivers to prepare to upgrade their vehicle
- Drivers will need financial support to adapt to this measure
- This should happen as soon as possible
- By 2030, technology improvements mean electric vehicles will be viable choice for drivers
- Air quality needs to be improved significantly by 2030



Disagree

N= 768 in total, 195 provided comments

- This measure is only viable if all other prior conditions are removed
- The implementation date is too early and does not give drivers sufficient time to prepare
- Other measures will be more effective in reducing emissions and the taxi community is being unfairly discriminated against
- Electric vehicles will not be able to fulfil the day to day requirements of taxis
- This measure requires further consultation and any decision should be delayed until more information is available
- Drivers will need significant financial support to adapt to this measure in the proposed timeframe
- The cost of vehicles make this timeframe unrealistic
- This should be implemented before 2030





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Food & Rural Affairs**

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www.gov.uk/defra

Dr Thérèse Coffey MP
Parliamentary Under Secretary of State
for the Environment

Cllr Ian Ward
Leader, Birmingham City Council
Council House
Victoria Square
Birmingham
B1 1BB

7/12 March 2019

Dear Cllr Ward,

I am grateful for the work you and your team have undertaken on Birmingham City Council's plan to deliver compliance with legal air quality limits in the shortest possible time.

Following my letter of 6 December 2018, I am pleased to write with approval of your local plan which will see you delivering compliance in 2021 through the introduction of a Class D charging Clean Air Zone and a package of additional measures.

Please find attached to this letter a Ministerial direction requiring Birmingham City Council to deliver the Clean Air Zone and additional measures according to the timelines and details set out in your business case.

In implementing the zone, in line with the approach set out in the plan, I do expect you to monitor its effectiveness to ensure that it is meeting requirements to achieve compliance in the shortest possible time and, if necessary, consider adjustments to its operation.

There are also some technical aspects of implementation, including the relationship to the central charging infrastructure that Government is putting in place that you acknowledge as interdependencies in your business case. My officials will continue to work with you to ensure that we support your requirements to deliver to your timeline.

Your business case set out the implementation funding requirements for putting in place the Clean Air Zone and additional measures. I am pleased to confirm that I agree with your proposals and we will be making a funding allocation of £14,214,722. However, noting this includes £2,085,667 of risk funding that should be determined if required in discussions with JAQU and the suppliers. We require your officials to keep us updated on your progress and spend at least quarterly and if this funding is not required we will request it to be used for delivering air quality improvements and/or supporting individuals and businesses.

Your business case also included a bid for support from the Clean Air Fund. I am pleased to confirm that £37,957,529 of support from this fund will be made available to support the following schemes (sums rounded to two decimals):

- £10.84m to provide mobility support for individuals working within the CAZ with a condition that a minimum of 50% of this funding is delivered through the scrap-to-mobility credit part of the measure;
- £5m for a hackney carriage support package;
- £2.75m for a council-run hackney carriage leasing scheme;
- £7m for a private hire vehicle upgrade package;
- £10.05m for a HGV and coach compliance fund;
- £0.35m for a supporting engagement and awareness activity; and
- £1.97m to support the administration of the above schemes and mitigations.

My officials will shortly be issuing grant letters for both the Implementation and Clean Air Fund. We will also provide guidance on the associated reporting, monitoring and ways of working going forward. I would also particularly like to express my thanks to Philip Edwards and his team for the development of your plan.

Yours sincerely,



DR THERESE COFFEY MP

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

10 APRIL 2019
ALL WARDS

**DEPARTMENT FOR TRANSPORT STATUTORY GUIDANCE
ON TAXI AND PRIVATE HIRE VEHICLE LICENSING - CONSULTATION**

1. Summary
 - 1.1 This report includes the Government response to the recommendations of the Department for Transport Task and Finish Group on Taxi and Private Hire Vehicle Licensing.
 - 1.2 The report also includes a proposed response to the Department for Transport consultation on the proposed Statutory Guidance for Licensing Authorities.
2. Recommendations
 - 2.1 That the report be noted.
 - 2.2 That the consultation response be submitted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 9780
E-mail: emma.rohomon@birmingham.gov.uk

3. Background

3.1 A Task and Finish Group was started in the summer of 2017 by the then Minister of State for Transport the Rt Hon John Hayes CBE MP, and met for the first time in September 2017 with the aim of considering evidence relating to the adequacy of current taxi and PHV licensing authority powers, as set out in legislation and guidance, making recommendations for actions to address any priority issues identified.

3.2 The group comprised:

- Helen Chapman -Director of Licensing, Regulation & Charging, Transport for London
- Rt Hon Frank Field MP --Member of Parliament for Birkenhead
- Saskia Garner -Policy Officer, Personal Safety, the Suzy Lamplugh Trust
- Ellie Greenwood -Senior Adviser (Regulation), Local Government Association
- Dr Michael Grenfell -Executive Director, Enforcement, Competition and Markets Authority
- Anne Main MP -Member of Parliament for St Albans
- Steve McNamara -General Secretary, Licensed Taxi Drivers' Association
- Mick Rix -National Officer for Transport and Distribution, GMB union
- Donna Short -Director, National Private Hire and Taxi Association
- Steve Wright MBE -Chairman, Licensed Private Hire Car Association

3.3 The report of the working group itself is 68 pages long. It is available to view online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/745098/taxi-and-phv-working-group-report.pdf

3.4 The full text of the Government response can be found online at:

<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-government-response-to-independent-report>

4. Summary of Government response to the Recommendations

4.1 A summary of the Government response is included in Appendix 1 to this report. The Appendix shows the original recommendation, alongside the Government response along with any further officer comments as necessary.

4.2 Many of the recommendations required the Government to introduce either Legislation or Statutory Guidance. At this time, there still does not appear to be an intention to amend the Legislation in any significant way.

- 4.3 The Department for Transport has produced draft Statutory Guidance for Licensing Authorities. A copy of this is attached at Appendix 2.
- 4.4 The consultation document relating to this guidance, as well as the proposed responses, is attached at Appendix 3 to this report.
- 4.5 There have been previous reports and groups established to consider the effectiveness of the existing Hackney Carriage and Private Hire licensing regimes, most notably the 2011 Law Commission review which reported back in 2014. Those proposals were not taken forward.
- 4.6 The Legislation remains outdated and in serious need of updating or replacing. The situation at the moment is detrimental to public safety as well as to the trade itself, with many legal loopholes being widely exploited, leaving Licensing Authorities powerless to respond.
- 4.7 The Government have committed to looking into National Minimum Standards albeit unclear as to whether these will be for vehicles or drivers or both.
- 4.8 Officers have participated in meetings held by the Institute of Licensing to consider these issues, and will continue to actively lobby for more support and action on the issues raised.

5. Implications for Resources

- 5.1 At this early stage there are no quantifiable implications for resources

6. Implications for Policy Priorities

- 6.1 This work supports the Regulation and Enforcement Division's mission statement to provide 'locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors'.

7. Public Sector Equality Duty

- 7.1 This report is for information only. An Equalities Impact Assessment is not required.

8. Consultation

- 8.1 The Task and Finish Group was limited in its constitution and did not call for evidence from all Local Authorities. Officers have actively lobbied for any future consultations to include a better representation of regulators.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: nil

**Task and Finish Group on Taxi and Private Hire Vehicle Licensing:
Recommendations and Comments.**

Recommendations	Government Response	Current Position / Officer Comments
Recommendation 1		
Notwithstanding the specific recommendations made below, taxi and PHV legislation should be urgently revised to provide a safe, clear and up to date structure that can effectively regulate the two-tier trade as it is now.	We will set out in this response what legislation the Government proposes to take forward. In the short term this does not include a full replacement of the law which regulates taxi and private hire. It will, however, be important to fully consider this as part of work on the Future of Mobility, which will consider how Government can support new technology and innovation through regulatory frameworks which can evolve with time.	The Legislation is outdated and is in serious need of updating or replacing. The situation at the moment is detrimental to public safety as well as to the trade itself, with many legal loopholes being widely exploited, leaving Licensing Authorities powerless to respond
Recommendation 2		
Government should legislate for national minimum standards for taxi and PHV licensing -for drivers, vehicles and operators (see recommendation 6). The national minimum standards that relate to the personal safety of passengers must be set at a level to ensure a high minimum safety standard across every authority in England. Government must convene a panel of regulators, passenger safety groups and operator representatives to determine the national minimum safety standards. Licensing authorities should, however,	<p>The Government agrees that there should be national minimum standards for taxi and PHV licensing, and will take forward legislation when time allows to enable these.</p> <p>In the interim, Government will continue to review its statutory and best practice guidance. The development of these, through engagement and consultation, will ultimately shape the content of national minimum standards.</p>	<p>Any panel or consultation should include better representation for those Licensing Authorities outside of London, as well as a better representation of regulators.</p> <p>The standards should be national standards rather than allowing for localised variation, otherwise the same issues will arise, whereby people will actively seek out the lowest standards/ 'easiest' applications.</p>

be able to set additional higher standards in safety and all other aspects depending on the requirements of the local areas if they wish to do so.		
Recommendation 3		
<p>Government should urgently update its Best Practice Guidance. To achieve greater consistency in advance of national minimum standards, licensing authorities should only deviate from the recommendations in exceptional circumstances.</p> <p>In this event licensing authorities should publish the rationale for this decision. Where aspects of licensing are not covered by guidance nor national minimum standards, or where there is a desire to go above and beyond the national minimum standard, licensing authorities should aspire to collaborate with adjoining areas to reduce variations in driver, vehicle and operator requirements. Such action is particularly, but not exclusively, important within city regions.</p>	<p>The Government welcomes this recommendation, recognising as it does the leadership role that Government must play but also the shared collective responsibility that licensing authorities have to work together to increase consistency beyond safety standards and in doing so address the root cause of wider concerns over 'out-of-area' working by some licensees.</p>	<p>Agreed</p>

Recommendation 4		
In the short-term, large urban areas, notably those that have metro mayors, should emulate the model of licensing which currently exists in London and be combined into one licensing area. In non-metropolitan areas collaboration and joint working between smaller authorities should become the norm. Government having encouraged such joint working to build capacity and effectiveness, working with the Local Government Association, should review progress in non-metropolitan areas over the next three years.	The Government agrees that collaboration and joint working can be helpful in ensuring efficient operation of taxi and PHV licensing in smaller local authorities. The Government will keep progress in this area under review.	The current Birmingham City Council Licensing Service administers and enforces across more than just HC&PH licensing. This would have a significant impact on the way in which the service operates, and would require the City Council to relinquish control of its licensing function to the Mayor's Office.
Recommendation 5		
As the law stands, 'plying for hire' is difficult to prove and requires significant enforcement resources. Technological advancement has blurred the distinction between the two trades. Government should introduce a statutory definition of both 'plying for hire' and 'pre-booked' in order to maintain the two-tier system. This definition should include reviewing the use of technology and vehicle 'clustering' as well as ensuring taxis retain the sole right to be hailed on streets or at ranks. Government should convene a panel of regulatory experts to explore and draft the definition.	<p>This matter was the subject of specific consideration by the Law Commission in the course of its review. [...]It concluded that many of the current grey areas would remain unresolved as no statutory list of factors could be sufficiently determinative to give clear guidance.</p> <p>We have no reason to believe that the legal situation has changed since 2014, and thus no reason to believe that a new or reconvened expert panel would reach a different conclusion. As a result, the Government does not intend to take this recommendation forward at this time.</p>	The existing case law has informed our approach to date. If clarification leads to better understanding and therefore better compliance, or better results at Court, then this is to be welcomed.

Recommendation 6		
Government should require companies that act as intermediaries between passengers and taxi drivers to meet the same licensing requirements and obligations as PHV operators, as this may provide additional safety for passengers (e.g. though greater traceability).	PHV operators, and companies that act as intermediaries for taxi bookings, do perform functions that appear very similar. However, the Government is not convinced that there is a compelling case for the licensing of taxi intermediaries (such as taxi apps or radio circuits).	This would have helped to address the discrepancies between regulation of operators and radio circuits etc
Recommendation 7		
Central Government and licensing authorities should 'level the playing field' by mitigating additional costs faced by the trade where a wider social benefit is provided – for example, where a wheelchair accessible and/or zero emission capable vehicle is made available.	The Government does not propose to introduce further financial incentives for taxis and PHVs based on vehicle type at the current time; however we will keep this under review.	The Licensing service operates on a cost recovery basis. Any 'mitigations' offered to the trade would ultimately be funded by the trade unless additional funds are provided by Government or the City Council
Recommendation 8		
Government should legislate to allow local licensing authorities, where a need is proven through a public interest test, to set a cap on the number of taxi and PHVs they license. This can help authorities to solve challenges around congestion, air quality and parking and ensure appropriate provision of taxi and private hire services for passengers, while maintaining drivers' working conditions.	The Government does not propose to take this recommendation forward. We would instead wish to see local authorities make the most use of existing powers to address air quality and congestion issues.	There is already scope to limit hackney carriage licences, it would be sensible to apply the same provisions to private hire.

Recommendation 9		
All licensing authorities should use their existing powers to make it a condition of licensing that drivers cooperate with requests from authorised compliance officers in other areas. Where a driver fails to comply with this requirement enforcement action should be taken as if the driver has failed to comply with the same request from an officer of the issuing authority.	The Government welcomes this recommendation. Regardless of any current or future rules on cross-border working (see paragraphs 2.30 - 2.35), drivers will on occasion encounter licensing officers from other authorities.	Clarification would be required as to who would take the enforcement action? The licence issuing authority, or the one which had experienced the obstruction?
Recommendation 10		
Legislation should be brought forward to enable licensing authorities to carry out enforcement and compliance checks and take appropriate action against any taxi or PHV in their area that is in breach of national minimum standards (recommendation 2) or the requirement that all taxi and PHV journeys should start and/or end within the area that issued the relevant licences (recommendation 11).	<p>The Government agrees that there should be national enforcement against the national minimum standards that will be introduced in response to recommendation two, and will legislate for this when time allows.</p> <p>The Government will work closely with licensing authorities and enforcement officers to ensure that the precise scope of national enforcement powers, and how they would be used in practice, are carefully considered and defined.</p>	The issue of how this enforcement would be funded needs to be addressed. If an area is 'flooded' with externally licensed vehicles then the cost of compliance checks will increase. The nature of the trade means this will not be a case of the burdens being balanced across the areas.
Recommendation 11		
Government should legislate that all taxi and PHV journeys should start and/or end within the area for which the driver, vehicle and operator (PHV and taxi – see recommendation 6) are licensed. Appropriate measures should be in	Even with national minimum standards in place, there will still be variations in licensing conditions (and therefore matters like licence costs and processing times), since the Government does not intend to remove the ability of licensing authorities to set their own local standards in	It has been suggested that this proposal would have a detrimental impact on other matters such as air quality - but this would seem to be one way of dealing with the issue of cross border problems. It requires much more consideration.

<p>place to allow specialist services such as chauffeur and disability transport services to continue to operate cross border.</p>	<p>matters not covered by the national minimum standards, or above and beyond those minimum standards. Local authorities are accountable for licensing in their areas and it is only right that they have the powers to properly shape and influence their local market.</p> <p>Government therefore agrees with the principle of this recommendation, and will consider further (with a view to legislation) how it might best work in detail. In particular, Government will need to consider what size of area is appropriate. We will also consider what flexibilities or exemptions might be needed to reduce or avoid negative impacts on any particular business models, types of transport or passenger, and businesses or localities that are close to (perhaps multiple) licensing authority borders.</p>	
<p>Operators should not be restricted from applying for and holding licences with multiple authorities, subject to them meeting both national standards and any additional requirements imposed by the relevant licensing authority.</p>	<p>The prime reason for regulation of taxis and PHVs is to protect the public and licensing authorities must ensure that this function is sufficiently resourced to do so. We therefore urge licensing authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body and undertake a review of their licensing fees to recover the permissible costs and no more of providing this.</p>	<p>There are no such restrictions currently.</p>

Recommendation 12		
Licensing authorities should ensure that their licensing, administration and enforcement functions are adequately resourced, setting fees at an appropriate level to enable this.	The prime reason for regulation of taxis and PHVs is to protect the public and licensing authorities must ensure that this function is sufficiently resourced to do so. We therefore urge licensing authorities to ensure that they have efficient and effective procedures in place to minimise the cost to the trade of establishing a robust and well-resourced licensing body and undertake a review of their licensing fees to recover the permissible costs and no more of providing this.	The fee structure is calculated according to the previous year's expenditure, but with regard to future circumstances. This means, if it is felt expenditure is required in a particular area, and this is considered to be a reasonable and justifiable expense, it will be implemented. The fee calculation methods differ across authorities.
Recommendation 13		
Legislation should be introduced by the Government as a matter of urgency to enable Transport for London to regulate the operation of pedicabs in London.	The Government fully supports this recommendation.	n/a
Recommendation 14		
The Department for Transport and Transport for London should work together to enable the issue of Fixed Penalty Notices for both minor taxi and PHV compliance failings. The Department for Transport should introduce legislation to provide all licensing authorities with the same powers.	The Department is aware that a number of licensing authorities operate a penalty points system to address minor infringements. We will engage with licensing authorities to establish if there is significant demand for a power to issue fixed penalty notices outside of London to assist in the enforcement of national minimum standards.	The income from the FPNs would also need to be ring-fenced. Who would be liable – the driver or the vehicle proprietor? Also, is this just for vehicular failings or driver /operator (i.e. badge offence etc) Further clarification would be required.

Recommendation 15		
All ridesharing services should explicitly gain the informed consent of passengers at the time of a booking and commencement of a journey.	Government supports choice for consumers but this must be an informed choice. It would be unacceptable for any person to be led to believe that they are hiring a taxi or PHV exclusively, and then be expected to share with other passengers who are unknown to them. Although the TFG report does not present any evidence that such confusion is happening in practice, operators should ensure their systems make it entirely clear to passengers when they are engaging a shared service. Licensing authorities may wish to ensure that their operator licensing conditions make clear that operators must do this.	This can be addressed through conditions
Recommendation 16		
The Department for Transport must as a matter of urgency press ahead with consultation on a draft of its Statutory Guidance to local licensing authorities. The guidance must be explicit in its expectations of what licensing authorities should be doing to safeguard vulnerable passengers. The effectiveness of the guidance must be monitored in advance of legislation on national minimum standards.	The TFG was invited to review the draft statutory guidance ahead of the public consultation, and it has now been published for consultation alongside this response. The Department is grateful to the organisations it engaged with while drafting the guidance for consultation, and we encourage all organisations and individuals with views on the guidance to respond to the consultation.	Draft Statutory Guidance is out for consultation.

<p>Recommendation 17</p> <p>In the interests of passenger safety, particularly in the light of events in towns and cities like Rochdale, Oxford, Newcastle and Rotherham, all licensed vehicles must be fitted with CCTV (visual and audio) subject to strict data protection measures. Licensing authorities must use their existing power to mandate this ahead of inclusion in national minimum standards. To support greater consistency in licensing, potentially reduce costs and assist greater out of area compliance, the Government must set out in guidance the standards and specifications of CCTV systems for use in taxis and PHVs. These must then be introduced on a mandatory basis as part of national minimum standards.</p>	<p>The Government's view on the use of CCTV in taxis and private hire vehicles is set out in the consultation on draft statutory guidance which accompanies this response.</p>	<p>There have been many contradictory opinions on the subject of CCTV in licensed vehicles / Specific guidance on his subject would be welcomed - particularly with regard to the data controller role.</p>
<p>Recommendation 18</p> <p>As Government and local authorities would benefit from a reduction in crime in licensed vehicles both should consider ways in which the costs to small businesses of installing CCTV can be mitigated.</p>	<p>It is likely that Government and local authorities would benefit from a reduction in crime as a result of more extensive installation of CCTV in taxis and PHVs. However, CCTV is installed in many businesses at their own cost with an expectation that this will deter crime and so protect their staff and property. For example, similar conditions may be required before granting establishments a licence to sell alcohol Government has acted to assist the trade where tighter regulation has significantly</p>	<p>As with recommendation 7, any 'mitigations' offered to the trade by the Licensing Service would ultimately be funded by the trade, unless additional funds are provided by Government or the City Council</p>

	increased costs, for example providing a grant of up to £7,500 to assist the trade in transitioning to zero emission capable vehicles. The cost of installing a CCTV system is similar to a replacement set of tyres for a vehicle; as such we do not consider subsidising of these additional costs is necessary.	
Recommendation 19		
National standards must set requirements to assist the public in distinguishing between taxis, PHVs and unlicensed vehicles. These should require drivers to have on display (e.g. a clearly visible badge or arm-band providing) relevant details to assist the passengers in identifying that they are appropriately licensed e.g. photograph of the driver and licence type i.e. immediate hire or pre-booked only. All PHVs must be required to provide information to passengers including driver photo ID and the vehicle licence number, in advance of a journey. This would enable all passengers to share information with others in advance of their journey. For passengers who cannot receive the relevant information via digital means this information should be available through other means before passengers get into the vehicle.	The Government will consider what vehicle and driver identification requirements should be included within national minimum requirements, focussing on supporting safety. Over and above national minimum standards, local considerations (particularly in respect of vehicle licensing conditions) will remain important.	It is already a requirement for the drivers to wear their badge. It is not clear what 'other means' would be able to be employed in this situation. (It is assumed that the reference to PHV's in this recommendation means PHV Operators – not the vehicles.)

Recommendation 20		
All drivers must be subject to enhanced DBS and barred lists checks. Licensing authorities should use their existing power to mandate this ahead of inclusion as part of national minimum standards. All licensing authorities must require drivers to subscribe to the DBS update service and DBS checks should must be carried out at a minimum of every six months. Licensing authorities must use their existing power to mandate this ahead of inclusion as part of national standards.	The Government agrees with both parts of this recommendation, and they are included in the statutory guidance which has been issued for consultation alongside this response. In the longer term, they will be considered as part of national minimum standards.	The current requirement for BCC Licensed drivers is 3 yearly checks. This would be a significant increase in the administration time.
Recommendation 21		
Government must issue guidance, as a matter of urgency that clearly specifies convictions that it considers should be grounds for refusal or revocation of driver licences and the period for which these exclusions should apply. Licensing authorities must align their existing policies to this ahead of inclusion in national minimum standards.	The Government agrees with this recommendation, and its view has been included in the statutory guidance which has been issued for consultation alongside this response.	Draft Statutory Guidance is out for consultation.
Recommendation 22		
The Quality Assurance Framework and Common Law Police Disclosure Provisions must be reviewed to ensure as much relevant information of conduct as well as crimes, by taxi and PHV drivers (and applicants) is disclosed ensuring that licensing authorities are informed immediately of any relevant incidents.	Government will discuss the provision of information with the NPCC with a view to ensuring that appropriate steps are being taken to provide relevant information to licensing authorities.	This is absolutely essential. There are significant inconsistencies of approach with regard to the information willingly shared by the police across the country.

<p>Recommendation 23</p> <p>All licensing authorities must use the National Anti-Fraud Network (NAFN) register of drivers who have been refused or had revoked taxi or PHV driver licence. All those cases must be recorded, and the database checked for all licence applications and renewals. Licensing authorities must record the reasons for any refusal, suspension or revocation and provide those to other authorities as appropriate. The Government must, as a matter of urgency, bring forward legislation to mandate this alongside a national licensing database (recommendation 24).</p>	<p>The Government supports the Private Member's Bill brought by Daniel Zeichner MP that would mandate licensing authorities to use such a database. The Government also welcomes the initiative of the LGA in setting up a voluntary database of drivers who have been refused or revoked licences. Any information obtained using data sharing methods like this must be used as an aid to local, independent decision making. The statutory guidance which is published for consultation alongside this response expands further on the Government's view.</p> <p>In the longer term, the Government intends that information about drivers who have had licences refused or revoked would be one part of the wider-ranging national database discussed against the next recommendation</p>	<p>We hope to be able to participate in this initiative as soon as possible.</p>
<p>Recommendation 24</p> <p>As a matter of urgency Government must establish a mandatory national database of all licensed taxi and PHV drivers, vehicles and operators, to support stronger enforcement.</p>	<p>Government will legislate for the creation of a national taxi and private hire database, as a necessary accompaniment to national enforcement powers. Development of the database will take account of the work undertaken for the identification of taxis and PHVs for</p>	<p>This is a matter of absolute urgency. A register of this kind is essential for the safeguarding of the public.</p>

	<p>charging Clean Air Zone purposes. The establishment of a national licensing database will assist bodies such as licensing authorities and the police to communicate information in a timely manner, as it will enable them to quickly and accurately identify where a driver or vehicle are licensed. For example, this would assist the police in disclosing relevant information under the Common Law Police Disclosure powers.</p>	
Recommendation 25		
<p>Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.</p>	<p>The Government welcomes this recommendation and the acknowledgement that such a requirement can be universally applied under powers already available to licensing authorities.</p> <p>The draft statutory guidance which has been issued for consultation alongside this response includes a recommendation that licensees should be required to undertake safeguarding / child sexual abuse and exploitation awareness training.</p> <p>In the longer term, the Government intends that this requirement would be included in national minimum standards.</p>	<p>This is already a requirement for Birmingham licensed drivers.</p>

<p>Recommendation 26</p> <p>All individuals involved in the licensing decision making process (officials and councillors) must be obliged to undertake appropriate training. The content of the training must form part of national minimum standards.</p>	<p>The draft statutory guidance which has been published for consultation alongside this response recommends that those charged with determining taxi and PHV licensing matters undertake appropriate training.</p> <p>In the longer term the Government intends that the requirement for training would be included in national minimum standards</p>	<p>This is already the case in Birmingham, although a nationally accredited training scheme would be helpful to ensure consistency across the country.</p>
<p>Recommendation 27</p> <p>Government must review the assessment process of passenger carrying vehicle (PCV) licensed drivers and/or consideration of the appropriate boundary between taxis/PHVs and public service vehicles (PSVs).</p>	<p>Where PHV operators also hold a PSV operator's licence, PSVs should not be used to fulfil bookings except with the informed consent of the hirer. For example, if a member of the public contacts a PHV operator and seeks a booking for a party of fewer than nine passengers, it cannot be reasonable to assume that a PSV is required unless there are other factors e.g. a large amount of baggage. If, for example, a nine-seater minibus (a PSV) is necessary, the difference in licensing requirements should be explained and explicit consent obtained. Licensing authorities should use their existing powers to include as a condition of a PHV operator's licence that bookings received</p>	<p>Definitely. It would be helpful if the PCV application process also included the need to check the NAFN register.</p>

	by that licence-holder must be fulfilled using a PHV licensed driver and vehicle. Authorities may then take appropriate steps to monitor and enforce compliance with the licence condition.	
Recommendation 28		
Licensing authorities must require that all drivers are able to communicate in English orally and in writing to a standard that is required to fulfil their duties, including in emergency and other challenging situations.	<p>Government supports this recommendation. Those that carry members of the public must be able to understand the needs of their passengers.</p> <p>The draft statutory guidance which has been issued for consultation alongside this response recommends that licensing authorities require an English assessment (oral and written) for their licensees.</p> <p>In the longer term, Governments intends that this requirement would be included in national minimum standards.</p>	Communication skills form part of the Knowledge tests (both HC and PH)
Recommendation 29		
All licensing authorities should use their existing powers to require that the taxi and PHV drivers they license undergo disability quality and awareness training. This should be mandated in national minimum standards.	The Government supports this recommendation. Taxis and PHVs play a vital role in enabling disabled people to travel where other modes may not be available or accessible. The Department has, in previous best practice guidance, encouraged licensing authorities to use their powers to improve drivers' awareness of the needs of disabled people including by undertaking disability awareness training. This training should	This is already a requirement for Birmingham licensed drivers.

	<p>include awareness of less visible impairments, such as learning disabilities and dementia.</p> <p>In the longer term the Government intends that these training requirements will be included in national minimum standards.</p>	
Recommendation 30		
<p>Licensing authorities that have low levels of wheelchair accessible vehicles (WAVs) in their taxi and PHV fleet should ascertain if there is unmet demand for these vehicles. In areas with unmet demand licensing authorities should consider how existing powers could be used to address this, including making it mandatory to have a minimum number of their fleet that are WAVs. As a matter of urgency, the Government's Best Practice Guidance should be revised to make appropriate recommendations to support this objective.</p>	<p>We will continue to monitor the proportion of WAVs within overall taxi and PHV fleets, as reported in the annual DfT taxi and PHV statistics, and to seek clarification from authorities as to the steps they are taking to assess and respond to the local need for such vehicles.</p>	<p>This is an area of concern which requires further investigation.</p>
Recommendation 31		
<p>Licensing authorities which have not already done so should set up lists of wheelchair accessible vehicles (WAVs) in compliance with s.167 of the Equality Act 2010, to ensure that passengers receive the protections which this provides.</p>	<p>In 2017, the Government commenced sections 165 and 167 of the Equality Act 2010. Under Section 167 a licensing authority may publish a list of their licensed vehicles designated as wheelchair accessible; those vehicles are then required to apply the passenger protections in Section 165. These are to not charge more to a passenger in a wheelchair than to any other passenger, and to provide</p>	<p>This is a statutory requirement. This list is available on our website.</p>

	reasonable assistance (drivers may be exempted from the latter on medical grounds).	
Recommendation 32		
Licensing authorities should use their existing enforcement powers to take strong action where disability access refusals are reported, to deter future cases. They should also ensure their systems and processes make it as easy as possible to report disability access refusals.	The Government agrees that those that refuse to meet their legal obligation under Sections 168 and 170 of the Equality Act 2010 should be subject to enforcement action. We have stated in the ITS that licensing authorities should use the powers available to them, and take robust action against those who have discriminated illegally against disabled passengers.	This is already the case in Birmingham.
Recommendation 33		
The low pay and exploitation of some, but not all, drivers is a source of concern. Licensing authorities should take into account any evidence of a person or business flouting employment law, and with it the integrity of the National Living Wage, as part of their test of whether that person or business is "fit and proper" to be a PHV or taxi operator.	The TFG report acknowledges that the group did not have the expertise, nor was it within its scope, to determine the employment status of drivers. This is also true of licensing authorities; only the courts can make rulings on employment status. However, the Government agrees that the decisions of tribunals, and whether an operator concerned is complying with a ruling in the way the law requires, should reasonably be considered by a licensing authority as part of the 'fit and proper' test for a PHV operator.	If there is evidence of convictions, cautions or similar for breaches of this kind, they may be considered as part of the application process. It is difficult to adduce unsubstantiated complaints which relate to an area outside of our jurisdiction. That is to say, the licensing service should not be expected to carry out investigations into pay and conditions

Recommendation 34		
Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry drivers.	In the first instance, in order to assess the scale of the issue, the Government will engage informally with sector stakeholders to determine whether it is possible to more accurately assess the hours drivers are working, and whether there is a trend for working more or excessive hours. The Government is mindful not just of road safety, but also of the need to avoid burdensome, yet difficult to enforce, regulation.	This is a very important measure to safeguard both the public and the drivers



Department
for Transport

Taxi and Private Hire Vehicle Licensing: Protecting Users

Statutory Guidance for Licensing Authorities

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1. Introduction

- 1.1 The Department first issued Best Practice Guidance to assist those licensing authorities in England and Wales that have responsibility for the regulation of the taxi and private hire vehicle (PHV) trades in 2006. Following consultation with stakeholders, taking into account their feedback on the original version, the Guidance was revised and updated in 2010.
- 1.2 There is evidence to support the view that taxis and PHVs are a high-risk environment. In terms of risks to passengers, this can be seen in the number of sexual crimes reported which involve taxi and PHV drivers. Data from Greater Manchester¹ and Merseyside² on reported sexual assaults suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83% in the Crime Survey for England and Wales³.
- 1.3 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue Statutory Guidance on exercising taxi and PHV licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this guidance, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the Care Act 2014⁴, which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.4 There is consensus that common core minimum standards are required to regulate better the taxi and PHV sector, and the recommendations in this document are the result of detailed discussion and consideration. **The Department therefore expects these recommendations to be implemented unless there is compelling local reason not to.**

¹ https://www.whatdotheyknow.com/request/sex_attacks_2

² https://www.whatdotheyknow.com/request/taxi_private_hire_related_rapes#incoming-286178

³ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

⁴ <http://www.legislation.gov.uk/ukpga/2014/23/section/42/enacted>

- 1.5 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Guidance issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxis and PHVs was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate the sector, this guidance would however cease to apply.
- 1.6 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the *Working Together to Safeguard Children*⁵ statutory guidance.
- 1.7 This new Statutory Guidance reflects the significant changes in the industry and lessons learned from experiences in local areas since the Department's Best Practice Guidance was last updated. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.8 This Statutory Guidance replaces relevant sections of the Best Practice Guidance issued by the Department in 2010. A consultation on revised Best Practice Guidance, which focuses on recommendations to licensing authorities to assist them in setting appropriate standards (other than those relating to passenger safety) to enable the provision of services the public demand, will be taken forward once the final Statutory Guidance has been issued.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this guidance and refers to all such vehicles. Taxis are able to be hired immediately by hailing on the street or at a rank.

Private hire vehicles (PHVs) include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All PHV journeys must be pre-booked via a licensed PHV operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term **PHV** is used throughout this guidance to refer to all such vehicles.

⁵ <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

2. Statutory Guidance

Consideration of the Statutory Guidance

- 2.1 The Government set out in the Modern Crime Prevention Strategy⁶ the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too.
- 2.2 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and PHV licensing regimes. Both the Jay⁷ and Casey⁸ reports on CSAE highlighted examples of taxi/PHV drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.3 The Casey Report made clear that weak and ineffective arrangements for taxi and PHV licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies, holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the formulation of this Statutory Guidance.
- 2.4 This Statutory Guidance is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.5 The Guidance sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and PHV licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.6 “Having regard” to guidance requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that this is statutory guidance issued directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these recommendations cannot be overestimated.** It is not a question of box ticking; the recommendations must be considered rigorously and with an open mind.
- 2.7 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that this Guidance might be drawn upon in any legal

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf

7

https://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

8

<https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

challenge to an authority's practice, and that any failure to adhere to the Guidance without sufficient justification could be detrimental to the authority's defence. **In the interest of transparency however, the Department encourages all licensing authorities to publish their consideration of the recommendations contained in this Guidance and the policies and delivery plans that stem from these. The Department has already undertaken to monitor the effectiveness of the Statutory Guidance in achieving an appropriately high level of standards in taxi and PHV licensing with regard to the protection of passengers.**

- 2.8 This Guidance does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

Licensing policy

- 2.9 The Department encourages licensing authorities to create a cohesive policy document that brings together all their procedures on taxi and PHV licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 2.10 When formulating a taxi and PHV policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the report by Dame Louise Casey CB of February 2015 on safeguarding failings⁹.

"It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride."

- 2.11 The long-term devastation caused by CSAE was summarised in the same report:

"Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction."

- 2.12 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and PHV sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere are well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 2.13 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. It is therefore recommended that licensing authorities regularly review their licensing policies and their performance, but should also consider interim reviews should there be significant issues arising in their area.

Fit and proper test

- 2.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or PHV driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 2.15 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 2.16 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 2.19 below) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that **an applicant or licensee should not be 'given the benefit of doubt'**. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can therefore include information that goes beyond criminal convictions.

Administration of the licensing framework

- 2.17 A policy is only as effective as the way it is administered. The taxi and PHV licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions where considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation.
- 2.18 It is essential that all those involved in the determination of licensing matters have received sufficient training and are adequately resourced to allow them to discharge the function effectively and correctly. The Department for Transport

supports the recommendation of the LGA that, as a minimum, training should cover licensing procedures, natural justice, understanding the risks of CSAE and disability and equality awareness in addition to any other issues deemed appropriate. Training should not simply relate to procedures, but should also cover the making of difficult and potentially controversial decisions – the use of case study material can be helpful to illustrate this. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and the LGA can assist in the development of training packages.

2.19 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:

- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
- any implications of the Human Rights Act should be considered.
- the rules of natural justice should be observed.
- decisions must be reasonable and proportionate.
- where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
- decision makers must avoid bias (or even the appearance of bias) and predetermination.

2.20 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

2.21 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 2.19. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service

generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.

- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

2.22 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees. Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

2.23 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers, however this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

2.24 Regardless of which approach is adopted, all councils should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence. It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Whistleblowing

2.25 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in this Guidance and believe that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of this Guidance is to protect children and vulnerable adults, and by extension the wider public, when using taxis and PHVs. However, it is in the application of these policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated

and remedial action taken if required. It is therefore recommended that licensing authorities have effective internal procedures for staff to raise concerns and procedures in place for any concerns to be dealt with openly and fairly.

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

2.26 The external investigation in South Ribble concluded *“that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and PHV] passengers in the manner in which licensing issues were addressed”*. We are pleased to note that the report concludes¹⁰, *“The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”*

2.27 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it. If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.

2.28 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected.

Implementing changes to licensing policy and requirements

2.29 It is important to remember that any changes in licensing requirements should be followed by a review of the licences already issued. If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet

¹⁰ http://www.southribble.gov.uk/sites/default/files/FINAL_REPORT_JUNE_2016.pdf

the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.

- 2.30 Where a more subjective change has been introduced, for example an amended policy on previous convictions, licensing authority must still consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities are able to do so. Licensing authorities should record the reasons for any deviation from the policies in place.

The Disclosure and Barring Service

- 2.31 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children. Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants.
- 2.32 The DfT's 2018 survey of taxi and PHV licensing authorities¹¹ shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal. The Department considers that all licensing authorities should also request a check of the barred lists in addition to the enhanced DBS check, for individuals applying for or renewing taxi and PHV driver licences.
- 2.33 Enhanced certificates with check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. The filtering rules allow for certain old and minor convictions to be removed from a DBS certificate after an appropriate period has passed, but they do not allow filtering where an individual has more than one conviction, has received a custodial sentence or has committed a specified serious offence such as those involving child sexual abuse. Full details of the filtering rules, and those offences which may never be filtered, are available from the DBS¹². As well as convictions and cautions, an

¹¹ <https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2018>

¹² <https://www.gov.uk/government/collections/dbs-filtering-guidance>

enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the detailed statutory guidance¹³ when considering disclosure. The information provided at each level of DBS checks is summarised in table 1.

- 2.34 It should be noted that licensing authorities must not seek to circumvent the legitimate filtering of previous criminal convictions and other information held by the DBS. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.
- 2.35 Whilst data protection legislation¹⁴ gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, you must not require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This is an offence under data protection legislation.
- 2.36 Driving a taxi or PHV is not, in itself, a regulated activity. This means that an individual subject to barring would not be legally prevented from being a taxi or PHV driver but the licensing authority should take an individual's barred status into account alongside other information available. It is the Department's opinion that, in the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 2.37 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the Safeguarding Vulnerable Groups Act 2006¹⁵. It is an offence to knowingly allow a barred individual to work in regulated activity. The guidance on home-to school travel and transport¹⁶ issued by the Department for Education should be considered alongside this document. Please see DBS guidance on driver eligibility and how to apply.

¹³ <https://www.gov.uk/government/publications/statutory-disclosure-guidance>

¹⁴ the full range of data protection legislation, not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)

¹⁵ <https://www.legislation.gov.uk/ukpga/2006/47/contents>

¹⁶ <https://www.gov.uk/government/publications/home-to-school-travel-and-transport-guidance>

INFORMATION INCLUDED IN CRIMINAL RECORD CHECKS				
Information included	Type of check			
	Basic	Standard DBS	Enhanced DBS	Enhanced DBS (including barred list check)
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1&2}	No	No	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

Table 1

1. Cautions include reprimands and warnings, but not fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not disclosed on any level of certificate. Further guidance is available at <https://www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide>.
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

DBS update service

- 2.38 Licensing authorities should make use of the DBS update service. This subscription service allows licensees to keep their DBS certificates up to date online and, with the individual's consent, allows licensing authorities (as a nominee) to check the status of a certificate online at any time. Subscription to the service removes the need for repeat checks, reduces the administrative burden and mitigates potential delays in relicensing. Licensees should be required to evidence continuous registration and nomination throughout the period of the licence.
- 2.39 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the level and type of DBS certificate. For criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months. Licensing Authorities should therefore consider routinely checking the DBS certificates of their licence holders, for example every six months.
- 2.40 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check facility that can be accessed via a web service. The Multiple Status Check facility enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the Multiple Status Check facility is available from the DBS.¹⁷ As discussed above, for taxi and PHV driver licensing purposes the recommended level of check is always the enhanced level with check of the adult and children Barred lists. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2.

Licensee self-reporting

- 2.41 As discussed above, the DBS update service is a valuable tool in discharging a licensing authority's duty to ensure that licence holders are fit to hold a licence. However, the routine checking of the DBS record should be in addition to a requirement that licence holders notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any motoring offence, or any offence involving dishonesty, indecency or violence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities.
- 2.42 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of, would be a breach of a licence condition and might therefore be seen as behaviour that questions honesty and

¹⁷ <https://www.gov.uk/government/publications/dbs-update-service-multiple-status-checking-guide>

therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to DBS and the police

2.43 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS; for example, a decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS. The power for the licensing authority to in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the DBS¹⁸.

2.44 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the ‘harm test’; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;
- the DBS may consider it appropriate for the person to be added to a barred list.

2.45 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is available¹⁹.

2.46 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Overseas convictions

2.47 **The DBS cannot access criminal records held overseas.** Therefore, a DBS check may not provide a complete picture of an individual’s criminal record where there have been periods living or working overseas. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before

¹⁸ <https://www.gov.uk/government/publications/dbs-barring-referrals-local-authority-referral-duty-and-power/referral-duty-and-power-for-local-authorities-and-regulatory-bodies#local-authorities-as-regulated-activity-providers>

¹⁹ <https://www.gov.uk/guidance/making-barring-referrals-to-the-dbs>

the age of 18 may not be relevant. For information on applying for overseas criminal record checks or 'Certificates of Good Character' please see the Home Office guidance²⁰. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.

- 2.48 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

Conviction policy

- 2.49 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.
- 2.50 Engagement with licensing authorities identified that greater direction from the Department was sought and in some cases required. The Department did not make specific recommendations regarding the assessment of convictions in the 2010 update of the Best Practice Guidance. In response to concerns raised by stakeholders and to assist in greater consistency in licensing, Annex A provides the Department's recommendations on this issue. This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and PHV licensees²¹. These periods should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that each case must be considered on its own merits, and applicants are entitled to a fair and impartial public hearing of their application if required.

Common Law Police Disclosure

- 2.51 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and PHV drivers.

²⁰ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

²¹ [https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.

- 2.52 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 2.53 The new procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. We would therefore strongly recommend that licensing authorities maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.

Other information

- 2.54 The LGA's Councillors' Handbook on taxi and private hire vehicle (PHV) licensing²² advises that those responsible for licensing should *"communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities."*
- 2.55 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police we strongly recommend that action taken as a result of information received is fed-back to the police. Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 2.56 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 2.57 As has been stated elsewhere in this guidance, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. Applicants should therefore be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. For this process

²² <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.

- 2.58 The LGA's Taxi and PHV licensing Councillors' handbook²³ advises that Councils should meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared. While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and PHV driver licence refusals and revocations (the register is known as 'NR3'). The use of tools such as NR3 by licensing authorities to share information on a more consistent basis would mitigate the risk of non-disclosure of relevant information by applicants.
- 2.59 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and PHV driver licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published guidance to assist organisations to fully understand their obligations and suggest good practice²⁴.
- 2.60 If notification under paragraph 2.57 or 2.58 of a refused or revoked license is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. The information disclosed can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would.
- 2.61 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 2.57, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should therefore review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 2.62 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models)

²³ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

²⁴ <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

should operate on three common principles: information sharing, joint decision making and coordinated intervention.

2.63 The Home Office report on Multi Agency Working and Information Sharing²⁵ recommended that effective multi-agency working still needs to become more widespread. The Children’s Commissioner’s 2013 Inquiry into Child Sexual Exploitation in Gangs and Groups²⁶ found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

2.64 The Department recommends all licensing authorities should establish a means to facilitate the objectives of a MASH. As has been emphasised throughout this guidance, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and PHVs is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

2.65 The LGA recommends that all councils should have a robust system for recording complaints, including analysing trends across the whole system as well as complaints against individual licensees²⁷. Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.

2.66 Licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that **must** be available on their website and displayed in licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a PHV driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged. A systematic recording of complaints will provide a further source of information to consider when renewing a licence for a driver or operator or identify problems during the period of the licence.

2.67 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.

²⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/338875/MASH.pdf

²⁶ https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/07/If_only_someone_had_listened.pdf

²⁷ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

- 2.68 CCTV footage of an incident can provide an invaluable insight, providing an ‘independent witness’ to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 2.104 - 2.106.

Duration of licences

- 2.69 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and PHV drivers and five years for PHV operators. Any shorter duration should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. Such circumstances could include where the licensing authority considers that a probationary period is necessary or where required (e.g. when the licence holder’s leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand.
- 2.70 A previous argument against this length of licence was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated by requiring licensees to subscribe to the DBS update service as discussed in paragraphs 2.38 – 2.40 and authorities to undertake regular interim checks. To help authorities monitor licensees’ suitability, police forces should inform licensing authorities when they believe a licensee presents a risk to the travelling public. Paragraphs 2.51 - 2.53 provide further information about this process.

Safeguarding awareness

- 2.71 Licensing authorities should consider the role that those in the taxi and PHV industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.
- 2.72 It is the Department’s recommendation that licensing authorities provide safeguarding advice and guidance to the trade and that taxi and PHV drivers are required to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:
- provide a safe and suitable service to vulnerable passengers of all ages;
 - recognise what makes a person vulnerable; and
 - understand how to respond, including how to report safeguarding concerns and where to get advice.

- 2.73 In February 2018, the Department for Education (DfE) launched phase 3 of its nationwide campaign – ‘Together we can tackle child abuse’. Building on phases 1 and 2, which ran in 2016 and 2017, it aims to increase public understanding of how to recognise and report child abuse and neglect. The DfE has developed an online toolkit²⁸ of material for local authorities, charities and other organisations to use to support the campaign.

Other forms of exploitation – ‘County lines’ drug trafficking

- 2.74 Victims of exploitation may not appear as such at first sight. 74% of police forces noted the exploitation of vulnerable people (including children) by gangs and organised criminal networks involved in trafficking illegal drugs within the UK²⁹ to move and store drugs and money across the country, often from urban areas to regional locations. They will frequently use coercion, intimidation, violence (including sexual violence) and weapons. This gang activity (known as county lines), and the associated violence, drug dealing and exploitation has a devastating impact on young people, vulnerable adults and local communities.
- 2.75 The National Crime Agency’s updated annual threat assessment of county lines reported that county lines groups are using taxis and PHVs as a method of transportation. In that assessment, 33% of police forces in England and Wales (14 forces) reported use of taxis and PHVs to transport drug couriers between markets. These couriers are often young people who have been exploited and may be victims of trafficking; the typical age range is 15-17 years old, but may be much younger. They may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues or reported as missing.
- 2.76 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:
- young people, sometimes as young as 12, travelling in taxis alone;
 - travelling at unusual hours (during school time, early in the morning or late at night);
 - travelling long distances ;
 - unfamiliar with the local area or do not have a local accent;
 - paying for journeys in cash or prepaid.

²⁸ <https://tacklechildabuse.campaign.gov.uk/>

²⁹ <http://www.nationalcrimeagency.gov.uk/news/1247-latest-threat-update-estimates-at-least-720-county-lines-drug-dealing-lines>

2.77 The Home Office is working with partners to raise awareness of county lines and has produced promotional material that can be used by taxi and PHV companies.³⁰

2.78 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

2.79 Authorities should consider whether an applicant would have any problems in communicating with customers because of language difficulties. Licensing authorities have the freedom to specify the level of proficiency, but it is recommended to cover both oral and written English language skills necessary to fulfil their duties, including in emergency and other challenging situations. This should include:

- conversing with passengers to demonstrate an understanding of the desired destination, an estimation of the time taken to get there and other common passenger requests;
- providing a customer with correct change from a note or notes of higher value than the given fare, and doing so with relative simplicity;
- providing a legibly written receipt upon request.

Enforcement

2.80 Implementing an effective framework for licensing authorities is essential to a well-functioning taxi and PHV sector. These steps will help prevent the licensing of drivers that are not deemed ‘fit and proper’ but does not ensure that those already licensed continue to display the behaviours and standards expected.

2.81 We have discussed the benefits of licensing authorities working collaboratively in regard to the sharing of information, and this can equally apply to enforcement powers. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. Together with increased clarity for the public on complaining, these measures will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and

³⁰https://www.gov.uk/government/publications/county-lines-posters-for-taxi-and-private-vehicle-hire-staff?utm_source=HO&utm_campaign=LA

drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the LGA Councillors' handbook³¹.

2.82 It is not reasonable to expect drivers to adhere to a policy unless they are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

2.83 The Department suggest that there should be a clear, simple and well-publicised process for the public to make complaints about drivers and operators. This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

2.84 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds:-

(a) that he has since the grant of the licence—

(i) been convicted of an offence involving dishonesty, indecency or violence; or

(ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;

(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

(b) any other reasonable cause

2.85 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. Guidance for licensing authorities to prevent illegal working in the taxi and PHV sector has been issued by the Home Office³². As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

2.86 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the

³¹ <https://www.local.gov.uk/councillor-handbook-taxi-and-phv-licensing>

³² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/613415/A_Licensing_Authority_guide_to_right_to_work_checks_-_England_and_Wales.pdf

opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

- 2.87 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 2.88 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 2.89 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Criminal record checks for PHV operators

- 2.90 As with driver licensing, the objective in licensing PHV operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles they dispatch are above all else safe. It is important therefore that licensing authorities are assured that the operators they license also pose no threat to the public and have no links to serious criminal activity. Although an operator may not have direct contact with passengers, they are still entrusted to ensure that the drivers and vehicles used to fulfil a booking are appropriately licensed and so 'fit and proper'. PHV operators are also frequently provided with sensitive information such as periods when a home may be vacated as the residents are on holiday. Those making licensing decisions should consider whether they would be content for an applicant to hold sensitive information and are confident that this would not be misused.
- 2.91 PHV operators (as opposed to PHV drivers) are not eligible for standard or enhanced criminal records checks. We recommend that licensing authorities request a criminal conviction certificate (Basic disclosure) from the DBS. Any individual may apply for a Basic check and the certificate will disclose any unspent convictions recorded on the PNC. Licensing authorities should consider whether an applicant or licence holder with a conviction for offences detailed in Annex A (other than those relating to driving) meet the 'fit and proper' threshold.
- 2.92 PHV operator licences may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective PHV

operators should be required to advise the licensing authority of any changes to the directors or partners.

- 2.93 Individuals, directors or partners granted a PHV operator licence should be required to subscribe to the DBS update service as a condition of licensing and licensing authorities should consider routinely checking the DBS certificates of their licence holders, for example every six months
- 2.94 As explained earlier in the context of driver licensing, the **DBS cannot access criminal records held overseas**. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas. A licensing authority should ensure they have access to all the information available to them when making a decision whether to grant a licence, particularly when an applicant has previously lived outside the UK. It should be noted that it is the character of the applicant as an adult that is of interest, therefore a period outside the UK before the age of 18 may not be relevant. For information on applying for overseas criminal record checks or a 'Certificate of Good Character' please see the Home Office guidance³³ on criminal record checks for overseas applicants. Licensing authorities should seek criminal records information from overseas when an applicant has previously lived outside the UK for a period of more than three continuous months to properly assess risk and support the decision making process.
- 2.95 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in Annex A, they should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

PHV Operators - ancillary staff

- 2.96 PHV drivers are not the only direct contact that PHV users have with PHV operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle controller decides which driver to send to a user, a position that could be exploited by criminals. It is therefore appropriate that all staff that have contact with PHV users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 2.97 Licensing authorities should be satisfied that PHV operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Licensing authorities should request that, as a condition of granting an operator licence, a register of all staff that will take bookings or dispatch vehicles is kept. The operator should be required to evidence that they have had sight of a Basic DBS check on all individuals listed.
- 2.98 Operators or applicants for a licence should also be required to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a PHV operators' licence, those with a

³³ <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

conviction for offences detailed in Annex A (other than those relating to driving) may not be suitable to handle the sensitive information the public may provide (e.g. that their home is likely to be empty between certain dates) or to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

- 2.99 Those granted an operator licence should be required to maintain a register of staff that take bookings and/or control vehicles and ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders.

PHV Operators – Use of passenger carrying vehicles (PCV) licensed drivers

- 2.100 Members of the public are entitled to expect when making a booking with a PHV operator that they will receive a PHV licensed vehicle and driver. The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to undertake a PHV booking should not be permitted as a condition of the PHV operator's licence. Drivers of PSVs who are PCV licence holders are not subject to the same checks as PHV drivers, as the work normally undertaken, i.e. driving a bus or coach, does not present the same risk to passengers.

PHV Operators - record keeping

- 2.101 Section 56 of the Local Government (Miscellaneous Provisions) Act 1976³⁴ requires PHV operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. The particulars to be recorded may be specified by the licensing authority as a condition of the operator licence. The Department recommend that this information should include:

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle.

- 2.102 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that six months is generally appropriate as the length of time that records should be kept.

³⁴ <http://www.legislation.gov.uk/ukpga/1976/57>

- 2.103 PHV operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

In-vehicle visual and audio recording – CCTV

- 2.104 Government has acknowledged the potential risk to public safety when passengers travel in taxis and PHVs. In 2012 the Government enabled licensing authorities to undertake enhanced DBS checks. The Department appreciates that all licensing authorities have recognised the risk posed by the very small minority of licensed drivers and undertake this level of check. It is unfortunately the case that no matter how complete the information available to licensing authorities is, nor how robust the policies in place are and the rigor with which they are applied, it will never remove the possibility of harm to passengers by drivers. The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/PHV passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

- 2.105 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the Crime Survey for England and Wales³⁵ only 17% of victims report their experiences to the police, 28% of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

- 2.106 The mandatory installation of CCTV in vehicles may deter people from seeking a taxi or PHV licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

- 2.107 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt and targeted i.e. only when

35

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesinenglandandwales/yearendingmarch2017#main-points>

passengers (or drivers) consider it necessary and all parties should be made aware that a recording is being made. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 2.108 It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and PHV will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire.
- 2.109 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review.
- 2.110 The Home Office '*Surveillance Camera Code of Practice*'³⁶ advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:
- in pursuit of a legitimate aim;
 - necessary to meet a pressing need;
 - proportionate;
 - effective, and;
 - compliant with any relevant legal obligations
- 2.111 The Code also sets out 12 guiding principles which, as a 'relevant authority' under the Protection of Freedoms Act 2012³⁷, licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

³⁶ <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

³⁷ [Section 33\(5\) of the Protection of Freedoms Act 2012](#)

- 2.112 The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '*Passport to Compliance*'³⁸ which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office³⁹ (ICO) has also published a code of practice which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a self-assessment tool⁴⁰ to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a certification scheme⁴¹; authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.
- 2.113 The Data Protection Act 2018⁴² regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access and to erasure. The ICO has provided detailed guidance⁴³ on how data controllers can ensure compliance with these.
- 2.114 It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in guidance⁴⁴ that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc. Licensing authorities should consult on this issue to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and PHV users, including children or vulnerable adults.
- 2.115 It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the

38 <https://www.gov.uk/government/publications/passport-to-compliance>

39 <https://ico.org.uk/media/for-organisations/documents/1542/cctv-code-of-practice.pdf>

40 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-self-assessment-tool>

41 <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice-third-party-certification-scheme>

42 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

43 <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

44 <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/security/>

licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that ‘ensures appropriate security’, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

- 2.116 All passengers must be made aware if CCTV is operating in a vehicle. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems.

Stretched Limousines

- 2.117 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as PHVs. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. Indeed, the Department’s view is that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding service from the scope of the PHV regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 2.118 Stretched large limousines which clearly have more than eight passenger seats should not in most circumstance be licensed as PHVs because they are outside the licensing regime for PHVs. However, under some circumstances the Individual Vehicle Approval (IVA) regime accepts vehicles with space for more than eight passengers, particularly where the precise number of passenger seats is hard to determine. In these circumstances, if the vehicle has obtained an IVA certificate, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

Consultation at the local level

- 2.119 It is good practice for licensing authorities to consult on any significant proposed changes in licensing rules. Such consultation should include not only the taxi and PHV trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult

with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy's activities.

- 2.120 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and PHV sector in neighbouring areas; it would therefore be good practice to engage with these to identify any concerns and issue that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; the Department considers this approach to be good practice.

Annex A – Previous convictions guidance

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is ‘fit and proper’ to hold a taxi or PHV licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial public hearing of their application if required. The periods given below should be taken as a minimum before a licence should be granted or renewed in all but truly exceptional circumstance. The Department’s view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence

Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Sex and indecency offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a

licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction of a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or PHV driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex B - Staying safe: guidance for passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and PHVs e.g.:

- a taxi can be flagged down or pre-booked.
- a PHV that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a PHV should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.

Taxi and private hire vehicle licensing: protecting users

1. Introduction

Thank you for taking the time to read the consultation document and to respond to the questions. Your answers will help us to firm up statutory guidance to taxi and private hire vehicle (PHV) licensing authorities on how their licensing powers can be exercised in order to safeguard children and vulnerable adults.

The easiest way to respond to this consultation is online:

<https://www.smartsurvey.co.uk/s/taxis-licence/>

The online version allows you to save your response and continue it later and to save or print off a copy for your records.

Confidentiality and data protection

The Department for Transport (DfT) is carrying out this consultation to gather views and evidence on measures for inclusion within the statutory guidance issued to taxi and PHV licensing authorities. This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the controller for this information.

As part of this consultation we're asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.

DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

DfT's privacy policy has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer. You can view it at <https://www.gov.uk/government/organisations/department-for-transport/about/personal-information-charter>.

Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.

Find out more about the Department for Transport's data protection and privacy policy.

3. About you

2. Are you responding: *

- ☐ as an individual?
- ☐ as a taxi driver?
- ☐ as a PHV driver?
- ☐ as a taxi intermediary?
- ☐ as a PHV operator?
- ☒ a licensing authority
- ☐ the police
- ☐ other (specify?)

5. Implementing changes to the licensing policy and requirements

5. The draft statutory guidance recommends that all issued licences should be reviewed following changes in licensing policy (paragraph 2.29). Do you agree with this recommendation?

- ☒ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Dependent upon the nature of the policy change, this may be appropriate, but it would need to be considered carefully. Future amendments to existing policies or new policies to be implemented should be presented along with a consideration as to whether it would be appropriate to apply the policies retrospectively – where the law allows.

7. Licensee self-reporting

9. The draft statutory guidance recommends that drivers and operators should be required to notify the issuing authority within 48 hours upon arrest and release, charge or conviction of any motoring offence or any offence involving dishonesty, indecency or violence (paragraph 2.41). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

We would also ask for the reporting of civil orders such as Sexual Risk Order/ Restraining Order/ non-molestation orders etc to be considered.

9. Overseas convictions

11. The draft statutory guidance recommends that a check of overseas criminality information or 'Certificate of Good Character' should be required, when an individual has spent a period of more than 3 continuous months outside the UK when over the age of 18 (paragraph 2.47). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

This is already a requirement in Birmingham

11. Multi-agency safeguarding hub (MASH)

15. The draft statutory guidance recommends that multi-agency safeguarding hubs (or similar) should be established by licensing authorities to improve the sharing of relevant information (paragraph 2.64). Do you agree with this recommendation?

- ☐ Yes
- ☐ No
- ☐ No opinion

Comment below if you want to explain your answer.

Our officers have provided training to the MASH team in BCC concerning the licensing of HC and PH Drivers and operators and have explained the processes involved. Officers also attend CSE and Missing Operational Groups as well as attending Strategy Discussions where there are matters potentially relating to licensed people or places

13. Safeguarding awareness

17. The draft statutory guidance recommends that all licensing authorities should require drivers to undertake safeguarding training as a condition of licensing (paragraph 2.72). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

This is already a requirement in Birmingham

15. Enforcement

19. The draft statutory guidance recommends that licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area (paragraph 2.81). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

Joint authorisation would be a welcome move, however, there is still a disconnect between the enforcement activity and the funding. Legislation needs to clarify the situation concerning what fees can be levied and what they can be used for.

We already take enforcement action against ANYONE committing offences in our area, but compliance checks are harder as there are different conditions/requirements.

17. PHV operators - ancillary staff

21. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to keep a register of all staff that will take bookings or dispatch vehicles (paragraph 2.97). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

This is already a requirement in Birmingham

22. The draft statutory guidance recommends that PHV operators should be required to evidence that they have had sight of a basic DBS check on all individuals listed on the above register (paragraph 2.97). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

Yes, they have access to a lot of personal information about their passengers.

23. The draft statutory guidance recommends that PHV operators should be required to provide to the licensing authority their policy on employing ex-offenders that will take bookings or dispatch vehicles as a condition of licensing (2.98). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

19. PHV operators – record keeping requirements

25. The draft statutory guidance recommends that PHV operators should, as a condition of licensing, be required to record the information detailed in paragraph 2.101. Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

This is already a requirement in Birmingham, although we also require details of any agreed fare, and the details of who took the booking. Operators are required to retain this information for 12 months.

21. Stretched limousines

28. The draft statutory guidance recommends that licensing authorities should consider licensing vehicles with an Individual Vehicle Approval certificate, even if the passenger capacity is unclear, but under the strict condition that the vehicle will not be used to carry more than 8 passengers (paragraph 2.118). Do you agree with this recommendation?

- ☒ Yes
☐ No
☐ No opinion

Comment below if you want to explain your answer.

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23. Other offences

32. If you answered yes, please list the offence(s) and the period you consider appropriate to prevent the granting of a licence under most circumstances.

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BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATORY SERVICES
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

10 APRIL 2019
ALL WARDS

**CONDITIONS OF LICENCE FOR
HACKNEY CARRIAGE VEHICLES**

1. **Summary**

- 1.1 Following a report to this committee in September 2018 a new set of conditions to be attached to the licences issued in respect of hackney carriage vehicles was agreed.
- 1.2 This report recommends a minor amendment to those conditions to clarify the position on window advertising.

2. **Recommendation**

- 2.1 That the Committee approve the proposed amendment to the conditions for Hackney Carriage Vehicles and these are introduced with immediate effect.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 675 2495
Email: emma.rohomon@birmingham.gov.uk

Originating Officer: Shawn Woodcock, Licensing Operations Manager

3. Background

- 3.1 A report to this committee in December 2017 proposed the introduction of a new set of conditions to be attached to the licences issued in respect of hackney carriage vehicles.
- 3.2 The proposed conditions were consulted on in May and June 2018 and agreed by this committee in September 2018.
- 3.3 This brought conditions for Hackney Carriage Vehicle into line with those of the private hire trade which had already been approved by Committee.
- 3.4 Since the introduction of the new conditions it has become apparent that adverts are being placed on side windows and officers feel this point needs clarification.

4 Conditions

- 4.1 Sections 47 of the Local Government (Miscellaneous Provisions) Act 1976, which relate to the issue of licenses for hackney carriage vehicles states:

“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 “.

- 4.2 The purpose of attaching conditions to these licences is to be able to regulate a large variety of matters relating to the way proprietors and drivers conduct themselves and the use of their vehicles. Conditions can prescribe the ways in which activities are conducted, the sort of documentation proprietors and drivers must maintain and how vehicles are to display their plates and signage.
- 4.3 The conditions are used to deal with issues that require regulating and are drafted to stipulate the exact manner in which activities are to be undertaken. Failing to comply with conditions may result in enforcement action being taken. This may include referral to a Licensing Sub Committee for them to consider whether the licensee is “fit and proper” and if not whether their licence should be suspended or revoked. For example, a complaint from members of the public about a drivers’ behaviour.
- 4.4 The Licensing Enforcement Team deal with numerous complaints about the activities of licensees and undertake various exercises throughout the year including the stop checking of vehicles and drivers and the inspection of records and documentation retained at operator’s bases. These conditions are used to measure the licensee’s compliance and deal with such complaints.

5. Issue of Conditions of Licence

- 5.1 Conditions of licence can only be issued upon the grant of a licence. Thus if committee approves them, they will be issued on the grant or renewal of licence applications from Thursday 14th April 2019.
- 5.2 This will mean that we will be enforcing two sets of conditions for up to 12 months following the proposed introduction of new conditions.
- 5.3 Any individual aggrieved by the conditions of licence may make an application for exemption from them and attend a hearing before a Licensing Sub Committee. Alternatively, they can appeal to a Magistrates Court within 21 days of the service of the licence upon them.

6. Summary of Changes

- 6.1 There is only one change to the conditions, namely the insertion of 18. e) which clarifies the position on window advertising with the exception of rear windscreens.
- 6.2 If agreed Condition 18 will now read

18. Any advertisement displayed upon the exterior of a Hackney Carriage shall be located either upon:-

- a) The whole vehicle (whole livery);*
- b) Each side of the vehicle;*
- c) The rear windscreen provided that an advertisement shall only be displayed upon the rear windscreen if the advertisement is printed upon a transparent screen which does not obscure the driver's view.*
- d) The roof of the vehicle as an approved "taxitop" installation*
- e) With the exception of c) above, advertisements on windows are not allowed.*

7. Consultation

- 7.1 This amendment has not been consulted on as officers feel that
 - a. it is minor
 - b. it is a clarification of what we understood the position on window advertising to be.

8. Implications for Resources

- 8.1 This work will be undertaken within the resources available from within those funds generated by the licence fee structure.

9. Implications for Policy Priorities

- 9.1 The contents of this report are consistent with the Regulation and Enforcement Mission Statement - locally accountable and responsive fair regulation for all – achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors.

10. Implications for Equality and Diversity

- 10.1 No specific implications have been identified.

DIRECTOR OF REGULATORY SERVICES

Background Papers: Current Hackney Carriage vehicle conditions

BIRMINGHAM CITY COUNCIL**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE****10 April 2019
ALL WARDS****OUTCOME OF APPEALS AGAINST SUB COMMITTEE DECISIONS:
February 2019**

1. Summary
 - 1.1 This report advises the Committee of the outcomes of appeals against the Sub Committee's decisions which are made to the Magistrates' Court, and any subsequent appeals made to the Crown Court, and finalised in the period mentioned above.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 6103
E-mail: Emma.Rohomon@birmingham.gov.uk

3. Summary of Appeal Hearings for February 2019

	Magistrates'	Crown
Total	3	1
Allowed		
Dismissed	1	1
Appeal lodged at Crown		
Upheld in part		
Withdrawn pre-Court	2	
Consent Order		

4. Implications for Resources

- 4.1 The details of costs requested and ordered in each case are set out in the appendix below.
- 4.2 In February 2019 costs have been requested to the sum of £4133.90 so far with reimbursement of £3533.90 so far (85.4%) ordered by the Courts.
- 4.3 For the fiscal year thus far, April 2018 to February 2019, costs associated to appeal hearings have been requested to the sum of £18481.21 so far with reimbursement of £16106.87 so far (87.1%) ordered by the Courts.
- 4.4 For the fiscal year thus far, April 2018 to February 2019, costs contra Birmingham City Council associated to appeal hearings have been requested and awarded in excess of £10483.

5. Implications for Policy Priorities

- 5.1 The contents of this report contribute to the priority action of providing an efficient and effective Licensing service to ensure the comfort and safety of those using licensed premises and vehicles.

6. Public Sector Equality Duty

- 6.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Regulation and Enforcement Division, which ensures that equality issues have been addressed.

7. Consultation

- 7.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and the business community in terms of the regulatory duties of the Council. Any enforcement action taken as a result of the contents of this report is subject to that Enforcement Policy.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Prosecution files and computer records in Legal Proceedings team.

MAGISTRATES' COURT – PRIVATE HIRE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Shakwan Abdullah	25.02.19	Dismissed	£250.00	£0.00	The appeal was against the Sub Committee decision to revoke the private hire driver licence previously issued to Shakwan Abdullah following convictions for plying for hire and driving while uninsured. The magistrates were not satisfied that the decision to revoke Mr Abdullah's licence was wrong and dismissed the appeal.

CROWN COURT – HACKNEY CARRIAGE DRIVER'S LICENCE

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Shangara Singh Samra	15.02.2019	Dismissed	£555.75	£205.75	The appeal was against the Sub Committee decision to refuse to grant a hackney carriage driver licence to Mr Samra due to convictions recorded against him and previous licence revocations. QC and the magistrates decided that the decision of the licensing sub-committee was not wrong, and the appeal was dismissed.

MAGISTRATES' COURT – LICENSING ACT 2003

	Name	Date Case Heard	Result	Costs Requested	Costs Ordered	Comments
1	Paromstor Limited In respect of Extra Supermarket 187 High Street Erdington Birmingham B23 6SY	n/a	Withdrawn pre-Court	£1496.55	£1496.55	The appeal was against the Sub Committee decision to revoke the premises licence following a review application submitted by Trading Standards. The appeal was withdrawn pre-court.
2	Saman Kahrahman In respect of The Minimarket 235-237 Lozells Road Lozells Birmingham B19 1RJ	n/a	Withdrawn pre-Court	£1831.60	£1831.60	The appeal was against the Sub Committee decision to refuse to grant a premises licence following representations received from West Midlands Police and other persons. The appeal was withdrawn pre-court.

BIRMINGHAM CITY COUNCIL

**REPORT OF THE DIRECTOR OF REGULATION AND ENFORCEMENT
TO THE LICENSING & PUBLIC PROTECTION COMMITTEE**

10 April 2019
ALL WARDS

**ACTION TAKEN BY THE CHAIR OF THE LICENSING
& PUBLIC PROTECTION COMMITTEE:**

March 2019

1. Summary
 - 1.1 This report advises the Committee of action taken by the Chair under authority from the Licensing & Public Protection Committee, together with an explanation as to why this authority was used.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Emma Rohomon, Acting Head of Licensing
Telephone: 0121 303 6103
E-mail: emma.rohomon@birmingham.gov.uk

3. Background Information

- 3.1 On 16 March 2007 Section 52 of the Road Safety Act 2006 came into force. This has had the effect of enabling a licensing authority to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect – meaning that the suspension or revocation takes effect immediately once notice of the authority's decision has been given to the driver – where this decision is considered necessary in the interests of public safety.

4. Summary of Action Taken for February 2019

- 4.1 On 4 March 2019 authority was sought to revoke with immediate effect the private hire driver licence held by driver reference 3411. On 4 March 2019 the Licensing Enforcement Section received information from West Midlands Police: Driver 3411 is currently under investigation for an allegation of conspiracy to murder, the driver is on Police Bail.
- 4.2 The interests of public safety being considered paramount, an authorisation of the Director of Regulation and Enforcement, acting in consultation with the Chair, was obtained and on 4 March 2019 notice was hand delivered personally to driver 3411's last known address, advising that his private hire driver licence was revoked with immediate effect, in accordance with Sections 61(1) (b) and 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

5. Implications for Resources

- 5.1 No specific implications have been identified; however, drivers retain the right to appeal through a Magistrates' Court, which may result in the imposition of costs either to or against the City Council.

6. Implications for Policy Priorities

- 6.1 The contents of the report contribute to the City Council's published policy priority of improving the standards of licensed vehicles, people and premises in the City.

7. Implications for Equality and Diversity

- 7.1 The actions identified in this report were taken in accordance with the Regulatory Services enforcement policy, which ensures that equality issues have been addressed.

DIRECTOR OF REGULATION AND ENFORCEMENT

BIRMINGHAM CITY COUNCIL

**REPORT OF THE ACTING SERVICE DIRECTOR REGULATION AND
ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

10 APRIL 2019
ALL WARDS

PROSECUTIONS AND CAUTIONS – FEBRUARY 2019

1. Summary
 - 1.1 This report summarises the outcome of legal proceedings taken by Regulation and Enforcement during the month of February 2019.
2. Recommendation
 - 2.1 That the report be noted.

Contact Officer: Chris Neville, Acting Service Director Regulation and Enforcement
Telephone: 0121 303 6111
E-Mail: Chris.Neville@birmingham.gov.uk

3. Results

3.1 During the month of February 2019 the following cases were heard at Birmingham Magistrates Court, unless otherwise stated:

- Three Licensing cases were finalised resulting in fines of £320. 12 penalty points were issued and prosecution costs of £700 were awarded. No simple cautions were administered as set out in Appendix 1.
- 52 Environmental Health cases resulted in fines of £43,776. Prosecution costs of £16,270 were awarded. No simple cautions were administered as set out in Appendix 2.
- One Trading Standards case was finalised resulting in a fine of £1,800 and prosecution costs of £4,072 were awarded. A Forfeiture Order was granted in respect of 52 seized goods. No simple cautions were administered as set out in Appendix 3.
- Appendix 4 lists cases finalised by district in February 2019 and cases finalised by district April – February 2019.
- Appendix 5 lists the enforcement activity undertaken by the Waste Enforcement Team in April 2018 - January 2019.

4. Consultation

4.1 The Enforcement Policy that underpins the work identified in this report is approved by your Committee. The policy reflects the views of the public and business in terms of the regulation duties of the Council. Any enforcement action[s] taken as a result of the contents of this report are subject to that Enforcement Policy.

5. Implications for Resources

5.1 Costs incurred in investigating and preparing prosecutions, including officers' time, the professional fees of expert witnesses etc. are recorded as prosecution costs. Arrangements have been made with the Magistrates Court for any costs awarded to be reimbursed to the City Council. Monies paid in respect of fines are paid to the Treasury.

5.2 For the year April 2018 to February 2019 the following costs have been requested and awarded:

Licensing

£25,208 has been requested with £18,526 being awarded (73%).

Environmental Health

£315,847 has been requested with £239,008 being awarded (76%).

Trading Standards

£46,082 has been requested with £20,63 being awarded (44%).

- 5.3 For the month of February 2019 the following costs have been requested and awarded:

Licensing

£2,714 has been requested with £700 being awarded (26%)

Environmental Health

£18,611 has been requested with £16,270 being awarded (87%).

Trading Standards

£4,072 has been requested with £4,072 being awarded (100%).

- 5.4 There have not been any postings of Court Cost Income to the City Council during February, therefore, since the start of the financial year until the end of February 2019 the following income remains as follows:-

Licensing

£13,058 has been received.

Environmental Health

£155,944 has been received including Waste Enforcement cases.

Trading Standards

£54,627 has been received.

(Total £223,629)

- 5.5 This will not directly correlate to the values awarded in the same time period as individual cases are often cleared in instalments with the associated fines and court costs taking precedence over the settling of BCC legal costs. Therefore, income received may relate to cases from the previous financial year or earlier.

6. Implications for Policy Priorities

- 6.1 The contents of this report contribute to the priority action of ensuring business compliance with legislation to protect the economic interests of consumers and businesses as contained in the Council Business Plan 2015+.

7. Public Sector Equality Duty

- 7.1 The actions identified in this report were taken in accordance with the Enforcement Policy of the Licensing and Public Protection Committee which ensures that equality issues have been addressed.

DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

LICENSING CASES**APPENDIX 1**

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	7/2/19	Abdullah Sayem Smethwick	Equalities Act 2010 Pleaded guilty to one offence of being a private hire driver and refusing to carry out a booking because the disabled passenger was accompanied by an assistance dog.	£120 £300 costs (£624 requested)	Out of area	Quinton
2	7/2/19	Ahmad Vahab Assir Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded guilty to two offences: one of plying for hire at the junction of Bennetts Hill and Waterloo Street, Birmingham and one of consequently having invalid insurance.	£100 – no insurance + 6 penalty points No separate penalty for plying £200 costs (£490 requested)	Ladywood	Ladywood
3	8/2/19	Adam Ali Ahmed Birmingham	Town Police Clauses Act 1847 & Road Traffic Act 1988 Pleaded not guilty to two offences; one of plying for hire in Bennetts Hill, Birmingham and one of consequently having invalid insurance. Found guilty after trial	£100 – plying + 6 penalty points No separate financial penalty for no insurance £200 costs (£1,600 requested)	Lozells	Ladywood

LICENSING SIMPLE CAUTIONS

During the period of February 2019, no simple cautions were administered

ENVIRONMENTAL HEALTH CASES

WASTE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	1/2/19	Ahmed Duhul Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Barwaago Shop, 9 Birchfield Road, Birmingham was disposed of within 7 days. Originally listed for trial	£300 £300 costs (£792 requested)	Stockland Green	Aston
2	4/2/19	Speed Sat Ltd 106 Bordesley Green Birmingham B9 4TS	Environmental Protection Act 1990 Pleaded <u>not guilty</u> to two offences; one offence of failing to take all reasonable measures to prevent a contravention under Section 33, in that waste from Speed Sat Ltd, 106 Bordesley Green, Birmingham was found on the pavement on Prince Albert Street and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days. Found guilty after trial	£2,640 £788 costs (£788 requested)	Bordesley & Highgate	Bordesley & Highgate
3	7/2/19	Zakir Hussain Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Gulshana Take Away, 1151 Bristol Road South, Birmingham was disposed of within 7 days.	£120 £200 costs (£410 requested)	Sparkhill	Northfield

4	7/2/19	Kevin Newton Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, namely wood and carpet, on Dugdale Road, Winson Green, Birmingham	£400 £200 costs (£414 requested) £160 clean-up costs	Kingstanding	Soho & Jewellery Quarter
5	7/2/19	Joanne Bowen Birmingham	Environmental Protection Act 1990 Pleaded guilty to two offences; one of depositing controlled waste, namely a large number of plastic bags containing soil and other gardening materials, on grass land adjoining New Street, Rednal, Birmingham and one offence of failing to respond to a notice requiring the details of the person in control of the vehicle on the date of offence.	£480 – offence 1 No separate penalty for offence 2 £200 costs (£887 requested)	Frankley Great Park	Frankley Great Park
6	18/2/19	Ramesh Srisena Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from Keshvin Phone Shop, 8 York Road, Birmingham was disposed of within 7 days. Originally listed for trial	£360 £870 costs (£870 requested)	Billesley	North Edgbaston
7	21/2/19	Petre Barbuc Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste from a vehicle, namely a car bumper, on land on Abberley Street, Winson Green, Birmingham.	£200 £300 costs (£631 requested)	Handsworth Wood	Soho & Jewellery Quarter

8	21/2/19	Mohammed Ibrar Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of depositing controlled waste, refuse sacks containing till receipts and an invoice addressed to Ibrar Fashions, 493 Stratford Road, Birmingham, on the pavement outside 497 Stratford Road.	£255 £500 costs (£897 requested)	Alum Rock	Sparkhill
9	21/2/19	SK Wines Ltd 256 Soho Road Birmingham B21 9LR	Environmental Protection Act 1990 Pleaded guilty to one offence of failing to comply with a notice requiring written information of how waste from S & K Wine Store, 256 Soho Road, Birmingham was disposed of within 7 days.	£300 £380 costs (£380 requested)	Handsworth	Handsworth
10	21/2/19	Fei Liu Jewellery Ltd Newhall House 204-206 Newhall Street Birmingham B3 1SH	Environmental Protection Act 1990 Pleaded guilty to four offences; three offences of depositing controlled waste, namely black bags of waste relating to Fei Liu Jewellery Ltd, on three separate occasions on Newhall/Graham Street, Birmingham and one offence of failing to comply with a notice requiring written information of how waste from the business was disposed of within 7 days.	£2,000 – offence 1 No separate penalty for remaining offences. £670 costs (£670 requested)	Soho & Jewellery Quarter	Soho & Jewellery Quarter

PEST OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	7/2/19	Arshad Parwaz Birmingham	Prevention of Damage by Pests Act 1949 Pleaded guilty to one offence of failing to comply with a notice requiring the removal of all accumulations and items from the rear yard of 200 Bromford Drive, Birmingham which may provide sustenance or harbourage to rodents within 21 days.	£160 £250 costs (£500 requested)	Bromford & Hodge Hill	Bromford & Hodge Hill

WASTE & FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	7/2/19	Hamid Mozaffari Birmingham	<p>Environmental Protection Act 1990 Food Safety and Hygiene (England) Regulations 2013</p> <p>Pleaded guilty to one offence relating to the conditions found at Variety Bites, 237 Alum Rock Road, Birmingham, there was no evidence of a documented food safety management system in place at the premises</p> <p>Pleaded guilty to five offences; two of depositing controlled waste, namely black sacks containing restaurant and construction materials, in Sampson Road North, Birmingham on two occasions, two offences of failing to prevent a contravention under Section 33 by employees, in that there were no proper arrangements for the disposal of commercial waste and one offence of failing to comply with a notice requiring written information of how waste from Variety Bites, 237 Alum Rock Road, Birmingham was disposed of within 7 days.</p>	<p>Total £1,200</p> <p>(£600 – food hygiene offence & £600 for waste offences)</p> <p>Total £680 costs (£340 x 2) (£1,708 total requested)</p> <p>£320 clean-up costs</p>	Edgbaston	Alum Rock

FOOD HYGIENE OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	11/2/18	DMD 7686 Ltd 2 Wheeleys Road Edgbaston Birmingham B15 2LD	Food Safety and Hygiene (England) Regulations 2013 Found guilty in their absence of five offences relating to conditions found at Meer Shisha Lounge, 76-86 John Bright Street, Birmingham. There was evidence of mouse activity at the premises; mouse droppings were found on shelves, on a catch tray underneath the hob, on a worktop, on top of a fryer and on top of a food container. The premises were not kept clean, floors in the kitchen were dirty and a number of wall tiles in the kitchen were missing exposing rough plaster. Fittings and equipment were not kept clean and there were no procedures based on HACCP.	£7,000 – offence 1 £1,388 costs (£1,388 requested)	Edgbaston	Ladywood

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT OFFENCES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	13/2/19	Westpool Developments Ltd 50 Woodgate Leicester LE3 5GF	Anti-Social Behaviour, Crime & Policing Act 2014 Pleaded guilty to one offence of failing to comply with a notice under the Anti-Social Behaviour, Crime and Policing Act requiring the removal of accumulations of waste from land to the south side of Alum Rock Road and north side of Couchman Road, Saltley, Birmingham. Originally listed for trial.	£20,000 £2,619 costs (£2,619 requested)	Out of area	Alum Rock

2	21/2/19	Sheldon Blinds Factory Ltd 393 Sheldon Heath Road Sheldon Birmingham B26 2UB	Anti-Social Behaviour, Crime & Policing Act 2014 Pleaded guilty to one offence of failing to comply with a notice under the Anti-Social Behaviour, Crime and Policing Act requiring the practice of using "illegal advertisements" to promote Sheldon Blinds to cease in that unauthorized advertisements were found at various locations around Birmingham.	£500 £450 costs (£915 requested)	Garretts Green	Garretts Green
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LITTERING OFFENCES – SINGLE JUSTICE PROCEDURE

Date Cases Heard	Total Number of Cases	Total Fines imposed	Total Costs awarded	Total Costs requested
08/02/19	26	£5,720	£4,550	£4,550
22/02/19	11	£2,141	£1,925	£1,925

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
1	08/02/19	Matthew Alcock Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Colmore Row, Birmingham.	£220 £175 costs (£175 requested)	Northfield	Ladywood
2	08/02/19	Mohammed Ali Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Station Street, Birmingham.	£220 £175 costs (£175 requested)	Glebe Farm & Tile Cross	Ladywood

3	08/02/19	Danielle Crawford Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Longbridge & West Heath	Ladywood
4	08/02/19	Callum Cullen Basingstoke	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
5	08/02/19	Luke Thomas Duffy Stafford	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Station Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
6	08/02/19	Holly Eaves Coventry	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
7	08/02/19	Elizabeth Garcia Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Bordesley & Highgate	Ladywood
8	08/02/19	Irina Iuliana Goran Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Stockland Green	Ladywood

9	08/02/19	Natalie Anne Hanson Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Handworth	Ladywood
10	08/02/19	Tahira Khan Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Bull Street, Birmingham.	£220 £175 costs (£175 requested)	Newtown	Ladywood
11	08/02/19	Erlandas Kozuchovas Boston	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Lower Temple Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
12	08/02/19	Marcin Lato Tipton	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Dean Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
13	08/02/19	Agnieszka Makarewicz Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Dean Street, Birmingham.	£220 £175 costs (£175 requested)	Holyhead	Ladywood
14	08/02/19	Steven Minor Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Sheldon	Ladywood

15	08/02/19	Jose Luis Castellanos Morales Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Station Street, Birmingham.	£220 £175 costs (£175 requested)	Quinton	Ladywood
16	08/02/19	Emily Parton Shrewsbury	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Corporation Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
17	08/02/19	Paula Sanders Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Longbridge & West Heath	Ladywood
18	08/02/19	Ashley Shepherd Walsall	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
19	08/02/19	Lulian Marian Spinu Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Sparkbrook & Balsall Heath	Ladywood
20	08/02/19	Akameldip Sunner Solihull	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

21	08/02/19	Oscar Arnold Remers Tootle Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Bournbrook & Selly Park	Ladywood
22	08/02/19	Corey Walker Rednal	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
23	08/02/19	Sinead Whelan Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Rubery & Rednal	Ladywood
24	08/02/19	Jason Wilkins Meriden	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
25	08/02/19	Chen Xea Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Union Street, Birmingham.	£220 £175 costs (£175 requested)	King's Norton North	Ladywood
26	08/02/19	Adam Zaki London	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Smallbrook Queensway, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood

27	22/02/19	Samantha Addison Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Acocks Green	Ladywood
28	22/02/19	Cristian Barbuta Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	Quinton	Ladywood
29	22/02/19	Ellesse Frances Bartosik Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Acocks Green	Ladywood
30	22/02/19	Monet Brown Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping paper on the pavement in Cathedral Square, Birmingham.	£220 £175 costs (£175 requested)	North Edgbaston	Ladywood
31	22/02/19	Louise Cattell Birmingham	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Kingstanding	Ladywood
32	22/02/19	Jason Edwards Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Balsall Heath West	Ladywood

33	22/02/19	Andrew John Herrick Birmingham	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in Rotunda Square, Birmingham.	£220 £175 costs (£175 requested)	Stockland Green	Ladywood
34	22/02/19	Anda Ichim Coventry	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
35	22/02/19	Sarah Milar Coventry	Environmental Protection Act 1990 Found guilty in her absence of one offence of dropping a cigarette butt on the pavement in Station Street, Birmingham.	£220 £175 costs (£175 requested)	Out of area	Ladywood
36	22/02/19	Mariusz Piotr Rogalski Redditch	Environmental Protection Act 1990 Found guilty in his absence of one offence of dropping a cigarette butt on the pavement in New Street, Birmingham.	£121 £175 costs (£175 requested)	Out of area	Ladywood
37	22/02/19	Hollie Scott Birmingham	Environmental Protection Act 1990 Pleaded guilty to one offence of dropping a cigarette butt on the pavement in Stephenson Street, Birmingham.	£220 £175 costs (£175 requested)	South Yardley	Ladywood

ENVIRONMENTAL HEALTH SIMPLE CAUTIONS

No simple cautions were administered during February 2019.

TRADING STANDARDS CASES

	Date Case Heard	Name & Address	Offence details (including Legislation)	Fine/Penalty & Costs	Ward of defendant	Ward - Offence committed
	8/2/19	International Supermarket Soho Ltd 140-142 Soho Road Birmingham B21 9LN	Electrical Equipment (Safety) Regulations 2016 Pleaded guilty to four offences of making available at 140-142 Soho Road, Birmingham, electrical equipment intended for domestic use in the United Kingdom, namely table top ovens and blender sets with a flexible lead and plug assembly intended to be connected to the UK public electricity supply which failed to comply with regulations in that they did not have the correct plugs fitted, they all had two pin plugs.	£1,800 – offence 1 No separate penalty on remaining offences £4,072 costs (£4,072 requested) Forfeiture of 52 items ordered.	Handsworth	Handsworth

TRADING STANDARDS SIMPLE CAUTIONS

No simple cautions were administered during February 2019.

APPENDIX 4**CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – FEBRUARY 2019**

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	1	0	0	0	2	0	0	0	0	0	0	3
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	37	0	0	0	0	0	0	37
Environmental Health (non FPNs)	1	0	1	3	6	2	1	0	0	1	0	15
Trading Standards	0	0	0	0	0	0	1	0	0	0	0	1

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – FEBRUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	0	0	1	0	1	0	0	0	1	3
Environmental Health (FPNs) Not paid and prosecuted	3	3	2	0	2	5	2	1	0	5	14	37
Environmental Health (non FPNs)	2	2	1	2	2	1	2	1	0	1	1	15
Trading Standards	0	0	0	0	0	0	1	0	0	0	0	1

CASES FINALISED BY DISTRICT (PLACE OF OFFENCE) – APRIL 2018-FEBRUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	2	0	1	0	23	0	0	6	2	0	0	34
Environmental Health (FPNs) Not paid and prosecuted	0	0	0	0	695	0	0	0	0	0	0	695
Environmental Health (non FPNs)	6	12	17	27	56	4	8	6	2	20	1	159
Trading Standards	1	1	4	1	2	0	3	1	0	0	0	13

CASES FINALISED BY DISTRICT (DEFENDANT'S HOME ADDRESS/REGISTERED OFFICE) – APRIL 2018-FEBRUARY 2019

	Edgbaston	Erdington	Hall Green	Hodge Hill	Ladywood	Northfield	Perry Barr	Selly Oak	Sutton Coldfield	Yardley	Out of Area	Total
Licensing	0	0	6	6	4	1	5	1	0	2	9	34
Environmental Health (FPNs) Not paid and prosecuted	33	28	38	52	101	34	48	20	7	30	304	695
Environmental Health (non FPNs)	6	14	17	31	36	7	7	7	1	10	23	159
Trading Standards	0	1	4	1	1	0	2	1	0	1	2	13

WASTE ENFORCEMENT UNIT – ENFORCEMENT ACTIVITY
APRIL 2018 – MARCH 2019

	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Total 2018/2019
Waste Investigation Outcomes											
Duty of Care inspections into the waste disposal arrangements of commercial premises	125	116	157	81	135	128	104	64	63	61	1034
<u>Section 34 Environmental Protection Act</u> demand notices issued: (trade waste statutory information demands)	105	100	122	70	127	74	67	32	52	50	799
<u>Section 34 Environmental Protection Act</u> fixed penalty notices issued to businesses (£300)	30	41	50	35	62	80	83	21	19	56	477
<u>Section 87 Environmental Protection Act.</u> Fixed Penalty notices issued for commercial and residential litter offences (£80)	0	2	0	0	0	0	1	0	0	0	3
<u>Section 33 Environmental Protection Act</u> fixed penalty notices issued for fly tipping (£400)	4	5	3	7	6	3	6	9	4	11	58
Prosecutions											
Number of prosecution files submitted to legal services (number produced quarterly)			43			24			71		175*

* includes files submitted in January 2019

BIRMINGHAM CITY COUNCIL**LICENSING AND PUBLIC PROTECTION COMMITTEE****10 APRIL 2019****SCHEDULE OF OUTSTANDING MINUTES**

MINUTE NO./DATE	SUBJECT MATTER	COMMENTS
942 (ii) 15/11/2017	<u>Revision of Birmingham City Council Act 1990 Establishments for Massage and/or Special Treatments</u> The Acting Service Director of Regulation and Enforcement be requested to provide a report for Committee reviewing the need for the Birmingham City Council Act 1990 and options including delegation of hearings to Licensing Sub-Committees.	Report due in May 2019
1114 16/01/2019	<u>Update Report On Unauthorised Encampments</u> – The Acting Service Director of Regulation and Enforcement be requested to report further in three months' time to update on the various work items contained within the report.	Report due in May 2019

BIRMINGHAM CITY COUNCIL
REPORT OF THE ASSISTANT DIRECTOR
OF REGULATION AND ENFORCEMENT
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

10 APRIL 2019
EDGBASTON
ASTON
BORDESLEY AND HIGHGATE

SAFETY AT SPORTS GROUNDS ADVISORY GROUPS

1 **Summary**

- 1.1 In recent years this Committee has nominated elected members to sit on and chair Safety at Sports Grounds Advisory Groups. Nominations are made at the first meeting of the committee in the new municipal year
- 1.2 Safety at Sports Grounds Advisory Groups are multi-agency groups designed to ensure that designated sports grounds remain compliant with the conditions of their safety certificates. In Birmingham there are three designated sports grounds, namely Aston Villa FC, Birmingham City FC and Warwickshire County Cricket ground.
- 1.3 In May 2018 a question arose as to whether this committee could nominate an alderman of the city to chair an advisory group. Legal advice was obtained that confirmed that an alderman could not be nominated, but in considering the question it raised further questions about the advisability of any elected members being nominated to roles on Safety at Sports Grounds Advisory Groups in the light of their professional expertise relevant to the purpose of the role and the possible risks to them and the city council.
- 1.4 Officers were asked to seek further legal advice by the Committee. A recent incident at St Andrews when a spectator ran onto the pitch and assaulted a player has further highlighted the risks. Our legal advice has subsequently questioned the advisability of elected members being nominated to sit on such advisory groups.

2. **Recommendation**

- 2.1 That with immediate effect the nominations of elected members made by this Committee on 20th June 2018 to SAGs at Aston Villa FC, Birmingham City FC and Warwickshire County Cricket Club be withdrawn.
- 2.2 That an immediate review of the constitution, terms of reference and procedures for the SAGS be undertaken in accordance with Section 4.5 of the Guide to the Safety Certification of Sports Grounds (Appendix 1).

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E-mail: chris.neville@birmingham.gov.uk

3. Background

- 3.1 Section 1 of the Safety of Sports Ground Act 1975 ("**the 1975 Act**") governs "safety certificates" in relation to sports grounds issued under that Act. The responsibility for issuing a safety certificate lies with the relevant local authority. A safety certificate must set out the terms and conditions considered necessary or expedient to ensure the safety of spectators admitted to a given designated sports ground (Section 2). In Birmingham, safety certificates are issued through ACIVICO by a chartered surveyor.
- 3.2 In the Final Report of the Inquiry into the Hillsborough Stadium Disaster, Lord Taylor recommended that each local authority set up an advisory group (now generally known as the Safety Advisory Group). The SAG exists primarily to provide specialist advice to the local authority so that it may effectively discharge its functions under the 1975 and / or 1987 Acts.
- 3.3 The Sports Ground Safety Authority Act 2011 established the Sports Grounds Safety Authority which has published a "Guide to Safety at Sports Grounds", commonly known as "the Green Guide". The guide has no statutory force, but is primarily concerned with providing practical guidance for those tasked with responsibilities for safety at events.
- 3.4 Throughout the Guide, there is an emphasis on the importance of "competent persons" defined as follows: "A person shall be regarded as competent in an identified role where he or she has sufficient training and experience to meet the national occupational standards relevant to the tasks within that role. Competency includes an awareness of the limits of one's personal knowledge, skills or experience."
- 3.5 A glossary to the guide includes a definition of "Safety Advisory Group" as follows: "A multi-agency group formed at local level to ensure that a sports ground remains compliant with the conditions of its safety certificate and with other relevant national or international standards typically consisting of representatives of the local authority, the ground management, the police, fire and ambulance services, the building authority and, where appropriate, supporter organisations." The Guide emphasises that the responsibility for safety rests with management of the grounds.
- 3.6 The "Guide to the Safety Certification of Sports Grounds" (attached as Appendix 1), which is also produced by the Sports Grounds Safety Authority describes at Section 4 the function of advisory groups as existing "primarily to

provide specialist advice to the local authority so that it may effectively discharge its functions...” and as providing a forum within which the local authority and other agencies may develop a corporate approach to spectator safety at the sports grounds.

- 3.7 The Guide to the Safety Certification of Sports Grounds deals with membership of the Safety Advisory Group. On page 18 it sets out the responsibilities of the local authority, the safety officer and the Safety Advisory Group. Section 4.1 commences with the statement: ‘In accordance with its standing orders, the local authority may delegate its power to take and implement decisions on safety certification to a committee, sub-committee or to one or more particular officers, most commonly the officer who chairs the authority’s Safety Advisory Group (SAG)’. This implies that the safety officer would normally chair the SAG. Common practice in other local authorities is that a SAG is chaired by a local authority officer who is qualified in the field of sports ground safety.
- 3.8 Sections 4.3 and 4.4 of the Guide cover Safety Advisory Groups. Section 4.4 comments on the membership of SAGs as follows: ‘It is for the local authority to determine which member or officer shall chair the SAG. This individual should have the status and authority to act quickly where necessary as well as sufficient time to commit to the task. The other local authority staff attending the SAG should likewise be suitably senior, as should the representatives of the participating agencies and bodies. These should be able to speak with knowledge and authority and be empowered to take operational decisions on behalf of their organisations, save where these raise new policy issues’. The guidance notes that the SAG Chair or lead officer is somebody on whom “the local authority may depend heavily”.
- 3.9 Section 4.5 of the Guide deals with Management of the Safety Advisory Group. It states: ‘The SAG fulfils an important safety role. This could well come under scrutiny in the event of a serious safety failure at a sports ground. Accordingly, the SAG should be properly constituted, have written terms of reference and effective procedures. These terms of reference should encompass all matters falling within the purview of the local authority on stadium safety.

The local authority would also be well advised to identify the responsibilities and potential liability of the SAG and its members. It may wish to lay down written procedures for them to follow if they observe or are alerted to a safety weakness either during an inspection of a sports ground or when they are present in the course of their normal duties’.

- 3.10 A copy of Birmingham City Council’s current Safety Advisory Group Constitution and Safety at Sports Grounds Policy Document are attached as Appendices 2 and 3 respectively.

- 3.11 The key question on which the Guide invites the local authority to focus is the competence of the person concerned. In the light of the purpose of such advisory groups, that competence should be relevant to sports ground safety.

4. Conclusion

- 4.1 Although there is no rule of law or guidance that imposes formal legal requirements as to the competence or qualifications that a member of a Safety Advisory Group should have or that would prevent an elected member from being appointed to a Safety Advisory Group, having regard to the objects and purposes for which such groups are established, an elected member should have the relevant experience to be a “competent person” as described in the Guide. The functions of a Safety Advisory Group are (normally) of a highly technical nature which necessitates specialist knowledge and expertise from the Chair.
- 4.2 In practical terms, the risk of civil liability arising from membership of a Safety Advisory Group is likely to be reasonably low because responsibility for the safety of a particular grounds or event rests with the management of the sports ground; and responsibility for the certificate and enforcement rests with the local authority itself. Nonetheless, the possibility of liability cannot be excluded, and in the event of a decision that resulted in an accident, there remains a political and reputational risk to the local authority from appointing a member to the SAG who was not deemed to be ‘competent’. It is therefore recommended that the local authority should not nominate elected members to Safety at Sports Grounds Advisory Groups and that the role of Chair should be taken by the officer who is nominated by the authority to issue the safety at sports grounds certificate.

5. Consultation

- 5.1 In the preparation of this report officers have taken independent legal advice and have consulted the council’s officer for sports grounds safety.

6. Implications for Resources

- 6.1 No specific implications have been identified.

7. Implications for Policy Priorities

- 7.1 The recommendation in this report is consistent with the City Council’s published policy priority of improving the standards of licensed vehicles, people and premises in the City.

8. Public Sector Equality Duty

8.1 No specific implications have been identified.

ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

Guide to Safety Certification

November 2018



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1 INTRODUCTION

1.1 Purpose of the guidance

This guidance updates and supersedes previous guidance on the safety certification of sports grounds issued by the Football Licensing Authority (“FLA”) and the Sports Grounds Safety Authority (SGSA). Although most examples used in this guide relate to football stadia where designated football matches are played, the guide will also be of value to all local authorities that issue safety certificates to sports grounds under the Safety of Sports Grounds Act 1975 (“the 1975 Act”) or the Fire Safety and Safety of Places of Sport Act 1987 (“the 1987 Act”).

It is intended that it will assist a local authority to identify, apply and enforce the terms and conditions that are prescribed in the safety certificate.

This guidance offers two possible styles of safety certification. It sets out a less directive approach under which the ground management uses risk assessments to identify the mitigating actions which it considers necessary to secure reasonable safety at the ground and records them in an operations manual for scrutiny, acceptance and incorporation in a schedule to the safety certificate by the local authority. This is the preferred option, consistent with a modern approach to public safety. It is recommended that all new sports grounds and those undergoing major redevelopment or refurbishment adopt this style of safety certificate. Local authorities should consider encouraging grounds who have prescriptive certificates to adopt the risk based approach at the earliest opportunity.

While risk based safety certification is strongly recommended it is not mandatory for a local authority to move to this approach. Where local authorities choose to continue with prescriptive certification, this guidance explains how this may need to be modified to comply with current requirements. There may be tensions within the safety certificate between the prescriptive sections and those, such as fire safety, where other requirements, in this case, the Regulatory Reform (Fire Safety) Order, legislate for a risk based approach.

This guidance should be read with the relevant Circulars issued by the Home Office and the Department for Digital, Culture, Media and Sport (“DCMS”) and its predecessors; the latest edition of the Guide to Safety at Sports Grounds (“the Green Guide”) and Sports Grounds and Stadia Guide (SGSG) no 4 – “*Safety Management*”. It also brings together various interpretations of the legislation and its attendant circulars given by DCMS or the SGSA. Much of this material can be accessed through the [SGSA website](#).

This document covers the interface between safety certification and measures that may be taken by local authorities under the Regulatory Reform (Fire Safety) Order 2005 (“the Fire Safety RRO”), the Licensing Act, 2003, the Health and Safety at Work etc. Act 1974 (“the HSWA”) and its related Regulations, Building Regulations and any other requirements that may affect the safety of those at a sports ground. It does not, however, provide guidance on these, except insofar as they have a direct impact upon the process of safety certification or the contents of the certificate.

1.2 Background to the guidance

Following the disaster at the Ibrox Stadium in Glasgow in January 1971 and the subsequent public inquiry, the 1975 Act introduced a system of safety certification of sports grounds by local authorities. The local authority is required to issue a safety certificate to a designated sports ground which will include the safe capacity of the ground and such terms and



conditions as the local authority considers necessary or expedient to secure the reasonable safety at the ground.

1.3 Applying the guidance

This guidance provides local authorities with information to enable them to take reasonable decisions in individual cases after having considered the particular facts on their merits. It is given in good faith but does not purport to cover every eventuality. Further specific advice is available from the SGSA, through the regional inspectors.

1.4 Designated sports grounds

The 1975 Act applies to designated sports grounds which are those sports grounds that, in the opinion of the Secretary of State for the Department for Digital, Culture, Media and Sport (DCMS), have accommodation for more than 10,000 spectators or 5,000 in the case of the home grounds of Premier League or English Football League grounds in England and Wales. The designation process is described in detail in section 3.1.

The 1975 Act defines a sports ground as 'a place where sports or other competitive activities take place in the open air, and where accommodation has been provided for spectators, consisting of artificial structures, or of natural structures artificially modified for the purpose'.

The Act did not foresee that a sports ground might be fitted with a roof that could be closed for certain events. However, provided that some sport is played with the roof open, such a venue should still be regarded as a sports ground under the 1975 legislation.

The legislation does not apply to indoor arenas. These are generally subject to a Premises Licence issued under the Licensing Act 2003.

1.5 Sports Grounds with Regulated Stands

The 1987 Act includes provisions detailing the responsibility of local authorities in relation to the certification of regulated stands at non-designated sports grounds. Regulated stands are stands that provide covered accommodation for 500 or more standing or seated spectators, as determined by the local authority under section 26 of the 1987 Act (see also 3.2).

1.6 Safety Certificates

Section 1(3) of the 1975 Act provides that a safety certificate shall be issued in respect of the use of all designated sports grounds, for an activity or number of activities specified in the certificate, irrespective of the nature and level of the sport played there:

- either for an indefinite period commencing with a date so specified (general safety certificate);
- or on an occasion or series of occasions so specified (special safety certificate).

Section 26(10) of the 1987 Act contains similar provisions in respect of safety certificates for regulated stands.

There is no provision in the Act for a general safety certificate to be issued for a finite period. It must be assumed, therefore, that such a certificate should run indefinitely, unless or until it is revoked, replaced or surrendered.



2 GENERAL PRINCIPLES OF SAFETY CERTIFICATION

2.1 Responsibility for Safety

As stated in paragraph 1.4 of the Green Guide, responsibility for safety at a sports ground lies at all times with the ground management. The management will normally be the owner or lessee of the ground, who may not necessarily be the promoter of the event or the club playing matches at the ground. This responsibility should not be assumed by either the local authority or any other authority or agency. Nor should the local authority become involved in the management of events or take any action that could be interpreted as involvement.

The Fire Safety RRO imposes a requirement on management to risk assess, plan, organise, control, monitor and review the necessary preventive and protective measures against the risk of fire and to record these arrangements in writing. Similar approaches are adopted in Regulations under the HSWA and in the Licensing Act 2003. These requirements will all apply to some degree to sports grounds.

In line with this general approach, it is strongly recommended that the ground management should be required to commission or undertake risk assessments on all matters relating to the safe management of the ground when in use for a specified activity. These should include arrangements for facilities maintenance, crowd management, crowd disorder and anti-social behaviour stewarding, medical and first aid arrangements, counter terrorism and fire safety. Management should not rely on the local authority or the SGSA, where it has a regulatory role, to undertake this work on its behalf.

On the basis of the risk assessments, management should produce a comprehensive operations manual (see SGSG – [Green Guide](#)) setting out how it will achieve reasonable safety at the ground. This should also include the calculated capacity for the whole of the sports ground and for each area of the sports ground, along with its suggested (P) and (S) factors (see 2.3). Where the ground is subject to a safety certificate, the ground management should submit this material to the local authority for scrutiny and acceptance.

Whether the safety certificate issued for the ground is prescriptive or risk based, this process will demonstrate the ground's commitment to providing a safe and welcoming environment for everyone who attends events there.

2.2 Responsibilities of the local authority

Under the 1975 Act, the county council, unitary authority, metropolitan or London borough ("the local authority") is responsible for issuing and enforcing a safety certificate in respect of sports grounds designated by the Secretary of State (see 1.5). The 1987 Act lays a similar responsibility upon the local authority in relation to regulated stands at non-designated sports grounds. A local authority also has responsibilities at other sports grounds, that are not designated grounds or have regulated stands, by virtue of section 10 of the 1975 Act, as amended by the 1987 Act. For further details see section 7.3 below.

2.3 Safe capacities

The most important condition in the safety certificate sets the maximum number of people that may be accommodated for the ground as a whole and for each separate area. Where there are regulated stands, it should set the capacity for each such stand.



Chapter 2 of the Green Guide provides detailed and comprehensive guidance on how to determine the safe capacity of sports grounds. It emphasises that this capacity depends not merely on the available viewing accommodation and the capacities of the entrances and exits, including the emergency exit capacity, but also on the physical condition (the (P) factor) and the quality of the safety management (the (S) factor) of the sports ground. These latter two elements are defined in paragraph 2.4 of the Green Guide. Therefore, the safe capacity of a seated stand may be lower than the number of seats within it.

It is recommended that, whatever the style of safety certificate, the management of the sports ground should take responsibility for assessing the (P) and (S) factors and calculating the safe capacity and not leave this to the local authority. These should take account of all the recommendations in the Green Guide, not merely those with which the sports ground already complies. The (S) factor and to a lesser extent the (P) factor will reflect the operations manual and its underlying risk assessments (see section 2.4 below) or, in a prescriptive style certificate, the conditions included by the local authority. Detailed guidance on the indicative questions to be answered in determining the appropriate (P) and (S) factor is given in SGSG – [*“Guide to Safety at Sports Grounds Annex A and B”*](#).

Whoever is calculating the safe capacity should set a single (P) factor and a single (S) factor for each separate area of the sports ground. It should then use whichever is lower to determine the safe capacity of that area. It should neither multiply the (P) and (S) factors by each other nor adopt the average. Both these approaches would distort the final figure.

If the local authority is satisfied that the proposed (P) and (S) factors are reasonable and that the ground management’s methodology and calculations are correct, it may accept the recommended safe capacity and promulgate it in the safety certificate. If it is not satisfied or if the ground management has not calculated the capacity itself, the local authority may set what it considers to be the safe capacity.

2.4 Terms and conditions in the safety certificate – risk based style

It is recommended that a risk based safety certificate should be a comparatively short document which, by condition, requires the holder to:

- undertake appropriate risk assessments;
- produce an operations manual; and
- comply with the policies, plans and procedures set out in the operations manual.

The latter condition is particularly important in order to ensure a local authority is able to take appropriate enforcement action if the holder deviates from the approach described in the operations manual.

The operations manual and any proposed amendments should be submitted to the local authority for consideration to enable it to determine whether to accept the holder’s proposed capacity. (For further details see section 5.2 below.) The safety certificate should set out what the holder must do in order to operate the sports ground at its permitted capacity. In this context it is worth remembering that absolute safety, however desirable, is, in reality, unattainable.

Provided that the local authority is satisfied that the operations manual is compatible with the advice in the Green Guide and that it is based on a series of relevant risk assessments undertaken by competent persons, it should be able to accept it.



If, however, the operations manual does not follow the guidance in the Green Guide, the local authority should ask the ground management to demonstrate that the proposed deviation from the Green Guide provides an equivalent or higher standard of safety (See section 1.8 of the Green Guide). Where this has not previously been demonstrated, agreed and recorded, the local authority will normally need to scrutinise the particular risk assessments. If it is then satisfied, it should record the nature of the deviation and the reasons why it regards the alternative approach as acceptable. An example of the format in which proposed deviations to the Green Guide could be submitted by ground management is set out at Annex C.

If the local authority is not persuaded that the procedures set out in the operations manual will provide reasonable safety for those at the ground, it should reduce whichever of the (P) or (S) factors applies, and hence the permitted capacity. It should at the same time discuss with the ground management how they might improve their procedures. The local authority should avoid taking responsibility for drafting the manual – which it will subsequently be responsible for accepting.

The permitted capacity of a sports ground should always reflect its current circumstances, not those which are intended or expected to apply at some future date. Accordingly, the safety certificate should not require the holder to submit an operations manual in the future but should require it to comply with that which it has already submitted. The move from an existing prescriptive style certificate to one based on risk assessments and an operations manual should ideally be by agreement between the local authority and ground management, however the final decision rests with the local authority. The necessary documentation should be completed before the risk based certificate is introduced.

If a sports ground is not always used with a capacity attendance, or is used to host a variety of sports or activities which attract different numbers of attendees, the operations manual should identify event day operation scenarios for these different levels of attendance. These could be in the form of an alternate section of the operations manual or an alternative version of the operations manual. A similar approach may be adopted in relation to a prescriptive certificate.

2.5 Coverage of the operations manual and the safety certificate

The safety certificate should specify all the activities, including ancillary activities, to which it applies. These ancillary activities will include not merely event-day catering and dining but pre, during and post-event displays. Accordingly, any operations manual should cover all areas to which people have access in relation to a specified activity, including restaurants, licensed bars, and concourses. The operations manual should also cover any other areas and all matters, over which the ground management has either direct or indirect control (through a contract with a commercial provider), which may affect the safety at the sports ground. This could encompass offices or players' facilities within a stand, media facilities, club or leisure facilities, satellite buildings and access and egress to and from car parks. For detailed guidance on the contents of the operations manual see SGSG [*"Guide to Safety at Sports Grounds"*](#).

Staff working under a franchise or agency agreement should be required as a condition of their contract or agreement to comply with the terms of the operations manual. The certificate holder could be liable for any breach of the operations manual and hence of the safety certificate by franchisees or agency staff.



2.6 External factors

A certificate holder cannot be held responsible for circumstances outside their control, for example hazards presented by local industrial premises or restricted access for emergency vehicles because of congestion on the public highway, even if these could adversely affect the safety at the sports ground. The 1975 and 1987 Acts and the safety certificate do not cover safety beyond the boundary described within the certificate. However, the ground's operations manual should include any measures that its management can take to ensure reasonable safety at the ground when affected by such external factors. Moreover, the local authority should take account both of any such factors and of the proposed mitigating measures in any operations manual when agreeing the permitted capacity.

Where conditions are imposed they must be achievable and relate to safety at the ground and must not be unfair, illegal or physically impossible. For instance, a ground cannot be subject to a condition to install measures on land that it does not own or control. However, such external factors can impact upon the determination of the safe capacity if no mitigating measures are put in place.

The permitted capacity of a regulated stand could be reduced because of circumstances in other areas of the sports ground that are not themselves covered by the safety certificate. As indicated in section 2.5 above, any operations manual should cover such areas whether or not they fall within the ambit of the safety certificate.

2.7 Terms and conditions in the safety certificate – prescriptive style

The same general principles apply as for risk based safety certificate. The certificate should set out what the holder must do in order to operate the sports ground at its safe capacity. If the holder is unable to comply with one or more of these terms or conditions, the local authority, using the (P) or (S) Factor, should reduce the capacity to whatever figure it considers necessary to ensure reasonable safety at the sports ground. This capacity should always reflect the current circumstances at the sports ground, not those it is planned or hoped to achieve in the future. The local authority should ensure that it determines the permitted capacity reasonably, proportionately and in accordance with due process (see section 3.9 below).

The terms and conditions may “involve alterations or additions to the sports ground”, in the sense that the certificate holder may need to undertake certain modifications in order to achieve compliance and thereby avoid a reduction in capacity. The conditions should not, however, consist of a list of specific improvements or alterations to be implemented at some future date. If these are required in order to secure an increased capacity, the local authority should notify the certificate holder separately.

Where a particular sports ground is rarely filled to capacity or where it regularly hosts a variety of sports or activities that attract different numbers of spectators, the local authority may base its requirements on the actual levels of attendance provided that, as in the case of risk based certificates (see section 2.4 above), the overall permitted capacity and those of each separate area are calculated accordingly.

2.8 Consultation and co-ordination

The safety certificate should be seen as part of a total, integrated system for managing health, safety and security at the sports ground. While the local authority alone is responsible for issuing the safety certificate, safety cannot be achieved by one agency acting in isolation. The local authority is under a statutory duty to consult with the chief officer of police and, where it is not itself that authority, with the fire authority and the building



authority. It is good practice to consult the ambulance authority and to have regard to the views not merely of the certificate holder but to those of any other regular users of the sports ground and, where relevant, representative supporters of the sports club(s) concerned. Where relevant it may also need to consult the authorities responsible for emergency planning and health and safety at work. The practical issues are discussed more fully in section 4.4.

Under the Fire Safety RRO, the responsible person – in practice someone nominated by the ground management – must undertake a risk assessment. Thereafter it is the duty of the responsible person to implement the preventive and protective measures which have been identified as necessary by the risk assessment. This forms part of the general duty to ensure that general fire precautions are in place for the safety of all employees or of any other relevant persons such as spectators. Common sense dictates that the performance of this duty should form part of any operations manual.

The local authority needs to ensure that there is no conflict between the safety certificate, or any operations manual produced as a requirement of the safety certificate, and any requirements imposed under the Management of Health and Safety at Work Regulations 1999 or other Regulations under the HSWA. As a general principle, where the two overlap, the specific provisions of the safety certificate take priority over the general requirements under the HSWA where an incident occurs during a specified activity requiring regulatory action.

Local authorities should ensure that protocols are in place between different departments in the authority dealing with the different legislation to clarify their responsibilities in relation to the sports ground.

In areas where there are two-tiers of local authority, the certifying authority under safety at sports grounds legislation will be a County Council and the enforcing authority under HSWA will be a District Council. In these areas County Councils may find themselves in the position of identifying a risk to the safety of non-spectators but a reduction in the (S) factor will not mitigate the risk, and amending the conditions will not resolve the issue in a timely manner. They will therefore be reliant on colleagues in the District Council to take enforcement action under HSWA legislation.

Where there are concerns about the safety of non-spectators which the County Council believes can only be effectively resolved under HSWA legislation they should make the appropriate representations to the relevant District Council. It will be essential for those with responsibility for sports grounds safety in County Councils to build a strong relationship and develop protocols with health and safety colleagues in the relevant District Council. This could take the form of a Memorandum of Understanding if appropriate. In addition, the relevant health and safety officers from the District Council should be invited to join the Safety Advisory Group.

2.9 Policing

The local authority has no responsibility for operational policing either inside or outside the sports ground. Both the 1975 and 1987 Acts state explicitly that, where a condition within a safety certificate requires a request being made for the attendance of police at an event, the number of police deployed is entirely a matter for the chief officer of police. All operational issues concerning the deployment of police officers within a sports ground are for the police themselves.



The operations manual, or conditions in a prescriptive certificate, should include details of when and how the sports ground management will inform police about an event and the consultations that may take place to decide on police attendance.

Sports grounds are responsible for keeping people at their events safe from physical harm or injury arising from being present at the event. This is a broad responsibility and includes protecting people from such risks through crowd disorder and anti-social behaviour.

Following a risk assessment, sports grounds will most likely demonstrate the need for a crowd disorder and anti-social behaviour plan. This will outline the various responsibilities for the ground management and police to protect people against this threat.

Ground management and police should produce a written statement of intent to clarify their various responsibilities. The local authority may require the certificate holder to use his best endeavours to agree such a statement with the police. This should be included as a schedule to the operations manual or kept with the safety certificate.

A condition in a safety certificate may reasonably require the certificate holder to notify the police of particular events and, if appropriate, request their attendance. However, the certificate cannot require the ground management to secure the attendance of the police. Nor may it direct the police to attend.

If the chief officer of police believes that police officers need to attend a particular event, but the management of the sports ground disagrees, the local authority must consider whether the absence of police would adversely affect safety at the ground. It should consider any mitigating measures offered by the ground management. It is for the certificate holder to satisfy the local authority that the event can proceed safely without the police being present. If the local authority is not satisfied, it could close part or all of the sports ground or reduce its permitted capacity to a level that it considers reasonably safe for the event concerned. The options available to the local authority are described in section 7 below.

2.10 Football Spectators Act 1989

The home grounds of clubs playing in the Premier League, English Football League and Wembley and the Principality Stadiums must obtain a licence to admit spectators from the SGSA under the Football Spectators Act 1989 as amended. The powers under the licence are particularly wide and, in addition to enforcing the Government's all-seated policy, can extend to other issues relating to the admission of spectators and the arrangements to which they are admitted, including facilities for disabled people. However, the licence does not restrict the local authority from including whatever conditions in the safety certificate it considers necessary or expedient to secure the reasonable safety at the ground. The local authority could close or limit the capacity of a sports ground for safety reasons, notwithstanding that the area in question had been licensed by the SGSA. The SGSA has the legal power to require a local authority to include a condition within the safety certificate.



3 THE CERTIFICATION PROCESS

3.1 Designated sports grounds

Where a new sports ground is under construction that would fall within the remit of the 1975 Act as a designated sports ground (see 1.5), it is likely that the Secretary of State will be aware of the development however, the Secretary of State may not always have been informed of developments that might increase the capacity of an existing sports ground to a capacity above the threshold for designation. It is therefore incumbent upon the local authority to notify the Secretary of State of any sports ground likely to require designation. It should give at least 10 weeks' notice, so that the Secretary of State has sufficient time to be satisfied that the sports ground meets the criteria. As part of this process, the Secretary of State will formally consult the local authority, the sports ground owner, the emergency services and, where it will have a regulatory role, the SGSA.

The notification to the Secretary of State should include the proposed capacity of the sports ground, together with its full postal address as soon as this is known. While this may appear pedantic, and can be difficult to supply for new sports grounds where the precise address has not been fixed, it is the only certain means of identification. While the name of the sports ground may change, the postal address rarely does.

The designation order remains in force unless or until formally revoked by the Secretary of State. If a designated sports ground is demolished or is permanently modified, so as to reduce the capacity below the threshold, the local authority should formally notify the Secretary of State and request that it be de-designated. Should the local authority not do so, the certificate holder may apply directly to the Secretary of State.

3.2 Regulated stands

Under the 1987 Act, a local authority has a responsibility to determine whether any stand at a sports ground is a regulated stand (see 1.6).

In making that determination the local authority should not seek to apply the detailed guidance on calculating the safe capacity set out in the Green Guide but **must** instead follow the statutory guidance on how to determine whether or not a stand provides accommodation for 500 or more spectators given in Home Office Circular 97/88. For the precise details local authorities should refer to the Circular. In brief the local authority is required to count:

- the number of individual seats and / or marked places on bench seats; and
- the number of places available on bench seating allowing 530mm per person and disregarding any shorter lengths left over; and
- the number of spectators who can be accommodated on a terraced or sloped viewing area at a rate of 2.7 per square metre after disregarding gangways, stairways and landings; and
- the number of spectators who can be accommodated in the front two metres of a flat standing area at a rate of 2.7 per square metre.

It is stressed that this methodology should be used only for determining whether the stand in question should be a regulated stand. Its safe capacity does not depend only on the amount of accommodation available. When calculating the permitted capacity for inclusion in the safety certificate, the local authority should follow the methodology set out in the Green Guide. This may well result in a substantially lower capacity, which may even fall below 500.



The local authority may at any time revoke any determination that a stand is a regulated stand if it no longer provides accommodation for 500 or more spectators, as determined in accordance with the criteria in the Home Office Circular.

3.3 Applying for a safety certificate

Once a sports ground has been designated, it is an offence under section 12 of the 1975 Act to admit spectators until an application has been submitted to the local authority for a safety certificate. The requirements governing the submission and handling of applications are set out in section 3 of the 1975 Act. They are shown in the flow chart in Annex A.

An application for a safety certificate for a designated sports ground must be in the form prescribed in the schedule to the Safety of Sports Grounds Regulations 1987 (“the 1987 Regulations”) or a form to like effect. Local authorities should make provision for applications for a safety certificate to be made online.

The application should be accompanied by detailed information as to the structure, proposed capacity and safety management systems. The local authority may, by notice in writing, require the applicant to submit within a reasonable period such information and plans as it considers necessary to enable it to determine what terms and conditions to include. Where a risk based safety certificate is to be issued, this information should be set out in full in an operations manual. Since the safety certificate should relate to the actual condition of the sports ground, local authorities should not be deterred from seeking further information when they consider this necessary in the interests of safety at the ground.

The local authority must supply the chief officer of police and, where it is not itself that authority, the fire authority and the building authority, with a copy of the completed application form. It should also formally consult them about the terms and conditions of the certificate. The normal forum for this consultation will be the Safety Advisory Group (“the SAG”). This is described in section 4.3.

Similar provisions apply to the issue of a safety certificate for a regulated stand and are shown in the flow chart in Annex A. Under section 26 of the 1987 Act, it is an offence to admit spectators until an application has been submitted to the local authority for a safety certificate. The local authority may, and in practice should, issue a single certificate in respect of two or more such stands at the same sports ground. Different conditions may apply to the various stands.

The form of the application is laid down in the Safety of Places of Sport Regulations 1988 (“the 1988 Regulations”). The local authority may require the same information as for a designated sports ground. It is under the same duty to consult the police and other agencies. As with a safety certificate for a designated ground (see above) the local authority should make provision for online applications.

3.4 Demountable structures

If a demountable stand of any size is erected at a designated sports ground, the ground management will need to undertake the necessary risk assessments as to its use and management and incorporate the outcome into any operations manual. For its part, the local authority will need to promulgate its safe capacity.

The position is less clear cut where a demountable covered stand with accommodation for 500 or more spectators is erected at a non-designated sports ground and is proposed as a temporary construction. Section 26 (11) of the 1987 Act defines a stand at such a sports ground as “an artificial structure (not merely temporary) which provides accommodation for



spectators and is wholly or partly covered by a roof". Home Office Circular 96/1988 explains that, by use of the phrase "not merely temporary", the definition excludes temporary stands from certification.

The term "temporary" has not been further defined. It does not automatically cover all demountable structures. Some may remain in place for many years. A stand erected for one or more specific events should clearly be regarded as temporary. However, it would be difficult to argue this in relation to a stand that is to be used for a whole season of the sport in question. The local authority will need to assess every case having regard to its individual circumstances. In this context, it may be relevant to consider the Building Regulations definition of a temporary building. Where a demountable stand is not deemed to be a regulated stand the local authority may still issue a prohibition notice under section 10 of the 1975 Act. This procedure is described in section 7.3.

Chapter 14 of the Green Guide offers guidance on the safety, design and management of demountable structures. Further detailed advice may be found in the fourth Edition of 'Temporary Demountable Structures: Guidance on Procurement, Design and Use', published by the Institution of Structural Engineers ("ISE") in 2017.

Temporary demountable structures not used as spectator accommodation, such as television gantries, lighting towers, information boards or advertising hoardings may nevertheless affect the safety of people at the event. They should be covered in the operations manual (or, where there is no such manual, in the terms and conditions of the safety certificate), with particular attention being paid to their stability and fire safety.

3.5 Qualified person

Before it may issue a safety certificate for a designated sports ground, the local authority must determine whether the applicant is a "qualified" person. This is defined in the 1975 Act as a person who is likely to be in a position to prevent any contravention of the terms and conditions of a safety certificate. The certificate holder should hold a position of authority within the management of the sports ground. This could include the chair, chief executive, club secretary, sports ground manager, operations manager or a director, depending upon the sports ground management structure. The holder should be empowered to approve the allocation of funding for safety.

The applicant may also be the body corporate of the sports ground management, in which case the Board of Directors, or other similar entity, takes responsibility for compliance with the terms and conditions of the safety certificate.

If the local authority determines that the applicant is a qualified person, section 3(2) of the 1975 Act requires it to issue the safety certificate. If it determines to the contrary, it must notify the applicant in writing. The applicant may appeal against this determination to the magistrates' court within 28 days (seven days in the case of a special safety certificate).

The same principles apply if the local authority receives an application to transfer the safety certificate to another holder. If it determines that the applicant is not a qualified person, and therefore that it will not transfer the certificate, it must formally notify both the existing certificate holder and the applicant in writing and give reasons for the refusal.

Under the 1987 Act, the definition of a person qualified to hold the safety certificate for a regulated stand is more tightly drawn. In the case of a general safety certificate, it is the person responsible for the management of the sports ground; for a special safety certificate, it is the person responsible for organising the activity being watched by the spectators. This



apart, the procedure mirrors that for the issue of the safety certificate for a designated sports ground.

3.6 Notices by the local authority

The safety certificate is a public document, to which any person who is either responsible for applying it or likely to be affected by it should have access. Both the 1987 and 1988 Regulations require the local authority to notify every interested party, as defined in the Regulations, in writing of its decision to issue, amend or replace, or refuse to amend or replace, a safety certificate. In the case of a refusal, the local authority must give its reasons. This notice must specify that a copy of the safety certificate and any application is available for inspection at a specified time and place. The local authority must also publish a similar notice in a local newspaper. Recent legal advice has confirmed that this requirement is still in force even though digital communications are available.

3.7 Safety certificate, issue amendment and replacement

Section 4 of the 1975 Act and section 29 of the 1987 Act provide that the local authority may either amend or replace the safety certificate in any case in which this appears appropriate. It may do this either on its own initiative or in response to an application from the certificate holder. Replacing safety certificates can normally only be justified where the change of circumstances or the number and scale of the amendments makes this the most practical option. This would most commonly occur when a club moves to a new ground. In such cases, it would be sensible for the club and the local authority to move to a risk based certificate if they have not already done so.

3.8 Review of the general safety certificate and operations manual

The local authority should formally review the general safety certificate as soon as reasonably practicable after any incident in which safety at the ground may have been put at risk or where doubts have been cast on the condition or management of the sports ground. Such a review should encompass both the wording of the safety certificate and the permitted ground capacity.

A risk based certificate should include a condition requiring the Holder to examine the operations manual following any incidents. It is also good practice for such a commitment to be included within the operations manual. A “near miss” should always be treated as an incident for these purposes.

This review should not be limited to the circumstances of the incident. It should identify and analyse any underlying safety weaknesses that need to be addressed. These weaknesses and the local authority’s response should be recorded in writing.

In addition to a review after an incident the safety certificate and where required the operations manual should be reviewed annually. Where the sports ground is used on a seasonal basis, this review should take place in sufficient time for any necessary remedial work to be completed during the close season. At those sports grounds where events are held throughout the year, the local authority and certificate holder should liaise about the most sensible time for the annual review.



3.9 Amendments to the general safety certificate and the operations manual

The local authority may need to amend a prescriptive style safety certificate to reflect changes at the sports ground. Planned changes may include those to the physical structure; safety management or changes in the personnel identified in the safety certificate. While these may eventually lead to changes in capacity, an interim capacity calculation may be required while any construction work is carried out or new systems are tested. Hence, section 8 of the 1975 Act and section 32 of the 1987 Act require the certificate holder to notify the local authority of any proposed alterations or extensions that are likely to affect safety at the ground.

In the same vein, the ground management should be required to notify the local authority of any proposed changes in the operations manual. These may occur at any time because the manual is a dynamic document. As notification of changes to the operations manual is not, of itself, a legislative requirement, the local authority will need to ensure that it appears as a condition in the safety certificate.

In some cases, the local authority may consider it necessary to recalculate the permitted capacity of part or all of the sports ground, either following an incident or because of deterioration in its structure, maintenance or management. This is most easily achieved by decreasing either the (P) or (S) factor as appropriate. Such decisions should be taken in accordance with laid down procedures and be formally recorded. This is explained further in sections 4.5 – 4.7.

3.10 Special safety certificates

A general safety certificate covers any event that is held regularly at the sports ground and is included as a specified activity. Where it is intended to hold an event of a type not specified in the general safety certificate, an application should be submitted to the local authority for a special safety certificate. Such applications should normally be made at least three months in advance of the proposed event. However, the local authority may vary this period at its discretion.

The procedure for granting a special safety certificate is slightly different from that for a general safety certificate. Unless the applicant is already the holder of a general safety certificate, the local authority must first determine whether he or she is a qualified person. However, whereas it is obliged to grant a general safety certificate provided that the applicant is a qualified person, it has the discretion to refuse to issue a special safety certificate. In reaching its decision, the local authority must act reasonably. The applicant has the right to appeal within seven days against any refusal.

The local authority should be aware that it may need to set a different capacity in a special safety certificate for certain events compared with that promulgated in the general safety certificate. A pop concert, for example, may have spectator accommodation on the pitch, while a fireworks display may require certain sections of the sports ground to be kept clear of people. Some events may give rise to dynamic forces on stands due to rhythmic crowd movements that were not specifically taken into account in the design of the structure. In these cases, it may be necessary to restrict the use of the areas concerned.

The applicant may be required to supply whatever information the local authority needs in order to discharge its functions. This should include details of any proposed changes to the normal accommodation or arrangements, in particular to the safety systems, crowd management and stewarding, toilet and medical provision and fire precautions. Where there



is a risk based safety certificate, these should be set out in a revised operations manual supported by the relevant specific risk assessments.

3.11 Rights of appeal

The 1975 and 1987 Acts provide a right of appeal to the magistrates' court for:

- any person against a determination by the local authority that he or she is not qualified to hold a safety certificate;
- any interested party against the inclusion of anything in or omission of anything from a safety certificate or the refusal of the local authority to amend or replace it (NB: an 'interested party' is defined in s.5.5 of the 1975 Act);
- the applicant against the refusal of the local authority to issue a special safety certificate;
- any person, upon whom the local authority has served a notice that it has determined that a particular stand is a designated stand, against that determination; and
- any aggrieved person against a prohibition notice or an amendment to a prohibition notice, as described in section 7.5 (NB: an "aggrieved person" is defined in s.10A(7) of the 1975 Act).

Appeals must be lodged within 28 days if they relate to a general safety certificate and within seven days if they relate to a special safety certificate. If the appeal is against an amendment to the safety certificate, the original terms and conditions remain in force until the appeal has been determined. By contrast, any restrictions imposed under a prohibition notice remain in force unless or until amended or annulled by the court.

There is no statutory right of appeal against a condition that the SGSA has required a local authority to include in a safety certificate under section 13(2) of the 1989 Act.

3.12 Fees

The 1987 and 1988 Regulations empower the local authority to determine the fee to be paid in respect of an application for the issue, amendment, replacement or transfer of a safety certificate, or the cancellation of a certificate for a regulated stand. This fee shall not exceed an amount commensurate with the work actually and reasonably done by or on behalf of a local authority in respect of the application. It will be for the local authority to determine whether and, if so, how much of the work that it undertakes to determine whether to accept an operations manual (or any amendments) is chargeable. It should be noted that the local authority may only charge for amending the safety certificate in response to an application from the proposed or existing certificate holder.



4 THE ADMINISTRATIVE PROCESS

4.1 Delegated powers

In accordance with its standing orders, the local authority may delegate its power to take and implement decisions on safety certification to a committee, sub-committee or to one or more particular officers, most commonly the officer who chairs the authority's Safety Advisory Group (SAG) (see para 4.3). However, the SAG cannot take decisions on behalf of the local authority nor may any outside body or other authority exercise the responsibilities of the local authority.

4.2 Lead department

The local authority should determine which of its departments or services should take the lead on sports ground safety certification having regard to its particular administrative structure. It is usually advisable that this department should be responsible for some similar or related subject. If the staff concerned do not themselves possess the necessary qualifications, competence and professional experience to determine the safe capacity of the ground, scrutinise the ground's operations manual and perform the wider safety certification function effectively, it is essential that they have ready access to such resources.

The latter might be found either in-house or from an external source on a consultancy basis. In such cases, the local authority may properly obtain such assistance as it may require from another local authority or public body under a service level agreement. It may also wish to co-operate in regional or professional groups, both to share good practice and to facilitate training for its staff. Formal training courses are available. Nevertheless, the local authority remains solely responsible for any decisions on safety certification.

Many local authorities will find it helpful to draw up written policy statements identifying the specific responsibilities of particular individuals or groups of staff involved in sports ground safety certification. The production of these policies demonstrates that management has devoted thought and effort to the safety of sports grounds role. Putting policy in writing helps focus the mind and shows whether it has been fully thought out in practical terms.

Guidance on developing procedure can be found on [the SGSA website](#).

4.3 Safety Advisory Groups

In the Final Report of the Inquiry into the Hillsborough Stadium Disaster, Lord Taylor recommended that each local authority set up an advisory group (now generally known as the Safety Advisory Group). The SAG exists primarily to provide specialist advice to the local authority so that it may effectively discharge its functions under the 1975 and / or 1987 Acts. In practice, it also provides the vital forum within which the local authority and other agencies may develop a corporate approach to safety at the sports grounds concerned, while each exercising its own responsibilities.

Although the SAG is not constituted to advise the ground management on sports ground safety, the management may nevertheless frequently benefit from the expertise within the SAG. However, it cannot thereby transfer its responsibility for safety to the SAG or any of its members. Moreover, it is the local authority, not the SAG, that issues the safety certificate, and which is responsible for advising and assisting the certificate holder where necessary.



All communication with the certificate holder or management of the sports ground on safety and all requirements relating to the safety certificate should therefore be initiated by or routed through the responsible committee or officers of the local authority. Other individuals or agencies should avoid dealing unilaterally with the certificate holder on such matters, lest this cause confusion or conflict over requirements and thereby undermine the work of the local authority.

4.4 Membership of the Safety Advisory Group

It is for the local authority to determine which member or officer shall chair the SAG. This individual should have the status and authority to act quickly where necessary as well as sufficient time to commit to the task. The other local authority staff attending the SAG should likewise be suitably senior, as should the representatives of the participating agencies and bodies. These should be able to speak with knowledge and authority and be empowered to take operational decisions on behalf of their organisations, save where these raise new policy issues.

The local authority should plan ahead to ensure that, when a member of the SAG retires or moves to a new post, a successor has already been identified and is ready to take the work forward without any delay. This applies particularly to the SAG Chair or lead officer on whom the local authority may depend heavily.

It is recommended that, in addition to appropriate members of local authority staff, the SAG should include representatives of the police, fire service, ambulance service and building authority. In many cases, it may be sensible to invite someone from the relevant first aid agency. SAG chairs may also wish to arrange formal regular liaison with the local authority staff responsible for emergency planning and traffic management and with those enforcing the HSWA, Licensing and the Fire Safety RRO.

As a matter of principle, the safety certificate holder should be invited to all meetings of the SAG unless there is a positive reason for excluding them on a particular occasion. It would be inappropriate to discuss any operations manual or to reach any decision regarding the safety certificate in their absence, without giving them the opportunity to brief the SAG members, secure an informed debate and put their case. This should also ensure that they are aware of the issues underlying the local authority's requirements.

Local authorities are encouraged to consult representatives of a recognised supporters' group where possible. Indeed, there are no objections in principle to such a representative attending SAG meetings, if this is considered beneficial.

4.5 Management of the Safety Advisory Group

The SAG fulfils an important safety role. This could well come under scrutiny in the event of a serious safety failure at a sports ground. Accordingly, the SAG should be properly constituted, have written terms of reference and effective procedures. These terms of reference should encompass all matters falling within the purview of the local authority on stadium safety.

The local authority would also be well advised to identify the responsibilities and potential liability of the SAG and its members. It may wish to lay down written procedures for them to follow if they observe or are alerted to a safety weakness either during an inspection of a sports ground or when they are present in the course of their normal duties. The role of the SAG and its members in inspecting sports grounds and attending events is described in greater detail in section 6.



The local authority should provide the necessary level of secretarial and administrative support to the SAG and should lay down procedures for ensuring that it runs smoothly. The meeting should have a formal agenda with all members being invited to submit agenda items, accompanied, where applicable, by written reports. The secretariat should circulate the agenda, relevant papers and minutes of the previous meeting sufficiently in advance. It should minute the proceedings of the SAG and produce regular written reports for the members' committee to which it is accountable. These reports should normally include the results of any monitoring visits by members of the SAG and details of any exercises by the certificate holder to test the sports ground's contingency plans.

Where confidential matters are to be discussed, particularly in relation to counter terrorism activities, arrangements should be made for the issues to be discussed in a separate meeting, or part of the meeting, of the SAG where only those needing to be engaged are present. Separate confidential minutes might also be required for that part of the meeting to prevent issues arising in relation to the unwitting release of sensitive material. The precise membership of this smaller SAG meeting will be dictated by local requirements and protocols in relation to information sharing agreements. It is important that the privacy of counter terrorism documents is preserved and that the attendance at discussions is restricted to those who need to be present. The handling and sharing of all documents relating to police counter terrorism advice and the ground counter terrorism plans should be in accordance with a suitable and agreed security marking scheme, for instance the Government Security Classification Scheme.

The process for dealing with counter terrorism matters confidentially could also be used to deal with other sensitive matters. It is for the local authority to determine membership of other such meetings.

4.6 Minutes of the Safety Advisory Group

The production of accurate minutes of the SAG meetings provides a vital audit trail and ensures that key discussions are recorded and actions are reviewed. It is not recommended that the chair of the SAG also takes the minutes.

Accurate minute taking is particularly important when new sports grounds are under construction or existing ones are undergoing a major redevelopment. In such cases, the situation may change on an almost daily basis. The local authority, advised by the SAG, may need to reach decisions at very short notice, often during a visit to the site. Unless all these decisions are recorded at the time and the minutes are agreed as soon as possible thereafter, they risk giving rise to debate and possible recriminations at a later date.

It is also essential to record why the ground management has proposed, the SAG has supported, and / or the local authority has accepted any deviations from the recommendations of the Green Guide when setting the capacity of the sports ground. The onus will be on the local authority to demonstrate that it has acted reasonably.

Similarly, the minutes should record the reasons for any amendments to the terms and conditions in the safety certificate. In the absence of such information, the local authority could be vulnerable to an appeal by the certificate holder. Such minutes do not themselves constitute the amendment to the safety certificate. The local authority must formally issue a written amendment.

4.7 Audit trail

Such minutes constitute an important part of the audit trail that the local authority should establish for the SAG. This should cover the procedures for ensuring that:



- the annual inspection of the sports ground and the annual review of the safety certificate have been completed;
- any identified safety weaknesses in the ground and / or the contents or implementation of any operations manual have been analysed and addressed;
- any incidents involving an actual or potential threat to the safety of people at the ground have been debriefed and the lessons learned have been implemented;
- any recommendations of the SAG have been properly reported to the local authority;
- the decisions of the local authority have been properly communicated to all interested parties;
- these recommendations and decisions have been followed up and fully implemented; and
- this action has been reported back to the SAG and thence to the local authority.

4.8 Frequency of meetings

The local authority should always convene a meeting of the SAG as soon as possible after any significant incident or “near miss” at a sports ground in order to ascertain whether there were any breaches of the safety certificate and whether the operations manual and / or safety certificate should be amended.

Such cases apart, the number of SAG meetings in any year will largely depend upon the particular circumstances of the sports ground concerned. Good practice shows that a local authority is likely to require a minimum of two meetings of the SAG per year to perform effectively, even if the sports ground has an up to date operations manual and safety certificate and is well managed with no significant problems. By contrast, experience has shown that, during the planning and building stages of a major sports ground redevelopment, the SAG will need to meet much more frequently, perhaps monthly, to deal with the many issues raised by the contractors, architects and nominated certificate holder.

The local authority should balance the need to retain a sufficient overview against its desire to avoid overburdening a certificate holder who is acting responsibly. In the majority of cases, three or four meetings per year would seem reasonable. It is helpful for all agencies involved to schedule the meetings well in advance, perhaps doing so at the start of the season or calendar year.

4.9 Separate Safety Advisory Groups

In some circumstances, the local authority may wish to maintain a separate SAG for each sports ground with a safety certificate in its area. Where the membership of these SAGs would substantially overlap, the local authority might sensibly decide that one SAG may cover several sports grounds. Those attending at any stage of the meeting could vary according to the sports ground under discussion. Representatives could arrange to attend as required. Conversely, cases exist of sports grounds that cut across local authority boundaries. The authorities concerned have set up a single SAG. The local authority should formally record these arrangements in the terms of reference.

4.10 Role of the Sports Grounds Safety Authority (SGSA)

Inspectors from the SGSA can attend meetings of the SAG in respect of those football grounds which fall within its regulatory oversight. These are currently the home grounds of clubs playing in the Premier League and English Football League and Wembley and the



Principality Stadium. The Inspectors are not members of the SAG. They are independent advisers who are present at the invitation of the local authority.

Under the provisions of the Football Spectators Act 1989 as amended (1989 Act) the SGSA has the task of keeping under review the discharge by local authorities of their safety certification functions under the 1975 Act. Under section 13 (2) of the 1989 Act it may require a local authority to include in any safety certificate such terms and conditions as it may specify in its written notice. Before exercising this power, the SGSA must consult the local authority, the chief officer of police and, where these are not the local authority, the fire authority or the building authority.

As part of its oversight, the SGSA may also require the local authority to furnish it with such information relating to the discharge of its safety certification functions as it may require. Its inspectors may undertake such inspections of any ground as they consider necessary and may examine and take copies of the safety certificate and its schedules (including the relevant sections of the operations manual) and any records kept under the 1975 Act.

The SGSA role goes much wider than ensuring that local authorities set and enforce such terms and conditions as are necessary for reasonable safety at sports grounds. It promotes the adoption and maintenance of a safety culture and is a source of advice and good practice. The SAG meeting is often the forum in which the SGSA can best engage with and assist the local authority in a proactive and constructive manner.

The Sports Grounds Safety Authority Act 2011 extended the SGSA's role to include providing advice in respect of safety at sports grounds to any local authority or sports ground management. Although this guidance document is intended to provide comprehensive advice on the safety certification process SGSA Inspectors are available to provide advice to those local authorities and sports grounds outside their regulatory remit, although they would not expect to regularly attend SAG meetings in respect of grounds outside those for which they have regulatory oversight.



5 CONTENTS OF THE SAFETY CERTIFICATE

5.1 Introduction

The local authority is responsible for agreeing the safe capacity of the sports ground and for determining what terms and conditions should be included in the safety certificate. These should reflect the particular circumstances of the ground concerned and any operations manual and pay due regard to the detailed advice in the Green Guide. Where a prescriptive certificate is in place, the terms and conditions should be included in detail in the certificate. Where a risk based safety certificate is in place, the certificate will include a general condition requiring an operations manual which contains details of the mitigating actions for the risks identified. A risk based certificate may also contain terms and conditions dealing with specific arrangement required to ensure safety at the ground.

5.2 Format of the certificate

It is strongly recommended that local authorities issue all safety certificates in a modular form with a series of schedules, appendices and annexes, as follows:

- a short core section, containing a general statement of the duties laid upon the certificate holder. In a risk based certificate this would primarily consist of a requirement to undertake appropriate risk assessments, to set out in an operations manual how reasonable safety is to be maintained and a requirement to adhere to the operations manual. In a prescriptive certificate this would generally consist of a requirement to ensure that all terms and conditions within the certificate are complied with;
- schedules, either comprising the condition to comply with the operations manual or the detailed conditions inserted by the local authority setting out what the certificate holder must do to ensure reasonable safety at the ground;
- annexes, setting out the specified activities to which the certificate applies and the capacities of the sports ground as a whole and of each element of spectator accommodation for each activity; and
- appendices, including plans of the ground and other documents and sources of information referred to elsewhere in the certificate.

It is essential that a safety certificate is both easy to follow and complete within itself. The terms and conditions with which the certificate holder must comply should be clear and specific. General provisions to the effect that tasks must be undertaken to the satisfaction of the local authority, the chief officer of police, the chief fire officer or any other person, should be avoided. In similar vein, a safety certificate should not require the holder to comply with a general recommendation in the Green Guide.

The safety certificate should also include the geographical extent of the safety certificate conditions (often referred to as the red-line boundary), and the timescales of when the certificate conditions are in force (often 2 hours before an event until one hour after the event). These timings will depend on local circumstances and agreements.

All terms and conditions should be specific to the sports ground concerned and should be achievable and must not be unfair, illegal or physically impossible.

A risk based certificate should not be issued until the ground management has undertaken its risk assessments and has drawn up and submitted its operations manual and this has



been scrutinised by the local authority. Failure to follow this procedure could lead to the local authority prescribing a capacity for the ground on the basis of work that is to be undertaken in the future and not on the actual circumstances at the ground. As indicated in section 2.4, the move from an existing prescriptive style certificate to one based on risk assessments and an operations manual should be by agreement between the local authority and ground management.

5.3 Core section – risk based certificate

The core section should begin by identifying:

- the Act under which the certificate is issued;
- the responsible local authority;
- the holder of the certificate;
- the sports ground or regulated stand(s) to which it applies; and
- the specified activities to which the certificate applies (although these may be more conveniently listed in an annex).

The certificate should also provide that the local authority is entitled to inspect, investigate and take copies of documents at any reasonable time in order to fulfil its enforcement obligations.

Moreover, the holder should be required to supply the local authority with details of all forthcoming events. The local authority should consider how much advance notice it requires. As indicated in section 2.9, the safety certificate may reasonably require the certificate holder to notify the police of particular events. Where appropriate, the holder may also be required to notify the other emergency services.

In a risk based certificate the core section should also require the holder to undertake suitable and sufficient risk assessments, which should be made available to the local authority if requested, and in the light of those assessments draw up an operations manual. The contents of an operations manual are set out in the Green Guide.

The stadium management should be required to clearly set out details of the safe capacity of the ground for each specified activity as a whole and by area, including an assessment of the (P) and (S) factors.

The core section should also require the holder to comply with the policies, plans and procedures set out in the operations manual.

Detailed guidance on the preparation of safety policies and contingency plans and on what should be included in an operations manual may be found in SGSG [“Guide to Safety at Sports Grounds”](#) (see section 1.1 above).

5.4 Core section – prescriptive certificate

Where a prescriptive style certificate is in place, the core section should lay upon the certificate holder the general requirements to:

- ensure that the capacity of the sports ground or stand as a whole and of its separate areas is not exceeded (the capacities should be laid out in the safety certificate);



- provide the necessary equipment, supervisory staff and stewards, for monitoring, directing, controlling and assisting spectators;
- ensure the provision of first aid and medical staff, equipment, facilities and accommodation;
- ensure that all permanent and temporary buildings, structures and installations, including means of ingress and egress, are maintained in such condition that they safely fulfil their required function;
- take all reasonable precautions to prevent the outbreak and spread of fire, maintain suitable equipment and train staff to deal with an outbreak of fire; and
- maintain and make available for inspection as required, full records of inspections and tests of the buildings, structures, installations and safety management systems;

subject in each case to the detailed requirements of the related schedule.

5.5 Core section – general requirements

Whatever form of certification is adopted, the core section should also require the holder to:

- produce a written statement of the ground's event safety policy and appoint a person responsible for its implementation;
- draw up a plan of action to cover all reasonably foreseeable contingencies; and
- appoint "a safety officer", and deputy safety officer, of sufficient competence, status and authority to take day to day responsibility for event day safety. The safety officer should have a written job description.

The core section should require the certificate holder to notify the local authority in advance of any changes the Holder proposes to make to any operations manual and any other change of circumstances that may affect the terms or conditions of the safety certificate. Moreover, where a risk based certificate is in place, the certificate holder should be required to commission or undertake a formal review of its risk assessments every year, even if nothing untoward has occurred, and should formally confirm or amend its recommended capacities and (P) and (S) factors.

The local authority needs to be satisfied that the appointed safety officer is competent and that the event safety policy and contingency plans are sufficiently clear and comprehensive. However, it is not up to the local authority to 'approve' the employment of the individual concerned. Similarly, the local authority is not required to 'approve' the safety policy and contingency plans or risk assessments underlying any operations manual. These must remain, and be seen to remain, the responsibility of the certificate holder. If not satisfied on any of these matters, it should reduce the (S) factor and hence the capacity of the ground.

The ground's responsibility for safety of people at the sports ground on event days is not restricted to the safety of spectators but extends to others who are present and the operations manual should reflect this.

5.6 Schedules and appendices

In the case of a risk based safety certificate, a copy of the operations manual should form the schedule (this may be in the form of a digital link to the manual held by the ground).



Where a prescriptive style certificate is in place, the detailed requirements should be set out in a series of schedules. Even where the certificate holder has not produced a detailed operations manual, there is no reason why it should not draft some or all of the detailed conditions, for promulgation by the local authority. Indeed, this approach is to be encouraged since it gives the certificate holder a greater sense of ownership of the safety management of the sports ground.

The local authority should structure the schedules and appendices for a prescriptive certificate according to local need. In most cases, the best approach is to include definitions and written requirements as schedules and to attach any plans, tables and lists as appendices.

Thus, the schedules might cover all requirements relating to:

- safety management, stewarding and crowd control;
- counter terrorism measures;
- prevention of crowd disorder and anti-social behaviour;
- buildings, structures and installations;
- fire and fire-fighting;
- first aid and medical facilities; and
- records and certificates relating to training, briefing, tests and inspections.

The appendices could include plans of the sports ground along with details of its permitted capacity. If they are not included in the operations manual, the following should be attached as appendices:

- the event safety policy;
- the ground contingency plans;
- the statement of intent between the ground management and the police.
- any detailed lists of equipment or installations to be maintained by the certificate holder, such as first aid equipment and supplies; fire-fighting equipment; and control room equipment; and
- an index of the key locations and details of all exit gates and doors.



6 MONITORING BY THE LOCAL AUTHORITY

6.1 The need for monitoring

The achievement of reasonable safety at a sports ground is a continuous process that does not end with the production of an operations manual and / or the issue of the safety certificate. The local authority must monitor the holder's compliance with the certificate's terms and conditions.

For a prescriptive certificate, the monitoring should examine compliance with the terms and conditions laid out in the certificate.

As a risk based certificate will include a condition or conditions requiring the holder to comply with the policies, plans and procedures set out in the operations manual, the monitoring by the local authority must include examining the extent of such compliance. Nonetheless, while the safety certificate should require the holder to comply with the operations manual, it would be neither reasonable nor practicable for the local authority to monitor every smallest detail of this plan at all times. The ground management must be allowed to perform its functions and exercise its responsibilities without unnecessary restrictions being imposed. It will be necessary to identify and strike a reasonable balance between close oversight of the key issues that have a significant impact on safety at the ground and a more hands-off approach to those which can reasonably be left for the most part to the ground management.

In this context, local authorities should be mindful of the Recommendation in the March 2005 Hampton Report on Reducing Administrative Burdens that regulators should make on-site visits and tailored advice available to businesses. In other words, they should provide ground management with advice and assistance to improve its compliance.

Any failure by the holder to follow the procedures set out in the operations manual should be dealt with by the local authority in the same way as it would have dealt with a holder not complying with the terms and conditions of a prescriptive style certificate. Advice on enforcement action is set out in sections 7.1 – 7.6 below.

Under section 10B of the 1975 Act, it is the duty of the local authority to enforce the provisions of the Act and of the Regulations made under it and, for that purpose, to arrange for the periodical inspection of the designated sports grounds within its area. Section 34 of the 1987 Act imposes a broadly similar duty with regard to sports grounds containing regulated stands. Further statutory guidance is given in Home Office Circulars 72/87 ("the 1987 Circular") and 97/88 ("the 1988 Circular").

The duty in section 34 of the 1987 Act applies to the whole sports ground. It is left to each local authority to determine, in light of its local knowledge, the extent of the inspection. This local knowledge would include not only the general condition of the sports ground but also whether any events were scheduled which might attract unusually large numbers of spectators. This has proved particularly relevant when football clubs from divisions below the Football League have been drawn at home in the latter stages of the various Football Association cup competitions.

6.2 Scope of the inspection

The Home Office Circulars prescribe in considerable detail what is to be examined by or on behalf of the local authority. In summary this should encompass:



- the certificates covering structural, dynamic performance and electrical tests;
- the records maintained by the management of the sports ground, in particular of attendances, accidents, maintenance, equipment tests, steward training and contingency plans;
- the condition of the sports ground and its fixtures and fittings; and
- the lighting, public address, fire warning and entry control equipment.

6.3 Responsibility for physical inspections

The physical inspection of the sports ground by the local authority in compliance with the Home Office Circulars is not intended to duplicate work that should be undertaken by or on behalf of the certificate holder. Instead it is designed to check that the certificate holder is complying with the provisions of the operations manual or the safety certificate conditions for properly maintaining the sports ground and its fittings and, ideally, for noting and agreeing remedial action on problems already identified by the certificate holder.

The certificate holder should be responsible for appointing suitably qualified persons to undertake the structural appraisals and the other inspections or tests prescribed in the operations manual. The local authority should check that the required inspections have indeed taken place and that the persons concerned were duly qualified. Unless the authority has doubts about the independence, competence or approach of these persons, the submission of a certificate that the structure or fitting meets the appropriate requirements should normally suffice. Nevertheless, the local authority remains free to carry out sample testing if it considers this to be necessary.

6.4 Inspections during events

The physical inspection of the sports ground constitutes but one element of the monitoring by the local authority. It is equally important to have regard to the safety management – the (S) factor – when determining its safe capacity. The local authority should therefore also monitor both the certificate holder's general compliance with the operations manual or safety certificate conditions and such matters as:

- the safety culture of the ground management;
- the training, assessment, qualification and competence of the safety officer;
- the training, assessment, qualification and competence of the stewards and other safety personnel; and
- whether there are effective systems for identifying and tackling problems.

The scrutiny of records may indicate whether tasks have been performed; it may also give an impression of good or poor management. However, it cannot adequately convey whether the sports ground is being operated safely. Experience has shown that the local authority can only monitor this effectively if it periodically observes the performance of the management immediately before, during, and after the event. Such inspections can also help inform the local authority's assessment of how much oversight of the ground's performance is required.

6.5 Frequency of inspections

For designated sports grounds, the 1975 Act defines periodical as "at least once every twelve months". For regulated stands with accommodation for over 2,000 spectators, the 1988 Circular lays down a minimum of one inspection in the calendar year following the



issue of the last safety certificate and once in every calendar year thereafter. In all other cases the minimum is once in every two calendar years.

There is nothing to preclude the local authority from inspecting the sports ground more frequently. The number of inspections reasonably required will vary from venue to venue. This will be for the local authority to determine, having regard to its duty to monitor the suitability of the terms and conditions of the certificate and ground management's compliance with the operations manual or safety certificate conditions and to ensure that these are being observed.

At most designated sports grounds, it will normally be sufficient for the local authority to inspect the structures and fittings once a year while the sports ground is empty. It might be sensible to conduct this inspection at different times each year, so as to observe the sports ground under a variety of conditions. Further inspections are likely to be necessary only in the event of significant structural modifications.

However, the sports ground management's performance during events will undoubtedly need to be checked more frequently. Without regular checks there is a risk of potentially hazardous situations developing unchallenged. The same considerations apply to the local authority's checks of the records of attendances, accidents, maintenance, steward training and contingency plans, though some of these could be carried out on non-event days.

It is for the local authority to determine, in light of its local knowledge, the extent of the inspection. This local knowledge could include not only the general condition of the sports ground and its management but also whether any events are scheduled which might attract unusually large numbers of spectators.

The most sensible way for the local authority to identify how many inspections it might reasonably undertake during the course of the year, would be for it to require each venue to undertake an annual self assessment as part of its review of its risk assessments and recommended capacities – see sections 3.8 and 5.3 above. The local authority should take this into account, along with any other relevant factors, in particular the management's compliance with the operations manual or safety certificate conditions. Improvements in safety management should normally lead to a reduction in the number of inspections.

In only the most exceptional cases would it be necessary for the local authority to be present at every event staged at the sports ground. Nevertheless, the local authority needs to be alerted quickly to anything that may affect stadium safety so that it may take any necessary action as soon as practicable. It should also invite feedback from other sources, in particular, from the other agencies represented on the SAG who may attend events in the course of their normal duties. This should be seen as an adjunct to, not a substitute for, inspection by the local authority.

When inspecting the sports ground during an event, the local authority should be sensitive to the operational responsibilities of its management. Any requests for access, in particular to the sports ground control room, must be reasonable and should not distract safety personnel from the performance of their duties.

6.6 Inspection personnel

It is for the local authority to determine how best to undertake inspections. It must be satisfied that the inspecting officers are competent for that purpose. There is no legal requirement for inspections to be undertaken by staff from a particular professional discipline. The local authority should consider the potential advantages of a team approach,



in particular to the statutory annual inspection. This might involve the officers who represent the police, fire and building authorities on the SAG.

The inspecting personnel may need to respond immediately if they become aware of a serious safety hazard. The local authority should therefore identify and formally record what enforcement powers it has delegated and to whom. Moreover, under section 11 of the 1975 Act or section 35 of the 1987 Act, any personnel who may need to exercise a right of entry to a sports ground must be formally authorised by the local authority. This too should be properly recorded in the minutes of the relevant committee.

6.7 Records of inspections

The local authority should maintain detailed records of all inspections as part of its audit trail. It may wish to consider sending a copy to the certificate holder, if only to ensure that there is no confusion about any need for immediate remedial action.

Staff inspecting all kinds of sports grounds have found written checklists invaluable. The detailed example at Annex B of this document is intended to assist not constrain local authorities. Individual authorities are free to modify it to meet their particular needs. They could, for instance, include references to other matters, such as environmental health, for which they may be responsible under other legislation. Moreover, it may not be practicable for a local authority to inspect every element of a very large ground on a single event day. Staff using it should be encouraged to comment as fully as necessary on each item and not merely to tick entries on a form. This is particularly important where there are any deviations or problems since these will need to be noted in writing and investigated.

Where breaches of the terms and conditions of the safety certificate, or non-compliance with the operations manual are noted, these should be brought to the immediate attention of the safety officer.

Further helpful guidance on “during performance” inspections of specified activities at sports grounds is available from the London District Surveyors’ Association.



7 ENFORCEMENT

7.1 Initial response

The local authority may need to respond quickly to any incident that puts people at risk or any safety weakness identified by or to its inspecting personnel. This is particularly important if the terms and conditions of the safety certificate appear to have been contravened and / or if the ground management is failing to comply with its own operations manual. The local authority should ensure that it has the necessary powers and procedures in place to enable it to take any necessary action in sufficient time. In this context it should be noted that the risk based safety certification provides local authorities with the same enforcement powers as a prescriptive certificate.

The response of the local authority must be proportionate to both the urgency and the seriousness of the case. It may choose between the following options:

- a reduction in the permitted capacity of all or part of the sports ground;
- the issue of a prohibition notice; or
- in the event of a breach of the safety certificate conditions, a warning, formal caution or prosecution.

7.2 Reduction in the capacity of a sports ground

If an incident suggests that the management of a sports ground is performing poorly, the local authority should review the (S) factor and hence the capacity of the sports ground or a particular section of the sports ground. The same applies if there has been no incident but the sports ground management's overall performance during an event appears deficient and / or it does not appear to be fully in control. Similarly, if the local authority's inspecting personnel identify any deficiencies in the fabric, equipment, records or management systems, which the authority has not already taken into account when accepting or calculating the permitted capacity, it should review either the (P) or (S) factor as appropriate.

Any new capacity should be properly calculated having regard to the change in circumstances. The local authority should follow the same procedures as during the routine annual review of the safety certificate. It should invite the ground management to submit its proposed revised (P) or (S) factor, while reserving the right to overrule this if appropriate. Wherever possible, the two parties should also agree a programme of remedial measures or improvements. Once these have been implemented, the local authority should consider restoring the original capacity. There is a clear onus on the local authority to act reasonably and in accordance with due process, not least because the certificate holder has a right of appeal against any reduction in capacity.

7.3 Prohibition notices

Unlike the other provisions of the 1975 and 1987 Acts, the power to issue a prohibition notice applies to all sports grounds, as defined in section 17 of the 1975 Act, including those that are neither designated nor contain a regulated stand.

A review of the (P) and (S) factors and a possible alteration to the permitted capacity is likely to be the appropriate response in the majority of cases. However, section 10 of the 1975 Act empowers the local authority to issue a prohibition notice in respect of all or part of any sports ground if it considers that the admission of spectators involves a risk to them so



serious that, until steps have been taken to reduce it to a reasonable level admission of spectators ought to be prohibited or restricted. The prohibition may be general or may apply to a particular event.

A prohibition notice is a measure of last resort. It may be general or apply to a particular event. In practice, it is likely to be required only if the problem is urgent or the certificate holder or management of the sports ground appears unable or unwilling to rectify the situation before the next event.

If the local authority considers and states in the notice that the risk to spectators is or may be imminent, the notice takes effect as soon as it is served. In all other cases, it comes into force at the end of the period specified in the notice. The local authority may amend or withdraw the notice at any time.

Under the Environment and Safety Information Act 1988 the local authority is required to keep a register of any prohibition notices that it has issued.

Local authorities need to ensure that any requirement in a prohibition notice is clear and specific. A general statement that the certificate holder shall comply with the operations manual to the satisfaction of the local authority would be inappropriate because it would leave the requirements unclear and at the whim of the local authority. By contrast, it would be acceptable to require the certificate holder to comply with the operations manual or to specify ways in which this should be achieved.

For further detailed guidance on prohibition notices, local authorities should refer to the DCMS Circular of 16 November 1995.

7.4 Procedures for issuing prohibition notices

The local authority needs to ensure that it can, if necessary, issue a prohibition notice at very short notice and without reference to senior officers or to members. In accordance with its standing orders, the local authority should formally identify the officers who may serve any prohibition notices on its behalf, the extent of their delegated powers and the circumstances in which they may be used. The officers concerned are likely to be those who already conduct inspections on event days.

The system of prohibition notices depends upon the local authority having effective administrative machinery in place. In particular, there is unlikely to be time to locate the required form and prepare a prohibition notice after the problem has arisen. The necessary documentation should be drawn up in advance on a contingency basis. Indeed, it may be advisable for the authorised personnel to carry a blank proforma that can be filled in and signed on the spot.

The local authority must send copies of any prohibition notice to the chief officer of police and, where it is not itself that authority, the fire authority or the building authority. It should be aware that no prohibition notice may include any directions, compliance with which would require the provision of police, unless the chief officer of police has consented to their inclusion. Only the chief officer of police may determine the extent of that provision.

7.5 Appeals against a prohibition notice

An aggrieved person may appeal to the magistrates' court against a prohibition notice within 21 days of the serving of the notice. However, the bringing of an appeal does not suspend the operation of the notice or of any amendment to it. If the prohibition notice is to apply to a single event, the local authority should, wherever possible, serve it well in advance so that



any aggrieved person has a reasonable opportunity to exercise this right of appeal. As indicated in section 3.11 above, any restrictions imposed under a prohibition notice remain in force unless or until amended or annulled by the court.

7.6 Penalties for contravention of the safety certificate

It is an offence for any responsible person, not merely the certificate holder, to contravene the terms and conditions of a safety certificate or a prohibition notice. These offences, along with the defence of absence of consent and due diligence, are listed in section 12 of the 1975 Act and section 36 of the 1987 Act.

Where it appears to the local authority that an offence, however minor or technical, may have been committed, it should consider its response, having regard to the facts and merits of the case and taking care to apply the normal rules of evidence. In very minor cases, particularly if the certificate holder has immediately taken action to prevent any repetition, the local authority may determine that no further action is warranted, though it may wish to warn those responsible as to their future conduct.

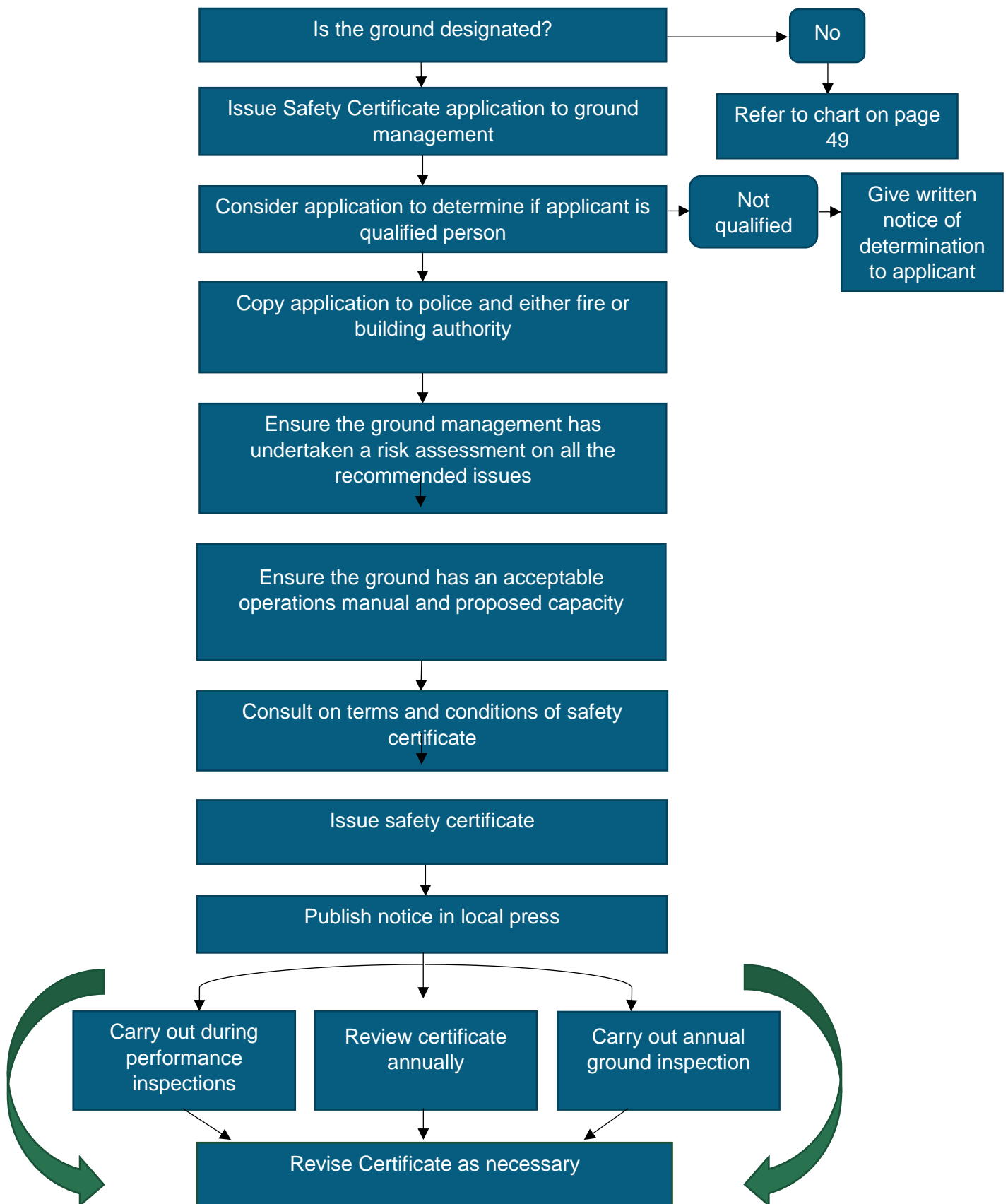
In more serious cases, for example where people have been put at risk but the offence appears to be an isolated oversight, the local authority might wish to administer a formal caution. However, in the event of persistent or flagrant breaches of a safety certificate, or those which have seriously prejudiced spectator safety, the local authority could consider bringing a prosecution under the 1975 or 1987 Act.

Whilst the primary purpose of this guidance is to provide advice to local authorities on the certification of sports grounds under the 1975 and 1987 Acts, local authorities should be mindful that action under other regulatory processes may be more appropriate in some circumstances.

The Health and Safety at Work Act 1974, the Licensing Act 2003 and the Regulatory Reform (Fire Safety) Order 2005 all provide routes by which a local authority can address safety and local authorities should ensure procedures are in place to gain the assistance of other departments or authorities where such action is appropriate.

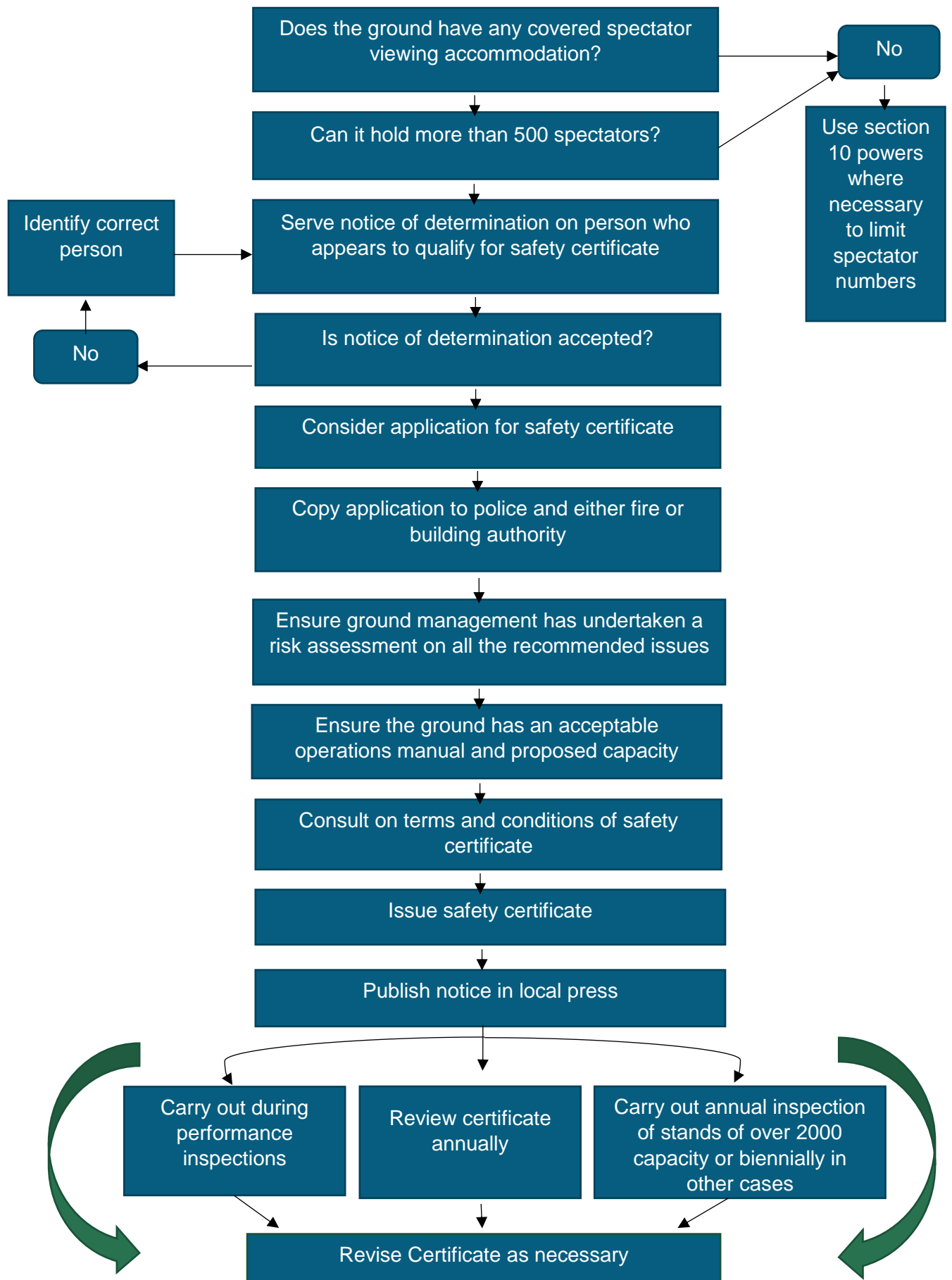


Annex A – Model risk based certificate process





Regulated stand certification process





Annex B Matchday Inspection Report

IN ATTENDANCE	
Club Safety Officer:	
Police Match Commander:	
Fire & Rescue Service Officer:	
Ambulance Service Officer:	
Other: i.e. FA, Sport delegate.	
Who has overall control of the event in terms of safety?	
Does there appear to be a clear understanding of responsibilities? (e.g. is there Statement of Intent or equivalent in place?)	
Weather conditions	
Score	

ATTENDANCE	
Whole Sports Ground	
Home	
Visitors	

COMMUNICATIONS		COMMENTS
Is the PA system consistent with recognised standards of best practice? (E.g. Is the PA clearly audible in all parts of the stands/ground/spectator area? Can the safety officer communicate directly with spectators?)	Y/N	
Is the CCTV consistent with recognised standards of best practice?	Y/N	



(E.g., does the CCTV cover all parts of the ground and is it capable of operating in all lighting conditions?)		
Is the CCTV being operated by trained personnel?	Y/N	
Are the stewards, supervisors, medical staff, and police radios working correctly?	Y/N	
FIRE		
Is there a fire detection system?	Y/N	
Has the fire alarm/system been checked? If so, by whom and when?	Y/N	
Is the fire alarm panel in the control room?	Y/N	
Are all designated fire doors/closing devices appear to be in good order	Y/N	
Are all means of escape routes throughout the venue/stadium clear	Y/N	
Are all exit doors/gates able to open without difficulty, are there observations on any holding devices.	Y/N	
Are emergency exits and exit route signage consistent with recognised standards of best practice?	Y/N	
Has there been a check condition of stairways – slip resistance, trip hazard, adequacy of lighting	Y/N	
Are all areas clear of accumulated litter? Does provision for waste storage/disposal appear adequate?	Y/N	
Is there any observations on location/availability of fire safety items?	Y/N	
GROUND CONDITIONS		
Are the exit doors and gates clearly marked? (If plan is available, do they conform?)	Y/N	
Do barriers and separating elements appear sound and risk free?	Y/N	



Is the ground free of any potential missiles? If no, what action is being taken?	Y/N	
Do any structural elements appear defective?	Y/N	
Are there adequate lighting levels in all areas assessable to spectators?	Y/N	
Are directional/advice signs in place and visible?	Y/N	
Is pitch perimeter fencing in place? If so what provision is there to allow evacuation onto pitch?	Y/N	
Are there any access issues (Wheelchair spaces, facilities, refuges and evac-chairs, viewing restrictions)	Y/N	
MEDICAL PROVISIONS		
Is there a medical plan?	Y/N	
Are the facilities consistent with recognised standards of best practice?	Y/N	
Have medical staff been briefed?	Y/N	
Have medical staff been issued with designated roles?	Y/N	
Number of first aiders?		
Number of Nurses/Doctors?		
Are any First Aid posts clearly identified?	Y/N	
What accident/injury records are kept?		
ATTENDANCE		
Are observations / assessments made of the crowd waiting to enter?	Y/N	



Are the numbers of spectators admitted being recorded? A) To the Ground B) By each section of the ground	Y/N	
Is the attendance within the permitted capacity? A) Stand / section B) Ground	Y/N	
Are turnstiles or method of monitoring entry working satisfactorily?	Y/N	
STEWARDS		
Is there a stewarding plan?	Y/N	
Number (and type) of supervisors:		
Number (and type) of stewards:		
Are stewards easily identified?	Y/N	
Is a record kept of stewards for later identification?	Y/N	
If stewarding plan provides details, are stewards in agreed positions?	Y/N	
Do steward positions appear to be consistent with recognised standards of best practice?	Y/N	
Are stewards: Trained Instructed & briefed Aware of emergency alert system Aware of emergency actions	Y/N	
Are there additional observations on the effectiveness of stewarding operation	Y/N	
EVENT LOG		
Has the Safety Officer carried out a pre-event safety check?	Y/N	



Paper check seen?	Y/N	
Comments made?	Y/N	
If any action is required has it been carried out?	Y/N	
Has action been checked? By whom?	Y/N	
Emergency power check carried out?	Y/N	
Has risk assessment has been carried out for the event?	Y/N	
Any observations on risk assessment?	Y/N	
EVENT MONITORING		
Do entry flow rates appear satisfactory?	Y/N	
Are all gangways kept clear?	Y/N	
Are there any pinch points evident from crowd observation or plan?	Y/N	
Is there crowd segregation?	Y/N	
Are there any signs of overcrowding, crowd discomfort or unrest?	Y/N	
Are all persons seated in seated areas?	Y/N	
If no, what action is being taken?		
Are there restricted viewing or quality issues?	Y/N	
POLICIES AND DOCUMENTATION		
Is there an event safety policy?	Y/N	
Is there a match day Operational plan (Segregation, ticketing, traffic ,etc)?	Y/N	
Is there a match Specific Risk Assessment?	Y/N	



Are Contingency Plans in place?	Y/N	
Is there an Emergency Plan?	Y/N	

GENERAL OBSERVATIONS (including overview of safety management and any safety related issues that occur during the inspection)



Annex C Sports Ground Design/Operation Variations – Risk Assessment

Name of sports ground:

Risk Assessment Number:

Risk Assessment prepared by:

Name:

Position:

Date of Assessment:

Element

E.g. exit width, barrier design, emergency lighting

**Design Standard /
Guidance / Code**

E.g. BS 8899, Green Guide, Technical Standards for place
of Entertainment, Building regs

**Detail of deviation or
variation**

**Reason for deviation or
variation**

Justification for deviation

**Mitigation factor(s) to
manage or limit the
impact of the deviation or
variation.**



**Evidence that the
proposed mitigation(s)
provide a similar
standard as the Standard
/ Guidance / Code**

**Details of drawings
containing the proposed
deviation or variation.**

**Implications of
implementing the
proposed deviation or
variation**

**Implications of not
implementing the
proposed deviation or
variation**



Annex D Risk Based Certificate

[SGSA MODEL SAFETY CERTIFICATE]

Enter the name of the Issuing Authority

SAFETY OF SPORTS GROUND ACT 1975

AS AMENDED

**GENERAL SAFETY CERTIFICATE
FOR A DESIGNATED GROUND
KNOWN AS**

Enter the name and address of the Sports Ground



SAFETY AT SPORTS GROUND ACT 1975
AS AMENDED
GENERAL SAFETY CERTIFICATE
ARRANGEMENT

GENERAL SAFETY CERTIFICATE

APPENDIX 1	OPERATIONS MANUAL
APPENDIX 2	PERMITTED NUMBERS OF SPECTATORS AND OTHERS PRESENT
APPENDIX 3	SPECIFIED ACTIVITIES
APPENDIX 4	GENERAL GROUND ARRANGEMENT DRAWINGS
APPENDIX 5	SCHEDULE OF AMENDMENTS TO THE GENERAL SAFETY CERTIFICATE
APPENDIX 6	DOCUMENTS KEPT WITH THE GENERAL SAFETY CERTIFICATE



SAFETY OF SPORTS GROUNDS ACT 1975

AS AMENDED

INFORMATION

It is important to know all the provisions of the Safety of Sports Grounds Act 1975, which are relevant to stadia within its scope.

The following points are particularly important but reference should be made to the Act itself for authoritative information.

(i) **Right of Entry and Inspection**

Section 11 of the Act gives to authorised officers the power to enter and inspect a sports ground and to make any inquiries as are considered necessary for the purposes of the Act. Authorised officers also have power to examine records of attendance at the ground and records relating to the maintenance of safety at the ground.

(ii) **Alterations and Extensions**

Section 8 of the Act requires notice to be given to the Council before work is begun on any proposed alteration or extension to the sports ground.

(iii) **Offences and Penalties**

For the following offences, that is to say: -

- (a) Contravening any term or condition of this certificate (otherwise than in pursuance of a prohibition notice), admitting spectators to the sports ground at a time when no application for a safety certificate has been made or where a certificate does not relate to the current sports ground or has been withdrawn, surrendered or cancelled; or in contravention of a prohibition notice, the penalty is, on summary conviction, a fine not exceeding the statutory maximum or, on conviction on indictment, a fine or imprisonment for a term not exceeding two years, or both.
- (b) Knowingly or recklessly making a false statement or producing, signing, furnishing or otherwise making use of a document containing a false statement, or
- (c) Failing to give notice of an alteration or extension to the sports ground or obstructing an authorised officer, the penalty is on summary conviction, a fine not exceeding level 5 on the standard scale.

(iv) **Prohibition Notices**

Section 10 of the Act (as amended) provides that if the local authority are of the opinion that the admission of spectators to a sports ground or any part of a sports ground involves or will involve a risk to them so serious that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the ground or that part of the ground ought to be prohibited or restricted, the authority may serve a notice



(referred to as a "prohibition notice") on the Holder of the general safety certificate or the person responsible for the management of the ground, prohibiting or restricting the admission of spectators.

(v) **Appeals**

Section 5(3) of the Act (as amended) provides that an interested party may appeal to a Magistrates' Court against the inclusion of anything in, or the omission of anything from, a safety certificate.

(vi) **Transfer of the Certificate**

If the Holder of the safety certificate ceases to be the person responsible for the management of the ground, an application must be made to the Council for the transfer of the certificate to some other qualified person.

(vii) **Other Legislation/guidance**

The holder should be aware that apart from the legislation detailed in (i) above there may be other acts and guidance that apply to the sports ground. These include health and safety legislation, legislation relating to people with disabilities, civil contingencies legislation, The Regulatory Reform Fire Safety Order (2005), Sports Ground and Stadia Guide No.4: 'Safety Management' document and any other specific pieces of legislation or guidance that may have relevant safety implications.

NOTE: No temporary variation of the terms and conditions of the certificate will be permitted other than in accordance with the terms and conditions of any relevant letter of consent by the certifying authority



SAFETY OF SPORTS GROUNDS ACT 1975

GENERAL SAFETY CERTIFICATE

Enter name and address of the Sports Ground

1. In exercise of the powers conferred by the Safety of Sports Grounds Act 1975 (as amended) and all other enabling powers, the **Enter the name of the issuing authority** ("the Council") hereby issues to: -

Enter the name of the Certificate Holder

("The Holder"), this General Safety Certificate in respect of **Enter the name and address of the Sports Ground**, being a sports ground designated by Order of the Secretary of State as requiring a Safety Certificate.

2. This Certificate includes the Appendices and Drawings attached hereto.
3. The words used in this Certificate and the appendices attached hereto shall have the meaning assigned to them by the Safety of Sports Grounds Act, 1975, the Fire Safety and Safety of Places of Sport Act, 1987 and current edition of the Guide to Safety at Sports Grounds.
4. The Holder shall retain control over the whole and each part of the sports ground and shall take all necessary precautions for the reasonable safety of all people admitted to the sports ground. The responsibility for the safety of all people at the sports ground lies at all times with the Holder.
5. The Holder shall inform the Council of the name of the person at senior level in the organisation who is responsible for safety policy and its implementation, together with those of the safety officer and deputy safety officer who shall be of sufficient competence, status and authority to take responsibility for safety at the ground and be able to authorise and supervise safety measures. Either the safety officer or a nominated deputy shall be present at any event during which all people are admitted to the ground.
6. Unless a nominated Safety Officer or Deputy Safety Officer whose appointment has been notified to the Council, is present, the capacity of the sports ground will be zero.
7. The Holder shall ensure compliance with the terms and conditions of this certificate at all times the sports ground is in use for a specified activity. In relation to a Specified Activity, this Safety Certificate will be in operation xxxx hours before the start and xxxx after the end of the activity. The responsibility for safety of those present at the sports ground lies at all times with the Holder.
8. The use of the sports ground for spectator events under this General Safety Certificate is restricted to those activities specified in Appendix 3 and is subject to the terms and conditions set out in this Certificate. No ancillary activities, apart from those listed in Appendix 3, are permitted without the prior written consent of the Council.
9. The Holder shall produce and comply with a written statement of event safety policy for all people and employees, outlining the chain of command, and covering the safety objectives and the means of achieving them and take steps to ensure that it is known



and understood by all staff and voluntary workers who may be involved in ground operations. The Holder shall also ensure that the policy is reviewed annually and revised as necessary. A copy shall be included in the operations manual and a copy of the policy shall be forwarded to the Council.

10. The Holder shall maintain and comply with all sections of the Operations Manual at appendix 1 which relates to the safety of all people at the sports ground.

Note: *It should include but not be limited to: - the safety policy statement, the written event safety policy statement, the chain of command, the steward training policy, the counter terrorism plan, the crowd disorder and anti-social behaviour plan, the stewarding plan, planned preventative maintenance schedule, medical plan, fire risk assessment, fire safety plan, event day procedures, contingency plans, capacity calculations, on site vehicle movement and parking plan, the method of ensuring the safety of persons, site plans (which must include details and widths of all Ingress/Egress gates, doors and/or number of turnstiles) and details of safety equipment. The Operational Manual shall be forwarded to the Council and emergency services and attached to this certificate.*

11. The Holder shall keep under review the effectiveness of the Operations Manual and undertake a formal review as soon as practicable after any incident in which safety may have been put at risk. The Holder shall notify the Council in advance of any proposed change to the Operations Manual and provide full details of such proposals.
12. The Holder shall ensure that the maximum number of spectators and staff that may be admitted at any one time to the sports ground and to each part thereof shall not exceed the capacities specified in Appendix 2, and shall also ensure that any measures for managing crowds prescribed in the Operations Manual and this certificate are observed.
13. The Holder shall, on the basis of a risk assessment, identify and apply precautions to prevent the outbreak and spread of fire; measures to ensure the safety of all people should fire break out; provision and maintenance of fire safety equipment and the training of staff to deal with an outbreak of fire. These shall be set out in a fire safety plan in [*insert details of where this is to be found in the Operating Manual*] of the Operations Manual, a copy of which is Appendix 1 to this Certificate.
14. The Holder shall undertake or commission a medical needs assessment from a competent person or organisation. In undertaking this assessment, the local ambulance NHS trust, event doctor or event practitioner and first aid providers should be consulted. From the results of this assessment the Holder shall produce a medical plan defining the levels of medical and first aid provision for staff and all people at the sports ground which shall be set out in [*insert details of where the plan of action is to be found within the Operations manual*] of the Operations Manual, a copy of which is at Appendix 1 to this certificate.
15. The Holder shall, on the basis of a risk assessment, identify the equipment, permanent staff, safety management personnel, stewards and others necessary to monitor, direct, guide, manage and assist all people during specified activities. Details of the equipment to be provided, the level of staffing and the training given to those staff shall be set out in [*insert details of where this is to be found in the operating manual*] of the Operations Manual, a copy of which is at appendix 1 to this Certificate.
16. The Holder shall, on the basis of a risk assessment, identify the inspections and testing of structures, equipment and systems necessary to ensure the reasonable safety of all



people. The Holder shall set out the frequency of the inspection and testing in [insert details of where this is to be found in the operations manual] of the Operations Manual, a copy of which is at Appendix 1 to this certificate. The frequency of any such inspection and test should not exceed the frequency indicated by the equipment manufacturer.

17. The Holder shall keep a record of all inspections and tests specified in the Operations Manual. These records shall be available for inspection by authorised officer's at all reasonable times."
18. The Holder shall assess in writing, the risk of incidents prejudicing public safety or disrupting normal operations and produce a plan of action to deal with all contingencies. The plan of action shall be produced in consultation with the Police, Fire Brigade, Ambulance Service and the Council. The plan of action shall cover all reasonably foreseeable contingencies up to and including the need for partial and/or the need for total evacuation of the sports ground and shall identify appropriate individuals and their respective tasks. The Holder shall set out the plan of action in [insert details of where the plan of action is to be found in the operations manual] of the Operations Manual a copy of which is at Appendix 1 to this certificate. The plans shall be reviewed annually, after any incident, near miss or exercise.
19. The plan of action shall also be reviewed when any permanent or temporary change is made to the structures or installations at the ground. Where following any review the Holder revises the plan of action in [insert details of where the plan of action is to be found within the Operations Manual] of the Operations Manual, a copy of which is at Appendix 1 of this certificate details of the revisions should be forwarded to the council.
20. The Holder shall assess in writing, the risk of crowd disorder and anti-social behaviour which may cause physical harm or injury occurring at the ground and shall develop a written plan to deal with such risks. The written plan shall be produced following consultation with the Police. The Holder shall set out the written crowd disorder and anti-social behaviour plan in the Operations Manual a copy of which is at Appendix 1 to this certificate. The plans shall be reviewed annually, after any incident, near miss or exercise.
21. The Holder shall assess in writing, the risk of a terrorist incident occurring at the ground which may cause physical harm or injury and shall develop a written plan to deal with such risks. The written plan shall be produced following consultation with the Police. The Holder shall set out the written counter terrorism plan in the Operations Manual a copy of which is at Appendix 1 to this certificate. The plans shall be reviewed annually, after any incident, near miss or exercise.
22. After conducting all the necessary risk assessments, the holder shall produce detailed capacity calculations in accordance with the guidance set out in the current edition of the Guide to Safety at Sports Grounds. These calculations shall be reviewed at least once a year, after any structural changes made at the sports ground and/or after any incident that involves implementing the Holder's emergency plans. The calculations shall be submitted to the council. The Holder may within this document specify different capacities for different events that might be held within the Sports Ground.
23. The Holder shall also carry out training exercises at least once a year so as to ensure the emergency procedures as set out in the "plan of action" operate correctly. The Holder shall notify the Council, the police and the other emergency services not less



than 14 days before a training exercise is to take place to enable them to observe the standards of staff training. Details of training exercises, including its duration, the instruction provided and the personnel involved shall be entered in a log book.

24. The Holder shall use his or her best endeavours to agree a Statement of Intent with the police over their respective roles.
25. The Holder shall give not less than 35 days notice to the Council, Police, Fire Brigade and Ambulance Service of all forthcoming specified events, together with details of any activity that might require a change to this certificate and not less than 3 months notice before the sports ground is used for Group C activities specified in Appendix 3. The 35 days notice can be waived by agreement with the Council.
26. The Holder shall notify the Council, in writing, at least 28 days before any change of circumstances affecting this certificate. Any changes, which may involve alterations or conditions at the ground, shall be accompanied by sufficient information: -
 - (a) Such information shall include two sets of drawings to an appropriate scale to clearly show the proposed works, capacity calculations and risk assessments and such other drawings as may be necessary,
 - (b) Such calculations, risk assessments and other details as are necessary, or are further required by the council to enable them to undertake the necessary consultation and to make an informed decision on the application.
27. No alteration or addition shall be made to the sports ground or its structures or installations without the prior written consent of the Council.
28. No specific activity, which is specially presented for children, shall take place until the Council's consent has been given in writing. At least 28 days notice in writing shall be given to the Council of any intention to provide such a specified activity.
29. The Holder shall draw up and keep up to date plans showing the layout of the sports ground, buildings, equipment, and all details considered necessary by the Council in connection with the Safety Certificate and shall upon request supply the Council with copies.
30. This Certificate is issued without prejudice to other legislation controlling the construction or use of sports grounds or buildings or otherwise affecting the Holder and does not invalidate any statutory obligation upon the Holder. The specific requirements of this certificate shall not be regarded as the limit of the obligation placed on the Holder to take all necessary precautions for the reasonable safety of all people admitted to the sports ground.
31. The previous Certificate, effective from xxxxxxxxxxxxxxxxxis replaced by this Certificate with effect from xxxxxxxxxxxxxxxx. The Council will review this Certificate annually.

Enter name and address of Issuing Authority

(The Officer appointed for this purpose)

Date:



APPENDIX 1 Operations Manual

Example operations manual index below, and a location, whether electronic or physical, where the safety certificate operations manual can be accessed and viewed.

Section	Contents
1	Event Safety Policy
2	Safety Management Structure
3	Capacity Calculations
4	Stewarding Plan
5	Medical Plan
6	Fire Safety Plan
6	Crowd Disorder and Anti-Social Behaviour Plan
7	Counter Terrorism Plan
8	Contingency Plans
9	Generic Risk Assessments
10	Event Specific Risk Assessment
11	Ticketing/Admission
12	Traffic Management Plan
13	Event Management Plan
14	Planned preventative maintenance, tests and inspections
15	Health & Safety Policy
16	Code of Considerate Management
17	PA Strategy
18	Emergency Access Strategy/Emergency Routes



APPENDIX 2

PERMITTED NUMBERS OF SPECTATORS AND OTHERS PRESENT



APPENDIX 3

SPECIFIED ACTIVITIES

ACTIVITIES COVERED BY THE CERTIFICATE

The activities covered by this certificate are as follows: -

Group A

Group B

Group C

- CONCERTS (SUBJECT TO A SUCCESSFUL DYNAMIC LOADING ASSESSMENT OF THE STADIUM)

NOTE: Attention is drawn to the requirement relating to Police attendance.

Any pre-match entertainment, including live music and dancing, shall not be commenced until the gates to the sports ground have been opened for the admittance of the public to the activities listed above and covered by the terms and conditions of the certificate.



APPENDIX 4

GENERAL GROUND ARRANGEMENT DRAWINGS

A plan outlining the extent of the safety certificate plus

LIST OF DRAWINGS

CERTIFICATE DRAWING NO.	ARCHITECTS DRAWING NO.	DESCRIPTION
------------------------------------	-----------------------------------	--------------------



APPENDIX 5

AMENDMENTS TO GENERAL SAFETY CERTIFICATE

DATE OF ISSUE



APPENDIX 6

DOCUMENTS TO BE KEPT WITH THE GENERAL SAFETY CERTIFICATE

1. Statement of Intent between XX police and XX ground
2. Safety Officers Job Description and details of responsibility and reporting
3. Copies of any Council letters giving permission as required within this document
4. Schedule listing deviations to the Green Guide that apply to the sports ground

Sports Grounds Safety Authority

East Wing, First Floor
Fleetbank House
2-6 Salisbury Square
London EC4Y 8JX

info@sgsamail.org.uk
0207 930 6693

BIRMINGHAM CITY COUNCIL

SAFETY ADVISORY GROUP

CONSTITUTION

Produced by
Acivico (Building Consultancy) Limited

Original Date of Issue: September 2017
Version no:
Date of last review: January 2018
Review Date: N/A

Document Author: S.M. Hancox

Document Authoriser: R. Cymler



Aim: To assist Birmingham City Council in the exercise of its powers as the enforcing authority under the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987 in respect of the safety certification of designated grounds and regulated stands within Birmingham City Council boundaries.

Objectives: To encompass all matters concerned with crowd safety.

To provide specialist advice to the Councillors on the Licensing and Public Protection Committee so that they may effectively discharge their powers and duties on behalf of the City Council as required under the 1975 and/or 1987 acts.

To provide a forum within which the City Council and other agencies may develop a corporate approach to spectator safety.

To continually review and react to advice published in legislative and other guidance documents.

To assist the Council Statutory Function Officer, Strategic Services in enforcement of the above legislation and all other associated guidance on behalf of the City Council.

Membership

Chairperson of the Safety Advisory Group will be a member of the Council's Licensing and Public Protection Committee who will have the status and authority to act expediently where necessary and with sufficient time to commit to the post.

The Safety Advisory Group will include, as of right, representatives of:-

- Members of the Licensing and Public Protection Committee (inc. chair)
- Acivico Ltd; Safety at Sports Ground Officer (acting as agents of the Council)
- West Midlands Police
- West Midlands Fire Service
- West Midlands Ambulance NHS Trust
- Safety Officer(s) for the stadium

The roles of the core members are contained with Appendix 1.

Invitation to attend is also extended to the appropriate representatives of:-

- St John Ambulance / Red Cross / Medi-cover or other first aid care provider
- The Sports Grounds Safety Authority
- Representatives / supporters groups of the appropriate club/ground
- Any other relevant party
(In the case of a Special Safety Certificate – the person responsible for organising the event).

Meetings

The number of Safety Advisory Group meetings in any year will be flexible and responsive to particular circumstances. There will, however, be a minimum of four (three for cricket) meetings scheduled and spread throughout the year / season.

The Group will meet to:

- Inspect the general condition of the sports ground and stands to ensure continuing compliance with the condition of the General Safety Certificate.
- Receive reports from members of the Group in relation to any matters concerning the amendment / addition / deletion of any conditions contained within the General Safety Certificate.
- Discuss reports relating to any significant incident / event at the sports ground and consider appropriate action to take.
- To liaise with the management of the sports ground to promote good working practices.
- Carry out any specific meeting / inspection of the sports ground in relation to the issue of a Special Safety Certificate.
- Discuss reports regarding the outcomes of during performance inspections / attendance.

It will be within the remit of the Safety Advisory Group to constitute smaller working parties to address specific issues relating to a particular sports ground and any subsequent development. These groups may have the full authority of the Chairperson to enable decisions to be made on behalf of the Safety Advisory Group, dependent upon circumstances and with full knowledge of the Chairperson. The outcome of any such groups will be conveyed to all interested parties and reported at the next Safety Advisory Group meeting.

Safety Advisory Group members may be requested by the Chairperson to attend meetings or carry out additional duties, outside their own particular profession, to achieve the aim and objectives of the Safety Advisory Group.

Each meeting of the Safety Advisory Group will be to an agenda published in advance of the meeting with minutes recorded.

The Safety Advisory Group may not make any decisions on behalf of Licensing and Public Protection Committee, except within its own remit.

The Safety Advisory Group's agendas and reports regarding any meetings will be available to the appropriate parties upon request.

Role of the Chairperson of the Safety Advisory Group

- To ensure that the Safety Advisory Group properly discharges the responsibilities delegated to it by Birmingham City Council.
- To ensure that decisions taken by the Safety Advisory Group are implemented as soon as possible.
- To act as liaison officer to the Licensing and Public Protection Committee on behalf of the Safety Advisory Group.
- To report to the Licensing and Public Protection Committee on an annual basis, where enforcement action has taken place or on matters that could bring the Council into disrepute.
- To ensure that decisions made by the Safety Advisory Group reflect the policies of Birmingham City Council.
- To ensure that the membership of the Safety Advisory Group reflect the interests of all parties in accordance with the final recommendations in the Taylor Report.
- To enforce on behalf of Birmingham City Council all matters relating to safety of sports ground as required under the Safety of Sports Grounds Act 1975, Fire Safety and Safety of Places of Sports act 1987, The Regulatory Reform (Fire Safety) Order 2005 and all associated legislation and guidance.
- To support Prohibition / Enforcement Notices served by the Council Statutory Functions Officer on behalf of Birmingham City Council to sports grounds that place spectators at serious risk.
- To act on behalf of the Licensing and Public Protection Committee with full authority in cases of urgency in connection with any Safety of Sports Grounds issues regarding spectator safety.

Role of the Local Authority Safety at Sports Ground Officer

Acivico Ltd will be represented by a Senior Officer and/or his/her appointed deputy who will attend meetings of the Safety Advisory Group.

- To be the lead officer within the Safety Advisory Group on technical matters on behalf of the Local Authority.
- To report on the findings of the during performance inspections from the Local Authority view point.
- To provide technical support to the Safety Advisory Group in relation to all matters concerning allied legislation, appraisal of published documents relating to Safety of Sports Grounds and inform on any implications arising.
- To contribute to the preparation, monitoring and amendment, as necessary of the General / Special Safety Certificate in consultation with members of the Safety Advisory Group.
- To act in a co-ordinating role to the Safety Advisory Group on all matters relating to spectator safety and liaise with Group members in the production of any items or reports to be placed on the agenda for meetings.
- To identify and take appropriate action in respect of any breach of Safety at Sports Ground legislation or any structural, fire safety or safety matters which present a danger to spectators.
- To advise the Safety Advisory Group on any physical dangers or managerial issues within the Sports Ground that could affect the safety of spectators.
- To make recommendations to the Safety Advisory Group on ground and stand capacities.
- To report on breaches of the General / Special Safety Certificate in relation to any Safety at Sports Grounds issues.

Role of the West Midlands Police

West Midlands Police will be represented by a Senior Officer and/or his/her appointed deputy who will attend meetings of the Safety Advisory Group in their respective area within Birmingham City Council boundaries.

The Service will advise on:

- All technical / legal aspects of legislation within the remit of West Midlands Police.
- Policing, public safety and crowd management matters referred to in the Guide to Safety at Sports Grounds and other relevant publications.
- Any issues that the Police are aware of that might impinge on the safety of spectators for consideration by the Safety Advisory Group
- Matters relating to the issue of the General / Special Safety Certificate in relation to the Police role and relevant issues.
- To identify any breaches of the General / Special Safety Certificate in relation to the Police role, public order and other relevant issues affecting spectator safety.
- To contribute to the preparation, monitoring and amendment, as necessary of the General / Special Safety Certificate in consultation with members of the Safety Advisory Group.
- To act in a co-ordinating role to the Safety Advisory Group on all matters relating to spectator safety and liaise with Group members in the production of any items or reports to be placed on the agenda for meetings.

Role of West Midlands Fire Service Birmingham

West Midlands Fire Service will be represented by a Senior Officer and/or his/her appointed deputy who will attend meetings of the Safety Advisory Group in their respective area within Birmingham City Council boundaries.

The Service will advise on:

- All technical / legal aspects of fire safety legislation within the remit of West Midlands Fire Service.
- Fire Safety matters and access for Fire Service personnel referred to in the Guide to Safety at Sports Grounds and other relevant publications.
- Matters relating to the issue of the General / Special Safety Certificate in relation to the Fire Service role and relevant issues.
- Any breaches of the General / Special Safety Certificate and/or fire risk assessment in relation to the Fire Service role and other relevant fire safety issues.
- To contribute to the preparation, monitoring and amendment, as necessary of the General / Special Safety Certificate in consultation with members of the Safety Advisory Group.
- To act in a co-ordinating role to the Safety Advisory Group on all matters relating to spectator safety and liaise with Group members in the production of any items or reports to be placed on the agenda for meetings.
- To identify and take appropriate action in respect of any breach of the Fire Safety Regulations or fire risk assessment which present a danger to spectators.

Role of West Midlands Ambulance NHS Trust

West Midlands Ambulance Service will be represented by a Senior Officer and/or his/her appointed deputy who will attend meetings of the Safety Advisory Group in their respective area within Birmingham City Council boundaries.

The Service will advise on:

- All technical / legal aspects of legislation within the remit of West Midlands Ambulance NHS Trust.
- Medical provision and risk assessment referred to in the Guide to Safety at Sports Grounds and other relevant publications.
- Matters relating to the issue of the General / Special Safety Certificate in relation to the Ambulance Service role and relevant issues.
- Any breaches of the General / Special Safety Certificate and/or medical risk assessment in relation to the Ambulance Service role and other relevant medical issues.
- To contribute to the preparation, monitoring and amendment, as necessary of the General / Special Safety Certificate in consultation with members of the Safety Advisory Group.
- To act in a co-ordinating role to the Safety Advisory Group on all matters relating to spectator safety and liaise with Group members in the production of any items or reports to be placed on the agenda for meetings.
- To identify and take appropriate action in respect of any breach of the Fire Safety Regulations or fire risk assessment which present a danger to spectators.

Role of Safety Officers for the Stadium

The Club / Stadium will be represented by an appropriately qualified Safety Officer from within the Club / Stadium management organisation and/or his/her appointed deputy who will attend meetings of the Safety Advisory Group.

- To be the lead officer within the Safety Advisory Group on technical and managerial matters on behalf of the Club / Stadium.
- To report on the findings of the during performance inspections from the Club / Stadium view point.
- To provide technical support to the Safety Advisory Group in relation to all matters concerning allied legislation, appraisal of published documents relating to Safety of Sports Grounds from the Club /Stadium view point and inform on any implications arising.
- To contribute to the preparation, monitoring and amendment, as necessary of the General / Special Safety Certificate in consultation with members of the Safety Advisory Group.
- To act in a co-ordinating role to the Safety Advisory Group on all matters relating to spectator safety and liaise with Group members in the production of any items or reports to be placed on the agenda for meetings.
- To identify and take appropriate action in respect of any breach of Safety at Sports Ground legislation or any structural, fire safety or safety matters which present a danger to spectators.
- To advise the Safety Advisory Group on any physical dangers or managerial issues that could impinge the safety of spectators within the Safety Certificate curtilage of the Sports Ground.
- To make recommendations to the Safety Advisory Group on ground and stand capacities.
- Any breaches of the General / Special Safety Certificate in relation to any Safety at Sports Grounds issues.

Building Consultancy

Safety at Sports Grounds

Policy Document

Produced by
Acivico (Building Consultancy) Limited

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Document Authoriser: R. Cymler



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<u>Appendix C</u>	S.A.G. Constitution	Separate attachment

1.0 INTRODUCTION

1.1 Overview

This document has been produced by Acivico (Building Consultancy) Limited and is the agreed policy and procedure for managing Safety at Sports Grounds within Birmingham City Council. Under the Safety at Sports Grounds Act 1975, Birmingham City Council is responsible for issuing and enforcing a safety certificate in respect of sports grounds designated by the Secretary of State. These are sports grounds that have accommodation for more than 10,000 spectators or 5000 in the case of a Premiership or Football League ground in England or Wales. The document also applies to the safety certification of stands regulated by Birmingham City Council under the Fire Safety and Safety of Places of Sport Act 1987. These are stands that provide covered accommodation for 500 or more standing and/or seated spectators. The function of monitoring compliance has been sub-contracted to Acivico (Building Consultancy) Limited whilst Birmingham City Council retain the responsibility for the issue of the Safety Certificate and any notices that are required to be served under the Safety of Sports Grounds and Regulatory Reform (Fire Safety) Order 2005 legislation.

1.2 Purpose of document

The policy document provides an overview of policy and terms of reference for the management of Safety of Sports Grounds within the Authority of Birmingham City Council. It also clarifies the roles and responsibilities of the organisations and agencies involved.

1.3 Policy Aim

The aim of Birmingham City Council's policy, working in conjunction with its partner agencies, is to ensure the reasonable safety of spectators and all persons attending any of the sports grounds within the Authority of Birmingham City Council that fall within the scope of the Safety of Sports Ground Act 1975 and Fire Safety and Safety of Places of Sport Act 1987.

1.4 Policy Objectives

Birmingham City Council's policy objectives are:

- To ensure that spectator safety is of the highest attainable standard that is reasonably practical to achieve at all sports grounds, but particularly those which are designated or have regulated stand(s) situated within their boundary.
- To ensure that the safety of all persons is of the highest attainable standard that is reasonably practical to achieve at those sports grounds which are designated or have regulated stand(s) situated within their boundary
- To establish and manage the Safety Advisory Group meeting (S.A.G.) for the designated grounds listed in Appendix A.
- To establish and manage the S.A.G. meetings for those grounds having regulated stand(s) situated within their boundary as listed in Appendix A.
- To establish any ad-hoc S.A.G. meetings required.
- To carry out an annual review of the General Safety Certificate for each of the designated grounds.

- To carry out a review of the Safety Certificate for each of the regulated stand(s) every 2 years unless capacity exceeds 2000 when a review will take place annually.
- To foster, encourage and promote a culture of safety first within sports grounds residing within the boundaries of Birmingham City Council.

1.5 Safety Certificate

The Safety certificate is part of a total, integrated system for managing health and safety at sports ground. While the local authority (Birmingham City Council) is responsible for issuing the safety certificate, safety cannot be achieved by one agency acting in isolation. Birmingham City Council has a statutory responsibility to consult with Police, Fire and Building Control authorities. This duty will be discharged through the Safety Advisory Group (S.A.G.) which is a multi-agency advisory group consisting of:

- i) Birmingham City Councillors,
- ii) Acivico (Building Consultancy) Ltd: Agent for Birmingham City Council Authorising Officer
- iii) Representatives from West Midlands Police,
- iv) Representatives from West Midlands Fire Service,
- v) Representatives from West Midlands Ambulance Service,
- vi) Representatives of first aid providers,
- vii) Representatives from the club concerned (including their safety officer),
- viii) Representative of the Sports Ground Safety Authority (S.G.S.A.) are also invited to attend
- ix) Other interested parties that the chair of the S.A.G. considers appropriate.

The primary function of the S.A.G. is to provide specialist advice to the Local Authority Authorising Officer or their agent.

The safety certificate will contain the terms and conditions that Birmingham City Council considers necessary or expedient to secure the reasonable safety of all persons at sports grounds when it is being used for the activities specified in the certificate. The primary responsibility for the safety of all persons at the sports ground lies at all times with the sports ground management and will not be assumed by the local authority.

1.6 Consultation

This policy document has been consulted on with both the Emergency Services and S.G.S.A.

1.7 Definitions

The Safety of Sports Grounds Act 1975 defines a sports ground as 'A place where sports or other competitive activities take place in the open air, where accommodation has been provided for spectators, consisting of artificial structures or natural structures artificially modified for the purpose'.

The Fire Safety and Safety of Places of Sport Act 1987 define a regulated stands as 'Any covered stand with accommodation for 500 or more spectators whether seating or standing'. The determination calculation for Regulated Stands is outlined in the Home Office circular 97/1988. In brief this is calculated as:

- Number of seats or marked places on bench seats in seated areas
- Number of places available on bench seats allowing 530mm per person
- Number of spectators who can be accommodated on a terraced or sloping viewing area at a rate of 2.7 per square metre after disregarding gangways, stairways and landings, or
- Number of spectators who can be accommodated in the front two metres of a flat standing area at a rate of 2.7 per square metre.

The local authority determines which stands are regulated.

This calculation is to arrive at the 'determination calculation'. This may not be the safe capacity which would be calculated using the current edition of the Guide to Safety at Sports Grounds (Generally referred to as 'The Green Guide').

2.0 POLICY

2.1 Legislative duty

Birmingham City Council has a statutory duty under:

2.1.1 Safety of Sports Ground Act 1975 (As amended)

- To issue a General Safety Certificate for each designated sports ground within the Authority of Birmingham City Council containing such terms and conditions as Birmingham City Council consider necessary or expedient to secure reasonable safety of all persons at the sports ground.
- To serve a prohibition notice in respect of a sports ground if the authority consider that the admission of spectators to the sports ground involves, or will involve, a high risk to them, so serious that until steps have been taken to reduce the risk to a reasonable level, admission of spectators to the ground or that part of the ground ought to be prohibited or restricted.
- To issue a special safety certificate where appropriate containing such terms and conditions as Birmingham City Council consider necessary or expedient to secure reasonable safety of all persons at the sports ground.

2.1.2 Fire Safety and Safety of Places of Sport Act 1987

- To issue a General Safety Certificate for each regulated stand within the Authority of Birmingham City Council containing such terms and conditions as Birmingham City Council consider necessary or expedient to secure the reasonable safety of the stand when it is in use for viewing the specified activity or activities at the ground.

2.2 Designated Officer (Chief Executive)

The Chief Executive of Birmingham City Council is the designated officer for this function. The Chief Executive has delegated their authority to the Council Statutory Functions Officer, Strategic services who will act as lead officer to ensure that the requirements of the Safety of Sports Ground Act 1975 are met. Specifically:

- The Council Statutory Functions Officer, Strategic services will be authorised to issue and amend the General Safety Certificate and/or any Special Safety Certificate as and when required.
- The Council Statutory Functions Officer, Strategic services will be authorised to issue, suspend and withdraw prohibition notices.

For both of the above, West Midlands Police, West Midlands Fire Service and West Midlands Ambulance Service will be advised or consulted as appropriate.

The Council Statutory Functions Officer, Strategic services is also authorised to devolve their authority to those officer(s) both employed by Birmingham City Council, Acivico (Building Consultancy) Ltd and S.A.G. to carry out the functions set out in this policy document.

2.3 Lead Officer (Council Statutory Functions Officer, Strategic services)

The Council Statutory Functions Officer, Strategic services acts as lead officer and has devolved the routine functions to assigned officer of Acivico (Building Consultancy) Ltd who attends all the S.A.G.'s both at designated grounds and those having regulated stands. The assigned officer of Acivico (Building Consultancy) Ltd will provide the secretariat to the S.A.G.'s.

2.4 Consultation

In imposing terms and conditions for all persons safety, Birmingham City Council is required to consult with West Midlands Police, West Midlands Fire Service and West Midlands Ambulance Service and take consideration of any feedback.

2.5 Grounds to which legislation applies

The legislation is applicable at the locations listed in Appendix A.

2.6 Guidance

The Department of Culture, Media and Sports has issued guidance on the subject, 'A guide to Safety of Sports Grounds' (Generally referred to as the 'Green Guide'). Birmingham City Council and its S.A.G. partners will utilise and apply the advice and guidance contained within the Green Guide.

The Sports Ground Safety Authority has issued guidance on the Safety Certification process. This guidance will also be utilised when considering the issuing of a Safety Certificate.

Guidance is also issued from time to time in relation to non-sporting activities taking place in sports grounds such as concerts and mass meetings. The S.A.G.'s will consider such guidance and take advice as appropriate to the circumstances.

2.7 Inspections

The achievement of reasonable safety is a continuous process that requires monitoring and inspections by appropriate members of the S.A.G. The inspection programme is as follows:

- For designated grounds a During Performance Inspection will be undertaken with the aim of conducting at least one a month during the playing season for football and at least three times a year for other sports.
- For regulated stands with a capacity of more than 2000 spectators a During Performance Inspection will be undertaken at least once per year.
- For regulated stands with a capacity of less than 2000 spectators a During Performance Inspection will be undertaken biennially.

Those persons undertaking the inspections should be suitably qualified / experienced and competent to undertake inspections on the Grounds / Safety Management Systems they have been asked to inspect and report on. The During Performance Inspections will be carried out by officers of Acivico (Building Consultancy) Ltd with assistance from West Midlands Fire Service where appropriate. Councillors on the S.A.G. attend one match a year to observe the clubs safety management in action.

Results of the During Performance Inspection will be produced in a written report with the officer carrying out the inspection liaising with the club safety officers / management and/or S.A.G. A copy of the report will be forwarded to the Sports Ground Safety Authority. A sample During Performance Inspection checklist is attached at Appendix B to this policy document.

3.0 INTRODUCTION

3.1 Safety Advisory Groups (S.A.G.)

Birmingham City Council will establish a S.A.G. for each sports ground in accordance with the Hillsborough Stadium Disaster Final Report by Lord Justice Taylor. Final recommendation No 31 to provide specialist advice in relation to safety at sports grounds, including determining the terms and conditions of each General Safety Certificate and monitoring their implementation. These are multi agency groups and are chaired by one of the Councillors assigned to the S.A.G. as its chair for designated sports grounds.

3.2 Terms of reference

The S.A.G. have been established to:

- Advise Birmingham City Council on specialist policies and procedures to be adopted in the implementation of 'the 1975 Act' and associated regulations and guidance.
- Monitor the implementation of General and Special Safety Certificates.
- To receive and consider where applicable, proposals for significant alterations to the designated sports ground and the implications such alterations might have.

A copy of the Constitution for S.A.G.'s is found at Appendix C.

3.3 Safety Advisory Groups Objectives

The S.A.G. will seek to

- Promote a safety first culture within the sports ground.
- Support and advise management or operators of designated sports grounds on measures to maintain and/or improve all aspects of spectator safety.
- Work to ensure that sports grounds are safe for spectators to attend the prescribed activity.

3.4 Membership of Safety Advisory Groups

The S.A.G. will consist of the following core members and invited representatives.

3.4.1 Core Members

The core members are those authorities / parties whom Birmingham City Council considers are appropriate to attend in order to consider all requirements necessary under sports ground and licensing legislation and the Taylor Report i.e.

- Birmingham City Councillor's (one being the Chair)
- Acivico (Building Consultancy) Ltd (Agents for Birmingham City Council on Sports Grounds)
- West Midlands Police
- West Midlands Fire Service
- West Midlands Ambulance Service
- First Aid provider

3.4.2 Invited representatives

Persons invited to S.A.G. meetings to offer advice are not party to the decision making processes of the group:

3.4.2.1 Invited to all meetings

The following are considered to be those organisations that should be invited to all S.A.G. meetings as contributors:

- Sports ground representation – Certificate holder or Safety Officer
- Representative from the Sports Ground Safety Authority
- Event organiser if applicable

3.4.2.2 Invited to S.A.G. meetings as appropriate

The following may be invited to all S.A.G. meetings or as appropriate:

- Emergency Planning Unit
- Primary Care Trust
- Legal Representation
- Local Authority licensing / Environmental Health/Highways
- Local supporters representation
- Counter Terrorism Police Officer

3.5 Meeting frequency

- The Safety Advisory Group for the designated football ground will meet at least four times per year.
- The Safety Advisory Group for the designated cricket ground will meet at least three times per year.

3.6 Main activities of Safety Advisory Group

Within the Constitution outlined at Appendix C, the S.A.G. will:

- Receive and discuss proposals for significant alterations to the sports ground and consider implications of holding activities there other than specified activities as included on the certificate.

- Share experiences following attendance at specified activities.
- Consider aspects of, and possible changes to, the terms and conditions in the General Safety Certificate.
- Inspection of the designated sports ground.
- Discuss all aspects of spectator safety and changing requirements.
- Ensure that appropriate reports are produced and discussed with respect to alterations, inspections and any other issues.

4.0 ROLES AND RESPONSIBILITIES

4.1 Role of Designated Officer – Chief Executive

- To oversee the lead officer's role in ensuring that Birmingham City Council properly discharges its responsibility under Safety of Sports Ground legislation.
- To ensure that the Elected Members of the Licensing and Public Protection Committee are kept informed of Safety of Sports Ground activities.
- To be the 'Authorising Signatory' for General and Special Safety Certificates.
- In the event of clear division or dispute emerging from a S.A.G. on safety matters, to oversee that any decision reflect the policies of Birmingham City Council.
- To nominate the Strategic Director of Economy to act as his representative in the discharge of the responsibilities outlined in this document.

4.2 Role of the Lead Officer – Statutory Function Officer

- To ensure that Birmingham City Council properly discharges its responsibilities under the Safety of Sports Grounds Act 1975.
- To delegate the management of the day to day activities of Safety of Sports Grounds Act 1975 to Acivico (Building Consultancy) Ltd for Birmingham City Council.
- To delegate the management of the day to day activities of Fire Safety and Safety of Places of Sport Act 1987 to Acivico (Building Consultancy) Ltd for Birmingham City Council
- To ensure the S.A.G. undertakes activities as appropriate to determine the terms and conditions of the General Safety Certificate and Special Safety Certificates, as applicable, are met and monitor their implementation.
- To ensure that decisions taken by the S.A.G. for designated (certified) sports grounds are implemented.
- To ensure that membership of the S.A.G. reflects the interests of all parties as recommended in the Lord Justice Taylor report into the Hillsborough Stadium Disaster in 1989.
- To oversee the issue and amendments of both General and Special Safety Certificates as applicable.
- To advise on safe capacities for sports grounds in liaison with Acivico (Building Consultancy) Ltd and West Midlands Fire Service.
- To draft, issue, suspend and withdraw prohibition notices under section 10 of the Safety of Sports Grounds Act 1975 and as amended by the Fire Safety and Safety of Places of Sport Act 1987.

- To initiate prosecutions authorised by Birmingham City Council for breach of the conditions of either a General or Special Safety Certificate and for any other offence(s) under the Safety of Sports Grounds Act 1975.
- To act in a coordinating role for all members of the S.A.G. and be responsible for organising meetings and inspections as appropriate.
- To attend on match days as appropriate to observe and understand the operation of the ground or to undertake inspections on aspects that the lead officer is suitably qualified to conduct.
- To keep the designated officer informed of relevant issues.
- To deputise for the designated officer in any of their functions.

4.3 Role of Support Officer – Safety of Sports Ground Officer

This role has been delegated to Acivico (Building Consultancy) Ltd who act as Birmingham City Council agents for 'day to day' matters associated with Safety at Sports Grounds

To deputise for the lead officer as follows:

- To prepare the safety certificate for issue by the Lead Officer
- To attend events (match days) as appropriate to observe and understand the operation of the ground and its management or to undertake inspections on aspects that the lead officer is suitably qualified to conduct.
- To review, on an annual basis for designated grounds and large regulated stands and biennially for smaller regulated stands, the safety certificate to assess its suitability to remain in force.
- To review/assess the sports ground capacity and P & S factors in accordance with the Green Guide principals when reviewing the safety certificates.
- To liaise with the Sports Ground on changes to the physical and managerial aspects of the club to consider the implications of that change and whether the Safety Certificate needs amending
- To attend S.A.G. meetings for designated grounds as directed and ensure that decisions taken by the S.A.G. are implemented.
- To act in a coordinating role for all members of the S.A.G. and be responsible for organising meetings and inspections as appropriate.
- To keep the lead officer informed of relevant issues.
- To advise the lead officer on any response required to interested parties and stakeholders.

- To organise and attend pre and post season inspections of the sports ground and report to the club of any findings as appropriate.
- To organise meetings of S.A.G. as required.
- To coordinate and prepare agenda papers and supporting paperwork for the S.A.G.
- To take minutes and circulate to all members of the S.A.G. and other interested parties.
- To research and collate any information that may assist the S.A.G. chair.
- To ensure accurate documentation of all decisions and actions arising from the S.A.G. and pursue the action owner where necessary.
- To establish and maintain filing systems for S.A.G. documentation.
- To liaise with the Sports Ground Safety Authority on all matters relating to Safety at Sports Grounds and inform the Lead Officer on relevant issues.
- To present a quarterly report to the Lead Officer on Key performance indicators regarding the role

4.4 Role of the Chairman of Safety Advisory Group

- To ensure that Birmingham City Council properly discharges its responsibilities under the Safety of Sports Grounds Act 1975.
- To ensure the S.A.G. undertakes activities as appropriate to determine the terms and conditions of the General Safety Certificate and Special Safety Certificates, as applicable, are met and monitor their implementation.
- To ensure that decisions taken by the S.A.G. for designated sports grounds are implemented.
- To ensure that membership of the S.A.G. reflects the interests of all parties as recommended in the Lord Justice Taylor report into the Hillsborough Stadium Disaster in 1989.
- To oversee the issue and amendment of both General and Special Safety Certificates as applicable.
- To support prosecutions authorised by Birmingham City Council for breach of the conditions of either a General or Special Safety Certificate and for any other offence(s) under the Safety of Sports Grounds Act 1975.
- To act in a coordinating role for all members of the S.A.G. and be responsible for the procedural organisation of the meetings as appropriate.
- To attend on match days as appropriate to observe and understand the operation of the ground.
- To keep the designated officer informed of relevant issues.

4.5 Role of Liaison Officer from West Midlands Fire Service

- To advise S.A.G. and/or Birmingham City Council on fire safety matters referred to in the Green Guide including:
 - Means of ingress and egress to and from sports grounds
 - Width of all routes, staircases, gates and vomitories
 - Positioning of signage
 - Determining the provision of firefighting resources and water supplies
 - Control of flammable materials and storage areas in sports grounds
 - Control of heating installations in sports grounds
 - Control and location of catering and merchandising outlets and other installations and provisions including temporary demountable structures
- Attend meetings of the Safety Advisory Group.
- Attend pre and post season inspections of the sports ground and advise as appropriate.

4.6 Role of Liaison Officer from West Midlands Police

- To attend and advise the Safety Advisory Group for the designated ground.
- To assist the local authority with the content and formulation of the General Safety Certificate.
- To constantly monitor by means of attendance and observation the provision of safety measures provided by the club in question in terms of stewarding effectiveness and provision of police services.
- To identify, inform and advise other agencies that have responsibility for crowd safety on any deficiencies that come to light.
- To provide specialist advice from a police perspective at all stages of development or redevelopment of a sports ground.
- To provide Police Officer(s) to attend multi agency control rooms on selected match days as appropriate to observe and understand the operation of the ground and fulfil the role of Emergency Services Police Officer.

4.7 Role of Liaison Officer from West Midlands Ambulance Service and/or the First Aid organisation

- To advise on health and first aid matters as referred to in the Green Guide.
- To act as a point of reference for first aiders attending specific incidents.
- To attend S.A.G. meetings.
- To provide Ambulance officer to attend multi agency control rooms as appropriate.

- To attend on selected match day as appropriate to observe and understand the operation of the ground or to undertake inspections on aspects that the liaison officer is suitably qualified to report on.

4.8 Role of Sports Grounds Safety Authority Regional Inspector (where involved)

The core functions of the Sports Grounds Safety Authority, as set out in the Football Spectators Act 1989, are to ensure the implementation of government policy concerning the safety and comfort of spectators at designated football matches (Developed from the final report by Rt Hon Lord Justice Taylor following the inquiry into the Hillsborough Stadium Disaster in 1989) and specifically in relation to Local Authorities to:

- Keep under review the discharge by the local authority of their functions under the Safety of Sports Grounds Act 1975 in relation to sports grounds at which designated football matches are played.
- Offer guidance on good practice issues relating to the organisation of S.A.G.
- Where possible to attend meetings of the S.A.G.
- Where appropriate to advise on crowd management and safety issues.

4.9 Role of Holder of General Safety Certificate at Designated Sports Grounds

- To be responsible for the safe operation of the sports ground including crowd safety and movement, segregation, entrance, egress, ticketing and stewarding.
- To bring to the attention of Birmingham City Council any observations or concerns in relation to technical equipment e.g. turnstile operation, lighting etc.
- To ensure that all terms and conditions of the General Safety Certificate are complied with.
- To complete the annual self-assessment questionnaire to assess the grounds compliance with the General Safety Certificate.
- Where required, to provide relevant information as contained within the terms and conditions of the General Safety Certificate to the S.A.G. and/or Birmingham City Council.
- To notify Birmingham City Council of any developments, proposals, changes or proposed installations including temporary demountable structures at the sports ground that may affect the safety of spectators.
- To action if appropriate any professional recommendations or requirements advised by the S.A.G. and/or Birmingham City Council.
- To obtain feedback from clubs attendees of the S.A.G.
- To obtain feedback from pre and post season inspections of the sports ground.

APPENDIX A – DESIGNATED GROUNDS AND REGULATED STANDS

Designated Sports grounds in Birmingham requiring a General Safety Certificate

- Aston Villa Football Club
- Birmingham City Football Club
- Warwickshire County Cricket Club

Regulated stands in Birmingham requiring a safety certificate

- Alexander Athletics Stadium (four number stands)
- Perry Barr Stadium (Greyhound Racing)
- Moseley Rugby Football Club

