

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 20th October 2016

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WARD(S): ALL

PART I

FOR DECISION

AMENDMENT TO THE WORDING OF THE 'NO SEXUAL CONTACT' CONDITION FOR PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS

1. **Purpose of Report**

For Members to approve the proposed amendments to the 'No sexual contact' condition (previously approved in 2010).

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

The Committee is requested to resolve the approval of the amended wording of the 'No Sexual Contact' Condition, as set out in Para 5.4 of the report (previously approved in 2010).

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The role of the licensing authority is the protection, safety and wellbeing of the public.

The original 'No sexual contact' condition was approved by the Licensing Committee on 3rd November 2010. Since that date there have been a number of complaints made by female passengers to the Licensing Team and to the Police that drivers have been telephoning them on their mobile phones making unwarranted verbal sexual advances and inappropriate comments.

Approving the proposed amended wording to the condition will go further in protecting vulnerable persons, particularly women travelling in licensed Private Hire and Hackney Carriage vehicles.

3a. **Slough Joint Wellbeing Strategy Priorities**

As the protection, safety and wellbeing of the public is paramount the proposed amended wording of the 'No sexual contact' condition will go further to ensure that drivers do not initiate or engage in any dialogue of 'sexual nature' with any passengers in particular female passengers.

The approval of the amended wording will contribute to the wellbeing priority of:

- Safer Communities

Cross-Cutting themes:

The approval of the amended wording of the condition will also contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The report outlines that the original condition was approved by the Licensing Committee in 2010 at the request of the Thames Valley Police Public Vulnerable People Strategy Unit.

The approval of the amended wording of the condition will therefore contribute to the Five Year Plan.

The specific Five Year Plan Targets are:

- Slough will be one of the safest places in the Thames Valley
- Children and young people in Slough will be healthy, resilient and have positive life chances

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 proposed amended wording to the condition will assist in protecting vulnerable persons, particularly women travelling in licensed private Hire and hackney Carriage vehicles.	Nil

(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 was completed in 2010 which highlighted that there was no evidence of any adverse or negative impact of opportunity for any equality group or for any other reason. The amended wording of the condition is not a significant change, it goes further to protect vulnerable persons, particularly women travelling in licensed Private Hire and Hackney Carriage vehicles and there is no impact on any licensed driver.

5. Supporting Information

- 5.1 On 3rd November 2010 the Licensing Committee approved a new 'No sexual contact' condition for all licensed Private Hire and Hackney Carriage drivers as follows:

"Licensed drivers may not initiate 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, with a passenger whilst on duty or in a licensed vehicle".

Nearly all other local authorities in the Thames Valley Police area also adopted the condition in the same or similar wording.

- 5.2 The original condition, as previously approved which was subject of a full consultation with all driver and operator licence holders, was originally requested by the Thames Valley Police Public Vulnerable People Strategy Unit who at the time were 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 was that where drivers are accused of sexual assaults, the most frequent defence was that the passenger consented to the activity. In order that drivers could not use this defence, it was recommended that the licence conditions were amended so that any driver who puts forward this defence is in breach of the licence condition and may have his licence revoked.
- 5.3 Since the introduction of the 'No sexual contact' condition there have been a number of complaints made to the Licensing Team and the Police that drivers have been telephoning them on their mobile phones making unwarranted verbal sexual advances and comments with 6 complaints in the last 2 years.
- 5.4 In light of the above, the revised 'No sexual contact' condition to be approved has been amended as follows:

"Licensed drivers shall not initiate, respond to, or engage in any dialogue of a sexual nature with a passenger, including communication by telephone contact, social media, email or any other form of communication. Licensed drivers are not permitted to become involved sexually or have sexual contact, even with consent, with a passenger whilst on duty or in a licensed vehicle".

The purpose of the amended wording is to ensure that drivers do not initiate or engage in any dialogue of 'sexual nature' with any passengers..

5.5 Consultation on the wording of the amended condition has not been carried out as legal advice has confirmed that the amended condition is not deemed to be a significant change, it goes further to protect the safety and wellbeing of the public including vulnerable persons and female passengers and there is no adverse impact on the licence holders. However all licensed Private Hire and Hackney Carriage drivers were written to on 15th August 2016 as part of a consultation on other matters, advising them of the amended wording.

6. **Comments of Other Committees**

The original condition was approved by the Licensing Committee on 23rd November 2010.

7. **Conclusion**

The Committee is requested to resolve the approval of the amended wording of the 'No sexual contact' condition

8. **Appendices Attached**

None

9. **Background Papers**

'1' - Equality Impact Assessment