



**Committee:** LICENSING REGULATORY COMMITTEE

**Date:** THURSDAY, 15 OCTOBER 2015

**Venue:** MORECAMBE TOWN HALL

**Time:** 1.00 P.M.

## A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of the meeting held on 3 September 2015 (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests, which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests, which they have already declared in the Register, at this point in the meeting.

In accordance with Part B, Section 2 of the Code of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

### **Matters for Decision**

5. **Local Government (Miscellaneous Provisions) Act 1976 - Private Hire Vehicle Licensing - Request for Waiver of Licence Conditions Requiring Display of the Council's Uniform Signage - Paul Cumpsty (Pages 1 - 5)**

Report of Licensing Manager

6. **Local Government (Miscellaneous Provisions) Act 1982 - Application to Renew a Sex Shop Licence - Sin-Til-Late, Morecambe (Pages 6 - 17)**

Report of Licensing Manager

7. **The Status and Implications of a Written Warning - Hackney Carriage and Private Hire Driver and Private Hire Operator** (Pages 18 - 31)

Report of Licensing Manager

8. **Multi-Agency Vehicle Inspection Operation** (Pages 32 - 33)

Report of Licensing Manager

**Exclusion of the Press and Public**

9. **Confidential Items**

The following reports are not for publication because they contain confidential information and will be considered whilst the public are excluded from the meeting. The applicants have been invited to attend and/or be represented at the meeting, but will be asked to leave whilst the committee makes the decisions, as exempt legal advice may be given.

Members are advised that, in accordance with Section 100A(2) of the Local Government Act 1972, the press and public should be excluded for the following items of business on the grounds that they could include the possible disclosure of confidential information.

10. **Application for a Private Hire and Hackney Carriage Dual Driver's Licence - Mark Lee Rowbotham** (Pages 34 - 39)

Report of Licensing Manager

**ADMINISTRATIVE ARRANGEMENTS**

**(i) Membership**

Councillors Margaret Pattison (Chairman), Terrie Metcalfe (Vice-Chairman), Charlie Edwards, Andrew Gardiner, Nigel Goodrich, Tim Hamilton-Cox, Colin Hartley, Rebecca Novell and Robert Redfern

**(ii) Substitute Membership**

Councillors Sam Armstrong, Claire Cozler, Sheila Denwood, Andrew Kay, Roger Mace and John Wild

**(iii) Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068, or email [jglenton@lancaster.gov.uk](mailto:jglenton@lancaster.gov.uk).

**(iv) Changes to Membership, substitutions or apologies**

Please contact Democratic Support, telephone (01524) 582170, or email [democraticsupport@lancaster.gov.uk](mailto:democraticsupport@lancaster.gov.uk).

MARK CULLINAN,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER, LA1 1PJ

Published on Wednesday, 7 October 2015.

**LICENSING REGULATORY COMMITTEE**

**Local Government (Miscellaneous Provisions) Act 1976  
Private Hire Vehicle Licensing – Request for Waiver of  
Licence Conditions Requiring Display of the Council’s  
Uniform Signage – Paul Cumpsty  
15<sup>th</sup> October 2015**

**Report of Licensing Manager****PURPOSE OF REPORT**

An application for a private hire vehicle licence has been received from Mr Paul Cumpsty. Together with his application the applicant has requested a waiver of the standard licence condition requiring the display of the Council’s uniform signage. The purpose of this report is to enable Members to consider the request.

**The report is public**

**RECOMMENDATIONS**

**The Committee is requested to determine, in the light of the representations made, whether to allow the applicant’s request for a waiver of the standard vehicle licence conditions requiring the display of the Council’s uniform door signage and plates.**

**1.0 Introduction**

- 1.1 Under section 48(2) of the Local Government (Miscellaneous Provisions) Act 1976, a District Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary including, without prejudice to the generality of the foregoing provisions of this subsection, conditions requiring or prohibiting the display of signs on or from the vehicle to which the licence relates under Section 48(6) of the above Act. Any person aggrieved by the refusal of a District Council to grant a vehicle licence under this Section, or by any conditions specified in such a licence, may appeal to a Magistrates’ Court.
- 1.2 For the purpose of the above, the Council has established conditions attached to the grant of a private hire vehicle licence.
- 1.3 Members will note that condition No. 3 of the standard conditions provides that a plate "shall be securely fixed to the rear of the vehicle in a conspicuous position and a further plate should be fixed at the front of the vehicle. Additionally, door signs supplied by Lancaster City Council must be affixed to the front doors of the vehicle."
- 1.4 The purpose of plates and uniform signage is to enable members of the public to identify licensed vehicles, and also to differentiate between a hackney carriage and a

private hire vehicle. Therefore, it is considered that such signs are essential from a public safety point of view.

- 1.5 An application for a private hire vehicle licence has been received from Mr Paul Cumpsty. In his application, Mr Cumpsty has proposed to license a Mercedes E Class saloon. The vehicle has been granted a licence which commenced on 30<sup>th</sup> September 2015 and is currently subject to all of the standard conditions relating to signage. Mr Cumpsty has requested a waiver of the standard licence conditions requiring the display of the Council's uniform door signage on the grounds that the Mercedes has been purchased on the basis of having secured contracts with several local businesses and hotels who use his company on a regular basis to transport clients to and from the airport and who are looking for a company that can offer an executive service well above and beyond that which local taxis operating off radio services are able to offer.
- 1.6 A copy of Mr Cumpsty's request is attached at Appendix No.1 to this report.
- 1.7 Members would not normally grant an exemption of this sort unless they were satisfied that the vehicle was being used only for an exclusive contract(s) and Mr Cumpsty's letter attached does confirm this to be the case with the Mercedes.
- 1.8 Members may recall that other operators offering airport services have always been refused this exemption, on the basis that the signs are required to protect the safety of the public. Moreover, allowing a private hire vehicle to operate without signs would, in officers' view, be a dangerous precedent, as members of the public would no longer be able to rely on the fact that a licensed vehicle will always display uniform Council signage.
- 1.9 Mr Cumpsty has been invited to attend the meeting to make representations in support of his request. Arrangements are also being made to enable Members to view the applicant's vehicle prior to this meeting.

**2.0 Conclusion**

- 2.1 Members are asked to consider whether they are satisfied to allow the applicant's request for a waiver of the standard licence conditions requiring the display of the Council's uniform door signage and plates. If the waiver is granted, Mr Cumpsty will be required to keep the rear plate in the boot of the vehicle and display an internal card on the dashboard of the vehicle.
- 2.2 Officers would recommend that this request is refused unless Mr Cumpsty can clearly demonstrate that the vehicle will only be used to carry out an exclusive contract(s), as the condition on signage was introduced to enable licensed vehicles to be easily identifiable to members of the public in the interest of public safety.

**CONCLUSION OF IMPACT ASSESSMENT  
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None.

**FINANCIAL IMPLICATIONS**

Financial Services have not been consulted as there are no financial implications.

**LEGAL IMPLICATIONS**

Should Members be minded to refuse the applicant's request for a waiver of certain standard licence conditions, the applicant would have a right of appeal to the Magistrates' Court against the issue of a licence which included those conditions.

**BACKGROUND PAPERS**

None

**Contact Officer:** Wendy Peck  
**Telephone:** 01524 582317  
**E-mail:** wpeck@lancaster.gov.uk  
**Ref:** WP/DWE

RECEIVED 28 SEP 2015



9/19/2015

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Paul Cumpsty  
Bay Transfers  
28 Hale Carr Grove  
Heysham  
LA3 2AD

Licensing Dept  
Lancaster City Council

**Dear Sir/Madam**

I am enclosing this letter with my application for a private hire vehicle license on my newly acquired 2014 Mercedes E Class Estate as per J Greenall's advice in the attached email. I currently operate a Ford S-Max and a Vauxhall Vivaro Minibus under my company (Bay Transfers) but I have just purchased a Mercedes E Class due to customer demand.

The two vehicles that are currently licensed are mainly used for airport transfers but they both also contain radios/meters and are regularly working around town on the meter and this set up is perfectly fine. The Mercedes however has been bought due to us securing contracts with several local businesses/hotels who use us week after week to transport clients to and from the airport and are looking for a company that offers a executive service above and beyond what the local radio taxis can offer.

This is a line of work we would like to progress and also look at other options such as luxury cars for special occasions, with the image that we are trying to build as a company and the line of work that this Mercedes will be used for and also bearing in mind this car will never be a radio taxi or have a meter fitted it would affect our image/progression of the company if the car had to have the large yellow private hire door stickers fitted.

It would be greatly appreciated if you would consider my Mercedes to run without door signs like Heysham Limos vehicles as this vehicle really does look the part and I would like to raise the image and the service offered by private hire vehicles in the Lancaster/Morecambe area.

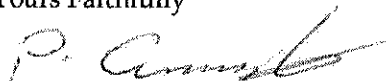
Joanne had mentioned in her email that a request to operate without door stickers may delay my application, if this is the case then I am happy to have the vehicle tested and apply the

Bay Transfers

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stickers to then be able to fulfil my bookings but then hopefully remove them if the committee are happy with my request. I would be more than happy to present the vehicle for inspection to help with the decision, it really is a fantastic car and it would take away from the executive image by having to apply the stickers.

Yours Faithfully



Paul Cumpsty

Director

Bay Transfers

[www.baytransfers.co.uk](http://www.baytransfers.co.uk)

07800 873571

**LICENSING REGULATORY COMMITTEE**

**Local Government (Miscellaneous Provisions) Act 1982  
Application to Renew a Sex Shop Licence  
Sin-Til-Late, Morecambe  
15<sup>th</sup> October 2015**

**Report of Licensing Manager****PURPOSE OF REPORT**

An application to renew a sex shop licence has been received from Sin-Til-Late in Morecambe. An objection has been received and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 Schedule 3 the committee is required to consider the objection to determine whether to renew the licence or not.

**The report is public**

**RECOMMENDATIONS**

**The Committee is requested to determine, in the light of the representations made, whether to renew the licence for the sex shop known as Sin-Til-Late, as applied for.**

**1.0 Introduction**

- 1.1 The Council grants and renews sex establishment licences in accordance with Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Sex shops fall within the definition of sex establishments.
- 1.2 An application to renew the licence for the premises known as Sin-Til-Late in Morecambe was received on 28<sup>th</sup> August 2015. The premises was first granted a licence on 2<sup>nd</sup> October 2008, and this has been renewed annually. A copy of the application is attached at Appendix 1 to this report. A copy of the existing licence and the attached conditions is attached at Appendix 2 to this report. No complaints have been received about the operation of the premises during the currency of the licence.
- 1.3 The application was duly advertised as required by the statutory provisions and an objection was received within the 21 day period. A copy of the objection is attached at Appendix 3 to this report.
- 1.4 The grounds for refusal to grant or renew a licence are set out in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, and the relevant ground in respect of the current objection would appear to be that set out at paragraph 12(3)(d), as follows:
- (d) that the grant or renewal of the licence would be inappropriate, having regard—  
(i) to the character of the relevant locality; or  
(ii) to the use to which any premises in the vicinity are put; or



(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

- 1.5 Case law indicates that, on an application to renew a licence, it is not necessary for an objector to demonstrate that something has changed since the decision to grant the licence. Were the position otherwise, the efficacy of annual reconsideration would be much reduced. However the decision maker has to have due regard to the fact that a licence was previously granted. If there is no relevant change of circumstances the decision maker must give reasons for departing from the earlier decision. In the event of an appeal, the court would consider whether such reasons are rational.
- 1.6 In accordance with schedule 3 of the LG(MP)A1982, where the local authority receives any objection, the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. The appropriate authority shall give an opportunity of appearing before and being heard by a committee or sub-committee.
- 1.7 The applicant has been duly informed about the content of the objection and has been invited to attend this committee today to make representations. The objector has also been invited to attend to make representations to the committee.

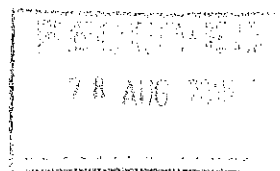
**2.0 Conclusion**

- 2.1 Members are asked to consider in the light of representations made whether they are content to renew the sex establishment licence for the premises known as Sin-Til-Late in Morecambe.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>	
The impact of human rights legislation has been considered in relevant case law. Whilst Article 10 (the right to freedom of expression) and Article 1 of the First Protocol (right to enjoyment of possessions) are engaged, these rights should be balanced against the protection of the public interest.	
<b>FINANCIAL IMPLICATIONS</b>	
Financial Services have not been consulted as there are no financial implications.	
<b>LEGAL IMPLICATIONS</b>	
Appeal against refusal to renew on the grounds set out in Sch.3 para.12(3)(c) and (d) would be to the High Court by way of Judicial Review.	
<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> Wendy Peck <b>Telephone:</b> 01524 582317 <b>E-mail:</b> wpeck@lancaster.gov.uk <b>Ref:</b> WP
None	



Promoting City, Coast & Countryside



Date Rec.	
Receipt No.	
Entered on Lalpac	

**APPLICATION FOR A SEX SHOP LICENCE**

- NOTE** (1) Before completing this form, applicants are advised to carefully read the guidance notes for completion of this application form  
 (2) Please complete the form in BLOCK CAPITALS

1. What type of application is this?  GRANT  RENEWAL

2. If a current licence is held state: Licence No. SXSH001 Expiry Date 28/9/15

3. Details of premises to be licensed

Premises Title/Firm Name SIN-TIL-LATE

Address (or location of use if vehicle vessel or stall)  
19 QUEEN STREET  
MORCUMBE

Post Code LA45EQ Telephone No. 01524 411526

Are the premises to be used as a Sex Shop?  YES/~~NO~~

Are the premises to be used as a Sex Cinema?  YES/NO

Are the premises to be used as a Sex Encounter Establishment?

4. Details of Applicant (may be a person or Limited Company)

Surname JUDGE Date of Birth

Title \* Mr.  Mrs.  Miss  Ms. Forenames SUSAN CAROL

Address (of registered office if Ltd Co.)  
11-15 FOXHALL SQ  
BLACKPOOL

Post Code

5. List all applicant partners (directors if a limited company), FIRST OR ONLY APPLICANT/DIRECTOR

Surname ENTWISTED Date of Birth

Title \*  Mr.  Mrs.  Miss  Ms. Forenames DARRON MARK

Home Address  
11-15 FOXHALL SQUARE  
BLACKPOOL

Post Code

\* Delete as necessary

SECOND APPLICANT/DIRECTOR

Surname	JUDGE				Date of Birth
Title *	Mr.	Mrs.	(Miss)	Ms.	Forenames
Address (of registered office if Ltd Co.)	11-15 FOXHALL SQUARE				
Post Code	BLACKPOOL				

THIRD APPLICANT/DIRECTOR

Surname	WINSTANLEY				Date of Birth
Title *	(Mr.)	Mrs.	Miss	Ms.	Forenames RICHARD OWEN
Address (of registered office if Ltd Co.)	11-15 FOXHALL SQUARE				
Post Code	BLACKPOOL				

6. Has any person in 3, 4 or 5 above or any other person responsible for management of the company applied for a Sex Shop Licence refused or revoked? \*  Yes  No

If yes, give full details

7. Has any person in 3, 4 or 5 above or any other person responsible for management been convicted in any court of ;

(a) an offence of dishonesty, indecency or violence, or

(b) an offence under the

(i) Local Government (Miscellaneous Provisions) Act 1982

(ii) Obscene Publications Acts.

(iii) Indecent Advertisements Acts.

(iv) Protection of Children Act 1978.

If yes, complete the declarations below (if none, write NONE).

**Declaration of first or only applicant/director of the limited company**

Full Name:			
Date of Conviction	Court	Offence(s)	Sentence or Order of Court
		NONE	

I list above all the offences for which I have been convicted which need to be declared.

Usual Signa \_\_\_\_\_ Date: 28/8/15

\* Delete as necessary

Continued Overleaf

**Declaration of second applicant/director/manager**

Full Name:	SUSAN C. JUDGE		
Date of Conviction	Court	Offence(s)	Sentence or Order of Court
NONE —			
I list above all the offences for which I have been convicted which need to be declared.			
Usual Signature <i>S Judge</i> ..... Date: <i>28.8.15</i> .....			

**Declaration of third applicant/director/manager**

Full Name			
Date of Conviction	Court	Offence(s)	Sentence or Order of Court
NONE			
I list above all the offences for which I have been convicted which need to be declared.			
Usual Signature <i>RO D</i> ..... Date: <i>28.8.15</i> .....			

**DECLARATION**

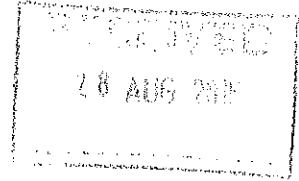
I/we certify that the answers given above are true to the best of my/our knowledge and belief.

Date ..... Usual Signature(s) of Applicant

.....  
 .....  
 .....

FORM A

LANCASTER CITY COUNCIL  
DECLARATION OF PUBLICATION NOTICES  
Licensing of Sex Establishments



Address of premises 19 QUEEN STREET, MORECAMBE LA4 5EQ

Name of proposed licensee SC JUDGS, DM ENTWISTED, RO WINSTANLEY

I, .....

hereby certify that :

(1) on the 28<sup>th</sup> day of AUGUST 2015 I affixed a copy of the attached notice upon the \* FRONT LEFT WINDOW

being a place where the notice could conveniently be read by the Public and that the said notice was kept displayed as aforesaid for 21 days thereafter;

(2) on the 26<sup>th</sup> day of AUGUST 2015 I caused a copy of the attached notice be published in the MORECAMBE VISITOR

being a local newspaper circulating in the Lancaster and Morecambe area, the relevant extract from which is attached hereto.

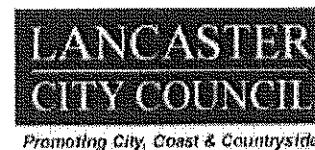
Signed

28/08/15

\* Describe the part of the premises or other nearby location upon which the notice was affixed.



Contact: Licensing  
 Telephone: [01524] 582033  
 Fax: [01524]582368  
 Minicom: [01524]582175  
 Email: licensing@lancaster.gov.uk  
 Website: www.lancaster.gov.uk  
 Our Ref:



## Sex Shop Licence

## SXSHOP01

Licence holder	Susan Carol JUDGE 11-15 Foxhall Square Blackpool Lancashire FY1 5BJ	Premises	Sin-til-late 19 Queen Street Morecambe Lancashire LA4 5EQ
Licence holder	Darren Mark ENTWISTLE 11-15 Foxhall Square Blackpool Lancashire FY1 5BJ	Premises	Sin-til-late 19 Queen Street Morecambe Lancashire LA4 5EQ
Licence holder	Richard Owen WINSTANLEY 11-15 Foxhall Square Blackpool Lancashire FY1 5BJ	Premises	Sin-til-late 19 Queen Street Morecambe Lancashire LA4 5EQ

Valid until:

# 15 Oct 2015

### IMPORTANT NOTES

- This licence is subject to the provisions of the Local Government (Miscellaneous Provisions) Act 1982 - Section 2 and Schedule 3 together with the Council's standard conditions.

28 September, 2015

Mrs Sarah Taylor  
Head of Governance



LANCASTER CITY COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – SECTION 2  
AND SCHEDULE 3

CONDITIONS OF LICENCE FOR A SEX SHOP

1. The Licence or a clear copy thereof shall be conspicuously exhibited at all times to the satisfaction of the Council in the premises, in such position that it can easily be seen by all persons using the premises. The Licence shall be adequately protected against theft, vandalism or defacement.
2. The licensed premises shall not be open to the public or used for the purposes for which the licence is granted except between the hours of 9.00 am and 6.30pm on any week day (including Saturday). The licensed premises shall not be open on Sunday, Christmas Day, Good Friday or on any other bank holiday or public holiday.
3. Over each entrance to the premises, in a position approved by the Council, the Licensee shall affix and maintain in a permanent form a notice stating that the premises are licensed as a sex shop under the provisions of the Local Government (Miscellaneous Provisions) Act 1982. Such notice shall also carry the full name of the Licensee.
4. At each entrance there shall prominently be displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons under 18 years of age.
5. The Licensee shall ensure that all persons employed on the premises are aware of the age restriction on customers and that they exclude or remove from the premises any person attempting to evade the restriction. No person under the age of 18 shall be employed at the premises.
6. Subject to conditions 3 and 4 above, any other writing or sign on the licensed premises may bear the wording "Private Shop" or "Adult Shop", but must give no other indication as to the nature of the business carried on at the premises. The lettering must not exceed six inches in height.
7. The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods or articles provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, footpaths or forecourts, except any notice displaying the times of opening of the premises for business, any notice required by an statute, regulation or byelaw applicable to the premises or business carried thereon or any notice prescribed by these conditions. Provided that nothing in this condition shall prevent the display of items which are not sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982) in the shop window or otherwise in public view from outside the shop.
8. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises shall not be visible at any time to persons outside the premises. The external doors shall be

fitted with automatic closing devices which shall be maintained in good working order.

9. All materials, goods or articles discarded for any reason and any other refuse which is identifiable as originating from the premises shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
10. The Licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display at the premises so that they are received directly into the premises, and not subject to storage for any period of time on any pavement, footpath, forecourt or yard in the vicinity of the premises.
11. The Licensee or some responsible person nominated by him in writing for the purpose and approved by the Council shall be in charge of and upon the licensed premises during the whole time they are open to the public (except in the event of an emergency). Such written nominations shall be continuously available for inspection by officers of the Council or the Police.
12. A daily register of persons employed at the premises shall be kept, stating names, addresses, date of birth, position and times worked. The register is to be completed each day and must be kept at the premises and be open for inspection by officers of the Council or the Police.
13. The Licensee shall not in the conduct of the business employ any person whose application for a licence to carry on a sex establishment, or renewal thereof, has been refused by the Council or any other licensing authority, or whose licence to carry on the business of a sex establishment has been revoked by the Council or any other licensing authority.
14. The Licensee shall obtain the Council's written approval of the external and internal appearance of the premises before this licence takes effect, and thereafter no alteration shall be made to the interior or the exterior of the premises, including any change to the signs displayed or any change in the manner in which the windows and doors obscure the interior of the premises, without the written consent of the Council.
15. All sex articles and other items displayed for supply, sale, hire, exchange or loan within the premises shall be clearly marked to show to persons who are inside the premises the respective prices being charged.
16. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, and a notice to this effect shall be displayed prominently within the premises.
17. No film or video work shall without the consent of the Council be exhibited, sold or supplied on or from the premises unless it has been passed by the British Board of Film Certification or such other authority performing a similar scrutinising function as may be notified to the Licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video work so certified.
18. A record shall be kept of any mail order transactions (if any) in such form as agreed by the Council.



19. The Licensee shall forthwith inform the Council in the event that he ceases to carry on the business.
20. The Licensee shall inform the Council forthwith if he is convicted under the Obscene Publications Act 1959, the Protection of Children Act 1978 or the Customs and Excise Management Act 1979 or any legislation replacing those enactments, or if an order for forfeiture is made under the Obscene Publications Act 1959 following the service of a summons on the Licensee.

RECEIVED 22 SEP 2015

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
20th Sept, 2015

Dear Sirs,

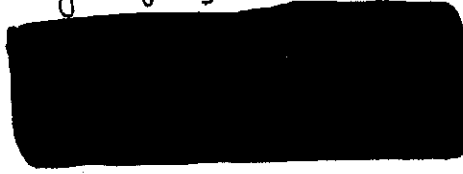
We would like to register our objections to a sex establishment licence being granted to the shop 'Sin kill hate', on Queen St. in Morecambe.

An establishment like this does not reflect Morecambe as being a place for families and personally we would not like to walk past a shop advertising sex toys, with young children in our care. We would also like to point out that Queen St is very near a local school; young children will approach it by walking down Queen St. With sexual abuse all too evident in our society today, the last thing Morecambe needs is a sex shop, blatantly advertising.

Human resources need to be sensitive to the whole community. People can access sexual items only too easily on the internet and other sources, without having it pushed in our faces on one of Morecambe's prominent streets.

Please give this matter careful consideration.

Yours faithfully



**LICENSING REGULATORY COMMITTEE**

**The Status and Implications of a Written Warning –  
Hackney Carriage and Private Hire Driver and Private Hire  
Operator  
15<sup>th</sup> October 2015**

**Report of Licensing Manager****PURPOSE OF REPORT**

To inform members of the implication and status of a written warning issued to a hackney carriage or private hire driver or private hire operator.

**The report is public**

**RECOMMENDATIONS**

**The Committee is requested to note the report.**

**1.0 Introduction**

- 1.1 This report has been prepared following a request from some members of LRC as a result of a complaint made by a hackney carriage driver at the recent taxi surgery.
- 1.2 Members asked that a report be prepared setting out the status and implications of warnings issued to hackney carriage and private hire drivers and private hire operators.
- 1.3 Licensing, regulatory and enforcement functions exist to protect the general public from harm across areas ranging from food safety to houses in multiple occupation, to licensed premises for entertainment. Safety is one of the principles of licensing which informs legislation. The safety of the public should be the uppermost concern of any licensing and enforcement regime: when determining policy, setting standards and deciding how they will be enforced. This is nowhere more important than in taxi licensing where sometimes vulnerable people are unaccompanied in a car with a stranger.
- 1.4 For the purpose of ensuring that enforcement is carried out in a transparent and consistent manner this Committee has adopted an enforcement policy, a copy of which is attached at Appendix 1 to this report.
- 1.5 The enforcement policy quite clearly sets out the options available to an authorised officer and the issuing of a warning letter is set out in the policy under paragraph 6 and, as indicated in the policy, this is considered to be informal action and at the lower end of the options available.

- 1.6 The policy sets out that the circumstances in which informal action may be appropriate including:-
- a) Where it is considered that informal action will achieve compliance based on the offender's past history.
  - b) Where confidence in the management of the licensed activity or the licensee is high.
  - c) Where the consequences of non-compliance will not pose a significant risk to the physical, financial or emotional well-being of the public, or is of a minor technical nature.
  - d) Where it is considered that informal action will be more effective than formal.
- 1.7 The use of warning letters is common across all the Council's regulatory functions, for example environmental health, planning and housing, as well as licensing, and indeed across all local authorities.
- 1.8 In March 2012, the following advice was given in a licensing newsletter: "Under the current procedure, a warning will remain on your file for an indefinite period; however it will not normally be referred to in any subsequent report to the Licensing Regulatory Committee if a period of 3 years has lapsed since it was issued and no other warning was issued within that period, unless there are exceptional circumstances. For example if a warning was issued in June 2010 and then no further warnings are issued until August 2013, the warning issued in 2010 would not be referred to. However, if a warning was issued in 2010, a further warning in 2011 and then a warning in 2012, all 3 warnings would be referred to in any subsequent report to the Licensing Regulatory Committee to show a pattern of behaviour. If a person uses previous good character as a defence before the Committee, and refers to an earlier period during which warnings had been issued but omitted from the report, those warnings would then be disclosed to members for their consideration" This procedure is still adhered to.
- 1.9 It is appropriate that relevant warnings and for that matter, any other relevant information available should be considered by members when making a decision in relation to whether a person is a fit and proper person to be granted or to continue to hold a licence. Case law has prescribed that an incident cannot be looked at in isolation, as the "fit and proper person" test is multi-faceted. In exercising their function of determining whether or not to revoke or suspend a licence, Members should consider what weight they should attach to any previous warnings or any additional information. Any driver or operator aggrieved by any decision made by the Licensing Regulatory Committee to suspend or revoke a licence would have a right to appeal to the magistrate's court.
- 1.10 It should be noted that the Rotherham report criticised licensing officers for not submitting previous relevant complaints and warnings to the panel before decisions were made in relation to whether a driver was a fit and proper person to continue to hold a licence.

## **Conclusion**

- 2.1 The 'fit and proper person' test is multi-faceted. It includes things like moral character, risk of bad behaviour, health, driving ability, appreciation of the duties and obligations that the law and the council licence conditions impose.
- 2.2 Case law and more recently the Rotherham report has prescribed that all information available should be considered by members when determining whether a driver is a fit and proper person to continue to hold a driver's licence.
- 2.3 Warning letters are issued by officers in line with the Council's enforcement policy and are considered to be informal action. They are held on file and would only be referred to in accordance with paragraph 1.8 above should any further infringements occur.
- 2.4 The report is for noting.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

It is important that effective enforcement is carried out in line with the enforcement policy to ensure that members of the public including those that are vulnerable are protected and to ensure that members of the public can have confidence in the licensing regime and the Council.

**FINANCIAL IMPLICATIONS**

There are no financial implication

**LEGAL IMPLICATIONS**

The Council is responsible for ensuring that the legislation in relation to hackney carriage and private hire licensing is enforced.

**BACKGROUND PAPERS**

None

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# **LANCASTER CITY COUNCIL**

## **GOVERNANCE - LICENSING**

### **LICENSING ENFORCEMENT POLICY**

## TABLE OF CONTENTS

1.	Background	Page 3
2.	Policy Statement	Page 3
3.	Principles of Enforcement	Page 3
4.	Statutory obligations	Page 4
5.	Enforcement options	Page 4
6.	Informal action	Page 5
7.	Statutory action and decision making processes	Page 5
8.	Formal cautions	Page 6
9.	Prosecution	Page 7
10.	Legislation	Page 8
	Appendix 1 – Authority for Officers to act	Page 9
	Appendix 2 – Criteria for deciding whether to prosecute or issue a formal caution	Page 10
	Appendix 3 – Reference to Legislation	Page 11



## LANCASTER CITY COUNCIL

### LICENSING ENFORCEMENT POLICY

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#### 1 BACKGROUND

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- 1.1 The purpose of this document is to set out the general principles that the Council's Licensing Service will apply when undertaking licensing enforcement work. Enforcement does not only mean deciding whether to prosecute an alleged offender. Rather, it includes a wide range of issues including communicating effectively, acting fairly and acting consistently when using statutory enforcement powers. It includes undertaking inspections of licensed premises, vehicles and activities and giving advice to enable licensees to meet minimum legal standards as well as higher standards and good practice.

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#### 2 POLICY STATEMENT

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- 2.1 This Policy was written having regard to the Government's "concordat on Good Enforcement" which Lancaster City Council formally adopted. Officers will therefore have regard to and implement the 4 principles of enforcement set out in the Policy.
- 2.2 Where there is specific guidance on enforcement action, for example, statutory guidance, or Codes of Practice and guidance issued for example by the Better Regulation Delivery Office or the Local Government Association (formerly Local Authorities Co-ordinators of Regulatory Services (LACORS)), these will be followed.
- 2.3 The Council fully acknowledges and endorses the rights of individuals and will ensure that all enforcement action is taken in strict accordance with the Police and Criminal Evidence Act 1984, the Criminal Procedures and Investigation Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and other relevant legislation and guidance.
- 2.4 The Council recognises that the particular interests of different consumers within the District will need to be taken account of to ensure that legislation is enforced fairly. Interpreters will be used where there is difficulty in understanding the English language. Where possible, translated advisory leaflets will be made available. Any visits that are required out of hours will be undertaken as necessary.
- 2.5 All enforcement action will be based on risk to health and safety and in accordance with this policy. Any departure from this policy will be justified to the Legal Services Manager or the Licensing Manager. The reasons for any departure will be fully documented and retained on the relevant file.

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#### 3 PRINCIPLES OF ENFORCEMENT

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- 3.1 The Council believes in firm but fair enforcement of licensing law and the relevant byelaws or licence conditions. Underlying this belief are the principles of **proportionality** in applying the law and securing compliance, **consistency** of approach, **transparency** about how the Licensing Service operates and what those regulated may expect from the Service and **targeting** of enforcement action.
- 3.2 **PROPORTIONALITY**

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties (duty holders) expect that action taken by enforcement authorities to achieve compliance should be proportionate to any risks to public health and safety and the seriousness of any breach.

### 3.3 **CONSISTENCY**

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends. There is a right to expect consistency from an enforcing authority whether they are: responding to requests for service, issuing advice, using statutory notices, or deciding to prosecute.

### 3.4 **TRANSPARENCY**

Transparency means helping duty holders and individuals to understand what is expected of them and what they should expect from the enforcing authorities. It also means making it clear to duty holders and individuals, not only what they have to do, but also, where relevant, what they do not. This means distinguishing between statutory requirements and recommendations or advice that is desirable, but not compulsory.

### 3.5 **TARGETING**

Targeting means making sure that enforcement is targeted primarily on those situations where activities give rise to the most serious risks, or where the hazards are least well controlled. The Licensing Service will ensure that action is focused on the duty holders who are responsible for the risk and who are best placed to control it.

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## **4 STATUTORY OBLIGATIONS**

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- 4.1 The Licensing service administers a wide range of licences and permits which may be mandatory, where the local authority must license particular activities, or adoptive where the Council has elected to control certain businesses, activities or individuals through the issue of licences and the imposition of licence conditions.
- 4.2 The main purpose of licensing enforcement is to:
- a) Secure the health, safety and welfare of members of the public who either make use of the licensed activity or who are affected by it in some way.
  - b) Deal immediately with serious risks.
  - c) Promote and achieve sustained compliance with the law.

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## **5 ENFORCEMENT OPTIONS**

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- 5.1 External agencies including Lancashire Police, Lancashire Fire and Rescue Service, Lancashire County Council also have an interest in the enforcement of licensing legislation. Where there is a shared enforcement role, the Council's Licensing service will liaise with the appropriate body to ensure effective co-ordination. Protocols will be established between the enforcement agencies to ensure clarity in their respective roles.
- 5.2 Enforcement officers must seek to secure compliance with the law. Most of the time this will be conducted informally, by offering information, advice and support, both verbally and in writing. They may also use formal mechanisms, as set out in law,

including the service of notices, suspension of vehicle licences, or ultimately prosecution.

5.3 In arriving at a decision, the Licensing Service will consider:

- a) The seriousness of the offence;
- b) The individual or duty holder's past history;
- c) Confidence in management;
- d) The requirements of the legislation;
- e) The consequences of non-compliance; and
- f) The likely effectiveness of the various enforcement options.

5.4 Where enforcement is being considered, the Licensing service can choose one or more of the following options:

- a) Take no action;
- b) Take informal action;
- c) Take statutory action;
- d) Use formal cautions;
- e) Prosecution.

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## 6 INFORMAL ACTION

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6.1 Informal action will include the following:-

- a) offering advice
- b) verbal warnings and requests for action
- c) the use of warning letters setting out the potential consequences of any future non-compliance.

6.2 The circumstances in which informal action may be appropriate include:-

- a) Where it is considered that informal action will achieve compliance based on the offender's past history.
- b) Where confidence in the management of the licensed activity or the licensee is high.
- c) Where the consequences of non-compliance will not pose a significant risk to the physical, financial or emotional well-being of the public, or is of a minor technical nature.
- d) Where it is considered that informal action will be more effective than formal action.

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## 7 STATUTORY ACTION AND DECISION MAKING PROCESSES

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7.1 Such action may involve the suspension, revocation or the refusal to grant or vary a licence.

7.2 In certain circumstances, authority to suspend the licence of hackney carriage/private hire vehicles, hackney carriage/private hire drivers and private hire operators may be delegated to authorised officers (See Appendix 1). The criteria for the suspension of such licences is as follows:-

- a) Hackney Carriage/Private Hire Vehicles

A licensed hackney carriage or private hire vehicle may be suspended if an authorised officer is not satisfied as to the vehicle's fitness (Sections 60 & 68 Local Government (Miscellaneous Provisions) Act 1976).

b) Hackney Carriage/Private Hire Drivers

A licence may be suspended by an authorised officer, if since the grant of a licence the driver has been convicted of an offence involving dishonesty, indecency or violence, or for any other reasonable cause (Section 61, Local Government (Miscellaneous Provisions) Act 1976). In these circumstances, consideration will also be given whether the interests of public safety require the suspension to take immediate effect.

c) Private Hire Operators

A licence may be suspended by an authorised officer, in the event of there being any offence under, or non-compliance with the private hire legislation, or for any other reasonable cause. (Section 62 Local Government (Miscellaneous Provisions) Act 1976)

7.3 However, in the majority of cases involving drivers' and operators' licences any consideration to suspend, revoke or refuse to grant/renew a licence will normally be dealt with by the Council's Licensing Regulatory Committee under established procedures. Similarly, the Licensing Act Sub-Committees and Gambling Act Sub-Committees will normally deal with contentious matters associated with premises licences issued under the Licensing Act 2003 and the Gambling Act 2005 respectively.

7.4 Any person aggrieved by a decision taken to suspend, revoke or refuse to grant/vary a licence has a right of appeal to the Magistrates' Court.

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**8 FORMAL CAUTIONS**

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8.1 Enforcement Officers will consider issuing a formal caution as an alternative to prosecution. Where there is a criminal offence, but the public interest does not require a prosecution, a formal caution may be an appropriate course of action. The Ministry of Justice Guidance on Simple Cautions for Adult Offenders (November 2013) states that the purpose of a formal caution is to:

- a) Offer a proportionate response to low level offending where the offender has admitted the offence;
- b) Deliver swift, simple and effective justice that carries a deterrent effect;
- c) Record an individual's criminal conduct for possible reference in future criminal proceedings or in criminal record or other similar checks;
- d) Reduce the likelihood of re-offending
- e) Increase the amount of time officers spend dealing with more serious crime and reduce the amount of time completing paperwork and attending court, whilst simultaneously reducing the burden on the courts

8.2 The use of formal cautions will be in accordance with the Ministry of Justice Guidance referred to above.. The following conditions must be fulfilled before a caution is administered:

- a) There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of a conviction;
- b) The suspected offender must admit the offence; and

- c) The suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned.

8.3 Before proceeding with a formal caution, the enforcement officer must discuss the proposed action with their line manager. Where a formal caution is refused, the officer must re-consider all the evidence, which may result in a prosecution or other action being taken. Where formal cautions are accepted, they must be registered with Legal Services.

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**9 PROSECUTION**

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9.1 The following circumstances may warrant prosecution:

- a) The offence involves a flagrant breach of the law such that public health, safety or well being is or has been put at risk; or
- b) The offence involves a failure by the offender to correct an identified serious potential risk, having been given a reasonable opportunity to comply with the lawful requirements of an authorised officer; or
- c) The offence involves a failure to comply in full or in part with the requirements of a statutory notice; or
- d) There is a history of similar offences on the part of the alleged offender; or
- e) The obstruction or assault of an authorised officer; or
- f) False or misleading information is provided to an authorised officer.

9.2 The officer must be satisfied, before a prosecution proceeds, that there is relevant, admissible, substantial and reliable evidence that the offence was committed by the accused. There must be a realistic prospect of conviction. A bare prima facie case is not enough. If there is insufficient evidence, other formal action such as a formal caution will not be an alternative.

9.3 The officer and their manager must decide whether it is in the public interest to undertake a prosecution, following the guidance in the current Code for Crown Prosecutors. The 2013 edition of the Code indicates that prosecutors should consider each of the following questions:

- a) How serious is the offence committed?
- b) What is the level of culpability of the suspect?
- c) What are the circumstances of and harm caused to the victim?
- d) Was the suspect under the age of 18 at the time of the offence?
- e) What is the impact on the community?
- f) Is prosecution a proportionate response?
- g) Do sources of information need protecting?

The Code provides that these questions are not exhaustive, and that not all the questions may be relevant in every case. The weight to be attached to each of the questions, and the factors identified, will also vary according to the facts and merits of each case.

9.4 Once a decision to prosecute has been made, the procedure should be implemented without undue delay. The requirements of PACE and CPIA will be adhered to.

9.5 The criterion for deciding whether to prosecute or issue a formal caution is shown at Appendix 2.

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10 **LEGISLATION**

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10.1 The legislation under which authorised officers have the authority to act is shown at Appendix 3.

**APPENDIX 1**

**AUTHORITY FOR OFFICERS TO ACT**

<b>DECISION MAKING AREA</b>	<b>OFFICERS AUTHORISED TO ACT</b>	<b>OFFICERS WHO MUST BE CONSULTED FOR AUTHORITY TO ACT</b>
Informal action and formal letters	Chief Officer (Governance) Legal Services Manager Licensing Manager  Licensing Enforcement Officer	
Statutory Action		

<p>a) Suspension of hackney carriage/private hire vehicle licence</p> <p>b) Suspension of hackney carriage/private hire drivers licence</p> <p>c) Suspension of private hire operators licence</p>	<p>Chief Officer (Governance) Legal Services Manager Licensing Manager Licensing Enforcement Officer</p> <p>Chief Officer (Governance) Legal Services Manager Licensing Manager</p> <p>Chief Officer (Governance) Legal Services Manager Licensing Manager</p>	<p>Licensing Manager</p> <p>Chief Officer (Governance) or Legal Services Manager</p> <p>Chief Officer (Governance) or Legal Services Manager</p>
<p>Formal Caution</p>	<p>Chief Officer (Governance)  Legal Services Manager Licensing Manager</p>	<p>Chief Officer (Governance) or Legal Services Manager</p>
<p>Prosecution</p>	<p>Chief Officer (Governance) Legal Services Manager</p>	<p>Chief Officer (Governance) or Legal Services Manager</p>

APPENDIX 2

DECISION WHETHER TO PROSECUTE OR ISSUE A FORMAL CAUTION

CRITERION	PROSECUTE	OFFER CAUTION
Is the offence serious?	Yes	No
Is the offender old or infirm?	No	Yes
Has the offender a previous history of offending?	Yes	No/Unknown
Is the offending willing to prevent a recurrence of the problem?	No	Yes
Would a prosecution be in the public interest?	Yes	No
Is the case likely to establish a legal precedent?	Yes	No
Has the offender offered a reasonable explanation?	No	Yes
<b>TOTAL</b>		

**Note:**

Ring the appropriate response to each criterion and then total the number of rings in each column.

The decision will be based on the total number of rings.

Recommendation of Investigating Officer:    Formal Caution

Prosecution\*

Signed: .....

Date: .....

Decision of Licensing Manager :                    Agree

Disagree\*

Signed: .....

Date: .....

Decision of Legal Services Manager            Agree

Disagree\*

Signed: .....

Date: .....

**\*Delete as appropriate**



**APPENDIX 3**

**RELEVANT LEGISLATION**

Animal Boarding Establishments Act 1963  
Breeding of Dogs Acts 1973 and 1991  
Breeding and Sale of Dogs (Welfare) Act 1999  
Caravan Sites and Control of Development Act 1960  
Dangerous Wild Animals Act 1976  
Gambling Act 2005  
Game Act 1831

Game Licences Act 1860  
Health Act 2006  
House to House Collections Act 1939  
Hypnotism Act 1952  
Licensing Act 2003  
Local Government (Miscellaneous Provisions) Act 1976  
Local Government (Miscellaneous Provisions) Act 1982

Pet Animals Act 1951  
Pet Animals (Amendment) Act 1983  
Police, Factories etc (Miscellaneous Provisions) Act 1916  
Public Health Act 1936  
Riding Establishments Acts 1964 and 1970  
Scrap Metal Dealers Act 2013  
Town Police Clauses Act 1847  
Transport Act 1985  
Vehicles (Crime) Act 2001  
Zoo Licensing Act 1981

Please note that the above list is not exhaustive and may be amended from time to time.

**LICENSING REGULATORY COMMITTEE**

**Multi-Agency Vehicle Inspection Operation  
15<sup>th</sup> October 2015**

**Report of Licensing Manager**

**PURPOSE OF REPORT**

To inform members of the outcomes of recent multi-agency vehicle inspection operation

**The report is public**

**RECOMMENDATIONS**

**The Committee is requested to note the report.**

**1.0 Introduction**

1.1 Members may be aware that on the 15<sup>th</sup> and 16<sup>th</sup> September licensing officers carried out a multi-agency vehicle inspection operation with officers from the Lancashire Constabulary and officers from the Vehicle and Operators Services Agency (VOSA).

1.2 The inspections took place in the car park at the back of Salt Ayre Leisure Centre. All hackney carriage and private hire proprietors were required to present their vehicle for inspection in accordance with s68 of the Local Government (Miscellaneous Provisions) Act 1976 which prescribes that:-

Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for the purpose of ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council.

1.3 Members may be aware that the recent High Court case of R v Lancaster City Council ex parte Wilcock determined that fitness of a vehicle for the purpose of sections 68 has a very broad meaning and incorporates such things as signage and cleanliness. It does not confine itself to mechanical fitness as was challenged during that case.

1.4 Also present at the inspections was an officer of the Lancashire Constabulary who carried out driver licence checks on both days. On the 16<sup>th</sup> September an officer from VOSA was present and he carried out some further checks on vehicles over and above the visual checks carried out by licensing officers and he assisted licensing officers as and when required.

1.5 During the 2 days 259 vehicles were inspected. The inspections were carried out with the minimum of waiting for drivers due to the hard work of officers present on the day.

- 1.6 Of the 259 vehicles inspected 32 defect notices were issued. Seven of those were issued in relation to hackney carriage vehicles and 25 in relation to private hire vehicles. In addition 7 vehicles were suspended with immediate effect. Two of the vehicles were hackney carriage vehicles and the other five were private hire vehicles.
- 1.7 The defects were issued in relation to lack of warning signage, missing items e.g. first aid kits, bulbs not working and tatty bodywork etc. Most of the defects were put right during the 2 day inspection period and subsequently cleared.
- 1.8 The suspensions were issued in relation to one expired plate being on display, faulty shock absorbers and tyres etc. Again, most of the issues were resolved on the day and the vehicles were returned to have the suspension lifted. The drivers had been notified by the officer from VOSA that if the vehicle was put right and returned for him to further inspect he would remove the stop notice issued by himself and save the need for the vehicle to have to go back for a full MOT which would ordinarily be the case a at a road side stop.
- 1.9 All proprietors that did not present their vehicle during the 2 days have been contacted and alternative arrangements have been made to carry out the inspections.

**Conclusion**

- 2.0 It is the responsibility of the licensing authority to ensure that all vehicles licensed by us are safe and comfortable. Inspections such as this are carried out throughout the country by all licensing authorities and help to give confidence to members of the public in relation to the safety of the taxis they travel in. Those proprietors who maintain their vehicles to a high standard usually welcome exercises such as this, and the figures set out in the report in relation to faults and defects would indicate that the exercise was a resounding success.
- 2.1 Members are recommended to note the report and in doing so the licensing manager would request that Members acknowledge the hard work of enforcement officers throughout the 2 days.

<b>CONCLUSION OF IMPACT ASSESSMENT</b> <b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b> Inspecting vehicles to ensure that high standards are maintained is in the interest of public safety.	
<b>FINANCIAL IMPLICATIONS</b> There are no financial implication, as the inspections were carried out by officers in the course of their normal duties.	
<b>LEGAL IMPLICATIONS</b> The Council is responsible for ensuring that the legislation in relation to hackney carriage and private hire licensing is enforced.	
<b>BACKGROUND PAPERS</b> None	<b>Contact Officer:</b> Wendy Peck <b>Telephone:</b> 01524 582317 <b>E-mail:</b> <a href="mailto:wpeck@lancaster.gov.uk">wpeck@lancaster.gov.uk</a> <b>Ref:</b> WP

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