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Agenda Licensing Sub Committee 2

Monday 14 November 2022 at 10.00 am in Committee Room 2 - Sandwell Council House, Oldbury

This agenda gives notice of items to be considered in private as required by Regulations 5 (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England)

Regulations 2012.

2	Declarations of Interest	9 - 10
	Members to declare any interests in matters to be discussed at the meeting.	

3 **Minutes** 11 - 26

To confirm the minutes of the meeting held on 25 August and 22 September and 7 October 2022 as a correct record.

4 Exclusion of the Public and Press

Apologies for Absence

"That the public and press be excluded from the rest of the meeting. This is to avoid the possible disclosure of exempt information under Schedule 12A to the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation)Order 2006 relating to any individual".



1















7 - 8

To consider Local Government (Miscellaneous Provisions) Act 1976 - Private Hire and Hackney Carriage Drivers/Vehicles/Operator's Licence related matters

27 - 164

Kim Bromley-Derry CBE DL Managing Director Commissioner

Sandwell Council House Freeth Street Oldbury West Midlands

Distribution

Councillor Fenton (Chair) Councillors Z Hussain, Akpoteni, A Hussain and Dunn

Contact: <u>democratic_services@sandwell.gov.uk</u>

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Licensing Sub Committee 2

Apologies for Absence

To receive any apologies for absence from the members of the Committee.





















Licensing Sub Committee 2

Declarations of Interests

Members to declare any interests in matters to be discussed at the meeting.







Minutes of Licensing Sub Committee 2

25 August 2022 at 10:00am In Committee Room 1 at Sandwell Council House, Oldbury

Present: Councillor Fenton (Chair)

Councillors Z Hussain and Wilkes.

Officers: Makhan Singh Gosal (Senior Licensing Officer)

David Elliott (Legal Advisor)

Stephnie Hancock (Senior Democratic Services Officer)

Connor Robinson (Democratic Services Officer)

John Swann (Democratic Services Officer)

In Attendance: Oliver Piers (in Support of Applicant)

10/22 Apologies for Absence

An apology for absence was received from Councillor Dunn.

11/22 **Declarations of Interest**

There were no declarations of interest made at the meeting.

12/22 Minutes

Resolved that the minutes of the meeting held on 24 January 2022 and 18 July 2022 are confirmed as a correct record.

















13/22 Application for a New Premises Licence at The Pub@Bearwood, 537 Bearwood Road, Smethwick, B66 4BQ.

The Sub-Committee considered an application for a new premises licence in respect of The Pub@Bearwood, 537 Bearwood Road, Smethwick. The application had been brought before the Sub-Committee due to an objection from a local resident on the grounds of public safety and the prevention of crime and disorder.

The premise's main business would be that of a Public House and the proposed licensable activities were Late Night Refreshment (on premises) Monday to Sunday 09:00 to 00:30 and the Sale of Alcohol (on and off the premises) Monday to Sunday 09:00 to 00:00. The proposed hours the premises would be open to the public was Monday to Sunday 09:00 to 00:30 hours.

It was reported that following correspondence with the Police, the applicant had agreed to a number of amendments to the licence, including:-

- supply of alcohol to conclude at 00:00 hours Monday to Sunday;
- removal of all regulated entertainment from the application.
- the necessary CCTV would fitted as required and accessible to the Police
- a commitment to the adherence of 'Challenge 25'

The applicant addressed the Sub-Committee with the following points:-

- the venue would promote a family- friendly atmosphere;
- he had incorporated the suggestions from the Police and wanted to work collaboratively with the community to allay any concerns;
- 14 jobs would be created.

The Sub Committee heard that the venue had a maximum capacity of 60 persons and that no representations had been made by the Department of Public Health.

















The Sub-Committee took advice from its legal advisor before adjourning to make a decision.

Having considered all of the information before it, including representations made, the Sub Committee was minded to grant the premises licence for the following reasons:-

- this was a new application with no adverse record of managing the premises being reported previously;
- 2. a cumulative impact zone was not in force within Sandwell and as such concentrations of public houses within the locality was not a factor to be considered;
- 3. the applicant had agreed to amendments suggested by West Midlands Police.

Resolved that the Premises Licence in respect of The Pub@Bearwood, 537 Bearwood Road, Smethwick, B66 4BQ is granted.

In making its decision the Sub-Committee took into account the Licensing Act itself, the Section 182 Guidance and noted that it must carry out all its functions under the Act with a view to promoting the licensing objectives. It also took into account the Human Rights Act 1998.

Meeting ended at 10.43am

Contact: democratic_services@sandwell.gov.uk























Minutes of Licensing Sub Committee 1

22 September 2022 at 3.06pm at Sandwell Council House, Oldbury

Present: Councillor Allen (Chair);

Councillors Fenton and Z Hussain.

In attendance: Geeta Bangerh (Licensing Officer);

Makhan Singh Gosal (Senior Licensing Officer);

David Elliott (Legal Advisor SMBC);

Duncan Craig (representing the applicant); Nicola Stansbie (West Midlands Police);

Trisha Newton (Senior Democratic Services Officer);

John Swann (Democratic Services Officer).

14/22 Apologies

No apologies were received.

15/22 **Declarations of Interest**

There were no declarations of interest

16/22 Application for the grant of a new Premises Licence at

The Turks Head, 25-26 Lower High Street, Wednesbury

An application for the grant of a new Premises Licence had been received in respect of The Turks Head, 25-26 Lower High Street, Wednesbury.



















A hearing had originally been set to consider the matter on 19 September 2022, however, the hearing had been cancelled following the calling of a bank holiday.

Agreement was sought to an adjourned date for consideration of the new premises licence application.

Following consultation with all concerned parties, the matter was adjourned to 2.30pm on 7 October 2022.

Resolved that consideration of the application for a new premises licence at The Turks Head, 25-26 Lower High Street, Wednesbury, be adjourned to 7 October 2022.

(meeting ended 3.24pm)

7 October 2022 at 2.40pm at Sandwell Council House, Oldbury

Present: Councillor Allen (Chair);

Councillors Fenton and Z Hussain.

In attendance: Geeta Bangerh (Licensing Officer);

David Elliott (Legal Advisor SMBC);

Duncan Craig (representing the applicant);

Kerry Cox (supporting Mr Craig);

Mr A Melia (applicant);

Nicola Stansbie (West Midlands Police);

Andrew Evans (representing West Midlands Police);

Sgt Deakin (West Midlands Police);

Neil Aston-Baugh (West Midlands Fire Service);

Helen Brimelow (Environmental Health);

Trisha Newton (Senior Democratic Services Officer);

John Swann (Democratic Services Officer.

Observing: Councillors M Gill and N Singh;

Makhan Singh Gosal (Licensing);

Liz Nembhard (Licensing).



















Further to Minute No. 16/22 above, the Sub Committee considered the application for a new Premises Licence in respect of The Turks Head, 25-26 Lower High Street, Wednesbury following receipt of representations from a local resident and responsible authorities, objecting to the grant of the application due to public safety, public nuisance and the prevention of crime and disorder issues.

The Sub Committee noted that the applicant was the proposed Premises Licence Holder and the proposed Designated Premises Supervisor.

The Sub Committee had been advised of proposed additional conditions in advance of the meeting from the applicant's representative, as follows:-

- No baseball caps or hoodies will be worn by patrons inside the premises;
- No children under the age of 16 will be allowed unaccompanied on the premises at any time;
- No person under the age of 18 will be allowed on the premises after 21:00;
- The premises will have an operational search and drugs policy;
- There will be one qualified first aider on the premises whenever licensable activities are being carried on;
- From the grant of this licence the sale of alcohol will not take place after 21:00 for a period of one month. During this period the premises will have two door supervisors on a Friday and Saturday evening from 20:00 until close;
- Simon Bagri and Harjinder Singh Bagri will not be involved in the operation or management of the premises;
- The premises licence holder will supply a risk assessment for all externally promoted events held at the premises, to include all security provision, with a minimum of 14 days' notice (or lesser period if agreed with West Midlands Police Licensing Department) Risk assessments will



















include search policies and a security deployment plan to reflect the risk of the event. Dispersal policies will also be contained:

- Any Items that appear to be or are controlled substances will be seized if possible and the person will be refused entry. This will be recorded in the incident book with time, date and description of person refused entry. This will be recorded in the incident book with time, date and description of person refused entry and item seized. The police will be called as soon practicable and in case within 24 hours of items recovered. This will include any items that have been recovered which are weapons or anything of a similar sort. The items will be kept in a secure locked safe place where there is no access to any members of the public;
- The toilets will be checked on an hourly basis and a record of the member of staff and time checked will be kept in the toilet.

The resident objecting was not present at the meeting, however, the Licensing Officer outlined the details of the concerns of residents:-

- residents were elderly, vulnerable and young families;
- incidents had been happening and information had been passed to the Police;
- the premises had been operating with incidents being reported to the Police nearly every other week, especially at the weekends;
- concerns re CCTV being operational and monitored;
- concerns about the impact on other businesses in the street being closed after incidents happening at these premises late nights/early hours;
- residents being forced from their homes.

















The Police addressed the Sub Committee and set out the reasons for requesting that the application for the new premises licence be refused:-

- the Police would object to any application, even modified, as they deemed there were still unacceptable risks if granted;
- the premises and its previous management had a history with the former licence being revoked on 16 June 2022;
- the premises had persistently undermined the licensing objectives;
- it had never been clear to the Police who was in control, however, the responsibility lay with the landlord as Premises Licence Holder and the lack of transparency continued to be of concern;
- there had been a previous stabbing incident at around
 11pm at night and there was continued concern;
- the Police were concerned with the premises and the management not exercising effective control;
- there had been several warnings and the history was relevant to the risks identified now;
- the Police were concerned that if the premises re-opened they would be under pressure by the previous clientele;
- since the premises had closed, in the opinion of the Police, the incidence of alcohol fuelled disorder had significantly reduced in Wednesbury High Street;
- even with the proposed modified conditions and a new DPS in place, there was no confidence in the application;
- the premises would be styled as a bar/pub and was highly likely to attract the same risky clientele;
- the proposed 11pm closing only reduced the risk, it would not eliminate the risks up to that point, similarly with reduced regulated entertainment;
- the landlord remained and the applicant's name had been mentioned at the time of the previous review;
- it was considered that the landlord was not fit to be involved in the active management of the premises and the applicant was not completely new – the Police believed that the applicant was a manager of these premises up to 2016;



















- the Police may have been reassured if there was transparency as to who was in control;
- the applicant's CV showed experience in the trade but he had not held a Personal Licence in his name before or any experience of managing medium to high risk premises;
- there was concern around lack of door supervisors until 11pm and who would be responsible for enforcing the conditions and problems were not confined to the early hours;
- the application had been modified and there were a lot of conditions proposed and it was not clear if the premises were considered to be average risk whether the proposed conditions were proportionate.

The Sub Committee reviewed the applicant's CV and identified that he had worked with the owner on previous occasions. The applicant had previously been DPS at the premises in 20/15/16 (formerly known as The Tavern) with the premises also owned by the current landlord at that point.

The Environmental Health Officer set out their representation as follows:-

- between 2016 and 2020 there were several complaints from residents:
- from discussions with complainants there was concern that the premises had attracted violence;
- concerns were expressed around fighting, shouting, singing, revving of engines, vomiting and urinating, music from cars, 16 year olds in the premises;
- there was a DJ on at a weekend and door staff were reported to take no notice;
- there were issues every weekend as the premises had been open until 3am.

A couple of short videos were shown to the Sub Committee to demonstrate disturbances.



















The West Midlands Fire Officer had made representations following a visit to the premises in August 2022. However, since the issues identified around a faulty fire alarm and emergency lighting issues, a voluntary undertaking had been provided by the applicant and a fire risk assessment would be carried out and certification provided for lighting prior to the premises being reopened.

The applicant's representative addressed the Sub Committee with the following points:-

- there had been an expedited hearing in relation to the premises and the applicant had been mentioned previously, however, discussions had not taken place with the applicant until about a month later;
- a basic application had been submitted with a date for the hearing set, since then a meeting had been held with the Police and the proposed conditions had been shared;
- there was concern regarding the Police's notion regarding hours and the type of clientele at the premises. High risk venues tended to be licensed for later opening hours and the type of clientele was based on the previous premises;
- it had been difficult forming conditions to limit the clientele of the premises;
- there was a possibility the initial one-month period could be extended to two months to allow any work to be completed;
- conditions needed to be proportionate if door staff were in place during reduced hours the business would not be viable:
- the premises being closed for a number of months would have had an effect with people moving away;
- the landlord had accepted that he could not be involved in the premises in response to the concerns of the Police as to who would be in charge - the applicant would be the PLH and DPS and there would be no operational involvement from the landlord:



















- the landlord owned the premises but would be in the background, the applicant had a track record of running premises and had successfully run these premises in the past;
- the applicant would be happy to change the condition relating to allowing 16/17 years olds on the premises without an adult to 18 year olds.

The applicant advised the Committee that:-

- he was an experienced DPS and had run these premises before in 2016 when the premises were not considered as a concern;
- he was local to the borough;
- he had run the premises around 2015/16 but had given back due to issues around the lease:
- he believed he could turn the premises around and previous pubs he had been involved in had been run down/rough/middle of estates, etc. and he had turned them around and kept trouble away;
- he had moved around a lot as he had been working for the Brewery so he would be told which premises to go to and when;
- he had recently been working at another premises which was owned by the landlord;
- he would be able to enforce the conditions but if required would put door staff on at certain times;
- although the premises could hold around 200 people it was likely there would be up to 75 at busy times;
- he would do whatever was required to manage the risk and had experience;
- with regard to substances, the applicant confirmed all staff would be trained and deal with, including a secure safe which would only be accessed by himself;
- he believed the business was viable with regular custom and would be present at the premises as this was his full time venture.



















The Police confirmed that the applicant would not be able to perform many functions of a door person as suggested, as he was not SIA trained and this would not be lawful.

The applicant's representative confirmed that people would not be routinely searched, however, there would be a drugs/search policy in place for times when appropriate and all staff would be provided with the necessary training. Details of the policy would be provided to the Police.

In summing up, the Police advised the Sub Committee:-

- they remained unconvinced by the application and remained of the opinion that the application should be refused;
- they would like to see the applicant succeed, however, this was a risky premises and the resources appeared to be inadequate;
- even with the additional conditions it was not considered viable;
- the applicant didn't currently hold a licence in their name;
- it would be preferred if the premises were closed for a longer period and there was a complete divorce from the landlord;
- it was not considered that the applicant had gone far enough to consider granting the licence safely on this occasion.

In summing up, the Environmental Health Officer advised:-

- there had been no complaints from other premises;
- the conditions set out were not something that would change the culture of the premises.

In summing up, the applicant's representative stated:-

- the culture of the pub had been different when the applicant was there previously and it could change again;
- the applicant was a local person from the area and was an experienced DPS;



















background checks had been undertaken by the Police and there was nothing to suggest that the applicant was not a suitable person or incapable.

The Sub Committee took advice from its Legal Advisor before adjourning to make a decision on the review.

The Sub Committee had taken into consideration representations made by all parties and was minded to refuse the application for the following reasons:-

- the application had been made a short time after revocation of the licence in June following an expedited hearing triggered by a series of complaints culminating in a stabbing;
- the revocation had not been appealed and the new applicant was known to the previous PLH who remained landlord:
- incidents of recordable crime had reduced significantly since the revocation of the licence;
- the applicant's representative argued that the raft of conditions proposed would alter the character of the premises;
- members considered the short space of time with the landlord remaining the same and the demands that would be placed on the applicant;
- the Sub Committee was not convinced transformation of the venue was achievable.

Resolved that the application for a Premises Licence in respect of The Turks Head, 25-26 Lower High Street, Wednesbury be refused.

In making its decision the Sub Committee took into account the Licensing Act itself, the Section 182 Guidance and noted that it must carry out all its functions under the Act with a view to promoting the licensing objectives. It also took into account the Human Rights Act 1998.



















The applicant was advised of his right of appeal to the Magistrates Court within 21 days of receipt of the decision letter.

Meeting ended at 6.32pm

Contact: <u>democratic_services@sandwell.gov.uk</u>























Report to Licensing Sub Committee 2

Monday 14 November 2022

Not for Publication

Exempt information: relating to any individual

The information contained in this report is strictly confidential and in accordance with the appropriate Codes of Conduct, must not be disclosed to unauthorised persons.

Subject:	Private Hire/Vehicles/Operators Licence related matters
Director:	Director of Borough Economy - Alice Davey
Contact Officer:	Fiona Gee – Licensing Manager Fiona gee@sandwell.gov.uk David Elliott – Solicitor David_Elliott@sandwell.gov.uk

1 Recommendations

That the Committee take appropriate action in respect of individual licence applications and current licences in view of the information presented.

















2 Reasons for Recommendations

To allow the Licensing sub-committee to make an informed decision in respect of individual licence applications and current licences in view of the information presented to them.

3 How does this deliver objectives of the Corporate Plan?



Best start in life for children and young people:

Our workforce and young people are skilled and talented geared up to respond to changing business needs to win rewarding jobs in a growing economy locally.



Strong resilient communities:

Our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods.

4 Context and Key Issues

- 4.1 Section 51 of the Act provides that a district council shall on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence:
 - a) unless they are satisfied that the applicant is not a fit and proper person for the grant to that person of a licence to drive private hire vehicles, grant to that person a licence;
 - b) to any person who has not for at least twelve months been, and is not at the date of application for a driver's licence, the holder of a licence granted under part III of the Act of 1972, 1988 (not being a provisional licence) authorising him to drive a motor car.
- 4.2 Section 61 (1) of the Act states that a district council may suspend, revoke or refuse to renew a private hire/hackney carriage driver's licence on any of the following grounds:
 - a) the holder has, since the grant of the licence;
 - been convicted of an offence involving dishonesty, indecency or violence, or



















- ii) been convicted of an offence or failed to comply with the provisions of this part of the Act, or
- iii) any other reasonable cause.
- (2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.
- (2B) if it appears that the interest of public safety requires the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2)(a) of this section includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.
- 4.3 Section 48 of the Act states that a district council may on the receipt of an application from the proprietor of any vehicle for the grant in respect of such vehicle of a licence to use the vehicle as a private hire vehicle, grant in respect thereof a vehicle licence:

Provided that a district council shall not grant such a licence unless they are satisfied:-

- (a) that the vehicle is:-
 - (i) suitable in type, size and design for use as a private hire vehicle:
 - (ii) not of such design and appearance as to lead any person to believe that the vehicle is a hackney carriage;
 - (iii) in a suitable mechanical condition;
 - (iv) safe; and
 - (v) comfortable;
- (b) that there is in force in relation to the use of the vehicle a policy of insurance or such security as complies with the requirements of part VI of the Act of 1972.

















Section 55 of the Act states:-

(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

- (2) Every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specifyin the licence.
- (3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- (4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

4.4 Section 56 of the Act states:-

- (1) For the purposes of this Part of this Act every contract for the hire of a private hire vehicle licensed under this Part of this Act shall be deemed to be made with the operator who accepted the booking for that vehicle whether or not he himself provided the vehicle.
- (2) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection.



















- (3) Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep such records as the council may, by conditions attached to the grant of the licence, prescribe of the particulars of any private hire vehicle operated by him and shall produce the same on request to any authorised officer of the council or to any constable for inspection.
 - (4) A person to whom a licence in force under section 55 of this Act has been granted by a district council shall produce the licence on request to any authorised officer of the council or any constable for inspection.
 - (5) If any person without reasonable excuse contravenes the provisions of this section, he shall be guilty of an offence.
- 4.5 Section 62(1) of the Act states a district council may suspend or revoke, or (on application therefore under section 55 of this Act) refuse to renew an operator's licence on any of the following grounds:-
 - (a) any offence under, or non-compliance with, the provisions of this Part of this Act:
 - (b) any conduct on the part of the operator which appears to the district council to render him unfit to hold an operator's licence;
 - (c) any material change since the licence was granted in any of the circumstances of the operator on the basis of which the licence was granted; or
 - (d) any other reasonable cause.
- 4.6 Section 60 of the Act states that a district council may suspend or revoke or refuse to renew a vehicle licence on any of the following grounds:-
 - (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
 - (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this part of this Act by the operator or driver; or
 - (c) any other reasonable cause.

















- 4.7 Individual case details are appended which refer to unspent convictions. Unspent convictions are those not covered by the Rehabilitation of Offenders Act 1974.
- 4.8 If an application is refused, suspended or revoked the applicant has the right of appeal to the Magistrates Court.

Alternative Options 5

There are no alternative options.

Implications 6

Resources: Legal and Governance: Article 6 of the Human Rights Act 1998 state that in determination of a person's civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Article 8 states that everyone has the right to respect for his private and family life, his home and his correspondence. Part II, Article 1 of the Act states that every natural or legal person is entitled to the peaceful enjoyment of
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legal person is entitled to the peaceful enjoyment of
his possessions. No one shall be deprived of his
possessions except in the public interest and subject
to the conditions provided for by law and by the
general principles on international law.
Risk: The Licensing sub-committees help to deter and
prevent disorder by exercising its quasi-judicial
powers.
Equality: It was not necessary to undertake an Equality Impact
Assessment.
Health and There are no direct health and wellbeing implications
Wellbeing: from this report.
Social Value Implications for social value and how the proposals
are meeting this (for e.g. employment of local traders,
young people)





















7. Appendices

Cases for consideration attached.

8. Background Papers

- Licensing (Miscellaneous Provisions) Act 1976
- Council Policy and Guidelines
- Human Rights Act 1998







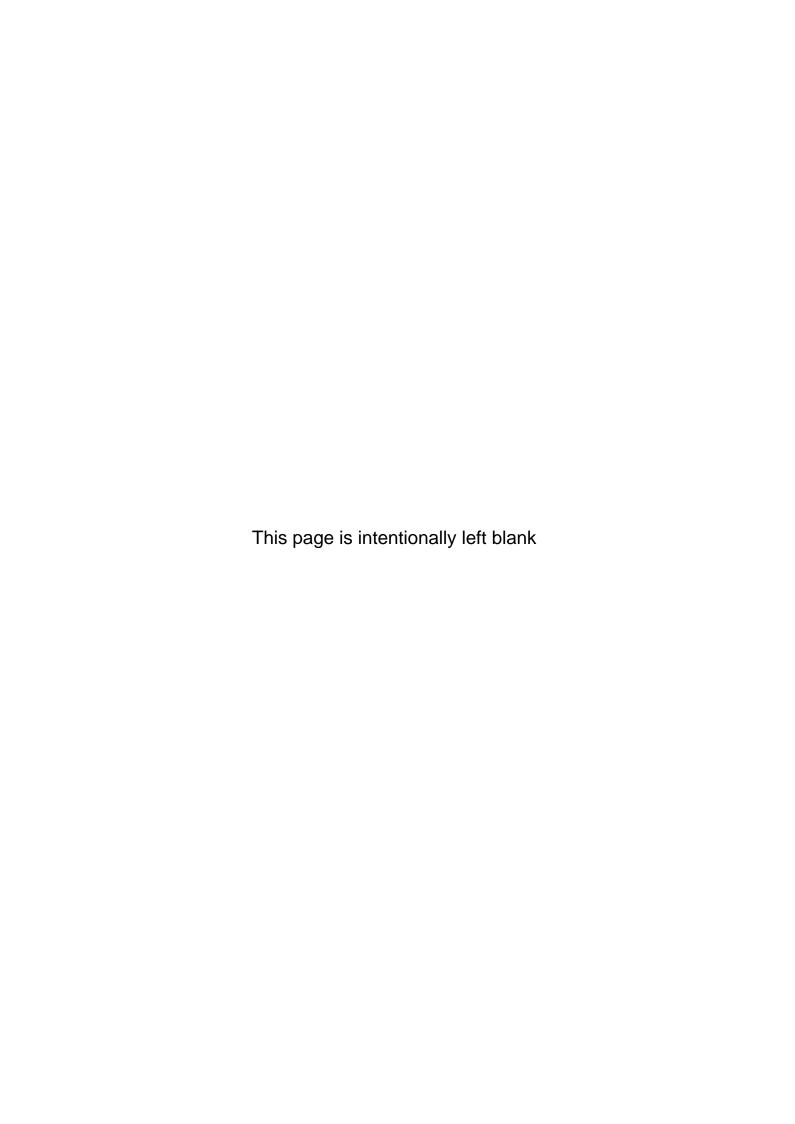












Licensing Committee

Consideration with regard to granting licences for private hire vehicle and hackney carriage drivers and operators falls within the remit of the Licensing Committee and is delegated to the Sub Committee.

This requires the Sub Committee to receive personal information about the licence applicants that cannot be made publicly available under Access to Information and Data Protection legislation. Consequently the information cannot be released.

The Council would like to apologise to you for any inconvenience that the unavailability of this information may cause you.



By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

