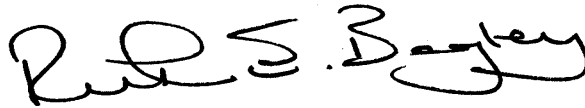


Date of issue: 17th September, 2010

MEETING	LICENSING COMMITTEE (Councillors Davis (Chair), Rasib, S Chaudhry, P Choudhry, Dhillon, S K Dhaliwal, Dodds, Long, Maclsaac, Shine and Sohal)
DATE AND TIME:	TUESDAY, 28TH SEPTEMBER, 2010 AT 6.30 PM
VENUE:	COUNCIL CHAMBER, TOWN HALL, BATH ROAD, SLOUGH
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 01753 875013

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



RUTH BAGLEY
Chief Executive

NOTE TO MEMBERS

This meeting is an approved duty for the payment of travel expenses.

AGENDA

PART 1

**AGENDA
ITEM**

REPORT TITLE

PAGE

WARD

Apologies for absence.



AGENDA
ITEM

REPORT TITLE

PAGE

WARD

CONSTITUTIONAL MATTERS

- | | | | |
|----|---|-------|--|
| 1. | Minutes of the Last Meeting held on 22 July, 2010 | 1 - 4 | |
| 2. | Declaration of Interest | | |

(Members are reminded of their duty to declare personal and personal prejudicial interests in matters coming before this meeting as set out in the Local Code of Conduct).

LICENSING ISSUES

- | | | | |
|----|--|---------|-----|
| 3. | Review of Delegated Powers | 5 - 24 | All |
| 4. | Addition to Private Hire and Hackney Carriage Licence Conditions | 25 - 28 | All |
| 5. | Members' Attendance Record | 29 - 30 | - |
| 6. | Date of Next Meeting - Wednesday 3 November 2010 | | |

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Special facilities may be made available for disabled or non-English speaking persons. Please contact the Democratic Services Officer shown above for further details.

Licensing Committee – Meeting held on Thursday, 22nd July, 2010.

Present:- Councillors Davis (Chair), Rasib, S Chaudhry, P Choudhry, Dhillon, Dodds, Long, Maclsaac and Sohal

Apologies for Absence:- Councillors S K Dhaliwal and Shine

PART 1

6. Declaration of Interest

Councillor Maclsaac declared a personal interest as he was a frequent user of the taxi service.

7. Minutes of the Last Meeting held on 3rd June 2010

The minutes of the meeting of Licensing Committee held on 3rd June, 2010 were approved as a correct record.

8. Review of Membership of the Licensing Sub Committee

Members were reminded that at its meeting in June, 2010 the Licensing Committee established a Licensing Sub-Committee of 3 members from the Committee and agreed its terms of reference. The Committee had agreed to the appointment of designated chairs to the Sub-Committee and that these members would chair the meetings of the Sub-Committee on a rota basis. It was also agreed that the allocation of seats on the Licensing Sub-Committee would be politically proportionate and at that time included 2 Labour Group and 1 BILLD Group member.

At its meeting on 29th June, 2010 the Council reviewed the allocation of seats on Committees, following notice that Councillor Pabbi had joined the Conservative Group. It was noted that the Labour Group now comprised of 23 members and both BILLD and Conservative Groups had 9 members respectively. The revised Group membership resulted in the BILLD and Conservative Groups having the same entitlement to the 1 seat on a Sub-Committee of 3.

One of the options available to the Committee was highlighted as the third seat on the Sub-Committee to rotate between the BILLD and Conservative Group. Members agreed that the most practical way forward was for the third seat on the Sub-Committee to rotate between a BILLD and Conservative member. In the ensuing discussion, a query was raised with regard to whether the Conservative Group were entitled to a designated chair position on the sub-committee. It was agreed that this issue would be investigated further and reported back to a future meeting.

Resolved – That the Opposition seat on the Licensing Sub-Committee to rotate between the BILLD and Conservative Group.

9. Delegation of Functions - Minor Variations

The Licensing Manager reported that the Licensing Act 2003 had been amended to make provisions for a simplified process in relation to Minor Variations regarding premises licences and club premises certificates. It was highlighted that the Government was recommending that decisions on minor variations to be delegated to licensing officers and that this was a practical suggestion given that such applications had to be determined within 15 working days and that there was no right to a hearing.

It was clarified that the process could only be used for minor variations that would not impact adversely on the promotion of any of the licensing objectives. Variations which could be considered as minor were detailed as:

- Minor variations to the layout of the premises
- Variation to licensed hours subject to certain exclusions in relation to alcohol
- An application to remove a licensable activity
- The revision or removal of conditions where they were in conflict with new legislation
- The addition of volunteered conditions or changes to name and address on a licence.

Details relating to what the minor variation process could not be used for were outlined and included not extending the period for which the licence or certificate had effect or substantially varying the terms and conditions of a licence.

The Licensing Manager outlined the application procedure for minor variations which included a notice being displayed on the premises for a period of 10 days. It was noted that there was no requirement for applicants to notify responsible authorities of their application, instead responsible authorities were involved at the request of the Licensing officer who had to consult with those responsible authorities deemed to be able to comment on the application as relevant to the licensing objectives. The timescales for within which a licensing authority had to process and determine an application was noted as within 15 working days. If a decision was not made within 15 working days the application was deemed refused and the fee would be returned. It was noted that the fee was set at £89.

Recommended to Council -

- (a) That the delegation of the decision making for Minor Variations to the Assistant Director of Public Protection and Licensing Officers.
- (b) That the Scheme of Delegation to Officers in Part 3 of the Council's Constitution in relation to the Licensing Act 2003 be amended accordingly.

Licensing Committee - 22.07.10

10. Licensing of Sexual Entertainment Venues

Members were reminded that in March 2010 an information report had been submitted to the Licensing Committee, advising of the reclassification of lap dancing and pole dancing clubs and similar premises as sexual entertainment venues under the amendment to schedule 3 of the Local Government (Miscellaneous Provisions) Act (LGMPA) 1982 by Section 27 of the Policing and Crime Act 2009 and of the need to adopt the new provisions in order to licence and regulate such premises. It was noted that the Council had originally adopted the previous provisions of the LGMPA 1982 in March 1984 and that the new provisions needed to be adopted before they could take effect.

It was brought to Members attention that there were currently two premises in Slough that would require the adoption of such provisions. The Licensing Manager explained that the existing operators would be permitted to continue to provide 'relevant entertainment' under their existing permission without interruption for the duration of the transitional period or until their application for a sex establishment licence had been determined, whichever was the later. Members were informed that the transitional period would start on the date the amendments to schedule 3 to the 1982 Act came into force in the relevant local authority area and that it would last for 12 months. It was also highlighted that the Government had decided that existing operators would not be given 'grandfather rights' and would have to apply for a new type of licence.

Members were informed that further reports would be submitted to the Licensing Committee in due course with regard to fees, standard terms and conditions, application forms and procedures and either a new or amended policy for sex establishments.

Recommended to Council –

- (a) That the Council resolve to formally adopt the amendments to the provisions of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009.
- (b) That where a resolution is made to adopt the new provision to statutory notice of the resolution is published within the specified time periods.
- (c) That the date for the new provisions to take effect should be at least 2 months from the date of the formal resolution of the adoption.

11. Licensing Act 2003 - Review of Statement of Licensing Policy 2010

Members were advised of the statutory 3 yearly review and consultation of the Council's Statement of Licensing Policy under section 5 of the Licensing Act 2003. It was noted that the Licensing Act 2003 required Licensing Authorities to put in place a statement of licensing policy and that this policy be reviewed

Licensing Committee - 22.07.10

at least every 3 years. Members were reminded that the Council had adopted the original statement of licensing policy in 2004 and approved a revised document following consultation in 2007. It was noted that this policy would lapse in December 2010.

A revised draft document had been prepared in line with best practice framework for the review of licensing policy statement and was currently the subject of a consultation. It was brought to Members' attention that the draft document contained a number of additions following new processes and procedures implemented through the 2003 Act and the Policing and Crime Act 2009. Members' were informed that the result of the consultation would be submitted to the Licensing Committee in November 2010 for recommendation to full Council on 30th November 2010.

Resolved – That the report be noted.

12. Members Attendance Record

The Senior Democratic Services Officer reported that a Members Attendance report would be submitted to each meeting, highlighting members attendance at the Licensing Committee. It was noted that this was a requirement as directed by the Standards Committee to monitor Members performance and was for information purposes only.

A Member raised a query with regard to having been recorded as part attendance at the previous meeting, when he had attended the meeting but could not remain for the duration of the meeting due to the fact that he had not received the appropriate training. It was agreed that it would be investigated whether comments could be added to the Members Attendance Record to clarify part attendance at meetings.

Resolved – That the report be noted.

13. Vote of Thanks

Committee Members wished to place on record their appreciation and thanks to David Turner, Licensing Officer, for his valuable contribution to the Licensing Department over the years and wished him well for the future.

14. Date of Next Meeting - Tuesday 28th September 2010

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.10 pm)

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 28th September 2010

CONTACT OFFICER: Michael Sims, Licensing Manager
(01753 477387)
Patrick Kelleher, Assistant Director, Public Protection
(01753 875211)

WARD(S): All

PART I

FOR DECISION

REVIEW OF DELEGATED POWERS

1. **Purpose of Report**

For the Licensing Committee to consider amendments to the original recommendations approved by the Licensing Committee on 24th February 2010 for powers to be delegated from the Licensing Committee to the Assistant Director, Public Protection in respect of Private Hire and Hackney Carriage licensing, following consultation with Private Hire and Hackney Carriage trade representatives.

2. **Recommendation to Council**

That the Licensing Committee consider the amendments to the original recommendations approved by the Licensing Committee on 24th February 2010 for powers to be delegated from the Licensing Committee to the Assistant Director, Public Protection in respect of Private Hire and Hackney Carriage licensing as outlined in this report following consultation with trade representatives and:-

- (a) To decide if the amendments should be approved and if so for the original recommendations as approved to be rescinded, or
- (b) That the original recommendations as approved on 24th February 2010 to proceed as originally recommended.
- (c) To formally approve and adopt the 'Decision Making Process'

And, that in either case in (a) or (b) above that the Council's Constitution be amended accordingly.

3. **Community Strategy Priorities**

- **Being Safe, Feeling safe**
- **Prosperity for All**

4. **Other Implications**

- (a) **Financial**

The proposals outlined in this report will, if approved, generate significant savings by reducing the number of Sub-Committee meetings required to be called, therefore reducing the cost to the licensing budget in respect of Legal and Democratic Services officer's time in checking reports, scheduling and attending meetings, member time and attendance and also facilities for room bookings, refreshments and attendance (for evening meetings).

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
From section 2 and as detailed within this report at points 6.2, 6.3 and 6.7.	The provisions for the recommendations are already contained within the relevant legislation. These provide for matters to be dealt with far more expeditiously.	By approving the recommendations this will serve to provide an effective, expedient and cost effective way of dealing with matters at the earliest opportunity whilst maintaining the statutory right of appeal to the Magistrates' Court.

(c) Human Rights Act 1998 and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equalities Impact Assessment screening has been completed and the conclusions are that there are no adverse or negative impacts of opportunity for any equality target group or for any reasons.

5 Supporting Information

5.1 On 24th February 2010 a report was presented to the Licensing Committee for certain powers to be delegated from the Licensing Committee to the Assistant Director Public Protection in respect of Private Hire and Hackney Carriage licensing. The Committee resolved to approve the recommendations as contained in the report and copy of the approved recommendations is attached at **APPENDIX A**. A copy of the minutes of the Committee meeting is attached at **APPENDIX B**.

5.2 At the Committee meeting a number of trade representatives expressed concerns over the proposals as approved, which are detailed in the minutes, and these concerns were further expounded upon by the trade representatives after the meeting

- 5.3 Following the Licensing Committee meeting on 24th February, meetings were arranged and held with representatives from Private Hire Operators and from the Private Hire and Hackney Carriage drivers to listen to their concerns and comments, to discuss the approved recommendations with them and to advise of proposed arrangements for a decision making process. Copies of minutes of the meetings are attached at **APPENDIX C**.
- 5.4 Having reflected on the concerns, views and comments of the trade representatives possible amended proposals have now been prepared for consideration of the Licensing Committee.

6. Amended Proposals for Consideration

- 6.1 The amended proposals for consideration in this report are detailed below.

Officers Delegated Powers

- 6.2 Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a PH or HC driver's license in any of but not limited to the following areas;
- where a current driver has been found guilty of an offence and has been imprisoned
 - where a current driver has been charged with an offence and has been remanded in police custody
 - conviction for dishonesty, indecency, violence, major traffic offences drunkenness with a motor vehicle, drugs and/or a combination of the listed offences
 - where it is found that the licensee does not have appropriate valid insurance
 - failing to comply with an officers request/obstructing officers in their course of duty
 - any other reasonable cause which includes, but is not limited to,
 - additional information disclosed on CRB check
 - information received from the chief police officer under separate cover
 - Knowingly made a false declaration / statement during the application procedure – Criminal offence Scale 3 - £1,000
- 6.3 Delegated powers to be given to the Assistant Director of Public Protection to refuse to grant a licence for any new applicant who fails to meet any of the criteria as detailed in the legislation or Council policies, including but not limited to;
- convictions (spent or not spent)
 - relevant cautions
 - additional information/separate cover notes received on/after the CRB
 - driving license history – points etc
 - Knowingly made a false declaration / statement during the application procedure. Criminal Offence Scale 3 £1,000
- 6.4 **Matters to be referred to licensing sub-committee (Are as contained in the original recommendations) and detailed below.**

- Private Hire or Hackney Carriage Driver Misconduct

It is proposed that matters of misconduct of Private Hire or Hackney Carriage Drivers where they do not fall within the above categories will still be referred to the licensing sub-committee for Members to determine. The reason for this is that such misconduct matters usually involve complaints and / or evidence from members of the public, the police, other outside agencies or other licence holders. It is usual for the licence holder to dispute the allegations/evidence and/or provide mitigation on the matter and therefore it is felt that these cases should be heard and determined by a Licensing Sub-Committee.

- Private Hire or Hackney Carriage Vehicles

Where the Driver's licence has been suspended or revoked it is generally felt that suspending or revoking the vehicle licence will not be necessary as it would deprive the licence holder of financial income as the vehicle may be rented out to or be used by another licensed driver.

- Private Hire Operators

Private Hire Operator owners provide employment either directly or indirectly by using or employing drivers and vehicles. Where the circumstances are such that Officers feel that any Private Hire Operators Licence should be considered for refusal to renew or be suspended or revoked the matter should be automatically referred to a Licensing Sub Committee to determine.

Any decision to refuse to renew or suspend or revoke an Operators licence would have immense implications on the service they provide to the public and for the drivers and vehicle licence holders that work for the Operator. There would in any case be great opposition and / or mitigation by the licence holder for these courses of action and this can only be dealt with by a Licensing Sub-Committee.

- Borderline decisions

In cases that are borderline, not clear-cut, where Licensing Officers disagree as to what decision/action should be taken or where it is felt necessary and appropriate the matter will be referred to the Licensing Sub-Committee for determination.

6.5 Grey areas

- Cautions

The Licensing Team are aware that a conviction is not the same as a caution however for a caution to be administered and accepted the following has to apply;

- There is a realistic prospect of conviction
- The offender admits the offence
- The offender understands the significance of a caution and gives informed consent to being cautioned

Therefore Members and Officers need to be aware that where any new applicant or current licensee has admitted they were guilty of the offence in order to receive the caution; in addition to this they have signed to the effect that they were guilty when accepting the caution at the police station.

It is felt that where applicants/current license holders have been given cautions the Councils 'Policy and Guidance on Convictions and Cautions to be used when Determining whether or not to Grant, Renew, Suspend or Revoke a Hackney Carriage or Private Hire drivers licence or a Private Hire Operators licence' should apply. Therefore, based on the details of the case, the information supplied by the Police or on the CRB form, the mitigation or details given by the driver and the guidelines within the policy document, it is requested that delegated powers be given to the Assistant Director of Public Protection Services whether to take no action, issue a warning, suspend/revoke the license or if it is felt necessary and appropriate to refer the matter to a Licensing Sub-Committee for determination.

6.6 As stated in the previous report under the relevant section of the legislation, any person aggrieved by the refusal to grant, renew, suspend or revoke any licence has a statutory right of appeal to the Magistrates' Court. At this time only the Licensing Committee have these powers. To ensure that all matters are dealt with in an efficient, expedient, and cost effective manner the proposed changes to delegated powers are recommended

6.7 Power to Suspend or Revoke a Taxi or Private Hire Driver's Licence with Immediate Effect.

6.8 Section 52 of the Road Safety Act 2006 amended the provisions contained within section 61 LGMP Act 1976 to enable Licensing Authorities to suspend or revoke a taxi or private hire drivers licence with 'Immediate Effect'. On 27th September 2007 The Licensing Committee formally resolved that – 'The power given to the Licensing Authority to suspend or revoke a taxi or private hire driver's licence with 'immediate effect' where they are of the opinion that the interests of public safety require such a course of action, should be delegated to the Licensing Manager, in consultation with the Chair of the Licensing Committee'. **The proposal is that this power should remain as it is and as originally approved in 2007.**

7. Decision Making Process.

7.1 A 'Decision Making Process' has been developed, consulted on and approved by Legal Services to be used by Officers including the Assistant Director Public Protection when either the original recommendations or the amended proposals have been approved by both the Licensing Committee and Full Council. The 'Decision Making Process' is attached at **APPENDIX D** and a flow chart detailing the 'Decision Making Process' is attached at **APPENDIX E**.

8. Conclusion

That the Licensing Committee consider the amendments to the original recommendations approved by the Licensing Committee on 24th February 2010 for powers to be delegated from the Licensing Committee to the Assistant Director, Public Protection in respect of Private Hire and Hackney Carriage

licensing as outlined in this report following consultation with trade representatives and:-

- (a) To decide if the amendments should be approved and if so for the original recommendations as approved to be rescinded, or
- (b) That the original recommendations as approved on 24th February 2010 to proceed as originally recommended.
- (c) To formally approve and adopt the 'Decision Making Process'

and, that in either case in (a) or (b) above that the Council's Constitution be amended accordingly.

Appendices Attached

- 'A' - Licensing Committee Recommendations to Council 24th February 2010 as approved.
- 'B' - Minutes of the Licensing Committee meeting of 24th February 2010.
- 'C' - Copies of minutes of meetings with trade representatives.
- 'D' - 'Decision Making Process'.
- 'E' - Flow Chart of 'Decision Making Process'

Background Papers

Report to the Licensing Committee of 24th February 2010
Report to the Licensing Committee of 29th September 2009
Local Government (Miscellaneous Provisions) Act 1976
Equality Impact Assessment Screening

APPENDIX A

Licensing Committee Recommendations to Council 24th February 2010:-

- (a) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage driver's licence in any of but not limited to the following areas:
- where a current driver has been found guilty of an offence and has been imprisoned
 - where a current driver has been charged with an offence and has been remanded in police custody
 - conviction for dishonesty, indecency, violence, major traffic offences
drunkenness with a motor vehicle, drugs and/or a combination of the listed offences
 - where it is found that the licensee does not have appropriate valid insurance
 - failing to comply with an officers' request/obstructing officers in the course of their duties
 - any other reasonable cause which includes, but is not limited to,
 - additional information disclosed on CRB check
 - information received from the chief police officer under separate cover
 - CCTV footage of incidents
 - Officers witnessing incidents, e.g. vehicles driving through red lights
 - Knowingly making a false declaration / statement during the application procedure.
- (b) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage vehicle license in any of but not limited to the following areas:
- where the vehicle is mechanically unfit to be a licensed vehicle and convey members of the public (defined via Certificate of Compliance or any other reason)
 - where there is no appropriate insurance in place
 - where the vehicle is visually unfit to be a licensed vehicle (suspension for a period of time to allow the licensee to repair or fix the problems).
- (c) Delegated powers to be given to the Assistant Director of Public Protection to refuse to grant a licence for any new applicant who fails to meet any of the criteria as detailed in the legislation or Council policies, including but not limited to:
- convictions (spent or not spent)
 - relevant cautions
 - additional information/separate cover notes received on/after the CRB
 - driving license history – points etc
 - a new application from a person who has recently had their license revoked by this or another licensing authority (including the Public carriage Office)
 - Knowingly makes a false declaration / statement during the application procedure

- (d) Delegated powers to be given to the Assistant Director of Public Protection to grant a licence with specific conditions attached or attach conditions to a licence which has already been granted, for example but not limited to:
- annual CRB for three years
 - driver to attend the licensing office on a monthly basis to provide original evidence of insurance, driving license etc
 - existing driver to undertake and pass DSA driving test within three months
- (e) That power to suspend or revoke a taxi or private hire drivers licence with immediate effect – the principle power to remain with the Licensing Manager and the Chair of the Licensing Committee. In the absence of the Licensing Manager this power should be delegated to any Senior Licensing Officer or Licensing Officer in consultation with the Chair. In the absence of the Chair, this power should be delegated to the Vice-Chair and in his/her absence to any of the three nominated Chairs of the Licensing Sub-Committee.

APPENDIX B

Licensing Committee – Meeting held on Wednesday, 24th February, 2010.

Present:- Councillors Davis (Chair), Dodds, Jenkins, Long, Maclsaac, Rasib, Qureshi and Shine.

Also present under Rule 30:- Councillors P Choudhry and Matloob.

PART 1

17. Apologies for absence

Apologies for absence were received from Councillors Bains, Chohan and Dale-Gough.

18. Declaration of Interest

Councillor Davis declared a personal interest as a member of his family worked for Burnham Cab.

Councillor Maclsaac declared a personal interest as a frequent user of the taxi service.

19. Minutes of the Last Meeting held on 4 November 2009

The Minutes of the meeting held on 4th November, 2009 were approved as a correct record.

20. Review of Delegated Powers

Mr Sims, Licensing Manager stated that a review of delegated powers had been carried out and Members were being requested for powers to be delegated from the Licensing Committee to the Assistant Director for Public Protection in respect of private hire and hackney carriage licensing matters. It was noted that the matter was originally put before the Licensing Committee in September 2009, where Members had raised a number of areas for clarification. The Licensing Manager reminded the Committee that currently where any new applicants with a private hire or hackney carriage driver licence were deemed not to be "fit or proper under the Act or in accordance with the current policy on convictions and cautions the applicant could lodge an appeal and have their application heard by Licensing Sub-Committee. Likewise, where a current licence holder had received any caution conviction or sentence for offences, or where there was a specific matter of misconduct and in the opinion of Licensing Officers, the licensee was deemed not to be fit and proper the matter was referred to a Licensing Sub-Committee.

The current Constitution delegated responsibilities for the purposes of private hire and hackney carriage licensing under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 to both the Licensing Committee, Licensing Sub-Committee and to Officers. However, the specific powers for Officers in relation to the refusal to grant or renew licences and for licences to be suspended or revoked were very limited and these lay primarily with the Licensing Committee and Licensing Sub-Committee.

Members were reminded of the current system, which included officers preparing a report to the Licensing Sub-Committee containing all the relevant information, evidence and fact. A hearing would then be arranged which required the attendance of a licensing officer, a democratic services officer and a legal officer. It was brought to Members attention that on occasions there had been some considerable time between the licensing officer preparing and submitting a report and the matter being heard by the Licensing Sub-Committee. The Licensing Manager stated that all referrals to the Licensing Sub-Committee and any subsequent appeals were time consuming and costly for the Licensing Team, and with the reduction of two staff within the team now even more so. It was proposed that delegating specific powers to Officers would reduce in the number of Sub-Committee meetings required and result in significant savings to the licensing budget, the member allowance claims, officer time in democratic and legal Services preparing for and attending meetings.

A benchmarking exercise had been conducted with twelve other local authorities including Wokingham, Reading, South Bucks, Royal Borough of Windsor and Maidenhead and Bracknell Forest. It was highlighted that the benchmarking exercise had revealed that most local authorities had introduced an officer delegation scheme similar to that being proposed.

Following concern expressed at the previous meeting with regard to the number of requests for deferral made by applicants in respect of their cases before the Sub-Committee, the Licensing Manager stated that following discussion with Legal Services and Democratic Services a clear defined policy with regard to requests for deferral could not be prepared. It was explained that each case should be dealt with on its own individual merit taking into consideration the applicant's reason for not attending the hearing, the reason for requesting an adjournment and the fact that the applicant had just failed to appear with no warning.

In summary, the Licensing Manager stated that the recommendations being proposed would not in any manner be detrimental to any new applicant or current license holder. It was further submitted that the proposals would provide an opportunity for matters to be dealt with in a far quicker and expeditious manner and as always providing the right of appeal to any decision made.

A number of representatives from the trade addressed Members of the Committee with regard to their concerns in relation to the proposed delegation of powers and included:

- (a) Mr Badial, representing Slough Taxi Drivers union, stated that no consultation had taken place with any members of the trade. It was submitted that elected members who represented the community should continue to make decisions and that the current system was operating fine. Furthermore no evidence had been presented that the current system was not working and in his opinion the introduction of the delegated powers would result in an increase in miscarriages of justice.
- (b) Mr S Khan, also representing Slough Taxi Drivers Union stated that the current system was working efficiently and that drivers were happy with elected Members making a decision.
- (c) Mr L Khan, representing Slough Hackney Carriage Association stated that the introduction of delegated powers would result in officers' having to make a subjective decision as to who was a 'fit and proper' person which was not a decision Officers of the Council should be responsible for.
- (d) Mr Ashraf, representing Slough Private Hire Drivers Association reiterated that no consultation had been sought with the trade and that the new system would

be open to abuse by individuals. Mr Ashraf added that drivers had confidence in the current system and that it was essential for any proposed changes to have the support from members of the trade.

Councillors P Choudhry and Matloob also addressed their concerns to the Committee stating that the current system was working efficiently and that the Licensing Sub-Committee was perceived as an impartial body to which both the licensing officer and appellant could present their information. It was submitted that the current system was perceived as fair. Concern was expressed that no consultation had been carried out with regard to the proposed measures. Councillor Choudhry stated that in his opinion, a tier of justice was being taken away from individuals, who would then have to appeal direct to the Magistrates Court if they were not happy with the Officer's decision.

In the ensuing discussion a number of points were raised both in favour and against the proposed delegation of powers and included:

- A Member expressed concern that substantive powers were being delegated to officers and that it was elected Members responsibility to assist the public and therefore Members should not abdicate their responsibility in making these decisions.
- A number of Members stated that the proposed delegated powers would result in a more efficient system which would not only protect the public but also the drivers.
- A Member stated that it was important for there to be third party involvement from the councillors as the Licensing Officers needed to distance themselves from making the decision as they were not only ascertaining all the information in the first instance but then also being required to make a decision.
- A Member clarified that the hearings that took place with the Licensing Officers would also have the attendance of a legal officer and that all discussions and outcomes would be properly documented.

Recommended to Council:-

(a) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage driver's licence in any of but not limited to the following areas:

- where a current driver has been found guilty of an offence and has been imprisoned
- where a current driver has been charged with an offence and has been remanded in police custody
- conviction for dishonesty, indecency, violence, major traffic offences drunkenness with a motor vehicle, drugs and/or a combination of the listed offences
- where it is found that the licensee does not have appropriate valid insurance
- failing to comply with an officers' request/obstructing officers in the course of their duties
- any other reasonable cause which includes, but is not limited to,
 - additional information disclosed on CRB check
 - information received from the chief police officer under separate cover
 - CCTV footage of incidents
 - Officers witnessing incidents, e.g. vehicles driving through red lights

- Knowingly making a false declaration / statement during the application procedure.
- (b) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage vehicle license in any of but not limited to the following areas:
- where the vehicle is mechanically unfit to be a licensed vehicle and convey members of the public (defined via Certificate of Compliance or any other reason)
 - where there is no appropriate insurance in place
 - where the vehicle is visually unfit to be a licensed vehicle (suspension for a period of time to allow the licensee to repair or fix the problems).
- (c) Delegated powers to be given to the Assistant Director of Public Protection to refuse to grant a licence for any new applicant who fails to meet any of the criteria as detailed in the legislation or Council policies, including but not limited to:
- convictions (spent or not spent)
 - relevant cautions
 - additional information/separate cover notes received on/after the CRB
 - driving license history – points etc
 - a new application from a person who has recently had their license revoked by this or another licensing authority (including the Public carriage Office)
 - Knowingly makes a false declaration / statement during the application procedure
- (f) Delegated powers to be given to the Assistant Director of Public Protection to grant a licence with specific conditions attached or attach conditions to a licence which has already been granted, for example but not limited to:
- annual CRB for three years
 - driver to attend the licensing office on a monthly basis to provide original evidence of insurance, driving license etc
 - existing driver to undertake and pass DSA driving test within three months
- (g) That power to suspend or revoke a taxi or private hire drivers licence with immediate effect – the principle power to remain with the Licensing Manager and the Chair of the Licensing Committee. In the absence of the Licensing Manager this power should be delegated to any Senior Licensing Officer or Licensing Officer in consultation with the Chair. In the absence of the Chair, this power should be delegated to the Vice-Chair and in his/her absence to any of the three nominated Chairs of the Licensing Sub-Committee.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 8.00 pm)

Zia Minhas raised the following concerns:

Feels that licensing officers are doing a good job, however feels that officers will have too much delegation to deal with. Also queried whether officers will have laws in front of them to be followed.

Sarfraz Khan raised the following concerns:

Would be good to take control of serious cases such as alcohol/drugs/rape however would prefer other cases e.g. vehicle problems be dealt with by Licensing Committee.

Karamat Hussain raised the following concerns:

Mr Hussain feels that licensing officers are overloaded with work themselves. Drivers tend not to let cases go to court due to court fees.

PK explained extent of what is being proposed by reviewing the way we work and could improve the way we deal with cases.

The areas the Delegated Officer will cover are proposed to be:

- Where current driver is found guilty of an offence and has been imprisoned.
- Where driver has been charged with offence and been remanded in prison.
- Where there has been a conviction with drugs/drinking offences etc.
- Where driver is driving without valid insurance

These issues are of a serious nature, general cases will go to licensing committee.

LK raised issue of drivers having to deal with nuisance members of the public.

PK advised that if a driver was assaulted by public it will be for the Police to investigate. Local authority would not interfere until the court had made a decision.

ZM raised issue regarding a private hire driver being pulled in for affray in the High Street, later the charges were dropped and still got a slap on wrist from SBC. RR advised the facts are different in this case. PK said this sort of case would be dealt with in normal way and not go up to Assistant Director.

PB feels that confidence between officers and drivers is low and need to improve.

Another case raised where a driver was using incorrectly using a disabled badge and was later banned from driving taxi for a period of time. PB asked why licensing officers told this driver he cannot drive that vehicle for 3 months. RR advised the driver cannot drive vehicle while still plated as taxi.

ZM feels it would be helpful being told of issues in writing. However in some cases there are confidentiality issues with giving information out, unless drivers agree.

Notes of Meeting between Operators and Officers
Enhanced Officer delegation from Licensing Committee

10th March 2010, Conference Room 2, Landmark Place

Present:	Pat Kelleher	SBC
	Mick Sims	SBC
	Rachael Rumney	SBC
	Abid Rehman	New Sovereign Cars
	Haqueeb Dar	Compass Radio Car
	Zefren Khan	711 Cars

Note taker: Raj Johal SBC

Introductions were noted around the table and PK welcomed those present.

From Full Licensing Committee on 24th March 2010 it has been proposed to delegate some roles to Assistant Director of Public Protection.

PK asked for thoughts and concerns around the table.

MS handed out report on Delegated Powers which lists powers to be delegated to Assistant Director of Public Protection.

Proposals specifically affect drivers not operators.

HD raised issue with drivers being held in remand and having their taxi licence suspended. PK advised that these issues are left with the court to decide. If the driver is not found guilty he will be given the taxi licence back. HD feels this point is irrelevant as if the driver is in remand they cannot drive anyway.

It has been advised this proposal is not the final version and can be changed if captured appropriate points.

MS advised Licensing Team will not get new powers. PK will have delegated powers to deal with serious cases. General cases will still go to Members at Licensing Sub Committee.

ZK asked if a driver can apply again for a revoked license. MS confirmed they can re-apply within 12 months, however all depends on type of case.

HD made query in reference to point 6 of report on 'Current Licence Holders' "where a vehicle is mechanically unfit to be a licensed vehicle and convey members of the public (defined via Certificate of Compliance or any other reason" – can a licence be revoked under this point? MS confirmed a licence can only be revoked under very serious circumstances. Officers will still be using verbal and written warnings before cases go to licensing committee or PK.

Operators feel point 6 & 7 on report are similar "Current Licence Holders" – need to check.

Operators asked what will happen to the fee which is put through for applications. PK advised this will cover resources and officer time spent on assessing the application.

MS advised all applications will be CRB checked and will also check if driver is fit to be given license. In some cases a CRB shows when a driver has been arrested, in cases like this, officers will interview the person to discuss the circumstances.

Operators raised issue of dealing with abusive members of the public. MS advised that Thames Valley Police are looking at enhancing safety of drivers and looking at relevant guidance for drivers on how to deal with these cases.

APPENDIX D

Decision Making Process – Delegated Powers

New Application (HC and PH Driver only)

1.0 Licensing Officer

- 1.1 New application for HC or PH driver licence received.
- 1.2 Relevant convictions or cautions, disclosed on receipt of the application or as a consequence of subsequent CRB check.
- 1.3 Licensing Officers will consider the application in line with the Council's "Policy and Guidance on Convictions and Cautions to be used when determining whether or not to grant, review, suspend or revoke a HC/ PH drivers licence or PH Operators licence".
- 1.4 If the Licensing Officer considers that the convictions or cautions are such that the applicant may not be a 'Fit and Proper Person' the officer will advise the applicant accordingly and invite him to attend for formal interview, together with an advocate should he wish.
 - Alternatively, the applicant may choose to make representations in writing within 5 working days
 - Due consideration will be given to all representations and the applicant advised in writing of the Officers recommendation to the Assistant Director Public Protection
 - Using the "Licensing Officer Referral Form the Licensing Officer will prepare a report for consideration by the Assistant Director.

2.0 Assistant Director

- 2.1 On receipt of the Licensing Officer referral together with all relevant information, material and recommendation the Assistant Director will convene a meeting within 5 working days to:-
 - Consider a report from the Licensing Officer together with written or personal representations from the applicant, including through an appointed advocate
 - The overriding consideration will be the safety and protection of the public and that the applicant is or is not a 'Fit and Proper Person'.
 - The decision to grant or refuse the application will be notified to the applicant in writing within 5 working days of decision, detailing clearly and fully the justifiable reasons for the refusal; and
 - Inform the applicant of the right of appeal, as contained in the Local Government (Miscellaneous provisions) Act 1976, to the Magistrates Court by any person aggrieved by a decision of a local Authority.

Current Licence Holder (HC and PH Driver only)

3.0 Licensing Officer

- 3.1 Relevant convictions or cautions are brought to the attention of the Licensing Team or on a CRB check at renewal.
- 3.2 Licensing Officers will consider the convictions or cautions in line with the Council's "Policy and Guidance on Convictions and Cautions to be used when determining whether or not to grant, review, suspend or revoke a HC/ PH drivers licence or PH Operators licence".
- 3.3 If the Licensing Officer considers that the convictions or cautions are such that the licence holder may no longer be deemed to be a 'Fit and Proper Person' the officers will advise the licence holder accordingly and invite him to attend for formal interview, together with an advocate should he wish:
- Alternatively, the licence holder may choose to make representations in writing within 5 working days..
 - Due consideration will be given to all representations and the licence holder advised in writing of the Officers recommendation to the Assistant Director Public Protection.
 - Using the "Licensing Officer Referral Form" the Licensing Officer will prepare a report for consideration by the Assistant Director

4.0 Assistant Director

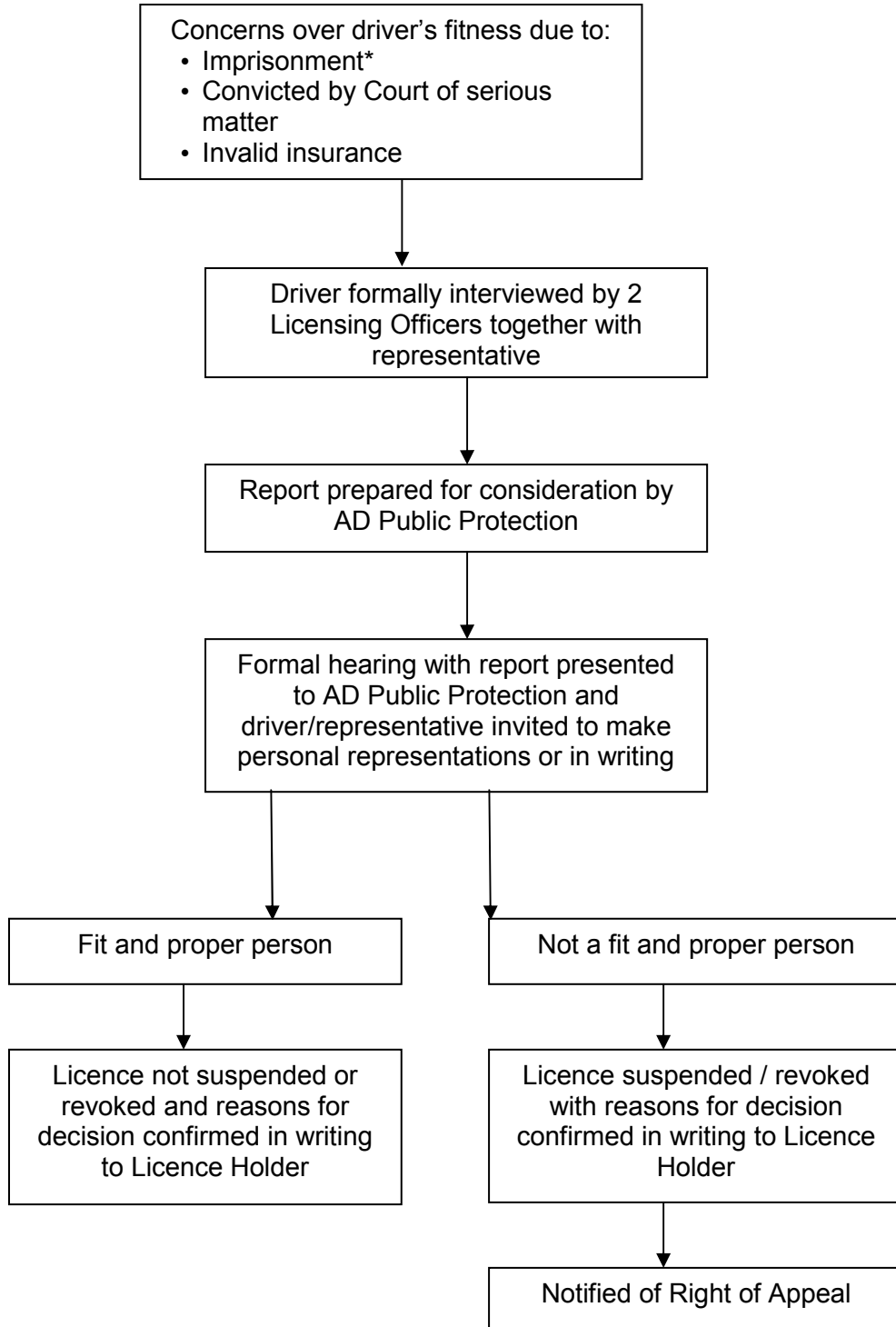
- 4.1 On receipt of the Licensing Officer referral together with all relevant information, material and recommendation from the Assistant Director will convene a meeting within 5 working days to:-
- Consider a report from the Licensing Officer together with written or personal representations from the licence holder, including through an appointed advocate.
 - The overriding consideration will be the safety and protection of the public and that the licence holder is or is not a 'Fit and Proper Person' to continue to hold a drivers licence.
 - The decision to renew, refuse to renew, suspend or revoke the licence he will be notified to the applicant in writing within 5 working days detailing clearly and fully the justifiable reasons for the decision; and
 - Inform of the right of appeal, as contained in the Local Government (Miscellaneous provisions) Act 1976, to the Magistrates Court by any person aggrieved by a decision of a local Authority.

APPENDIX E

Flow Chart to illustrate proposed delegation to Assistant Director Public Protection in relation to Private Hire and Hackney Carriage Drivers Licences.

Flow Chart 1

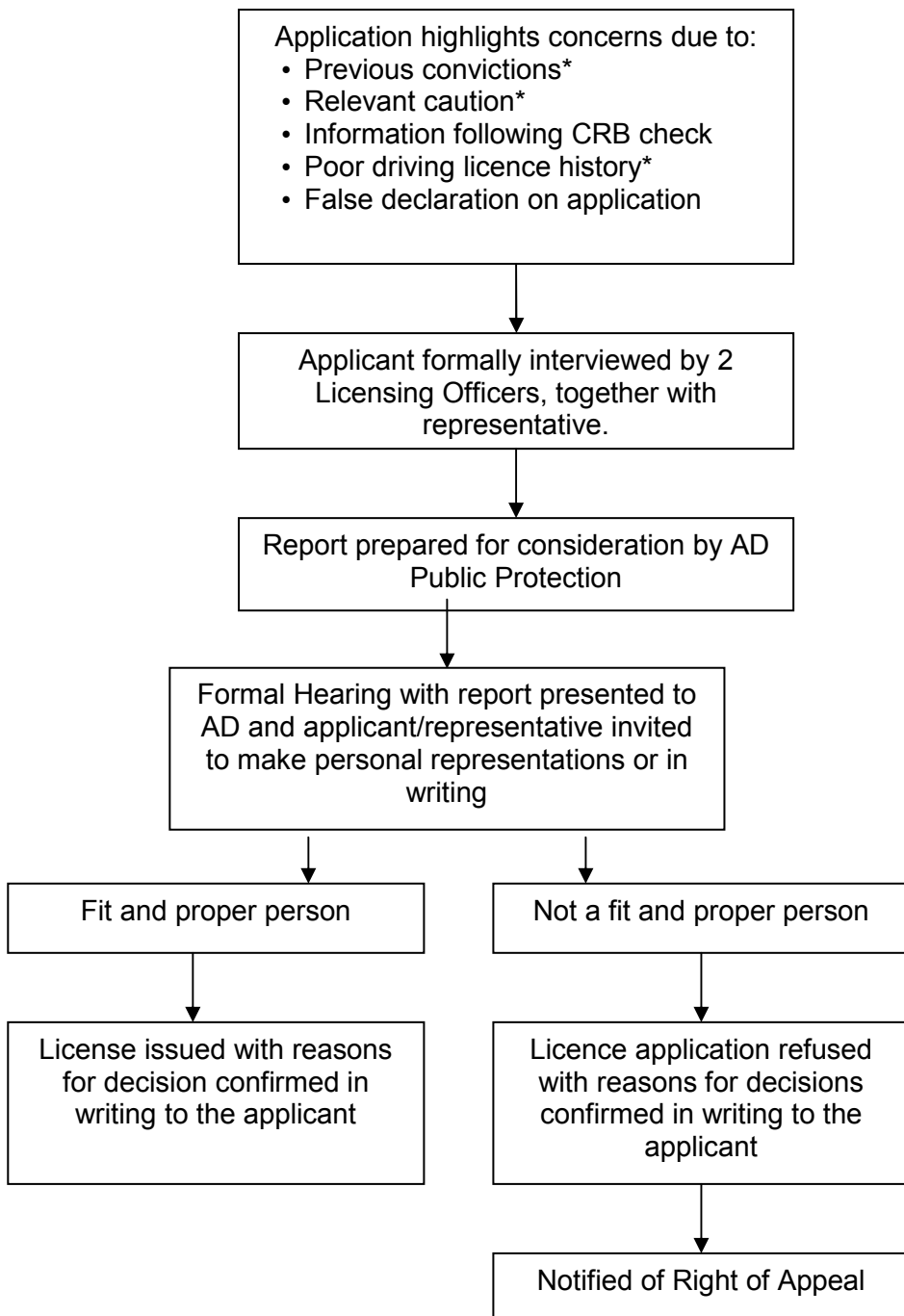
Existing Licence Holder



*automatic revocation of licence

Flow Chart 2

New Applicant



*as per current Policy and Guidelines on Convictions and Cautions.

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 28th September 2010

CONTACT OFFICER: Michael Sims, Licensing Manager
(For all Enquiries) (01753) 477387

WARD(S): All

PART I
FOR DECISION

ADDITION TO PRIVATE HIRE AND HACKNEY CARRIAGE LICENCE CONDITIONS

1. **Purpose of Report**

To consider a recommendation from Thames Valley Police to amend licence conditions for Private Hire and Hackney Carriage drivers to include the following new condition.

“Drivers may not initiate in any dialogue of a “sexual nature” with a passenger. Licensed drivers are not permitted to become involved “sexually”, or have sexual contact, even with consent, whilst in a licensed vehicle”.

2. **Recommendation(s)/Proposed Action**

The Committee is requested to consider and approve any of the following options.

- (a) To approve the condition in its current wording.
- (b) To approve the condition with amended wording if necessary.
- (c) If it is felt necessary to authorise the Licensing Team to consult with representatives of the Hackney Carriage and Private Hire Trade and for the matter to be put before the Committee at a later date.

3. **Community Strategy Priorities–**

- **Being Safe, Feeling Safe**
- **Prosperity for All**

4. **Other Implications**

(a) Financial

There are no financial implications of proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
From section 2 above	Approving the new condition will assist in protecting vulnerable persons, particularly women	Nil

	travelling in licensed Private Hire and Hackney Carriage vehicles	
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(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(d) Equalities Impact Assessment

An Equality Impact Assessment has been completed and there is no evidence of adverse or negative impact of opportunity for any equality group or for any other reason.

5. Supporting Information

5.1 Thames Valley Police has a special unit responsible for strategy in relation to protecting vulnerable people called the Public Vulnerable People Strategy Unit. The Officer in charge of this unit has contacted all Local Authorities in the Thames Valley Police area including Slough with regards to the number of sexual assaults on women by either Private Hire or Hackney Carriage drivers.

5.2 The statistics from Thames Valley Police in relation to Serious Sexual Assault and Sexual Assault reported and recorded are detailed below:

01/04/2007 to 31/03/2008

Serious Sexual Assault – 1 (Windsor)

Sexual Assault – 2 (Slough)

01/04/2008 to 31/03/2009

Serious Sexual Assault – 1 (Wraysbury)

Sexual Assault – 2 (Slough)

01/04/2009 to 31/03/2010

Serious Sexual Assault – 0

Sexual Assault – 4 (Slough)

01/04/2010 to 05/07/2010

Serious Sexual Assault – 1 (Area not detailed)

Sexual Assault – 1 (Area not detailed)

5.3 The statistics show that there have been a number of Serious / Sexual Assaults in Slough and other local areas since 2007.

5.4 The Thames Valley Police Public Vulnerable People Strategy Unit are running a campaign across the whole Thames Valley Police area to include a specific

condition for all drivers to refrain from any activities of a sexual nature in licensed vehicles. The reason for this is that where drivers are accused of such assaults, the most frequent defence is that the passenger consented to the activity. In order that drivers cannot use this defence, it is recommended that the licence conditions are amended so that any driver who puts forward this defence is in breach of the licence condition and may have his licence revoked.

- 5.5 The condition as detailed in this report has been adopted locally at Windsor and Maidenhead with West Berkshire also proposing to adopt the same condition. A number of other local authorities across the Thames Valley area have also adopted the condition with Bracknell Forest and Reading having adopted it with slight amendments to the wording.
- 5.6 Since 2007 the Licensing Team in conjunction with the Chair of the Licensing Committee have used the amendments to Section 61 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 52 of the Road Safety Act 2006 to suspend and revoke two drivers licence for offences involving sexual assault with "Immediate Effect", where they have been of the opinion that the interests of public safety required such a course of action. These offences were notified to the Licensing Team by the Thames Valley Police Notifiable Occupations Coordinator.
- 5.7 The Public Vulnerable People Strategy Unit now has dedicated Intelligence Officers in place across the Thames Valley Police area who are in direct contact with the Notifiable Occupations Coordinator which will make notifications of such offences committed by drivers to the Licensing Team far more expedient.
- 5.8 By adopting the new recommended condition it will assist further in protecting all vulnerable persons and in particular, women in Slough.

6. **Comments of Other Committees**

None

7. **Conclusion**

The Committee is requested to consider and approve any of the following options.

- (a) To approve the condition in its current wording.
- (b) To approve the condition with amended wording if necessary.
- (c) To authorise the Licensing Team to consult with representatives of the Hackney Carriage and Private Hire Trade and for the matter to be put before the Committee at a later date.

8. **Appendices Attached**

None

9. **Background Papers**

Equality Impact Assessment

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MEMBERS' ATTENDANCE RECORD

COUNCILLOR	03/06	22/07	28/09	03/11	19/01	23/02	29/03
S Chaudhry	Ap	P					
Chohan	Ab	-	-	-	-	-	-
P Choudhry	P* (See Note 1)	P					
Davis	P	P					
S K Dhaliwal	P	Ap					
Dhillon	-	P					
Dodds	Ap	P					
Long	P	P					
Maclsaac	P	P					
Rasib	P	P					
Shine	Ap	Ap					
Sohal	P	P					

P = Present for whole meeting
Ap = Apologies given

P* = Present for part of meeting
Ab = Absent, no apologies given

(Note 1: Part attendance due to not having attended the appropriate training to consider matters on the remainder of the agenda)

(NB: Councillor Dhillon replaced Councillor Chohan on the Committee from 29th June 2010)

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