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Cambridge City Council

LICENSING COMMITTEE

To: Councillors Smith (Chair), Rosenstiel (Vice-Chair), Benstead, Blencowe, Brierley, Hart, McPherson, Pippas, Reiner, Saunders, Stuart and Wright

Alternates: Councillor Boyce, Owers and Pogonowski

Despatched: Friday, 20 January 2012

Date: Monday, 30 January 2012

Time: 10.00 am

Venue: Committee Room 1 & 2 - Guildhall

Contact: Toni Birkin

Direct Dial: 01223 457086

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are asked to declare at this stage any interests that they may have in an item shown on this agenda. If any member of the Committee is unsure whether or not they should declare an interest on a particular matter, they should seek advice from the Head of Legal Services **before** the meeting.

3 MINUTES *(Pages 1 - 10)*

To approve the minutes of the meeting held on 24th October 2011. *(Pages 1 - 10)*

4 PUBLIC QUESTIONS (SEE AT THE END OF THE AGENDA)

5 HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY *(Pages 11 - 38)*

6 REVIEW OF THE HACKNEY CARRIAGE TABLE OF FARES *(Pages 39 - 58)*

7 ADOPTION OF CONSOLIDATED BYELAWS FOR ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS (*Pages 59 - 82*)

8 UPDATE ON STREET TRADING APPLICATION PROCESS

Report to follow

Information for the Public

QR Codes
(for use with Smart
Phones)

Location The meeting is in the Guildhall on the Market Square (CB2 3QJ).

Between 9 a.m. and 5 p.m. the building is accessible via Peas Hill, Guildhall Street and the Market Square entrances.

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- For questions and/or statements regarding items on the published agenda, the deadline is the start of the meeting.
- For questions and/or statements regarding items NOT on the published agenda, the deadline is 10 a.m. the day before the meeting.

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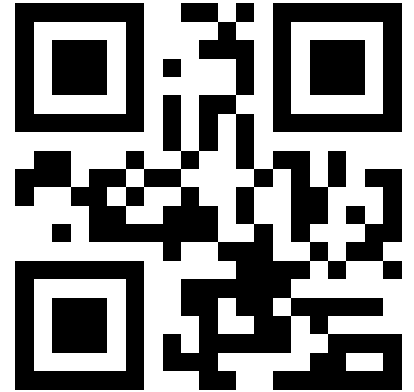
and first floor.

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LICENSING COMMITTEE24 October 2011
10.00 am - 1.55 pm

Present: Councillors Smith (Chair), Rosenstiel (Vice-Chair), Benstead, Blencowe, Brierley, Hart, McPherson, Pippas, Pogonowski, Reiner, Saunders and Stuart

Officers Present:

Head of Refuse and Environment – Jas Lally
Environmental Health Manager – Yvonne O'Donnell
Solicitor – Carol Patton
Licensing Manager – Robin Grey
Committee Managers – Toni Birkin and Martin Whelan

FOR THE INFORMATION OF THE COUNCIL**11/16/licf Apologies**

None.

11/17/licf Declarations of Interest

Councillors Saunders, Rosenstiel and Reiner each declared a personal interest item 11/21/licf as members of the Cambridge Cycling Campaign, which had made representations on item 11/21/licf.

11/18/licf Minutes

The minutes of the meeting of the 6th June 2011 were agreed as a correct record and signed.

Change to Agenda Order

Under paragraph 4.2.1 of the Council Procedure Rules, the Chair used her discretion to alter the order of the agenda items. However, for ease of the reader, these minutes will follow the order of the agenda.

11/19/licf Public Questions (See Information Below)

The Chair agreed to take public questions with the relevant agenda items.

11/20/licf Sex Establishments - Statement of Licensing Policy

The Environmental Health Manager introduced a report regarding the Statement of Licensing Policy for Sex Establishments and reminded the committee of the issues raised at the June meeting.

Public Speaker Mr Bartlett Owner of Talk of the Town

Mr Bartlett explained that he had hoped to submit a petition of support for his club to the Licensing Committee, however, it was noted that it had been submitted after the deadline for this meeting. Mr Bartlett stated that he had 400 signatures and 2,000 on line supporters for his club.

Mr Bartlett stated that his main purpose in attending was to demonstrate the level of support for his establishment and opposition to a "nil policy".

Public Speaker Dr Belinda Brooks-Gordon

Dr Brooks-Gordon explained that she was speaking in the capacity as an academic rather than a County Councillor, and raised the following points

- Evidence from objectors refers to the theory of objectification. However, this is only one theory relating to the sex industry and there are others, which contradict this.
- Much of the academic research regarding lap-dancing clubs has been discredited.
- Recent police evidence to central government demonstrated that in general, clubs do not give rise to an increase in disorderly behaviour.
- Club users value a discrete venue and are unlikely to be unruly in the vicinity.
- Evidence from female staff of clubs suggests that they value the flexibility and the earning potential of clubs.
- Female students sometimes use this to pay for their education.
- Dancers state that what they want is clean changing rooms, safe locker areas and fair treatment from club owners.

Public Speaker Ms Emma-Rose Cornwall

Ms Cornwall raised the following points:

- Would like an explanation for the £30,000 cost quoted in the report.
- There is already extensive research into this issue available.
- Research shows a link between lap-dancing clubs and anti-social behaviour and violent attacks.
- Whether other costs been considered such as the cost associated with the rise in violent assault and rape?
- The spend of £30,000 could be seen as good value for money if it protects local women.
- Police lack resources to deal with rape, which is widely regarded as under reported.
- Would the policy lead to repeated applications as clubs apply to different Wards across the City in an attempt to find an area that would not reject the application?
- No Ward in the City is likely to welcome a lap-dancing club.

Members questioned the connection between lap-dancing and increased crime, as the evidence does not support this. Members also pointed out that the adoption of a nil policy would not prevent applications, all of which would be considered on their merits. The costs of repeat applications would be borne by the applicant.

Public Speaker Norah Al-Ani of Cambridge Rape Crisis Centre

Ms Al-Ani suggested that 10 other authorities had followed Hackney's example and had adopted nil policies. She stated that they had done this without costly consultations. For example, Portsmouth had spent no more on this consultation exercise and on any other consultation.

She suggested that the existing body of research on the subject could be applied to the local situation. She expressed the view that it was in the best interest of Cambridge to introduce a nil policy.

The Chair stated that legal guidance had been considered and that a nil policy could not be adopted for the entire City. Consultation would be needed Ward by Ward. She stated that it was important that the committee consider what it is able to do rather than what it might like to do.

In response to members questions, Ms Al-Ani stated that research in Camden suggested a link between sexual entertainment venues and increased violent crime.

Ms Al-Ani concluded by saying that Cambridge may not have any issues at present but more clubs could result in increased crime.

Public Speaker Dr Janie Huber

Dr Huber raised the following points

- Concerns about the transparency of the process of reconsidering a decision that had been agreed in June. She expressed disquiet that the decision was being looked at again due to costs.
- Cambridge is ahead of the game nationally.
- Newspaper headlines recently suggested that female students were funding their education via the sex industry. Does the committee want this to happen in Cambridge?
- The industry is aggressive and lucrative and could change the nature of Cambridge as a City.
- Lap-dancing clubs are degrading.
- A clear decision was taken in June and the necessary consultation should be carried out.

The Chair clarified the issues from the last meeting. The recommendations had included the line “based on analysis”, which had been taken from the Hackney decision. However, Cambridge had undertaken no analysis and therefore the decision was based on incomplete information. To-date there had been no case law to support nil policy decision and the evidence from other authorities is not as clear as it appears. Members should also consider the fact that any decision would impact on people’s livelihoods. It was noted that the decision could leave the Council open to Judicial Review Challenge, so it was important that the decision was based on robust evidence.

The Solicitor advised the committee that any policy must be lawful and based on relevant information.

Members discussed the meaning of a relevant locality. Applying this to every Ward would, de facto, apply the nil policy to the entire City. Members were advised that they would need to decide not just what were relevant localities but also the reasons behind that decision for each locality.

Members questioned the costs of consultation, which appeared to be much higher than the consultation on Taxis, and why these costs had not been known at the June meeting. The Head of Refuse and Environment responded that original report had considered consulting the City as a whole. A nil policy at Ward level would need to be more detailed and this level of detail had not been envisaged or costed in the original report.

The Chair reminded the committee that the original policy had been straightforward in stating that each case would be considered on its merits. A nil policy would not change this requirement. She further stated that the situation locally had been one of very few applications and there was no reason to expect this to change.

Members raised the following points:

- I. Pre-determining an area of relevant locality could be problematic, as the Ward boundaries do not correspond to natural community boundaries.
- II. There appears to be little to gain from the nil policy as all cases would still be heard by committee.
- III. The June decision had been based on incomplete information and showed no clear links to the corporate vision.

Councillor Brown suggested that case analysis of the Peterborough Case supported the assertion that whilst designating the whole authority, as single locality was inappropriate, there was significant flexibility about the definition of localities.

Councillor Blencowe and Councillor Pogonowski were concerned that opposition spokespersons had not been informed that the consultations agreed in June, were not taking place. The Chair stated that she had asked for this to happen and shared their concern if had not.

Councillor Blencowe also stated that the budget considerations were not relevant to the discussion. He suggested not implementing a decision of a regulatory committee was unsatisfactory.

The Executive Councillor for Environmental and Waste Services, Councillor Swanson stated that there was no funding for this consultation in the present budget. If the committee decided to go ahead with the consultation process, a bid for funding could be made next year.

Members discussed the need to adopt a policy by the 1st December 2011. The following additional points were raised:

- IV. Additional clauses could be added at a later date if needed.
- V. Existing premises would need to re apply.
- VI. Any policy would need to reflect the diverse nature of Cambridge.
- VII. Removing the figure of £30,000 and replacing this with a lower figure.
- VIII. Minor changes to the original policy would be needed to ensure it was gender neutral.

IX. The need for an evidence based approach to the decision.

The Chair proposed the following amended recommendations for consideration:

That the recommendations be amended to read:

To adopt a Sex Establishment Policy as originally proposed on 6th June 2011 un-amended.

To instruct officers to carry out appropriate research, consultation and analysis regarding the nil per ward policy agreed by committee on 6th June 2011 and to present their findings to a subsequent meeting of the Licensing Committee.

The Committee voted on the two parts of the motion separately:

- A. To adopt a Sex Establishment Policy as originally proposed on 6th June 2011 un-amended (Agreed by 7 votes to 0).
- B. To instruct officers to carry out appropriate research, consultation and analysis regarding the nil per ward policy agreed by committee on 6th June 2011 and to present their findings to a subsequent meeting of the Licensing Committee. (Rejected by 5 votes to 6)

The committee resolved (by 7 votes to 0) to:

To adopt a Sex Establishment Policy as originally proposed on 6th June 2011 un-amended.

11/21/licf Hackney Carriage And Private Hire Licensing Policy

The committee received a report from the Licensing Manager regarding the Hackney Carriage and Private Hire Licensing Policy. He stated that the carriage of wheelchairs would be subject to further consultation. The Head of Refuse and Environment confirmed that while existing case law had been considered when drafting the policy, no decision had yet been made.

Public Speaker Mr Wratten on behalf of Cambridge Licensed Taxis Limited

Mr Wratten raised the following points:

- I. The trade did not feel that they had been fully consulted.
- II. The penalty points system had been added at the last minute which had not allowed the trade to make an adequate response.
- III. The situation had changed since last April and the penalty points system was no longer needed.
- IV. The taxi trade is only responsible for 3% of City emissions.
- V. There had been no consultation on the introduction of Euro 5 as the emissions standard.
- VI. The taxi trade needed help in difficult financial times.
- VII. Best practice on consultations had not been adhered to.
- VIII. The service the Council provides to drivers is inadequate and items submitted do not reach committee for consideration.
- IX. Drivers had valued the previous services whereby a dedicated officer dealt with taxi issues.
- X. In London age restrictions in vehicles were less restrictive.

Members responded with the following points:

- I. Locally vehicles are tested to the standards of when they were built.
- II. London standards require modifications to the vehicle.
- III. Euro 4 standard vehicles could be extended.
- IV. Euro 3 standard vehicles needed to be phased out as soon as possible subject to adequate notice being given.
- V. Members shared the concerns of the trade that their representations were not included in the report.
- VI. Members should see details of consultations.
- VII. The monopoly of the Depot as a testing centre should be looked into.

The Chair reminded the committee that the decisions before them were policy matters and that operational matters should be addressed at the Taxi Forum with the Executive Councillor. The Chair indicated that she would be happy to attend the Forum. Councillor Blencowe expressed concern that changes to the Taxi Guide policy committee were delegated to the Head of Service. It was agreed following discussion that changes to the guide would in future be subject to consultation with the Chair and Spokes.

The Chair confirmed that further consultation was needed on minimum emissions standards. This would be subject to the agreement of the Chair, Vice Chair and the Opposition Spokes.

The Chair noted members' concerns that the trade do not feel their representations had been fully addressed.

The committee agreed to amend the recommendations to allow for further consultations to take place.

The committee resolved to:

- I. Note the content of the report and adopt the draft attached as Appendix D to the report as Cambridge City Council's Hackney Carriage and Private Hire Licensing Policy with immediate effect, save that officers will discuss with the Chair, Vice Chair and Spokes, paragraph 23.8 and 23.9 (Page 12 of the Draft Hackney Carriage and Private Hire Licensing Policy) which will be subject to further consultation (by 8 votes to 0).
- II. Note the contents of the "Taxi Guide" (Appendix E) and to delegate authority to the Head of Refuse and Environment, in consultation with the Chair and Spokes, make any future amendments to the "Taxi Guide" (by 8 votes to 0).
- III. Agree the purpose of the demand survey is to establish whether or not the current Hackney Carriage fleet meets the demand for the services of Hackney Carriages within the district and additionally to cover accessibility issues and the provision of ranks within the Council's district (by 7 vote to 1).
- IV. Request that officers develop a draft enforcement management system in consultation with the Chair, Vice Chair and Spokes that will be brought back to a subsequent licensing committee for Member consideration prior to appropriate public consultation (by 5 votes to 0).

11/22/licf Publication Of Interested Party Representations Made Under the Provision if the Licensing Act 2003

The committee received a report from the Licensing Manager regarding the publication of interested parties representations made under the provisions of the Licensing Act 2003.

Members made the following comments in response to the report.

- I. Names and addresses allow members to decide how much weight to give the representations.

- II. Representations are made in good faith and an open approach should be encouraged. However, vulnerable individuals might find this problematic.
- III. Could the policy be brought in line with the planning process?
- IV. Members of the public need to be informed that information may be published to the website.
- V. Members suggested treating individuals in a different way from institutions.
- VI. The problems of redacting information were discussed and it was agreed that it is not just the name and address that would identify the person making the representation.
- VII. Members and the applicant always get the full, un-redacted copies of representations.
- VIII. Redacting information would be time-consuming for officers and might require a change to the existing processes and/or additional resources.

Members agreed unanimously that full details of representation should be published for the following categories:

- A. A body representing persons who live in that vicinity,
- B. A body representing persons involved in such businesses
- C. A member of the relevant licensing authority.

The Chair invited members to indicate their preferred option from the following suggested for approval

- I. The publication of representations from interested parties with the removal of any personal data (1 Vote)
- II. The publication of representations from interested parties with their express written permission or if they refuse to give permission, with the removal of any personal data (5 votes)
- III. The continuation of the current situation such that representations from interested parties are not published to the Council website (1 vote)

The committee resolved to:

1. Publish in full representations received from the following:
 - A. A body representing persons who live in that vicinity.
 - B. A body representing persons involved in such businesses.
 - C. A member of the relevant licensing authority.

2. The publication of representations from interested parties with their express written permission or if they refuse to give permission, with the removal of any personal data from the following:

- A. A person living in the vicinity of the premises.
- B. A person involved in a business in that vicinity.

The meeting ended at 1.55 pm

CHAIR

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee

30/01/2012

WARDS: All

HACKNEY CARRIAGE AND PRIVATE HIRE ENFORCEMENT POLICY

1 INTRODUCTION

- 1.1 On 24 October 2011, the Licensing Committee received a report to consider the responses to the consultation on the draft Hackney Carriage and Private Hire Licensing policy that consolidated and reviewed the existing Taxi Licensing policies. The policy resulted from changes to the way in which the service was delivered following the creation of the Customer Service Centre and also the Best Practice Guidance published by the Department for Transport in March 2010 on Taxi and Private Hire Vehicle Licensing.
- 1.2 The Committee resolved to adopt the policy save for the introduction of the requirement for vehicles to meet Euro Standards, which requires further consultation.
- 1.3 Additionally, the Committee requested that officers develop a draft enforcement management system in consultation with the Chair, Vice Chair and spokes that would be brought to a future Licensing Committee meeting for Member consideration prior to the appropriate public consultation.
- 1.4 The draft enforcement policy is attached to the report as Appendix A. Section 2 of the policy will outline the graduated steps that the Council will take when a Licence holder breaches a Licence condition or commits an offence, or when complaints are received about the conduct of a Licence holder or the condition of a vehicle. The purpose of this section is to ensure that Officers take a consistent approach with all Licence holders and also to make the Licence holders aware of what action will be taken as a result of their actions. There are two options put

forward for Section 2 of the enforcement policy and these are set out in paragraphs 3.5 & 3.6 of the report.

- 1.5 The first option is set out in paragraph 3.5 of the report. It is a penalty point scheme that lists when and how many penalty points will be allocated in each circumstance and also what action will be taken on the accumulation of penalty points. The second option is set out in paragraph 3.6 of the report. It lists the graduated enforcement steps and the circumstances under which each action will be taken.
- 1.6 Under each option for Section 2, a Licence holder will be referred to the Licensing Sub-Committee when they fall within the Council's grounds for disbarment.
- 1.7 On referral to the Licensing Sub-Committee, each case will be considered on its individual merits. It is not intended that the enforcement policy will fetter the discretion of the Licensing Sub-Committee to suspend or revoke a Licence, to refuse to renew a Licence or to take no action, as they see fit. The Members will consider the facts of the cases that resulted in the referral to Committee and any previous enforcement actions taken by Officers prior to referral (e.g. warning letters, final warnings etc.). To avoid double jeopardy, Members will only consider the facts of the case that resulted in the Licence holder being referred to the Sub-Committee.
- 1.8 On final approval of the enforcement policy (following consultation), it will be attached to the 'Taxi Guide' as Appendix 3.

2. RECOMMENDATIONS

2.1 Members are recommended:

To agree to consult on the draft enforcement policy (Appendix A) with the two alternatives for Section 2 of the policy as set out in paragraphs 3.5 & 3.6 of the report.

3. BACKGROUND

- 3.1 Cambridge City Council must ensure that proprietors, drivers and operators are correctly licensed and that they carry out their trade in accordance with the relevant law and the conditions attached to the Licences.
- 3.2 An enforcement policy allows for a firm yet fair application of the law in a consistent and transparent way. The Council is in agreement with the

provisions of the Government's Enforcement Concordat, which is reflected in the Councils' Common Enforcement Policy. This underpins all service or topic specific enforcement policies adopted by the Council and represents a graduated approach to enforcement.

3.3 Section 1 of the enforcement policy outlines the enforcement options that are available to the Council. This section refers to the issuing of fixed penalty notices under the Health Act 2006. These are an alternative to prosecution and are included as an enforcement option in the Council's Enforcement Policy. A fixed penalty notice under the Health Act 2006 may be issued by an authorised officer who has reason to believe that a person has been smoking in a licensed vehicle or that a person has failed to display the statutory 'no smoking' sign prominently in each compartment of a licensed vehicle.

3.4 Section 2 of the enforcement policy will outline the action that Officers will take when a Licence holder breaches a Licence condition or commits an offence, or when complaints are received about the conduct of a Licence holder or the condition of a vehicle. There are two proposals put forward for this section. The first is a penalty point scheme and the second is a table of actions. Each option refers to offences under legislation that the Council enforces (e.g. Town Police Clauses Act 1847, Local Government (Miscellaneous Provisions) Act 1976). These offences are listed and described in Appendix B.

3.5 Option 1 – Penalty point Scheme

The Council generally will take a stepped approach to enforcement when:

- a Licence holder breaches a Licence condition
- a Licence holder commits an offence
- a complaint is received about the conduct of a Licence holder or condition of a vehicle
- there is a combination of the above

In these cases, the Licence holder will accrue points as outlined below.

Licence Conditions

	Points
Breach of a Hackney Carriage or Private Hire Vehicle Licence condition, or a Private Hire Driver Licence condition	3

Offences

	Points
A conviction for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010.	8
A simple caution for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006 or Chapter 1 of Part 12 of the Equality Act 2010.	6
Committing an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006 or Chapter 1 of Part 12 of the Equality Act 2010, where legal proceedings are not instigated.	4
A conviction of any of the following: <ul style="list-style-type: none">• An offence of a sexual nature,• An offence involving possession, supply of drugs or related offence• An offence involving dishonesty• An offence involving violence• An offence relating to alcohol and motor vehicles Or two convictions within 5 years of an offence related drunkenness	12
A road traffic offence committed that resulted in 1-5 points being attached to a drivers licence	6
A combination of road traffic offences committed that resulted in a total of 6 or more points being attached to a drivers licence within the past 1 year	6
Any combination of road traffic offences committed that resulted in more than 9 points being attached to a drivers licence	6
A road traffic offence committed that resulted in 6 or more points being attached to a drivers licence	12

Complaints

	Points
Substantiated complaint regarding the conduct of the Licence holder (other than an offence) or the condition of a vehicle	4

A second or subsequent unsubstantiated complaint of a similar nature to the first in a 12-month period, regarding the conduct of the Licence holder (including an offence) or the condition of a vehicle**	3
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***With regard to the first unsubstantiated complaint, the complaint will be investigated and the Licence holder will be invited to provide comments in writing, but in the absence of sufficient evidence to substantiate the complaint, no points will be accrued.*

Offences witnessed by an Officer

	Points
Road traffic offence witnessed by an Officer (e.g. driving whilst using a mobile phone)	3

Outcome

If any incident covers a number of areas (e.g. breach of statutory obligation and breach of Licence condition), the maximum number of points accrued will be capped at whichever area has the highest number of points. E.g. if a Licence holder is found to be breaching 2 conditions of a Licence, the number of points would be capped at 3 instead of 6 points being allocated.

The enforcement action that will be taken will generally be as follows:

Number of Points accrued in a rolling 12-month period	Action
3	Letter of warning and invitation to provide a formal response in writing
4-7	Interviewed by an Officer of the Licensing section and reminded of conduct expected
8-11	Interviewed by an Officer of the Licensing section and a final written warning given
12+	Referred to the Licensing Sub-Committee to consider the revocation or refusal to renew the relevant Licence.

Points will only cease to apply on the passing of 12 months from the date of the action by the Licence holder that resulted in the accrual of the points (i.e. date of offence, date of incident that resulted in complaint

etc). If a Licence holder is referred to the Licensing Sub-Committee but no action is taken, the points will remain effective and the incident will again be considered if further points are accrued.

The above table gives an indication of the likely action that the Council will take. However, each case will be considered individually and in exceptional circumstances the Council may deviate from the above in order to take the appropriate enforcement action.

3.6 Option 2 – Table of Enforcement Actions

To achieve a stepped approach to enforcement, the Council will generally take the following action when

- a Licence holder breaches a Licence condition
- a Licence holder commits an offence
- a complaint is received about the conduct of a Licence holder or condition of a vehicle
- there is a combination of the above

I	<p>Letter of warning and invitation to provide a formal response in writing for any of the following:</p> <ul style="list-style-type: none"> i) A Licence condition is breached; ii) A road traffic offence is witnessed by an Officer of the Licensing section (e.g. driving whilst using a mobile phone); iii) Two unsubstantiated complaints of a similar nature in a 12-month period**; or iv) Any road traffic offence or combination of offences that resulted in the accrual of penalty points except where the number of points accrued means that the Licence holder falls within IV.
II	<p>Interviewed by an Officer of the Licensing section and reminded of expected standards for any of the following:</p> <ul style="list-style-type: none"> i) A simple caution for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010; ii) Substantiated complaint regarding the conduct of the Licence holder (other than an offence) or the condition of a vehicle; iii) An offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health

	<p>Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 where legal proceedings are not instigated;</p> <p>iv) Two Licence conditions are breached or two road traffic offences are witnessed by an Officer of the Licensing section (e.g. driving whilst using a mobile phone), or one of each occurs within a 12 month period; or</p> <p>v) Three unsubstantiated complaints of a similar nature in a 12-month period.</p>
III	<p>Interviewed by an Officer of the Licensing section and a final written warning given for any of the following:</p> <p>i) A conviction for an offence under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010;</p> <p>ii) The Licence holder commits an action resulting in them falling under li)-ii) or lli)-iii) where they have been interviewed by an Officer of the Licensing section in the previous 12-month period and reminded of expected standards.</p> <p>iii) Four unsubstantiated complaints of a similar nature within a 12-month period.</p>
IV	<p>Referred to the Licensing Sub-Committee to consider the revocation or refusal to renew the relevant Licence for any of the following:</p> <p>i) The Licence holder commits an action resulting in them falling under li)-ii) or lli)-iii) where they have been interviewed by an Officer of the Licensing section in the previous 12-month period and a final written warning has been given; or</p> <p>ii) Five unsubstantiated complaints of a similar nature within a 12-month period; or</p> <p>in accordance with the Council's grounds for disbarment</p> <p>iii) An unspent conviction of any offence of a sexual nature; or</p> <p>iv) An unspent conviction of any offence involving possession, supply of drugs or related offence; or</p> <p>v) An unspent conviction of any offence involving dishonesty; or</p> <p>vi) An unspent conviction for any offence involving violence; or</p> <p>vii) A second conviction within 5 years of an offence related drunkenness; or</p> <p>viii) An unspent conviction of any offence relating to alcohol and</p>

	<p>motor vehicles; or</p> <p>ix) An offence committed that resulted in 6 or more points being attached to a drivers licence; or</p> <p>x) Any combination of offences committed that result in a total of 6 or more points being attached to a drivers licence within the past 1 year; or</p> <p>xi) Any combination of offences committed that result in more than 9 points being attached to a drivers licence; or</p> <p>xii) Two or more convictions for offences under the Town Police Clauses Act 1847, Part II of the Local Government (Miscellaneous Provisions) Act 1976, Part IV of the Transport Act 1980, Part I of the Health Act 2006, Chapter 1 of Part 12 of the Equality Act 2010 other than those that are spent under the Rehabilitation of Offenders Act 1974.</p>
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*** With regard to the first unsubstantiated complaint, the complaint will be investigated and the Licence holder will be invited to provide comments in writing, but in the absence of sufficient evidence to substantiate the complaint, no warning letter will be sent.*

The above gives an indication of the likely action that the Council will take. However, each case will be considered individually and in exceptional circumstances the Council may deviate from the above in order to take the appropriate enforcement action.

- 3.7 A stepped approach to enforcement will provide Licence holders with warnings prior to referral to the Licensing Sub-Committee for their consideration to suspend, revoke or refuse to renew a Licence. It is hoped that by publishing the enforcement policy, Licence holders will be encouraged to comply with the conditions attached to their Licences, the Council's byelaws and the relevant statutes.

4. CONSULTATIONS

- 4.1 It is proposed to undertake 12 weeks consultation on the draft enforcement policy in accordance with HM Government's Code of Practice on consultation. Consultation will be undertaken by a variety of means including letters to the trade, through the Taxi forum and on our website. It is envisaged that the consultation period will commence in early February.
- 4.2 The results of the consultation exercise will be presented to Members at a future Licensing Committee meeting so that the feedback from relevant stakeholders can be taken in to account when determining the final enforcement policy.

5. OPTIONS

5.1 The Committee may resolve to:

- i) Agree to consult on the draft enforcement policy (Appendix A) with the two alternatives for Section 2 as set out in paragraphs 3.5 & 3.6 of the report.
- ii) Amend the draft enforcement policy (Appendix A) or the two alternatives for Section 2 as set out in paragraphs 3.5 & 3.6 as deemed necessary and commence the consultation process.
- iii) Not agree consultation on the draft enforcement policy

6. CONCLUSIONS

- 6.1 Cambridge City Council has a duty to ensure that that proprietors, drivers and operators are licensed and carry out their trade in accordance with both the relevant law and the conditions attached to the Licences. It is considered that a published enforcement policy will allow for a fair yet firm application of the law in a consistent and transparent way.
- 6.2 By consulting on the draft enforcement policy, the views of the public and relevant stakeholders can be taken in to account prior to determining the final policy.

7. IMPLICATIONS

(a) Financial Implications

Provision is made in the council's budget for the taxi licensing service, which is run on cost recovery basis. The cost of consultation will form a part of the administrative function.

(b) Staffing Implications

Existing staff resources will carry out the consultation and apply the policy once finalised.

(c) Equal Opportunities Implications

The adoption of an enforcement policy will ensure a consistently fair and transparent application of Council's statutory powers.

(d) Environmental Implications

There are no apparent environmental implications resulting from the enforcement policy.

(e) **Community Safety**

Cambridge City Council has a duty to provide a safe and secure taxi service. The publication of an enforcement policy will encourage Licence holders to comply with the conditions attached to their Licences, the Council's byelaws and their statutory obligations.

APPENDICES

Appendix A

Draft Hackney Carriage and Private Hire enforcement policy (excluding section 2)

Appendix B

List and description of offences

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [Licensing Committee Meeting Minutes from 24 October 2011](#)
- [Cambridge City Council's Enforcement Policy](#)

The author and contact officer for queries on the report is Robin Grey on extension 7899.

Report file:

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Enforcement Policy

It is the policy of Cambridge City Council to ensure that proprietors, drivers and operators are licensed and carry out their trade in accordance with both the relevant law and the conditions attached to the licences. This will ensure a safe and secure Hackney Carriage and Private Hire Service.

The enforcement policy is intended to fairly and firmly enforce the law in a consistent and transparent way. The Council is in agreement with the provisions of the Government's Enforcement Concordat. This is reflected in the Councils' Common Enforcement Policy, which underpins all service or topic specific enforcement policies adopted by the council. This represents a graduated approach to enforcement based on the principles of:

- Courtesy and Helpfulness
- Clear Standards and Practices
- Consistency
- Openness
- Proportionality
- Training of Staff

All enforcement action, be it verbal warnings, the issue of written warnings, statutory notices, fixed penalty notices, appearance before the committee or prosecution will primarily be based upon the seriousness of the breach and the possible consequences arising out of it. Enforcement action will not, therefore, constitute a punitive response to minor technical contraventions of legislation.

Authorised officers, when making enforcement decisions, will abide by this policy. Any departure from the policy must be exceptional, capable of justification, be fully considered and be endorsed by the Environmental Health Manager or above before the decision is taken (unless it is considered that there is significant risk to the public in delaying the decision).

1. Enforcement Options

Achieving and maintaining a consistent approach to making decisions that concern taxi licensing and enforcement action, including prosecution, is of paramount importance. To achieve and maintain consistency, it is vital that the policy guidelines are always considered and followed where appropriate.

Licence application and enforcement decisions must always be consistent, balanced, proportionate and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria must be considered including the:

- seriousness of any offences;
- driver, proprietor or operator's past history;
- consequence of non-compliance;
- likely effectiveness of the various enforcement options;
- public safety;

Having considered all relevant information and evidence, the choices for action are:-

a) Licence Applications:

- Grant licences subject to the Council's Hackney Carriage and Private Hire Licensing Policy requirements and such conditions as the Council deems necessary and proportionate

- Refuse to grant or renew a licence.

b) Enforcement Action:

- Take no action;
- Take informal action;
- Issue statutory notices, (stop notices etc.);
- Issue fixed penalty notices;
- Suspend a licence;
- Revoke a licence;
- Use simple cautions;
- Prosecute
- A combination of any of the above

1.1 Informal Action

Informal action to secure compliance with legislation includes offering advice, verbal or written warnings and requests for action, and the use of letters.

Such informal enforcement action may be appropriate in any of the following circumstances: -

- The act or omission is not serious enough to warrant more formal action;
- It can be reasonably expected that informal action will achieve compliance, perhaps by taking into account the individual driver, proprietor or operator's past history;
- Confidence in the operator's management is high;
- The consequences of non-compliance will not pose a significant risk to the safety of the public.

Even where some of the above criteria are not met, there may be circumstances in which informal action will be more effective than a formal approach.

1.2 Statutory Section 68 Notices (Stop Notices)

An authorised officer may at any reasonable time inspect and test any hackney carriage or private hire vehicle licensed by the Council or the taximeter affixed to such vehicle for the purpose of ascertaining its fitness. If the authorised officer is not satisfied as to the fitness of the vehicle or the accuracy of the taximeter, the officer may give notice in writing to require the proprietor of the vehicle to make the vehicle available for further inspection and testing at such reasonable time and place as specified in the notice, and suspend the Licence until such time as the officer is satisfied that the vehicle or meter is again fit for purpose.

The suspension notice will remain in place until such time as the Officer issuing the notice is satisfied that the grounds for suspension have been satisfactorily resolved. Written confirmation of the lifting of the suspension notice will be given.

If the Authorised Officer who issued the suspension notice is not satisfied that the appropriate action has been taken to allow the suspension notice to be withdrawn within a period of two months from the date of issue, the vehicle licence shall be deemed to be revoked.

1.3 Fixed Penalty Notices under the Health Act 2006

An authorised officer who has reason to believe that a person has been smoking in a licensed vehicle or that a person has failed to display the statutory 'no smoking' sign prominently in each compartment of a licensed vehicle and thereby committed an offence, may give that person a penalty notice in respect of the offence. This is a notice offering a person the opportunity to discharge any liability to conviction for the offence to which the notice relates by paying a penalty. The issuing of a fixed penalty notice is therefore an alternative to prosecution.

In deciding whether to issue a fixed penalty notice instead of prosecuting offenders, the Council will consider the seriousness of the offence, the history of the person and whether any previous fixed penalty notices have been issued to that person for similar offences. It is unlikely that more than two fixed penalty notices will be issued to a person before the Council will consider prosecuting that person for any further offences.

1.4 Appearance before the Licensing Sub Committee of the Council

An offending individual or company may be summoned before the licensing sub-committee to answer allegations of breaches of relevant legislation, byelaws or conditions attached to licences or a contravention of the Council's Hackney Carriage and Private Hire Licensing Policy. Prior to this, the Licence holder will be provided with warnings depending on the seriousness of the complaint or contravention. See Section 2 for a guide on the action that the Licensing Section will take in response to these matters. In exceptional circumstances, the Council may deviate from the indicated course of action.

Current licence holders who report convictions or breach relevant legislation during the period of their licence may be brought before the Licensing Sub Committee. The Taxi Regulatory Committee Hearing Procedure is shown below in section 3. This contains Cambridge City Council's 'Grounds for Disbarment' that indicate when a Licence may be suspended, revoked or not renewed unless there are exceptional circumstances. The Council also has discretion to suspend, revoke, or refuse to renew a Licence for "any other reasonable cause".

When considering an application or the standing of a Licence holder the Committee may decide to take one or more of the following actions:-

- no action;
- a written warning;
- require the production of driving licences or other specified documentation at the Council's Office;
- suspend a licence;
- revoke a licence;
- recommend prosecution action
- other appropriate action as deemed necessary

There is a right of appeal against any decision of the Licensing Sub Committee or authorised officers to suspend, revoke or refuse to renew a Licence, or against the imposition of conditions on the Licence. Any application to appeal against such a decision should be made to the Magistrates' Court.

Any notifications of enforcement actions will include written information on how to appeal. The suspension or revocation of a driver's licence may have immediate effect if the Council considers that the interests of public safety require the suspension or revocation of the

licence to have immediate effect. In these cases, the notice given to the driver will state that the interests of public safety require the decision to have immediate effect and it will also include an explanation of the reasons why it has immediate effect. The revocation or suspension will then be effective when the notice is given to the driver, regardless of whether an appeal is lodged with the Magistrates' Court.

A driver can also appeal against a decision to refusal to renew his driver's licence, but if his previous licence has already expired when the decision is made, he cannot continue to drive because he would no longer hold a current licence.

1.5 Simple Cautions

A simple caution may be used as an alternative to a prosecution in certain circumstances.

The purposes of the simple caution are:-

- to deal quickly and simply with less serious offences;
- to divert less serious offences away from the Courts;
- to reduce the chances of repeat offences

To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction;
- the suspected offender must admit the offence;
- the suspected offender must understand the significance of a simple caution and give informed consent to being cautioned.

If there is insufficient evidence to consider taking a prosecution, then by implication, the criteria is not satisfied for the use of a simple caution. A simple caution should also not be used where the suspected offender does not make a clear and reliable admission of the offence. (It should be noted that there is no legal obligation for any person to accept the offer of a simple caution and no pressure should be applied to the person to accept a caution).

Where a person declines the offer of a simple caution, it will be necessary to consider taking a prosecution.

1.6 Prosecution

The decision to prosecute is a very significant one as it may impact on the licence holder's future employability. Prosecution will, in general, be restricted to those circumstances where the law is blatantly disregarded, legitimate requirements of the Council are not followed and / or the public is put at serious risk. Such circumstances are, however, in a minority. It is important that the criteria on which a decision to prosecute is made provide common standards that ensure a consistent approach.

The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:-

- where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- when there appears to have been reckless disregard for the safety of passengers or other road users;
- where there have been repeated breaches of legal requirements;
- where a particular type of offence is prevalent;
- where a particular contravention has caused serious public alarm.

When circumstances have been identified which may warrant a prosecution, all relevant evidence and information must be considered, to enable a consistent, fair and objective decision to be made.

Before referring a matter for possible prosecution, the Head of Refuse and Environment must be satisfied that there is relevant, admissible, substantial and reliable evidence that an identifiable person or company has committed an offence. There must be a realistic prospect of conviction; a bare prima facie case is not enough. With insufficient evidence to prosecute, the issue of a simple caution is not an alternative.

In addition to being satisfied that there is sufficient evidence to provide realistic prospect of conviction, it must be established that it is in the public interest to prosecute. The Code for Crown Prosecutors (November 2004), issued by the Crown Prosecution Service, provides guidance (including relevant public interest criteria) that will be considered.

When a decision is being taken on whether to prosecute, the factors to be considered may include:-

- the seriousness of the alleged offence;
- the risk or harm to the public;
- identifiable victims;
- failure to comply with a statutory notice served for a significant breach of legislation;
- disregard of safety for financial reward;
- the previous history of the party concerned;
- offences following a history of similar offences;
- failure to respond positively to past warnings;
- the ability of any important witnesses and their willingness to cooperate;
- the willingness of the party to prevent a recurrence of the problem;
- the probable public benefit of a prosecution and the importance of the case e.g. whether it might establish a legal precedent. (As indicated above, advice on the public interest is contained in the
- Code for Crown Prosecutors. The general thrust of the advice contained therein is that, the graver the offence, the less likelihood there will be that the public interest will allow anything other than a prosecution);
- whether other action, such as issuing a simple caution in accordance with the Home Office Circular 016/2008 would be more appropriate or effective.

1.7 Transparency

Following the completion of an investigation into a complaint or any enforcement activity, the licence holder will be informed of the action intended to be taken.

Any written documentation issued or sent will: -

- contain all the information necessary to understand the offence and what needs to be done to rectify it. Where works are required, the period allowed for them to be completed will be indicated;
- indicate the legislation or conditions contravened and measures which will enable compliance with the legal requirements and point out, where appropriate, that other means of achieving the same effect may be chosen;
- clearly indicate any recommendations of good practice under an appropriate heading, to show that they are not a legal requirement.

The clear distinction between legal requirements and matters that are recommended as good practice recommendations in all enforcement action, even if only giving verbal advice, is vitally important.

2. Enforcement Action

See the two proposed options

3. Taxi Regulatory Committee Hearings Procedure

The purpose of the Taxi Regulatory Hearings Procedure is to provide a standardised hearings procedure for the taxi regulatory matters that are considered by the sub-committee. This procedure will provide an opportunity for all parties to have a right to a fair hearing.

The City Council, as licensing regulatory authority for Hackney Carriage and Private Hire matters within the City of Cambridge, has the responsibility to determine those things within its jurisdiction. In many cases these will involve one or more of the Grounds for Disbarment.

In certain circumstances the authority will hold a hearing. It is considered good practice that a recognised procedure is followed and that parties of such a hearing are advised in advance of the procedure to be followed at the hearing.

3.1 Preparation of report

Where the Officer considers that the Taxi Regulatory Sub-Committee should decide whether an applicant for a licence is a fit and proper to hold the licence for which she/he has applied, the Officer will refer the matter to the Sub Committee.

Where the Officer has reason to believe that any of the circumstances set out in Sections 60 and 61 of the 1976 Act may apply, the Officer will conduct an investigation on behalf of the Head of Refuse and Environment.

Following investigation and where the Officer considers it appropriate to do so, the Officer will prepare a report for the Sub-Committee setting out the relevant law, Council policy and the powers of the Sub-committee. The Officer will also submit any information obtained as a result of the investigation, the source of that information and any matters in dispute.

The Officer will write to the applicant or Licence holder (driver, proprietor or operator) and ask her/him to say which of the witnesses she/he wants to attend the hearing to give their evidence in person. The Council will write to the applicant or Licence holder, and the witnesses to tell them when and where the Sub-Committee meeting will be held.

Evidence can be given in writing or orally, by the Officer, the applicant or Licence holder, or by their witness(es). There are no legal restrictions in terms of the kind of evidence that can be heard or the form in which it must be presented.

If a witness whose presence is requested by the applicant or Licence holder is unable or unwilling to attend and the Sub-committee does not wish to adjourn the hearing, the evidence may be given in writing instead.

The applicant or Licence holder can give evidence about her/his character in any way she/he thinks fit, e.g. by letters of reference or by calling witnesses

The Head of Refuse and Environment will send the applicant or Licence holder a copy of the report at least 5 working days before the hearing to give her/him the opportunity to comment on it or, if she/he chooses, to submit further written representations or additional evidence. For example, a driver may wish to provide evidence that they have undertaken a speed awareness or advanced driving course since accruing penalty points for speeding.

When presenting the report to the Sub-Committee the Officer will inform the Sub-Committee of any comments, representations or additional evidence submitted by or on behalf of the applicant or Licence holder.

At any stage the applicant or Licence holder may instruct someone (such as a solicitor, a friend or relative, an employer or a member of a trade organisation) to act as her/his representative. The applicant or Licence holder can be represented at the hearing whether or not the applicant or Licence holder attends the hearing.

If the applicant or Licence holder fails to attend the hearing the Sub-Committee may decide to continue in her/his absence.

Any references in this note to an applicant or Licence holder should be taken to include her/his representative.

3.2 Conflict of Interest

If a member of the Taxi Regulatory Sub-Committee becomes aware of a possible conflict of interest before or during the hearing she/he should raise this with the Head of Legal Services.

Members should not take part in hearing a case if they have a personal interest or involvement with it or the issues raised by it might be seen as affecting their impartiality, e.g. if they know the applicant / Licence holder or a complainant, or they have been previously involved with the case or a closely related case in another capacity.

3.3 The Hearing

Present at the hearing will be members of the Taxi Regulatory Sub-Committee, the Officer and a Legal Officer who will be the Sub-Committee's legal adviser. A Committee Manager may also be present.

At the start of the hearing the Chair of the Sub-Committee will open the meeting introduce the members of the committee and officers present and explain the procedure to be followed.

The committee members will decide whether members of the press and public should be excluded from the remainder of the hearing.

The Officer will outline the report and present any witnesses in support of the Officer's case.

Members may ask any relevant questions of the officer or witnesses.

The Chair will invite the applicant / Licence holder or her/his representative to ask questions of the Officer or witnesses. The Chair will then invite the applicant / Licence holder or a representative to put their case to the committee. This will include calling any witnesses. Witnesses will be allowed into the hearing only when giving their evidence.

Members may ask any relevant questions of the applicant / Licence holder and/or her/his witnesses.

The Officer may ask any relevant questions to clarify the evidence or information that has been given.

When all the evidence has been offered, the Chair will invite all parties to summarise their points if they wish.

The Chair will ask all parties if they are satisfied that they have had the opportunity to say everything that they wish to say.

The Chair will invite the Legal Adviser to the Sub-Committee to give any legal advice that the advisor considers to be appropriate.

If the Sub-Committee wish to consider their decision in private, everyone except the members of the Sub-Committee, will be asked to leave the room; alternatively the Sub-Committee will withdraw to another room. The sub-committee may invite the Legal Advisor to join them. Any legal advice given to the Sub-Committee when they are withdrawn will be reported back to the hearing before the Chair resumes it.

The sub-Committee may reconvene the meeting in order to seek clarification of the facts.

When the decision has been made with Chair will announce this to the applicant or Licence holder.

3.4 The applicant or Licence holder

Following the hearing the Council will write to the driver with formal notification of the decision of the sub-Committee and informing the applicant or Licence holder of the right of appeal to the Magistrates Court and the time within which appeals must be submitted.

A suspension or revocation of a Licence will take effect at the end of the period of 21 days beginning with the day on which written notice of the Sub-Committee decision was given to the Licence holder EXCEPT in the case of the suspension or revocation of a Driver Licence where the Sub-Committee have decided that the interest of public safety require the suspension or revocation to have immediate effect. The letter notifying the driver of the Sub-Committee's decision will include a statement that this is so and an explanation why. The suspension will then take effect when the letter notifying the decision is given to the driver.

In urgent cases, the Head of Refuse and Environment has delegated power to suspend a driver or vehicle licence.

3.5 Referral to the Licensing Sub-Committee

Specific consideration will be given to the following convictions and the Head of Refuse and Environment, and subsequently the Licensing Sub Committee, may exercise discretion to grant or to renew a licence, or to suspend or revoke an existing Licence.

Minor traffic offences – convictions for minor offences e.g. obstruction, waiting in a restricted street, speeding etc does not prevent a person from proceeding with an application. However, the number, type and frequency/ repetition of these types of offences will be taken into account. Any new applicant must have held a full DVLA Licence for a period of twelve months.

Major traffic offences – an isolated conviction for reckless driving or driving without due care and attention etc will normally merit a warning as to future driving and advice on standards expected of licensed drivers. More than one conviction for these types of offences within the last *two years* may merit refusal and no further application will then be considered until a period of at least *three years* free from convictions has elapsed. Similarly, any conviction during the period of a council issued licence will lead to a warning as to future conduct and may lead to suspension or revocation of that licence.

Drunkenness with a motor vehicle – a serious view will be taken of convictions for driving or being in charge of a motor vehicle under the influence of alcohol. More than one conviction for these offences raises grave doubts as to the applicant's fitness to hold a driver's licence. At least *three years* will normally elapse after the restoration of the DVLA driving licence before an application can be considered for a Council issue driver's licence. A driver found guilty of driving whilst under the influence of alcohol will have their licence revoked and will be banned for holding such a licence with the Council for a minimum of *five years*. Drunkenness not in a motor vehicle – a number of convictions for drunkenness may indicate a medical problem necessitating critical examination. A conviction of this type of offence during the period of a council issued licence might warrant a warning as to future conduct with subsequent convictions possibly leading to suspension and/ or revocation of any licence held.

Drugs – an applicant with a conviction of a drug related offence may be required to show a period of at least *three years* free of convictions before an application can be made. A driver found guilty whilst under the influence of drugs or found guilty of any drug related offence will have their Council issue driver's licence suspended and/ or revoked immediately and be banned from holding such a licence with the Council for a minimum period of *five years*.

Indecency offences – as drivers often carry unaccompanied and/ or vulnerable passengers, applicants with convictions for any indecency offences will be refused a licence until they can show a substantial period free of such offences. Each case will be treated on its merits. More than once conviction of this kind precludes consideration for at least five years. In either case, if a licence is issued then a strict warning as to future conduct may be issued. A driver found guilty of indecency offences during the period of the council issued licence will have their licence suspended or revoked immediately and be banned from holding such a licence for a minimum period of *five years*.

Violence – as drivers maintain close contact with the public a firm line is taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least three years free of such convictions must be shown before an application is entertained and even then a strict warning will be administered. A driver found guilty of violence related offences will have their council licence suspended and/ or revoked immediately and be banned from holding such a licence for a minimum period of *five years*.

Dishonesty – drivers are expected to be persons of trust. A serious view will be taken of any convictions involving dishonesty. In general a period of at least three years free of any convictions will be required before considering an application. Any existing driver convicted of offences of dishonesty will have their council licence suspended and/ or revoked immediately and be banned from holding such a licence for a minimum of *five years*.

3.6 Grounds for Disbarment

Unless there are exceptional circumstances it is unlikely that an individual will be granted a licence if they have:

1. Been convicted of any offence of a sexual nature which is not spent under the Rehabilitation of Offenders Act 1974
2. Been convicted of any offence involving possession, supply of drugs or related offence not spent under the Rehabilitation of Offenders Act 1974
3. Been convicted of any offence involving dishonesty not spent under the Rehabilitation of Offenders Act 1974
4. Been convicted of any offence involving violence not spent under the Rehabilitation of Offenders Act 1974
5. Been convicted within the last 5 years of more than one offence of drunkenness or related (see item 7 below)
6. Held their DVLA drivers licence for less than 2 years after its return as a result of suspension for any reason
7. Been convicted of any offence relating to alcohol and motor vehicles which is not spent under the Rehabilitation of Offenders Act 1974
8. Been convicted within the past 3 years of any offence which resulted in 6 or more points being attached to their drivers licence
9. Been convicted within the past 1 year of any combination of offences relating in 6 or more points being attached to their drivers licence
10. If at the time of application (for grant, renewal or during the life of an existing licence) have more than 9 points attached to their drivers licence
11. If they have more than 1 conviction relating to 'taxi' law which is not spent under the Rehabilitation of Offenders Act 1974

The table below provides the rehabilitation period for offences. A conviction is deemed 'spent' under the Rehabilitation of Offenders Act 1974 once the rehabilitation period has expired.

Sentence	Rehabilitation Period
Two and a half years (30 months) imprisonment and over whether the sentence was suspended or not.	Never Spent
Six month imprisonment and over but under 30 months whether the sentence was suspended or not.	10 years
Under six months imprisonment/ youth custody whether the sentence was suspended or not.	7 years
A fine or community service order.	5 years
Conditional discharge, bound over or probation order. Also includes fit person, supervision and care orders.	One year or period of probation sentence, whichever is longer
Absolute discharge	6 months
Disqualification, disability or prohibition	Period of sentence unless a long period as above e.g. Disqualification and a fine five years
For applicants aged under 17 when they were convicted; The fixed rehabilitation periods for imprisonment and a fine are halved.	
For convictions which can only be passed on young offenders; they remain fixed and cannot be halved i.e.	
Borstal	7 years
Six months – two years detention in a place determined by the Secretary of State	5 years
Six months detention and less as above	3 years
Detention Centre Orders	3 years

All penalty points are normally spent for totting up purposes after three years from the date of offence. Exceptions to this are, for example, disqualifications for drink driving (10 years).

The periods of time that must elapse in other cases before the conviction becomes spent vary considerably according to the nature of the offence and other circumstances.

Information on Offences Relating to Hackney Carriage & Private Hire Vehicle Proprietors And Drivers, And Private Hire Operators

Licence holders are subject to certain statutory obligations. The Licensing section will investigate the offences detailed below and will consider enforcement action if it is established that any offence has been committed.

Offences under the Town Police Clauses Act 1847

Section 40

An application for a Hackney Carriage vehicle Licence shall detail the name, surname and place of abode of the person applying for the Licence and of every proprietor, part proprietor or person involved solely or in partnership with any other person in the keeping, employing or letting to hire of such carriage. It is an offence for any person applying for the Licence to omit the details of such a person from the application form and also an offence for them to include a person who is not a proprietor, part proprietor or involved in the keeping, employing or letting to hire of the vehicle.

Section 44

It is an offence for any person named on a Hackney Carriage Vehicle Licence to neglect or wilfully omit to give notice of any new address to the Council in writing within 7 days of any change in his place of abode.

Section 45

It is an offence for any person to ply for hire otherwise than with a licensed Hackney Carriage or without having the Licence number corresponding to the carriage openly displayed on the vehicle. It is also an offence for any proprietor or part proprietor of any vehicle other than a licensed Hackney Carriage to permit the vehicle to be used as a Hackney Carriage plying for hire.

Section 47

It is an offence for any person to act the driver of any licensed Hackney Carriage without first obtaining a Hackney Carriage Driver Licence.

Section 48

Where the proprietor of a Hackney Carriage permits or employs any licensed driver, the proprietor shall require and retain in his possession the paper part of the Hackney Carriage Driver's Licence. If the proprietor is summoned to produce the driver, then he shall also produce the driver's Licence. It is an offence for any proprietor to fail to require and retain such a Hackney Carriage Driver's Licence or to refuse or neglect to produce the Licence as so required.

Section 49

The proprietor shall return the Driver Licence upon the driver leaving the service of the proprietor by whom he is employed, unless the driver is guilty of any misconduct in which case it will be for the proprietor to give notice of the complaint to the driver and summon the driver to appear before any justice for the matter to be resolved.

Section 52

It is an offence for the proprietor of any Hackney Carriage to permit the vehicle to be used, employed or let to hire without having exhibited on the vehicle a plate upon which is stated (in legible words that are clearly distinguishable from the colour of the plate) the maximum number of persons authorised by the Licence to be carried in the vehicle. It is also an offence for the driver of any Hackney Carriage to refuse to carry this number or any lesser number of passengers.

Section 53

It is an offence for any driver of a Hackney Carriage whilst standing at any taxi rank or in any street to refuse or neglect (without reasonable excuse) to drive the Hackney Carriage to any destination within the Council's administrative district as directed by the person wishing to hire the vehicle.

Section 54

If a fare is agreed in advance of the hiring of a vehicle that is less than the fare set out in the Hackney Carriage Table of Fares, it is an offence for any proprietor or driver of a Hackney Carriage to demand more than that fare.

Section 56

It is an offence if the proprietor or driver of a Hackney Carriage agrees to carry any person for a distance for which a sum is agreed upon and then carry the person for a lesser distance than that to which they were entitled to be carried for the sum so agreed upon.

Section 57

At the request of a hirer of a Hackney Carriage for the driver to wait for a specific period with the vehicle, the driver may demand and receive from the hirer the fare that is equal to the sum of the fare for driving to the destination and also the fare for waiting for such time period as determined by the Hackney Carriage Table of Fares. It is an offence, however, for a driver to take such a deposit and then refuse to wait or leave before the expiration of the agreed time period or to fail to account for the deposit on the final discharge of the Hackney Carriage.

Section 59

It is an offence for any proprietor or driver of a Hackney Carriage that has been hired to permit any person to be carried in the vehicle during such hire without the express consent of the person hiring the vehicle.

Section 60

It is an offence for a driver authorised by the proprietor of a Hackney Carriage to act as such, to suffer any other person to act as the driver of the vehicle without the consent of the proprietor. It is also an offence for any person to act as the driver of a Hackney Carriage without the consent of the proprietor.

Section 62

It is an offence for the driver of any Hackney Carriage to leave it in any street or at any place of public resort or entertainment (whether hired or not) without some one proper to take care of it. Any constable may drive away such a Hackney Carriage and deposit it at some place of safe custody.

Section 64

It is an offence for any driver of a Hackney Carriage to cause the vehicle to stand for hire across any street or alongside any other Hackney Carriage. It is also an offence for the

driver of a Hackney Carriage to refuse to give way to any other carriage or to obstruct the driver of any other carriage in taking up or setting down any person or to wrongfully prevent or attempt to prevent the driver of any other Hackney Carriage from being hired.

Offences under Part II of the Local Government (Miscellaneous Provisions) Act 1976

Section 46

It is an offence for the proprietor of any vehicle (other than a licensed Hackney Carriage or London cab) to use or allow the vehicle to be used as a Private Hire Vehicle without having a Private Hire Vehicle Licence for that vehicle.

It is an offence for any person to drive a Private Hire Vehicle unless they are licensed as a Private Hire Driver by the Local Authority that licensed the vehicle.

It is an offence for the proprietor of a Private Hire Vehicle to employ a person as the driver of the vehicle unless they are licensed as a Private Hire Driver by the same Local Authority that licensed the vehicle.

It is an offence for a person to operate a Private Hire Vehicle unless they are licensed as a Private Hire Operator by the same Local Authority that licensed the vehicle.

It is an offence for a Private Hire Operator to operate any vehicle as a Private Hire Vehicle:
i) unless the vehicle is licensed as a Private Hire Vehicle by the same Local Authority that granted the Operator Licence and
ii) unless the driver is licensed as a Private Hire Driver by the same Local Authority that granted the Operator Licence.

Section 48

It is an offence for a person to use a licensed Private Hire Vehicle unless the Private Hire Licence plates are exhibited on the vehicle.

Section 49

It is an offence for the proprietor of a Hackney Carriage or a Private Hire Vehicle to fail to notify the Council in writing of any transfer of his interest in the vehicle to another person within 14 days of transferring his interest. Such a notice must specify the name and address of the person to whom the Hackney Carriage or Private Hire Vehicle has been transferred.

Section 50

It is an offence for the proprietor of any Hackney Carriage or Private Hire Vehicle to fail to present the vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the Council as required by notice.

It is an offence for the proprietor of a Hackney Carriage or Private Hire Vehicle that is licensed by the Council or in respect of which an application has been made for a Licence to be granted to fail to respond to a notice requiring them to state in writing the address of every place where the vehicle is kept when not in use. It is also an offence to fail to provide facilities as may be reasonably necessary to enable the vehicle to be inspected and tested at those addresses.

It is an offence for the proprietor of a licensed Hackney Carriage or a Private Hire Vehicle to fail to report to the Council as soon as reasonably practicable (but no later than 72 hours) any accident causing damage materially affecting the safety, performance or appearance of the vehicle or the convenience of persons carried in the vehicle.

It is an offence for the proprietor of a licensed Hackney Carriage or a Private Hire Vehicle to fail to produce the vehicle licence or certificate of the policy of insurance to an authorised Officer of the Council.

Section 53

It is an offence for any driver of a Hackney Carriage or Private Hire Vehicle to fail on request of any authorised Officer or the Council or any constable to produce for inspection their driver Licence either forthwith or within 5 days beginning on the following day.

Section 54

It is an offence for the driver of a Private Hire Vehicle to fail to wear their Private Hire Driver Licence badge in such position and manner as to be plainly and distinctly visible.

Section 56

It is an offence for a licensed Private Hire Operator to fail to keep a record in such form as the Council may prescribe by way of condition attached to the Licence, to fail to enter before the commencement of each journey particulars of every booking accepted by him, and to fail to produce the record on request to any authorised officer or any constable for inspection

It is an offence for any Private Hire Operator to fail to produce their Operator Licence on request by an authorised officer or constable for inspection

Section 57

It is an offence for a person to knowingly or recklessly make a false statement or omit any material in giving information as part of an application for a Driver or Vehicle Licence.

Section 58

It is an offence for the proprietor of a vehicle to fail without reasonable excuse to comply with a notice issued by the Council to require the return of the Vehicle Licence plate.

Section 64

It is an offence for any person to cause or permit any vehicle other than a Hackney Carriage to wait on any stand for hackney carriages without reasonable excuse during any period for which that stand has been appointed.

Section 66

It is an offence for a Hackney Carriage driver to undertake a journey for any hirer ending outside the district in respect of which no fare or rate of fare was agreed before the hiring was effected and for the driver to charge more than the fare indicated on the taxi as set by the Council's Hackney Carriage Table of Fares

Section 67

It is an offence for any person to use a Hackney Carriage under a contract for private hire except at a rate of fares or charges not greater than that fixed by the Hackney Carriage Table of Fares.

Section 69

It is an offence for any licensed Hackney Carriage or Private Hire Driver to unnecessarily prolong (in distance or time) without reasonable excuse, a journey for which the vehicle has been hired.

Section 71

It is an offence for any person to tamper with any seal on a taximeter, to alter any taximeter, or to use a private hire vehicle with a meter installed in the vehicle unless the meter has been tested and approved by or on behalf of the Council.

Section 73

It is an offence for any person to wilfully obstruct an authorised officer or constable, to fail to comply with any requirement properly made by such an officer or constable or to fail to give such officer or constable any other assistance or information which he may reasonably require of such person for the performance of his functions.

Offences under Part IV of the Transport Act 1980

Section 64

It is an offence for any person to knowingly drive a vehicle (other than a Hackney Carriage) or permit a vehicle (other than a Hackney Carriage) to be driven if there is displayed on or above the roof of the vehicle which is used for carrying passengers for hire or reward any sign which consists or of includes the word "taxi" or "cab" whether in the singular or plural, or "hire" or any word of similar meaning or appearance to any of those words whether alone or as part of another word. It is also an offence to display any sign, notice, mark, illumination or other feature on such a vehicle, which may suggest that the vehicle is a Hackney Carriage.

Offences under Part 1 of the Health Act 2006

Section 6

It is an offence for any person who occupies or is concerned in the management of smoke-free premises to fail to ensure that statutory no-smoking signs are displayed in those premises. Hackney Carriages and Private Hire Vehicles are deemed smoke-free places at all times during which the Licence has effect and a no-smoking sign must be prominently displayed in each compartment of the vehicle at all times.

Section 7

It is an offence to smoke in a smoke-free place. Hackney Carriages and Private Hire Vehicles are deemed smoke-free places at all times during which the Licence has effect.

Section 8

It is an offence for any person who controls or is concerned in the management of smoke-free premises to fail to prevent any person there to stop smoking.

Offences under Chapter 1 of Part 12 of the Equality Act 2010

Section 168

It is an offence for the driver of a Hackney Carriage that has been hired by or for a disabled person who is accompanied by an assistance dog, or by another person who wishes to be accompanied by a disabled person with an assistance dog to fail to carry the disabled person's dog and allow it to remain with that person or to make any additional charge for doing so, unless an exemption certificate from the requirement to carry assistance dogs has been issued by the Council and that Certificate is displayed within the vehicle.

Section 170

It is an offence for the operator of a private hire vehicle to fail or refuse to accept a booking for the vehicle if the booking is requested by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and the reason for the failure or refusal is that the disabled person will be accompanied by an assistance dog. The operator also commits an offence if they make an additional charge for carrying an assistance dog which is accompanying a disabled person.

It is an offence for the driver of a private hire vehicle to fail or refuse to carry out a booking accepted by the operator of the vehicle if the booking is made by or on behalf of a disabled person or a person who wishes to be accompanied by a disabled person, and the reason for the failure or refusal is that the disabled person is accompanied by an assistance dog, unless an exemption certificate from the requirement to carry assistance dogs has been issued by the Council and that Certificate is displayed within the vehicle.

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CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee 30/01/2012

WARDS: All

HACKNEY CARRIAGE TABLE OF FARES

1 INTRODUCTION

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that in respect of the charges for Hackney Carriages, the Council *“may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle... by means of a table.”*
- 1.2 The Council determined the existing Table of Fares for it to come in to effect on 01 August 2011. This is attached to the report as Appendix A and consists of charges “Travel”, “Waiting Time” and “Extras”.
- 1.3 The Cambridge City Licensed Taxis Ltd (CCLT) have requested that an amendment is made to the Hackney Carriage Table of Fares to allow for an additional charge to be made for “multi-seater” wheelchair accessible vehicles, with the justification that if the passengers took two saloon cars, they would pay double the fare. Four proposals to achieve this “multi-seater” surcharge have been put forward and these are attached to the report as Appendix B.
- 1.4 CCLT have indicated that their preferred option for the “multi-seater” surcharge would be option 2 as they consider that this would not be open to abuse by drivers.
- 1.5 CCLT have also requested that a 20p ‘Extra’ charge be added to the tariff if fuel prices exceed £1.49 per litre.

- 1.6 The amended Hackney Carriage Table of Fares with these requested changes incorporated is attached to the report as Appendix C.
- 1.7 The trade have not requested any amendment to the 'Distance' or 'Time' part of the Table of Fares at this time and since 2005 the percentage increase has been that calculated by Transport for London. However, in 2009 the Committee requested that Officers produce a report outlining a possible method for determining the percentage increase in the Cambridge City Council Hackney Carriage Table of Fares. Such a methodology is described in Appendix D. In this methodology the percentage variation in the tariff is calculated by using the percentage change in the cost of running a vehicle, the percentage change in Licence fees and an appropriate percentage change for the driver's wage.
- 1.8 Any proposal to amendment to the Table of Fares will continue to be considered by Members and will be subject to statutory public consultation and the subsequent consideration of any objections received prior to the setting of the Table of Fares.

2. **RECOMMENDATIONS**

2.1 Members are recommended to:

- i) Amend the Table of Fares with effect from 01 March 2012, subject to the statutory consultation process, to include a £3 "Extra" charge for journeys with 5 or more passengers travel in the vehicle; and
- ii) Amend the Table of Fares with effect from 01 March 2012, subject to the statutory consultation process, to include an "Extra" charge for journeys commenced when the price of fuel exceeds a set amount; and
- iii) Determine any future amendment to the Table of Fares by using the percentage increase as calculated by Transport for London.

3. **BACKGROUND**

"Multi-seater" & Fuel Surcharge

- 3.1 In 2003 the Hackney Carriage Table of Fares included an extra charge of 20p per passenger where there was more than one passenger travelling in the vehicle. However, this was removed in

2004 when the CLTOA expressed concerns that the extra charges were being abused.

- 3.2 In 2009, Panther Taxis requested that members reconsider the way in which fares for multi-seater vehicle journeys were determined when the vehicle was carrying five or more passengers. Cambridge City Licensed Taxis Ltd (CCLT) submitted a similar request in July 2010 for the introduction of a surcharge of £3, £5 or fare and a half for 5 or more passengers taking a journey in a multi-seater vehicle within the City boundaries. However, there has been no amendment to the Table of Fares to reflect these requests to date and an amendment has again been requested by CCLT (Appendix B). Option 2 is their preferred choice as they consider that this would not be open to abuse.
- 3.3 CCLT have also requested that a 20p "Extra" charge is added to the Table of Fares where fuel prices exceed £1.49 per litre. A similar surcharge of 40p was added to the Table of Fares in September 2010 for any journey that took place when fuel prices reached £1.47 per litre, but this was subsequently removed when the tariff was increased in August 2011.
- 3.4 The amended Table of Fares that reflects the requested changes is attached to the report as Appendix C.
- 3.5 In January 2010 the Licensing Committee agreed to implement the EC Meter Directive 2004/22/EC on measuring instruments which stipulates that 'taximeters must be able to show the total charged for a trip, the fare, the calculation for the trip, supplemental charges...'. Therefore any supplemental charges agreed by members must be able to be displayed on the meter.
- 3.6 Any amendment to the tariff by the Council must be in accordance with the procedure laid down by the Act, including the publication of a notice in a local newspaper, and the subsequent consideration of any objections, which must be received within the specified time period. This consultation period may not be less than 14 days.
- 3.7 If there are no objections, or the objections are withdrawn, the proposed fares will come into operation on the date specified in the notice. If there are objections, the Council must consider these and set a new date, not later than two months after the first date, when the fares will come into operation, with or without modification.

Method for Determining Annual Revision

- 3.8 On 14th July 2005, the Committee resolved that all future Hackney Carriage Fare reviews would be based on the percentage increase as determined by Transport for London who use a retrospective cost index based on national average earnings and taxi operating costs. However, in 2009, Members asked Officers to produce a report detailing possible methods of calculating fare increases. An example method is set out in Appendix D.
- 3.9 The cost of each journey in a Hackney Carriage will consist of a charge for the distance travelled and inevitably waiting time where the vehicle is motionless or travelling below the changeover speed of 16.79km/hr. There may also be an extra soiling charge of up to £80.
- 3.10 The fares will need to cover:
- i) the Licence fees;
 - ii) the cost of running the vehicle, comprising standing charges (e.g. road tax, insurance) and running charges (e.g. fuel, tyres); and
 - iii) the driver's wage.
- The fare will therefore need to be apportioned to each of these components. A method for calculating the cost of these per mile and also the average cost of a journey per mile is described in Appendix D.
- 3.11 The cost of the Licence fees and the cost of running a vehicle are subject to change. By comparing those components from when the tariff was last set with the same when the tariff is being reviewed, the percentage change in each component can be determined and then applied to the existing tariff accordingly. Similarly a percentage change in the driver's wage may be applied to that component to account for changes in the cost of living etc. This is also described in Appendix D.
- 3.12 In the example provided, the new average cost of a journey per mile can be established, i.e.
- 'New' average price per mile =*
- $$\begin{aligned} & [Licence\ fee\ per\ mile\ \times\ \% \ change] + \\ & [Cost\ of\ running\ vehicle\ per\ mile\ \times \\ & \qquad \qquad \qquad \% \ change] + \\ & [Wage\ \times\ applicable\ \% \ change] \end{aligned}$$
- 3.13 Once the 'new' average price per mile has been determined, the percentage difference between the new and old prices for a journey

per mile can be calculated, thereby giving the percentage by which the table of fares should be varied.

4. CONSULTATIONS

- 4.1 In accordance with the statutory procedure set out in Section 65 of the Local Government (Miscellaneous Provisions) Act 1976, the Council is required to undertake a public consultation prior to making any amendment to the Hackney Carriage Table of Fares.
- 4.2 A notice must be published in at least one local newspaper circulating in the district setting out the variation and specifying the period, which can not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections can be made.
- 4.3 If no objection to the variation of the table of fares is made, or if all objections are withdrawn, the revised Table of Fares will come into operation on the date of the expiration of the consultation period. However, if any objections are made and not withdrawn, the Committee will consider the objections and set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications.
- 4.4 Whilst any amendment to the Table of Fares will be subject to statutory consultation, the proposed method for calculating any future percentage change to the Table of Fares will be subject to consultation with the Hackney Carriage trade.

5. OPTIONS

- 5.1 With regard to the proposed amendment to the Hackney Carriage Table of Fares to include a surcharge for “multi-seater” vehicles, the Committee may resolve to:
 - i) Amend the Table of Fares with effect from 01 March 2012, subject to the statutory consultation process, to include a £3 “Extra” charge for journeys with 5 or more passengers travel in the vehicle;
 - ii) Amend the Table of Fares with effect from 01 March 2012, subject to the statutory consultation process, to include an alternative “Extra” charge for multi-seater vehicles; or

- iii) Not include any “Extra” charge for multi-seater vehicles in the Table of Fares.
- 5.2
- i) Amend the Table of Fares with effect from 01 March 2012, subject to the statutory consultation process, to include a 20p “Extra” charge for journeys commenced when the price of fuel exceeds £1.49;
 - ii) Amend the Table of Fares with effect from 01 March 2012, subject to the statutory consultation process, to include an alternative “Extra” charge for journeys commenced when the price of fuel exceeds a set amount; or
 - iii) Not include any “Extra” charges relating to the price of fuel in the Table of Fares.
- 5.3 With regard to determining future amendments to the Table of Fares, the Committee may resolve to:
- i) Approve the methodology outlined in Appendix D and select an appropriate way of determining the increase to the wage part of the tariff (i.e. to use the CPI, RPI or percentage change in the median gross pay of a resident of Cambridge, or an alternative value) and then agree consultation with the Hackney Carriage trade, or
 - ii) Approve an alternative methodology to determine amendments to the Table of Fares and agree consultation with the Hackney Carriage trade; or
 - iii) Determine any future amendment to the Table of Fares by using the percentage increase as calculated by Transport for London.

6. CONCLUSIONS

- 6.1 Cambridge City Council has the power to fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle. Any request to vary the Table of Fares must be considered.
- 6.2 By agreeing a method for calculating future percentage changes to the Table of Fares, an appropriate process can be determined that is relevant and applicable to the City of Cambridge.

7. IMPLICATIONS

(a) **Financial Implications**

If the Committee are mindful to vary to Table of Fares, it will be subject to statutory consultation, which will involve advertising the variation in a local newspaper. The Licence fees will cover the cost of the advertisement.

Similarly, the Licence fees will cover any costs associated in consulting with the Hackney Carriage trade on an agreed method for calculating any future percentage change to the Table of Fares.

(b) **Staffing Implications**

Should the Committee be mindful to approve a new method for determining future amendments to the Table of Fares, additional work will be involved in obtaining data and carrying out calculations. Staffing resources will be required to carry out this work.

(c) **Equal Opportunities Implications**

Any proposed amendment to the Table of Fares will be subject to public consultation and all comments received will be considered prior to setting a new Table of Fares.

(d) **Environmental Implications**

There are no apparent environmental implications associated with the report.

(e) **Community Safety**

Cambridge City Council regulates Hackney Carriages to ensure the protection of the public. The setting of the maximum fares that may be charged within the district ensures that they are reasonable and proportionate for those using taxis within Cambridge, and also for the licensed trade.

APPENDICES

Appendix A

Existing Hackney Carriage Table of Fares

Appendix B

Request from CCLT for an amendment to the Table of Fares

Appendix C

Amended Hackney Carriage Tables Fares

Appendix D

Example Methodology for Determining the Percentage Change to the Table of Fares

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [Part II of the Local Government \(Miscellaneous Provisions\) Act 1976](#)
- [The AA's Car Running Costs for a Petrol Car 2011](#)
- [The AA's Car Running Costs for a Diesel Car 2011](#)
- [The AA's Fuel Price Reports for August 2011](#)
- Office for National Statistics Annual Survey of Hours and Earnings based on Place of Residence by Local Authority for 2011

The author and contact officer for queries on the report is Robin Grey on extension 7899.

Report file:

Date originated: 19 January 2012

Date of last revision: 19 January 2012

APPENDIX A – Existing Hackney Carriage Table of Fares

Hackney Carriage Maximum Rates of Charges from 1st August 2011.
Local Government (Miscellaneous Provisions) Act 1976

Fares are calculated on a combination of distance or time or parts thereof. The meter must only be switched on when you enter the vehicle. Please be aware that all journeys taken in Hackney Carriages within the Cambridge city boundaries must be charged on the meter, this is the maximum legal fare.

HIRING CHARGES – DISTANCE OR TIME

Tariff 1: Between 0700 – 1900 hours.....£2.60
(Including initial distance of 92 metres or part thereof)

Tariff 2: Between 1900 – 0700 hours and on Sundays and Bank Holidays.....£3.60
(Including initial distance of 92 metres or part thereof)

**Tariff 3: Between 1900 hours Christmas Eve and 0700 hours Boxing Day
and 1900 hours New Years Eve and 0700 hours New Years Day..... £4.60**
(Including initial distance of 92 metres or part thereof)

FOR EACH SUBSEQUENT 183 METRES OR PART THEREOF.....20p

**HIRING CHARGES – WAITING TIME AS INDICATED BELOW – will be charged when the vehicle is motionless
or when it is travelling below the changeover speed of 16.79km/p/h**

For each period or part thereof 40 seconds.....20p

Extra Charges:

Soiling (vehicle unfit to continue working).....£80.00

Hackney fares from the Ranks:

Please be aware that all journeys in Hackney Carriages from the city centre ranks (or flags/hails) to any destination within the city boundaries must be charged on the meter, this is the maximum fare.

**If you have any queries or complaints on charges contact the Taxi Licensing Office on: 01223
457888**

EXCLUSIONS: e.g. the Taxicard Scheme

Any fare calculated in accordance with the Table of Fares may be subject to any concession scheme approved by the Council, provided the driver of this vehicle is a participant in such a scheme and the passenger has provided any necessary proof of entitlement to the benefit of such a scheme to the satisfaction of the driver.

COMPLAINTS: About the vehicle or driver should be made to:-

Mr Jas Lally
Head of Refuse and Environment
PO Box 700
Cambridge CB2 1BY



APPENDIX B – Requested Amendment to the Table of Fares



Cambridge City Licensed Taxis Limited.
(Est. 2009)

24th November 2011

Dear Robin,

The revision of Hackney Carriage table of fares for transporting five or more people within the city boundary.

1. Fare and a half of the metered fare with a sign displaying this inside the vehicle for five people or more.
2. A fixed three pound surcharge to be displayed with in the vehicle for five people or more.
3. A pound extra per head for passengers over four, but we feel this could be open for abuse?
4. A extra tariff button on the meter for multi-seaters only, the council had this option before; easy to implement but open to abuse.

This was first raised at committee two -three years ago but the licensing dept failed address it. In these tough times the wheelchair vehicles are under more pressure financially. As 65 percent of the fleet of hackney carriages in Cambridge are wheelchair vehicles this would benefit them. If you would like to discuss this further please contact either myself or David.

Regards,
Glenn Hall
Chair CCLT Ltd

Registered Office: CCLT Ltd,
4 Providence Way,
Waterbeach,
Cambs
CB25 9QJ
Registered No. 06894519 England



Cambridge City Licensed Taxis Limited.
(Est. 2009)

Mr Robin Grey
Licensing Manager
Mandela House
4 Regent Street
Cambridge CB2 1BY

10th January 2012

Dear Mr Grey,

I would like to present an application to the Licensing Committee for a surcharge to be applied to taxi fares if fuel prices reach £1.50 per litre. The introduction of a 20p surcharge to be added to the fares to help drivers towards the running costs would be appreciated.

Please could you arrange to have this item added to the agenda for the Licensing Committee meeting on 30th January 2012? Also, the revision of the Hackney Carriage table of fares for transporting five or more people within the city boundary. The preferred option from the trade out of the four options we put forward would be Option 2 because this would not be open to abuse. As good as Option 3 is this is more open to abuse from drivers.

Regards

David Wratten
CCLT Ltd

Registered Office: 4 Providence Way, Waterbeach, Cambs CB25 9QJ Registered No.
06894519 Registered in England

APPENDIX C - Amended Hackney Carriage Table of Fares

Hackney Carriage Maximum Rates of Charges from 1st March 2012.
Local Government (Miscellaneous Provisions) Act 1976

Fares are calculated on a combination of distance or time or parts thereof. The meter must only be switched on when you enter the vehicle. Please be aware that all journeys taken in Hackney Carriages within the Cambridge city boundaries must be charged on the meter, this is the maximum legal fare.

HIRING CHARGES – DISTANCE OR TIME

Tariff 1: Between 0700 – 1900 hours.....£2.60
(Including initial distance of 92 metres or part thereof)

Tariff 2: Between 1900 – 0700 hours and on Sundays and Bank Holidays.....£3.60
(Including initial distance of 92 metres or part thereof)

**Tariff 3: Between 1900 hours Christmas Eve and 0700 hours Boxing Day
and 1900 hours New Years Eve and 0700 hours New Years Day..... £4.60**
(Including initial distance of 92 metres or part thereof)

FOR EACH SUBSEQUENT 183 METRES OR PART THEREOF.....20p

**HIRING CHARGES – WAITING TIME AS INDICATED BELOW – will be charged when the vehicle is motionless
or when it is travelling below the changeover speed of 16.79km/p/h**

For each period or part thereof 40 seconds.....20p

Extra Charges:

5 or more passengers travelling in vehicle.....£3.00

Journeys commenced where fuel prices exceed £1.49 per litre.....20p

Soiling (vehicle unfit to continue working).....£80.00

Hackney fares from the Ranks:

Please be aware that all journeys in Hackney Carriages from the city centre ranks (or flags/hails) to any destination within the city boundaries must be charged on the meter, this is the maximum fare.

If you have any queries or complaints on charges contact the Taxi Licensing Office on: 01223 457888

EXCLUSIONS: e.g. the Taxicard Scheme

Any fare calculated in accordance with the Table of Fares may be subject to any concession scheme approved by the Council, provided the driver of this vehicle is a participant in such a scheme and the passenger has provided any necessary proof of entitlement to the benefit of such a scheme to the satisfaction of the driver.

COMPLAINTS: About the vehicle or driver should be made to:-

Mr Jas Lally
Head of Refuse and Environment
PO Box 700
Cambridge, CB2 1BY



APPENDIX D

Example Methodology for determining the Percentage Change in the Hackney Carriage Table of Fares

1.1 The fares charged by drivers need to cover their Licence fees and the cost of running a vehicle, in addition to providing them with a wage. They should therefore be apportioned to these components and each of them increased (or decreased) proportionally when the tariff is reviewed.

1.2 Average price of a Journey per mile

The current tariff provides that the average fare for a 1, 2, 3, 4 and 5 mile journey is **£3.23 per mile** as shown in the table 1 & 2 below. This takes in to account the percentage of time that tariff 1, tariff 2 and tariff 3 has effect, but does not take in to account occasions when tariff 3 will operate on a Sunday.

1.3 Average Annual “Working” Mileage of a Hackney Carriage

The average mileage of a licensed Hackney Carriage is approximately 35,000 miles per annum (using a sample of 90 Hackney Carriages) and in the absence of any confirmed data, it is assumed that 20% of this mileage is for personal use. Therefore, the average “working” mileage of a Hackney Carriage is **28,000 miles per annum**.

1.4 Licence fee per mile

The combined Licence fees are currently £451 (£134 for a Driver Licence including a CRB check and £317 for a Vehicle Licence including test fees and a transponder permit), so using the average annual “working” mileage,

$$\text{Licence fees} = 45100 / 28000 = \mathbf{2p \text{ per mile}}$$

1.5 Cost of running a vehicle per mile

The cost of running a vehicle will vary from one vehicle to the next, but The AA publishes an annual update on the average cost of running a diesel and petrol car, which include standing charges (road tax, insurance, cost of capital, depreciation) and running costs per mile (fuel, tyres, service costs, replacement parts). The costs for 2011 are shown in Table 3 below and the assumptions that have been made by The AA are also stated. The vehicles have been split in to

bands based on the purchase price when new and the costs provided are the average of those vehicles in each price bands.

The price of fuel per mile varies according to the price per litre of fuel and the figure used in the table in Table 3 has been determined using the average fuel prices in East Anglia in August 2011, which were 142.4p per litre for petrol and 139.9p per litre for diesel. These figures are taken from those published by The AA, which are based on fuel data supplied by Experian Catalist in cooperation with Arval UK Ltd.

To account for the fact that the fleet consists of a mixture of petrol, diesel, hybrid, heavy oil and gas bi-fuel vehicles, with 62% of the fleet being wheelchair-accessible vehicles, an average of the cost of running a petrol and a diesel car in the highest price band could be used to determine the average price per mile. So, again assuming that the average annual “working” mileage of a Hackney Carriage is 28,000 miles,

Average cost of running a vehicle in August 2011 = **62p per mile**

1.6 Wage per mile

The wage per mile would be the difference between the price of a journey per mile (£3.23) and the vehicle running costs and Licence fees per mile (62p + 2p), i.e. **£2.59 per mile**.

1.7 To summarise

	Pence per mile
Cost of Licence fee	2
Cost of running a vehicle	62
Wage	259
Total (i.e. cost of a journey)	323

The figures in the above table are based on the Licence fees and cost of running a vehicle at the time that the Table of Fares was last determined. When considering a variation to the tariff, it will be necessary to increase each component proportionally based on how they have changed since the time that the tariff was last determined.

1.8 Percentage Change in the Licence fee

The percentage change in the Licence fee can be determined by comparing the fees at the time that the tariff was last set with the current fees at the time of review.

1.9 Percentage Change in Cost of Running a Vehicle

The percentage change in the cost of running a vehicle can be determined by using the data published by The AA for the year that the tariff was last varied with the most recent data available at the time of review. The latest average fuel prices in East Anglia can be taken from The AA's Monthly Fuel Price Report to calculate the cost of fuel per mile.

1.10 Percentage Change in Wage

The percentage change that should be applied to the wage part of the tariff may be determined by using either the consumer price index (CPI which is currently 4.5%) or the retail price index (RPI which is currently 5.2%) or the percentage change in the median annual gross pay of those persons living in Cambridge (as provided annually by the Office for National Statistics), which shows that in 2011 the annual percentage change was -1.1%. An alternative percentage could otherwise be set.

1.11 Percentage Change in the Tariff

The new average cost of a journey per mile can therefore be established, i.e.

$$\begin{aligned} \text{'New' average price per mile} = & \\ & [\text{Licence fee per mile} \times \% \text{ change}] + \\ & [\text{Cost of running vehicle per mile} \times \% \text{ change}] + \\ & [\text{Wage} \times \text{applicable } \% \text{ change}] \end{aligned}$$

Once the 'new' average price per mile has been determined, the percentage difference between the new and old prices for a journey per mile can be calculated, thereby giving the percentage by which the table of fares should be varied.

Table 1 – Average cost of a 1 mile, 2 mile, 3 mile, 4 mile and 5 mile journey whilst Tariff 1, 2 and 3 is being operated

Distance	Tariff 1		Tariff 2		Tariff 3	
	Cost of Journey	Av per mile	Cost of Journey	Av per mile	Cost of Journey	Av per mile
1 mile	£4.40	£4.40	£5.40	£5.40	£6.40	£6.40
2 miles	£6.20	£3.10	£7.20	£3.60	£8.20	£4.10
3 miles	£7.80	£2.60	£8.80	£2.93	£9.80	£3.27
4 miles	£9.60	£2.40	£10.60	£2.65	£11.60	£2.90
5 miles	£11.40	£2.28	£12.40	£2.48	£13.40	£2.68
Average		£2.96		£3.41		£3.87

Table 2 - Average price per mile based on existing tariff and the length of time that tariff 1, 2, 3 have effect
(Excludes occasions when Christmas Day, Boxing Day and New Year's Day fall on a Sunday)

Tariff 1	Tariff 2	Tariff 3	Av. per mile over 365 days
£2.96 x 152 days	£3.41 x 211 days	£3.87 x 2 days	£3.23

where

Tariff 3 has effect on 5 hours on Christmas Eve, all day Christmas Day, 7 hours on Boxing Day, 5 hours on New Year's Eve and 7 hours on New Year's Day, (i.e. 2 days per year);

Tariff 1 has effect for 12 hours a day on Monday to Saturday except on Bank Holidays (i.e. 152 days per year) and therefore

Tariff 3 has effect on 211 days per year

Table 3 -

The average costs of running a vehicle in 2011 with the assumptions that have been made by 'The AA'

		Petrol					Diesel				
		Up to £12k	£12k - £16k	£16k - £20k	£20k- £32k	Over £32k	Up to £12k	£12k - £17k	£17k - £20k	£20k- £32k	Over £32k
Standing Charges	VED (Road Tax) ¹	£130	£165	£245	£245	£460	£95	£115	£165	£210	£445
	Insurance ²	£725	£805	£965	£1,281	£2,019	£733	£859	£943	£1,216	£2,090
	Cost of Capital ³	£236	£300	£380	£578	£1,177	£226	£352	£389	£629	£1,109
	Depreciation ⁴	£1,217	£1,873	£2,467	£3,084	£6,439	£1,160	£2,095	£2,382	£3,279	£5,519
	TOTAL	£2,308	£3,143	£4,057	£5,188	£10,095	£2,214	£3,421	£3,879	£5,334	£9,163
	TOTAL per mile (pence) ⁵	6.59	8.98	11.59	14.82	28.84	6.33	9.77	11.08	15.24	26.18
Running Costs, pence per mile	Fuel per mile (pence) ⁶	13.8	15.51	17.93	18.67	25.08	10.16	11.46	13.49	15.26	19.91
	Tyres ⁷	1.07	1.14	1.65	2.00	3.21	1.07	1.20	1.34	1.70	2.73
	Service Labour Costs ⁸	4.14	3.77	3.85	3.81	6.71	3.81	3.45	3.58	4.12	4.82
	Replacement Parts ⁹	2.04	2.03	2.08	2.54	3.05	2.20	2.18	2.21	2.54	3.05
TOTAL COST (PENCE PER MILE)		27.64	31.43	37.10	41.84	66.89	23.57	28.06	31.70	38.86	56.69

Assumptions

¹ Assumes average for the cars considered in each price group.

² Based on the UK average for a fully comprehensive policy with 60% no claims discount (not for HCV insurance policy)

³ Represents the income lost from having money tied up in the vehicle, which otherwise could be earning interest in a deposit account with an interest rate of 2.8%. Any further admin charges for a loan or hire purchase would be on top of this.

⁴ Assumes that depreciation costs are averaged over four years from purchase, and include typical adjustments for different annual mileages in that period. Cars generally depreciate at a slower rate as they get older. We use different depreciation rates for mileages, which differ from the average 10,000 miles/year.

⁵ Assumes an average annual mileage of 35000 miles

⁶ The fuel consumption figures are estimated typical values for each of the car price bands shown in the tables and based on average fuel prices in East Anglia in August 2011

⁷ Assumes an average tyre life of 27,000 miles. Different values for the cost of tyre replacement are used depending on the vehicle size and price band. Tyre prices are based on online tyre dealer prices, not main dealer prices which will inevitably be higher.

⁸ The labour costs shown cover normal servicing and parts replacement at a dealer, taking average UK labour rates. These vary depending on location and from brand to brand.

⁹ The replacement parts included cover those likely to be needed under normal driving conditions, such as brake materials, oils, filters, bulbs, wipers, and hoses.

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee 30/01/2012

WARDS: All

ADOPTION OF CONSOLIDATED BYELAWS FOR ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS

1 INTRODUCTION

- 1.1 On 24 November 1983 Cambridge City Council resolved that sections 14 to 17 (Part VIII) of the Local Government (Miscellaneous Provisions) Act 1982 dealing with the registration of persons practising acupuncture, tattooing, ear piercing or electrolysis and of premises where they practice or have their businesses shall apply to the City of Cambridge from 01 April 1984. This makes it an offence to carry on these practices or businesses unless the person carrying on the business (or the practitioner in the case of acupuncture) and the premises are registered with the Council. The minutes of the Council meeting are attached as Appendix A.
- 1.2 Section 120 of the Local Government Act 2003 amended section 15 of the Local Government (Miscellaneous Provisions) Act 1982 by replacing ear piercing with cosmetic piercing and inserting semi-permanent skin colouring in the list of activities that require registration. As the Council had adopted section 15 of the Local Government (Miscellaneous Provisions) Act 1982, the provisions of section 120 of the Local Government Act 2003 automatically applied to the City of Cambridge as from 01 April 2004.
- 1.3 The Council has power to make byelaws relating to tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis pursuant to section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982, to ensure that the activities are adequately controlled. The purpose of the byelaws may be to secure:

- (a) the cleanliness of registered premises and fittings in such premises;
- (b) the cleanliness of persons so registered and persons assisting persons so registered in the business in respect of which they are registered;
- (c) the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with a business in respect of which a person is registered to carry on the business of tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis.

Additionally, section 14(7) of the Act allows the Council to make similar byelaws relating to the practice of acupuncture.

- 1.4 On 25 October 1984 the Council made byelaws relating to tattooing and acupuncture, which were subsequently confirmed by the Secretary for State. These byelaws are attached to the report as Appendix B. There are currently no byelaws relating to electrolysis, ear piercing, cosmetic piercing or semi-permanent skin colouring.
- 1.5 On September 2006, the Department of Health published a new consolidated set of model byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis, and they include specific provisions that reflect current infection control advice and industry practice. The model byelaws are attached to the report as Appendix C.
- 1.6 By making byelaws relating to cosmetic piercing, semi-permanent skin coloring and electrolysis, the Council will have more control over persons carrying on those businesses and the premises from which the businesses are run. The existing byelaws relating to acupuncture and tattooing can be repealed on making consolidated byelaws and having one set of byelaws will facilitate consistency of enforcement in registered premises.
- 1.7 The Licensing Committee can approve draft byelaws and recommend to the Civic Affairs Committee that the Council's common seal be affixed to the byelaws and the procedure be carried out to apply for confirmation from the Secretary of State. This procedure is outlined in Appendix D.

2. RECOMMENDATIONS

- 2.1 It is recommended that the Members approve the draft byelaws, which will repeal the existing byelaws, and also that they recommend to the Civic Affairs Committee that it resolve:

1. To authorise the affixing of the Council's common seal to the byelaws; and
2. To authorise the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation.

3. BACKGROUND

3.1 The new provisions provided by section 120 of the Local Government Act 2003 gave Cambridge City Council specific powers relating to persons carrying on the business of cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring (the insertion of semi-permanent colouring into a person's skin which includes micro pigmentation, semi-permanent make-up and temporary tattooing). Cambridge City Council requires such businesses:

- to register the person carrying on the business; and
- to register the premises in which such activities are to be undertaken.

These businesses do not currently have to observe any byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment because the Council has not made any such byelaws relating to these activities. This is also the case with electrolysis registrations.

3.2 Until the change in the law, there was no power to require businesses offering these services to register with the Council. Local Authorities' powers were limited to regulating ear piercing, tattooing, electrolysis and acupuncture. A joint Department of Health and Welsh Office consultation exercise in 1996 elicited widespread support for changing the law to extend Local Authorities' powers.

3.3 The new legislation provides a consistent level of health protection across England and Wales. The measures are intended to increase health protection and reduce the risk of transmission of blood borne virus (BBV) infections such as HIV, hepatitis B and hepatitis C and other infections. However in the absence byelaws, the Council's enforcement powers remain limited.

4. CONSULTATIONS

4.1 The comments of the Licensing Committee will be reported to the Civic Affairs Committee when it considers the making of byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis. If the Civic Affairs Committee

authorises the affixing of the Council's common seal to the byelaws, an application will need to be made to the Secretary of State for confirmation of the byelaws.

- 4.2 Prior to this application, public consultation will be undertaken by way of notice of the Council's intention to apply for such confirmation being published in a local newspaper. Any person who wishes to object to the confirmation of the byelaws will be entitled to write to the Secretary of State.

5. OPTIONS

The Committee may resolve:

1. to not approve the draft byelaws;
2. to approve the model byelaws attached as Appendix C and recommend to the Civic Affairs Committee that it resolve:
 - (i) To authorise the affixing of the Council's common seal to the byelaws; and
 - (ii) To authorise the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation

6. CONCLUSIONS

- 6.1 Cambridge City Council has a duty to ensure the protection of its residents and those persons using the businesses within the City. Making byelaws for semi-permanent skin colouring, cosmetic piercing and electrolysis will extend the Council's current ability to enforce hygienic standards to these businesses thereby helping to protect human health from the spread of blood borne viral infection within the City of Cambridge and beyond. The Council will therefore have more control over such activities and will be able to maintain registered premises in a hygienic state.

7. IMPLICATIONS

(a) Financial Implications

There is a financial implication associated with the making of byelaws (particularly as a result of the requirement to advertise the Council's intention to make byelaws in a newspaper) and there is also a cost implication in providing resources to enforce byelaws. However, section 14(6) of the Local Government (Miscellaneous Provisions)

Act 1982 allows the Council to determine and charge reasonable fees for acupuncture registrations and similar fees can be charged for tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis registrations under section 15(6) of the Act. In addition to covering administrative costs, the fees can cover the costs associated with inspecting premises and enforcing byelaws.

(b) Staffing Implications

There are no specific staffing implications in making byelaws. The Licensing Section will enforce the byelaws once made and this will be carried out by existing resources which are funded by the registration fees, albeit it a “one-off” fee per person.

(c) Equal Opportunities Implications

No equality impact assessment has been conducted on this decision because there are no specific equal opportunities implications.

(d) Environmental Implications

The climate change rating associated with the recommendation contained in this report is nil.

(e) Community Safety

There are risks to human health associated with acupuncture, semi-permanent skin colouring, cosmetic piercing and electrolysis. However, making byelaws for these activities will give control to the Council to maintain registered premises in a hygienic state, thereby ensuring the safety of the community.

APPENDICES

Appendix A

Council minutes from 24 November 1983 adopting the provisions of sections 14 to 17 (Part VIII) of the Local Government (Miscellaneous Provisions) Act 1982

Appendix B

Existing Council byelaws relating to tattooing and acupuncture

Appendix C

Model byelaws

Appendix D

Procedure to apply to the Secretary of State for confirmation of byelaws.

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [Part VIII of the Local Government \(Miscellaneous Provisions\) Act 1982](#)
- [Local Government Act 2003](#)
- [Department of Health's Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 \(Regulation of Cosmetic Piercing and Skin-Colouring Businesses\)](#)

To inspect these documents contact Robin Grey on extension 7899

The author and contact officer for queries on the report is Robin Grey on extension 7899.

Report file:

Date originated: 19 January 2012

Date of last revision: 19 January 2012

Appendix A – Council Resolution

Public Health Committee

83/157. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 - EAR PIERCING, ACUPUNCTURE, TATTOOING AND ELECTROLYSIS (83/K/98)

RESOLVED

(1) that sections 14 to 17 (Part VIII) of the Local Government (Miscellaneous Provisions) Act 1982 dealing with the registration of persons practising acupuncture, tattooing, ear piercing or electrolysis and of premises where they practice or have their businesses shall apply to the City of Cambridge from 1st April 1984 and that notice be published pursuant to section 13 of the Act;

(2) that appropriate byelaws be proposed by the City Secretary and Solicitor in consultation with the City Environmental Health Officer for consideration by the Public Health Committee;

(3) that the powers under Part VIII be delegated to the Public Health Committee;

(4) that the City Environmental Health Officer be authorised to register applicants and premises pursuant to sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982;

(5) that a fee of £30 be charged for registration under sections 14 and 15;

(6) that the City Environmental Health Officer, Deputy City Environmental Health Officer and the holders for the time being of Environmental Health Officer posts be authorised for the purposes of section 17 of the Act to enter premises.

Appendix B – Existing Byelaws



CAMBRIDGE CITY COUNCIL

Licensing, Environmental Services, Cambridge City Council,
PO Box 700, Cambridge, CB1 0JH

Tel: 01223 457879 Email: licensing@cambridge.gov.uk

BYELAWS - TATTOOING

Byelaws for the purposes of securing the cleanliness of registered premises and fittings and registered persons and persons assisting them and the cleansing and so far as appropriate sterilisation of instruments, materials and equipment used in connection with the business of tattooing made by Cambridge City Council in pursuance of Section 15(7) of the Local Government (Miscellaneous Provisions) Act 1982.

1. Interpretation:

a. In these byelaws, unless the context otherwise requires:-

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the act;

“Treatment” means any operation in affecting tattooing;

“The treatment area” means any part of the premises where treatment is given to clients.

b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. For the purpose of securing the cleanliness of premises and fittings therein a proprietor shall ensure that:-

a. All internal walls, doors, windows, partitions, floors and floor coverings, and ceiling in any part of the premises used by clients and operators are kept clean and in such good repair as to enable them to be cleaned effectively;

- b. The treatment area is used solely for giving treatment;
 - c. The floor of the treatment area is provided with a smooth, impervious surface;
 - d. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leak proof, or use a leak proof liner bag. The receptacles shall be emptied, or the bags changed at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned;
 - e. All needles used in treatment are placed after use in separate covered and leak proof re-usable boxes, or disposable needle boxes designed for the purpose. When re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
 - f. All furniture and fittings in the treatment area are kept clean and in such good repair as to enable them to be cleaned effectively;
 - g. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 3b below are placed immediately prior to treatment, have a smooth, impervious surface which is wiped down regularly with a suitable disinfectant between the treatment of different clients, and thoroughly cleaned at the end of each working day;
 - h. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
 - i. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.
3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment:-
- a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment:-
 - i. is clean and in good repair, and, so far as is appropriate, is sterile;
 - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned, and, so far as is appropriate, sterilised;
 - b. An operator shall ensure that:-

- i. any needle, metal instrument, or other item of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
 - ii. all dyes used for tattooing are bacteriologically clean and inert;
 - iii. the containers used to hold the dyes for each customer are either disposed of at the end of each session of treatments, or are sterilised before re-use;
 - c. A proprietor shall provide:-
 - i. adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;
 - ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - iv. adequate storage for all items mentioned in byelaw 3a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
- 4. For the purpose of securing the cleanliness of operators:-
 - a. An operator whilst giving treatment shall ensure that:-
 - i. his hands and nails are clean, and nails kept short;
 - ii. he is wearing clean and washable clothing, or alternatively a disposable covering that has not previously been used in connection with any other client;
 - iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
 - iv. he does not smoke or consume food or drink.
 - b. A proprietor shall provide:-
 - i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and nailbrush;
 - ii. suitable and sufficient sanitary accommodation for operators.

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

- a. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.
- b. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400. If the convicted person is registered under Part VIII of the Act, the Court,

may instead or in addition to imposing a fine, order the suspension or cancellation of his registration, and of the registration of the premises in which the offence was committed if such premises are occupied by the person so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

- c. Nothing in these byelaws shall extend to the carrying on the business of tattooing by or under the supervision of a person who is registered as a medical practitioner or to premises on which any such business is carried on by or under the supervision of such a person.



CAMBRIDGE CITY COUNCIL

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BYELAWS - ACUPUNCTURE

Byelaws for the purposes of securing the cleanliness of registered premises and fittings and registered persons and persons assisting them and the cleansing and so far as appropriate sterilisation of instruments, materials and equipment used in connection with the practice of acupuncture made by Cambridge City Council in pursuance of Section 14(7) of the Local Government (Miscellaneous Provisions) Act 1982.

1. **Interpretation:**

- a. In these byelaws, unless the context otherwise requires:

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“Client” means any person undergoing treatment;

“Operator” means any person giving treatment;

“Premises” means any premises registered under Part VIII of the Act;

“Proprietor” means any person registered under Part VIII of the act;

“Treatment” means any operation in the practice of acupuncture;

“The Treatment Area” means any part of the premises where treatment is given to clients.

- b. The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. For the purposes of securing the cleanliness of premises and fittings therein a proprietor shall ensure that:-

- a. All internal walls, doors, windows, partitions, floors and floor covering, and ceilings in any part of the premises used by clients and operators are kept clean and in such good repair as to enable them to be cleaned effectively;

- b. The treatment area is used solely for giving treatment;
 - c. All waste material, and other litter, arising from the treatment, is placed in suitable covered receptacles, which are washable and leak proof, or use a leak proof liner bag. The receptacles shall be emptied, or the bags changed, at least once every working day, or more frequently as necessary, and the material disposed of safely. Where liners are not used, the receptacles shall then be cleaned.
 - d. All needles used in treatment are placed after use in separate covered and leak proof re-usable boxes, or disposable needle boxes designed for the purpose. When re-usable boxes are used they shall be emptied at least once every working day or more frequently as necessary, and the contents disposed of safely or sterilised for re-use, as appropriate. The box shall then be sterilised. Where needle boxes are used they shall be disposed of safely at suitable intervals;
 - e. All furniture and fittings in the treatment area are kept clean and in such good repair as to enable them to be cleaned effectively;
 - f. All tables, couches and seats used by clients in the treatment area, and any surface on which the items specified in 4b below are placed immediately prior to treatment, have a smooth, impervious surface which is wiped down at least daily with a suitable disinfectant;
 - g. Where tables or couches are used, they shall be covered by a disposable paper sheet which shall be changed for each client;
 - h. A notice or notices reading "No Smoking" are prominently displayed within the treatment area.
3. For the purpose of securing the cleansing and, so far as is appropriate, the sterilisation of instruments, materials and equipment used in connection with the treatment:
- a. An operator shall ensure that, before use in connection with treatment, any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such articles used in the treatment:
 - i. is clean and in good repair, and, so far as is appropriate, is sterile;
 - ii. has not previously been used in connection with any other client unless it consists of a material which can be and has been adequately cleaned, and, so far as is appropriate, sterilised;
 - b. An operator shall ensure that any needle, metal instrument, or other items of equipment, used in treatment or for handling instruments and needles used in treatment, is in a sterile condition and kept sterile until it is used;
 - c. A proprietor shall provide:
 - i. adequate facilities and equipment for the purpose of sterilisation (unless pre-sterilised items are used) and of cleansing, as required in pursuance of these byelaws;

- ii. sufficient and safe gas points and/or electrical socket outlets to enable compliance with these byelaws;
 - iii. an adequate constant supply of clean hot and cold water readily available at all times on the premises;
 - iv. adequate storage for all items mentioned by byelaw 3a and b above, so that those items shall be properly stored in a clean and suitable place so as to avoid, as far as possible, the risk of contamination.
4. For the purpose of securing the cleanliness of operators:
- a. An operator whilst giving treatment shall ensure that:
 - i. his hands and nails are clean, and nails kept short;
 - ii. he is wearing clean and washable overclothing, or alternatively a disposable covering that has not previously been used in connection with any other client;
 - iii. he keeps any open boil, sore, cut or open wound on an exposed part of his body effectively covered by an impermeable dressing;
 - iv. he does not smoke or consume food or drink;
 - b. A proprietor shall provide:
 - i. suitable and sufficient washing facilities for the sole use of operators, such facilities to have hot and cold water, sanitising soap or detergent, and nailbrush;
 - ii. suitable and sufficient sanitary accommodation for operators;

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

- A. Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on the premises. Section 16(9) of the Act lays down that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act.
- B. Section 16(2) of the Local Government (Miscellaneous Provisions) Act 1982 provides that any person who offends against any of these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding 400. If the convicted person is registered under Part VII of the Act, the Court, may instead of or in addition to imposing a fine, order the suspension or cancellation of his registration, and of the registration of the premises in which the offence was committed if such premises are occupied by the person so convicted. Section 16(11) of the Act provides that it shall be a defence for the person charged to provide that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- C. Nothing in these byelaws shall extend to the practice of acupuncture by or under the supervision of a person who is registered as a medical practitioner or a dentist or to premises on which the practice of acupuncture is carried out by or under the supervision of such a person.

Appendix C – Department of Health Model Byelaws

MODEL BYELAWS

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Cambridge City Council in pursuance of sections 14(7) and 15(7) of the Act.

Interpretation

1. (1) In these byelaws, unless the context otherwise requires
 - “The Act” means the Local Government (Miscellaneous Provisions) Act 1982;
 - “client” means any person undergoing treatment;
 - “hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—
 - (a) the lobe or upper flat cartilage of the ear, or
 - (b) either side of the nose in the mid-crease area above the nostril;
 - “operator” means any person giving treatment, including a proprietor;
 - “premises” means any premises registered under sections 14(2) or 15(2) of the Act;
 - “proprietor” means any person registered under sections 14(1) or 15(1) of the Act;
 - “treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;
 - “the treatment area” means any part of premises where treatment is given to clients.

- (2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.
2. (1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that
- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
 - (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
 - (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected
 - (i) immediately after use; and
 - (ii) at the end of each working day.
 - (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
 - (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.
- (2) (a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;
- (b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.
- (3) (a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall

ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3. (1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment

(aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide

(i) adequate facilities and equipment for

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4. (1) For the purpose of securing the cleanliness of operators, a proprietor—
- (a) shall ensure that an operator—
 - (i) keeps his hands and nails clean and his nails short;
 - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
 - (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);
 - (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
 - (v) does not smoke or consume food or drink in the treatment area; and
 - (b) shall provide—
 - (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
 - (ii) suitable and sufficient sanitary accommodation for operators.
- (2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.
- (3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if
- (a) the client is bleeding or has an open lesion on an exposed part of his body; or
 - (b) the client is known to be infected with a blood-borne virus; or
 - (c) the operator has an open lesion on his hand; or
 - (d) the operator is handling items that may be contaminated with blood or other body fluids.
5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).
6. The byelaws relating acupuncture that were made by Cambridge City Council on the 25 October 1984 and were confirmed by the Secretary of State on *insert date* are hereby repealed.

7. The byelaws relating tattooing that were made by Cambridge City Council on the 25 October 1984 and were confirmed by the Secretary of State on *insert date* are hereby repealed.

COUNCIL'S SIGNATURE

COUNCIL'S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health on *insert date* and shall come into operation on *insert date*

Member of the Senior Civil Service

Department of Health

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or

business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 only apply to acupuncture.

The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 do not apply to acupuncture.

The references in paragraph 1(1) in the definition of “premises” to provisions of section 14 (acupuncture) only apply to acupuncture.

The references in paragraph 1(1) in the definition of “premises” to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) do not apply to acupuncture.

The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.

The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.

The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) apply to tattooing and semi-permanent skin-colouring.

The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).

The provisions of paragraph 4(2) in relation to washing facilities apply to cosmetic piercing using only a hygienic piercing instrument.

The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a dentist applies only to acupuncture (see section 14(8) of the Act).

Appendix 4 – Department of Health Procedure for Making Byelaws

Guidance On Making Applications To The Secretary Of State For Health For Confirmation Of Byelaws Under Section 236 Of The Local Government Act 1972

The Department of Health has set out the following procedure in Annex 2 of their Guidance on Section 120 and Schedule 6 of the Local Government Act 2003 (Regulation of Cosmetic Piercing and Skin-Colouring Businesses):

1. The Council must pass a resolution authorising the affixing of the common seal to the byelaws and authorising the Head of Legal Services to carry out the necessary procedure and apply to the Secretary of State for confirmation of the byelaws. The Council's seal should be affixed and duly attested with the date of sealing inserted in the attestation. The date of sealing is the date on which the byelaws are made.
2. At least one clear calendar month before applying to the Secretary of State for confirmation:
 - a. Notice of the Council's intention to apply for confirmation must be given in one or more local newspapers circulating in the area to which the byelaws will apply. A series of byelaws should be described by giving the heading they bear on the draft informally approved by the Secretary of State.
 - b. A copy of the byelaws having been must be deposited at the Council's offices and be open to public inspection without charge at all reasonable times during that month.
3. The byelaws may be submitted for confirmation any time after the month has elapsed. They should be printed to conform to the approved draft. The Secretary of State's seal and confirmation shall be printed below the Council's seal and a space of at least 10 centimetres should be left. To assist, the following could be typed on the left-hand side of the page as indicated:

The foregoing byelaws are hereby confirmed by the Secretary of State for Health on and shall come into operation on

*Member of the Senior Civil Service
Department of Health*

4. The application should be accompanied by
 - (a) copy of the full Council's resolution
 - (b) the sealed byelaws (2 sets) and a photocopy;
 - (c) the newspaper(s) containing the notice;
 - (d) the clerk's certificate as to the date and duration of deposit of a copy of the byelaws;
 - (e) a statement as to whether or not any objections were received by the Council;
 - (f) confirmation, where applicable, that the byelaws are identical to the model byelaws;
 - (g) confirmation of the Council's adoption of Section 14-17 and compliance with the provisions of Section 13 of the Local Government Act (Miscellaneous Provisions) Act 1982 particularly regarding the publishing of notice in a local newspaper.

Note

The Secretary of State only has power to confirm byelaws if the procedure laid down in section 236 of the Local Government Act 1972 is properly carried out. There is no power to excuse deviation from this procedure.

The Secretary of State has power to fix the date on which the byelaws come into operation. It is considered that the first day of a month will normally be most convenient; and as section 236(7) provides that, if a date is not fixed, byelaws shall come into operation one month after confirmation, the Secretary of State will normally bring byelaws into operation on the first day of the month next following the expiry of this period.

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