

# Public Document Pack



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Dear Councillor

The next meeting of the **LICENSING** Committee will be held at **6.30 pm** on **TUESDAY, 12 APRIL 2022** in the **Council Chamber**.

I do hope you can be there.

Yours sincerely

*M. H. Scott*

CHIEF EXECUTIVE

## AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **TO APPROVE THE MINUTES OF THE PREVIOUS MEETING** (Pages 3 - 6)
3. **DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON REGISTRABLE INTERESTS**

Members are reminded of their responsibility to declare any disclosable pecuniary, other registrable or non-registrable interest in respect of matters contained in the agenda.

4. **PUBLIC PARTICIPATION**

### ITEMS FOR DECISION

5. **WHALLEY CUMULATIVE IMPACT ASSESSMENT - CONSIDERATION OF CONSULTATION RESPONSES AND RECOMMENDATION TO COUNCIL** (Pages 7 - 10)

Report of Chief Executive enclosed.

### ITEMS FOR INFORMATION

6. **ALCOHOL LICENSING UPDATE** (Pages 11 - 14)

Report of Chief Executive enclosed.

7. **TAXI LICENSING UPDATE** (Pages 15 - 36)

Report of Chief Executive enclosed.

8. **UPDATE ON WHALLEY NIGHT TIME ECONOMY** (Pages 37 - 50)  
Report of Chief Executive enclosed.
9. **MINUTES OF RV EVENT SAFETY ADVISORY GROUP - 3** (Pages 51 - 52)  
**FEBRUARY 2022**  
Copy enclosed.
10. **REPORTS FROM REPRESENTATIVES ON OUTSIDE BODIES**  
None.
11. **EXCLUSION OF PRESS AND PUBLIC**  
None.

Electronic agendas sent to members of Licensing – Councillor Jan Alcock JP (Chair), Councillor Richard Bennett (Vice-Chair), Councillor Ian Brown, Councillor Stella Brunskill JP, Councillor Steve Farmer, Councillor Gaynor Hibbert, Councillor Simon Hore, Councillor Angeline Humphreys, Councillor Richard Newmark, Councillor Donna O'Rourke, Councillor Simon O'Rourke, Councillor Sarah Rainford, Councillor James (Jim) Rogerson, Councillor Gary Scott and Councillor Robin Walsh.

Contact: Democratic Services on 01200 414408 or [committee.services@ribblevalley.gov.uk](mailto:committee.services@ribblevalley.gov.uk)

## Minutes of Licensing

Meeting Date: Tuesday, 1 February 2022, starting at 6.30 pm  
Present: Councillor R Bennett

Councillors:

R Bennett	D O'Rourke
I Brown	S O'Rourke
S Brunskill	J Rogerson
S Farmer	G Scott
R Newmark	

In attendance: Head of Legal and Democratic Services and Solicitor

Also in attendance: Councillors B Berryman and G Mirfin

### 635 APOLOGIES FOR ABSENCE

Apologies for the meeting were received from Councillors J Alcock, G Hibbert, S Hore, A Humphreys, S Rainford and R Walsh.

### 636 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 2 November 2021 were approved as a correct record and signed by the Chairman.

### 637 DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON-REGISTRABLE INTERESTS

There were no declarations of pecuniary or non-pecuniary interests.

### 638 PUBLIC PARTICIPATION

The Chairman welcomed 2 members of the Whalley residents action group, and M Peplow, Green Party representative to speak on agenda item 5 – Renewal of Whalley Cumulative Impact Assessment – Approval of Draft for Consultation – who all urged committee to approve the renewal of the Whalley cumulative impact assessment for consultation.

### 639 RENEWAL OF WHALLEY CUMULATIVE IMPACT ASSESSMENT - APPROVAL OF DRAFT FOR CONSULTATION

The Chief Executive submitted a report seeking committee's approval of the draft Cumulative Impact Assessment (CIA) for Whalley prior to formal consultation. If approved, it would form part of the Council's Licensing Policy.

The Solicitor reminded members that a CIA expires after 3 years and as such the current one expires in April 2022. Following the decision of committee to progress renewal of the CIA for Whalley, information was sought to form the evidence base necessary to justify the assessment.

The draft CIA was attached to the report for members to consider. The Solicitor highlighted evidence relating to crime and disorder incidents, the responses from local residents, together with the evidence from the records of Environmental Health and Enforcement Officers, particularly relating to the prevention of public nuisance.

He reminded members that the introduction of a CIA would not be retrospective, would not automatically have effect in that responsible authorities or other interested parties would still have to make representations in relation to each application, but that it would create a rebuttable presumption of refusal of applications for new premises licences and club certificates and variation of such licences and certificates but would still require each application to be considered on its merits.

The Solicitor outlined the scope of the proposed CIA and the process for including it in the Council's Licensing Policy.

Councillor G Mirfin was given permission to speak on this item and referred to the Council being a responsible authority and the procedural separation required between those officers representing an authority in its capacity as responsible authority and those who would advise the Committee or Sub-Committee on applications to review licences.

Members discussed the situations specific to Whalley and the need to help those residents who were experiencing antisocial behaviour, particularly with the late night-time economy. They felt that more guidance and help from the Police was required and that action should be taken against any licensees who were not complying with regulations.

The Head of Legal and Democratic Services gave members an update on the work of the enforcement officers and reminded them that reviews of licences were a statutory process.

Members asked for a report on what actions could be taken alongside having the CIA.

RESOLVED THAT COMMITTEE:

1. Approve the draft Cumulative Impact Assessment contained in the report to form the basis of consultation as required by the Act.
2. Request a report from officers on the actions/measures that could be taken now to alleviate the problems being experienced by residents of Whalley.

640

#### PLATES ON HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

The Chief Executive submitted a report informing committee of a change to the information displayed on the plates fixed to Hackney Carriage and Private Hire vehicles.

The Town and Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 stipulate a statutory requirement to stipulate the number of persons who can be carried in the vehicle. The rest of the information contained on the plate is at the discretion of the Council.

Currently, the plates on vehicles licensed by the Council include details of the type of licence, the licence number, the vehicle registration number, vehicle type, the expiry date and the number of passengers that the vehicle is licensed to carry.

He informed committee that if the expiry date was not included then the plate could last for many years. It was therefore intended that the plates be altered by removal of the information on the renewal date, and that officers continue to monitor the impending expiry date of licences and should the renewal application not be received than steps would be taken to recover and remove the plate.

641 UPDATE ON THE TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) BILL

The Chief Executive submitted a report informing committee of the progress of a Private Member's Bill seeking to improve the safety of taxi passengers.

The Private Member's Bill introduced on 16 June 2021 by Perter Gibson MP, would mandate authorities to record taxi licence refusals, revocations and suspensions on a national database, and authorities would be required to consult that database before determining an application for a driver's licence. This would address the problem of a driver obtaining a licence from another authority having had one revoked in one authority for wrongdoing. It would also allow local authority enforcement teams to report instances of wrongdoing by drivers to the authority by which the offender is licensed.

Following the debate in the Commons on 21 January 2022 the Bill had progressed to the House of Lords where it awaited its second reading.

642 COMPLIANCE CHECKS ON OFF-LICENCES

The Chief Executive submitted a report informing committee of the outcome of visits to off-licences in the Ribble Valley to monitor their compliance with legislation.

Following the appointment of 2 full time planning and licensing enforcement officers, it had been possible to carry out further compliance checks at licensed premises. This was to establish their levels of compliance and to remind them of the requirements of their licences, including staff training, Check 25 and Challenge posters, and to ensure that the premises licence was current, correct and on display.

Visits had been carried out to 25 premises, and although the majority checked were of a satisfactory standard, three premises were requested to display their licence, and some others needed to make minor changes to their licence. One had engaged a licensing company to audit and manage staff training and three had been advised of apparent gaps in their training and recording systems. These premises would be revisited at a later date.

The visits were generally welcomed by the premises licence holders.

643 MINUTES OF LICENSING SUB-COMMITTEE - 7 DECEMBER 2021

Committee received the minutes of the Licensing sub-committee held on 7 December 2021.

644 REPORTS FROM REPRESENTATIVES ON OUTSIDE BODIES

There were no reports from representatives on outside bodies.

645 EXCLUSION OF PRESS AND PUBLIC

There were no items under this heading.

The meeting closed at 7.15 pm

If you have any queries on these minutes please contact the committee clerk, Olwen Heap [olwen.heap@ribblevalley.gov.uk](mailto:olwen.heap@ribblevalley.gov.uk).

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## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

DECISION
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meeting date: TUESDAY, 12 APRIL 2022  
title: WHALLEY CUMULATIVE IMPACT ASSESSMENT – CONSIDERATION OF CONSULTATION RESPONSES AND RECOMMENDATION TO COUNCIL  
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE  
principal author: STEPHEN BARKER, SOLICITOR

### 1 PURPOSE

1.1 To inform Committee about the responses received to the Council’s consultation about renewal of the Cumulative Impact Assessment (CIA) for Whalley, and to seek Committee support for progressing the CIA.

1.2 Relevance to the Council’s ambitions and priorities:

- Community Objectives –        }
  - Corporate Priorities –        }
  - Other Considerations –        }
- The Council has formulated a Cumulative Impact Assessment in response to concerns expressed by local residents.

### 2 BACKGROUND

2.1 This matter has been considered by Committee on three previous occasions as follows:

- 15 June 2021 – Committee approved informal consultation with the community and local licensees on the renewal of the CIA for Whalley.
- 2 November 2022 – Committee considered the responses received as a result of the informal consultation and decided to progress a Cumulative Impact Assessment by seeking and collating an evidence base to form the basis of formal consultation.
- 1 February 2022 – Committee considered the draft CIA which was appended to that report at Appendix 2. Committee decided to use the draft CIA as the basis for formal consultation.

### 3 ISSUES

3.1 Consultation was carried out for a 6 week period, responses to be received by 17 March 2022. A copy of the consultation letter is attached at Appendix 1.

3.2 None of those consulted required any modification to the CIA as drafted.

3.3 Members are therefore requested to consider approving renewal of the CIA for inclusion within the Council’s Licensing Policy, based on the draft attached to and limitations set out in the report which Committee considered on 1 February 2022. This can be viewed on the Council’s website at:

[https://www.ribblevalley.gov.uk/download/meetings/id/7019/agenda\\_item\\_9 -  
\\_cumulative\\_impact\\_assessment\\_whalley](https://www.ribblevalley.gov.uk/download/meetings/id/7019/agenda_item_9_-_cumulative_impact_assessment_whalley)

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – N/A.
- Technical, Environmental and Legal – N/A.
- Political – N/A.
- Reputation – N/A.
- Equality & Diversity – N/A.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Consider the consultation responses received about the draft CIA.

5.2 Recommend to Council that the CIA, (detailed at 3.3) be approved to form part of the Council's Statement of Licensing Policy.

STEPHEN BARKER  
SOLICITOR

MARSHAL SCOTT  
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Stephen Barker, extension 3216

**Stephen Barker**

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**From:** Catherine Moore  
**Sent:** 03 February 2022 13:20  
**To:** clerk@whalleyparishcouncil.org.uk; blparishclerk@outlook.com; enquiries@visitwhalley.com; Cllr G Mirfin; Cllr M Hindle; East Police Licensing; Lancashire Fire & Rescue; Public Health Licensing; Environmental Health; Planning; Trading Standards; Protection of Children  
**Cc:** Duguid, Camille; Stephen Barker  
**Subject:** Licensing Act 2003: Consultation - Draft Cumulative Impact Assessment 2022-2025

Dear Consultee

At its meeting on 1 February 2022 the Council's Licensing Committee considered and approved a draft Cumulative Impact Assessment in relation to licensed premises in the Whalley and Painter Wood area.

Prior to the policy being adopted, it authorised the Head of Legal and Democratic Services to consult with interested parties to give them an opportunity to make representations.

A copy of the draft Cumulative Impact Assessment is available to view on the link below:

<https://democracy.ribblevalley.gov.uk/documents/s2602/CUMULATIVE%20IMPACT%20ASSESSMENT%202022%20-%202025.pdf>

Should you wish to contribute to the consultation please submit your comments to [licensing@ribblevalley.gov.uk](mailto:licensing@ribblevalley.gov.uk) by Thursday 17 March 2022.

Regards

*Catherine*

**Catherine Moore** | Licensing Officer |

Ribble Valley Borough Council, Council Offices, Church Walk, Clitheroe, Lancashire BB7 2RA

T: 01200 414454 | E: [catherine.moore@ribblevalley.gov.uk](mailto:catherine.moore@ribblevalley.gov.uk) W: [www.ribblevalley.gov.uk](http://www.ribblevalley.gov.uk)



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## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

INFORMATION

meeting date: 12 APRIL 2022  
title: ALCOHOL LICENSING UPDATE  
submitted by: CHIEF EXECUTIVE  
principal author: STEPHEN BARKER, SOLICITOR

### 1 PURPOSE

1.1 To inform Committee of the current position in relation to changes in the law introduced on a temporary basis due to the pandemic, and to inform Committee of a consultation for relaxation of licensing hours to celebrate the Queen's Platinum Jubilee.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives }  
• Corporate Priorities }  
• Other Considerations }
- The Council aims to be a well managed authority and consideration of these issues will promote that aim.

### 2 BACKGROUND

2.1 The Government introduced a number of changes to legislation affecting licensed premises and other hospitality venues in response to the impact on the public caused by the restrictions, and to assist such venues in resuming trade in as safe a manner as possible. A number of these changes were temporary and are approaching key dates, either by way of expiry or in respect of proposals for temporary renewal or for permanent introduction. Included among these provisions are the increase in the number of days when licensing activities can be provided under a temporary event notice (TEN) in a year, use of external areas adjacent to premises (pavement licensing), and temporary permission for off-sales.

2.2 Further, the Government has carried out a consultation on whether on-licensed premises should be allowed to remain open until 1am for the sale of alcohol and/or the provision of regulated entertainment on Thursday, 2, Friday, 3 and Saturday, 1 June 2022, to reflect the introduction of an extra Bank Holiday for the Queen's Platinum Jubilee on Friday, 3 June 2022 (the Spring Bank Holiday having moved from Monday, 30 May to Thursday, 2 June 2022).

### 3 ISSUES

3.1 The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2021 came into force in September last year and increased the maximum number of days where licensable activities can be provided under a temporary event notice (TEN) in a year for a particular premises, from 21 to 26, from 1 January 2022. The number of events per year per premises has also increased from 15 to 20.

These 'extensions' apply for the duration of 2022 and 2023, but unless further legislation is introduced, will revert to the previous limits on 1 January 2024. There is no change to other provisions on TENs, including the requirement for there to be 24 hours between the end of one TEN and the start of the next. TENs can only be used

for up to 499 persons (including staff); and 10 clear working days' notice is required (or five clear working days' notice for a 'late TEN', for which there are limits per applicant).

- 3.2 Pavement licences allow furniture such as tables, chairs and umbrellas, to be placed on the public highway, such as pavements, or areas of roadway, which have restricted vehicle access. The Government issued guidance on a streamlined process for pavement licences in response to the COVID-19 pandemic, introduced under the Business Planning and Licensing Act 2020.

However, operators making use of pavement licences granted under the simplified procedure should remember that, although they can make use of such licences during the coming summer, as it currently stands, those licences will not be allowed to continue beyond 30 September 2022. It is, of course, possible that the Government could amend this by the introduction of further legislation, for example if they consider that the knock-on effects of the COVID-19 pandemic are continuing, but it is unlikely there will be any announcement on that until much closer to the time, if at all. Therefore, any operator who wants to make continued use of furniture on a highway over winter months should consider whether they will be able to apply to the highway authority under the lengthier procedure provided for in the Highways Act 1980, requiring 28 days' notice, with applications often taking around six weeks (but sometimes longer).

The grant of a pavement licence, whether under the Business Planning and Licensing Act 2020, or under the Highways Act 1980, does not affect any requirement to ensure that an area is covered by a premises licence, if sales of alcohol will actually take place in that area (for example, if there is a temporary bar).

The Government has consulted on whether such licences should be made permanent. The consultation closed on 11 February 2022 and the Government response is awaited.

- 3.3 30 September 2022 also marks the end of the temporary off-sales permissions granted by the Business Planning and Licensing Act 2020. That legislation permitted sales of alcohol for consumption off the premises for most premises where the premises licence only allowed the sale of alcohol for consumption on the premises. The purpose of the change was to make it easier for licensed premises to sell alcohol to customers for consumption off the premises in England and Wales, to allow businesses to trade and maintain social distancing, where closures and/or social distancing restrictions were in force and, thereafter, where demand was lower due to fears of transmission of COVID-19. However, the Government guidance on the temporary permission made clear from the outset that this change would only apply until 30 September 2022.

It is possible to apply to vary premises licences that only permit sales of alcohol for consumption on the premises, to also allow off sales. Therefore, operators who have relied on the temporary permission and wish to continue with delivery or click and collect services or similar, should consider submitting a variation application to the Council by the summer (such a variation would have a 28 day notice period and there are representations made, a hearing should be listed approximately four weeks after the end of that period).

- 3.4 The Government has carried out consultation on an extension to hours for the Platinum Jubilee, which it brought into force, might reduce the number of TENs that might be given in respect of the celebration. Consultation took place on a proposal to allow on-licensed premises to open until 1am on Thursday, 2, Friday, 3 and Saturday, 4 June 2022. This extension would not apply to premises licensed only for off-sales; and

opening beyond 1am would still require a TEN (unless permitted by the premises licence).

4 **CONCLUSION**

4.1 Committee is asked to note the contents of this report.

STEPHEN BARKER  
SOLICITOR

MARSHAL SCOTT  
CHIEF EXECUTIVE

For further information please ask for Stephen Barker, extension 3216.

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## **RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE**

INFORMATION

meeting date: TUESDAY, 12 APRIL 2022  
title: TAXI LICENSING UPDATE  
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE  
principal author: STEPHEN BARKER - SOLICITOR

### 1 PURPOSE

1.1 To inform Committee of recent developments in relation to the licensing of Hackney Carriages and Private Hire Vehicles.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives - }
- Corporate Priorities - } Consideration of these issues will promote the Council's aim to be a well-managed Council.
- Other Considerations - }

### 2 BACKGROUND

2.1 Members will recall that the Department for Transport published Statutory Taxi and Private Hire Vehicle Standards in July 2020, and that Committee approved the amendment of the Council's conditions and policy where appropriate at the meeting on 20 October 2020. The Department has now indicated that best practice guidance is to be updated.

2.2 At its meeting on 1 February 2022, Committee was advised of progress of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill. This has now received Royal Assent.

2.3 HM Revenue and Customs have introduced a requirement for licensing authorities to confirm a tax check has been completed by applicants renewing taxi, private hire and scrap metal licences.

2.4 A Private Members Bill is proceeding through Parliament amending the Equalities Act 2010 in respect of provision of transport for disabled persons.

### 3 ISSUES

3.1 The National Taxi and Private Hire Vehicle Standards issued in 2020 provide statutory guidance, which local authorities are required to have regard to in administration of their licensing responsibilities. The last occasion on which best practice guidance on administration of the taxi licensing regime was issued was on 2 March 2010. The Department for Transport is carrying out a consultation on introduction of updated guidance, which is open from 28 March 2022 to 20 June 2022. Consultation will take place on a number of issues including:

- driver licensing – proficiency;
- driver licensing – vocational training and assessment;

- vehicle licensing – tinted windows;
- vehicle licensing – identification and signage;
- vehicle licensing – age limits; and
- enforcement – points based enforcement.

The consultation document is attached at Appendix 1.

A further report will be brought to the next Committee on the proposed response by the Council.

- 3.2 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act received Royal Assent on 1 April 2022. Members will recall that this introduces a requirement for local authorities to input information to a central database where they have suspended, revoked, refused to grant or refused to renew a driver's licence, and for other authorities to have regard to that information in determining application for grant or renewal. Further, if a local authority has concerns about an issue involving a driver in their area, who's licence has been issued by another authority, there is a requirement to report those concerns to the issuing authority, who then must have regard to those concerns.
- 3.3 HMRC have introduced a requirement for applicants for renewal of taxi and private hire licences and scrap metal licences to carry out an online tax check, and to provide evidence of having done so as part of their application. The Council's document and website have been updated to explain this requirement, effective from 4 April 2022, and holders of relevant licences have been notified of the requirement. Nationally it is predicted that it will cost local authorities at least £1.5 million to update their systems and processes to accommodate the new rules. Copies of their information for applicants on the Council's website can be found at Appendix 2.
- 3.4 The Taxis and Private Hire Vehicles (Disabled Persons) Bill is proceeding through Parliament. This Bill seeks to amend the Equality Act 2010 to provide greater protection to all disabled persons using taxis and private hire vehicles. The Bill has passed through the Commons without amendment and is now at the Committee stage in the House of Lords.

#### 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:
- Resources – No implication identified.
  - Technical, Environmental and Legal – No implication identified.
  - Political – No implication identified.
  - Reputation – No implication identified.
  - Equality & Diversity – No implication identified.

#### 5 CONCLUSION

- 5.1 Committee is asked to note the contents of this report.

STEPHEN BARKER  
SOLICITOR

MARSHAL SCOTT  
CHIEF EXECUTIVE

For further information please ask for Stephen Barker, extension 3216.

REF: SB/CMS/LICENSING/12 APRIL 2022

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  4. [Taxi and private hire accessibility \(https://www.gov.uk/transport/taxi-and-private-hire-accessibility\)](https://www.gov.uk/transport/taxi-and-private-hire-accessibility)
  5. [Taxi and private hire vehicle best practice guidance \(https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance\)](https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance)
- [Department for Transport \(https://www.gov.uk/government/organisations/department-for-transport\)](https://www.gov.uk/government/organisations/department-for-transport)

Open consultation

# Taxi and private hire vehicle: best practice guidance to assist local authorities

Published 28 March 2022

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This publication is available at <https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance/taxi-and-private-hire-vehicle-best-practice-guidance-to-assist-local-authorities>

## Foreword

Taxis and private hire vehicles (PHVs) play a critical role in keeping our country moving, allowing people to travel safely and easily.

Whether those taxi and private hire vehicle journeys are for leisure, work or to go to the shops, many people in our communities, particularly those who are disabled and vulnerable, rely upon them.

The adoption of new technology by the sector and, most significantly, by the public has resulted in a much-changed sector since the Department for Transport (DfT) last refreshed its [Taxi and private hire vehicle licensing: best practice](https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance) (<https://www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance>) in 2010.

The biggest change is the ease with which passengers are able to engage services – using an app on a mobile phone, for example, was something unimaginable in 2010.

The increase in services has fuelled increases in the number of drivers in the sector, making a fundamental change to the way the industry works and how these services are delivered.

A further challenge is the transition to zero emission vehicles to mitigate the impact of travel on air quality and climate change.

Licensing authority policies should reflect the lead and assistance that government is providing in these areas. It is important they provide the certainty the sector needs so that it is able to plan ahead and invest.

Zero emission vehicles have far fewer moving parts than their petrol and diesel counterparts. They are easier and cheaper to maintain, and far more efficient to run.

While these benefits will be attractive for the private car owner, they could be transformative for the taxi and private hire vehicle industry.

A constant message I hear from stakeholders is the need for consistency in standards across licensing authorities.

I know that in respect of safeguarding issues, which are covered by the government's [Statutory taxi and private hire vehicle standards](https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards) (<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>), there was a great consensus around what those standards should be.

I am aware that this is not necessarily the case in respect of some of the issues covered in the best practice guidance. I appreciate that with over 270 licensing authorities in England there are going to be significant variations and, because of this, the recommendations are unlikely to be welcomed by all, but I am keen that we try and reach a consensus where possible.

In developing the consultation on best practice guidance, DfT has carefully considered the views expressed by a wide variety of stakeholders through ongoing engagement with the sector about what will make services even better than they are today.

A key message is that the government needs to take a position on the important issues in the guidance, and the consultation reflects this.

The government's commitment to introduce legislation, when parliamentary time allows, to enable the setting of national minimum licensing standards remains.

The measures in the final version of the best practice guidance, and the statutory taxi and private hire vehicle standards issued in 2020, are likely to be the starting point when setting any such future legislation.

The importance of licensing authorities to the safety of the public and the effective functioning of the sector cannot be downplayed, and the intention of the guidance is to help licensing authorities in carrying out this important job.

This is a crucial consultation on a range of significant issues and I urge you to share your views to help shape the final version of the best practice guidance, we are keen to hear what you have to say.

We have a shared vision for a safe and thriving sector and it is key that this is at the heart of the policies of licensing authorities that regulate the sector.

Baroness Vere of Norbiton

28 March 2022

## **Executive summary**

### **Introduction**

DfT first issued best practice guidance to licensing authorities in 2006 and this was refreshed in 2010.

Much has changed in the taxi and PHV industry over the intervening years and the time has come to update the guidance to ensure it reflects new ways of working, new technology and feedback from interested parties.

We are therefore seeking views on a new best practice guidance for taxi and PHV licensing authorities and any evidence that supports them.

The consultation will run for 12 weeks from 28 March 2022 until 23:45 on 20 June 2022.

### **Who this consultation is aimed at**

We are seeking the views of all interested parties, including the public, licencing authorities, operators, drivers and representative bodies such as the Disabled Persons' Transport Advisory Committee (DPTAC), many of whom have influenced the best practice guidance document.

This is a public consultation and we are keen to hear from any other groups or individuals with an interest. This is your opportunity to help shape the final text on the important issues for the sector.

### **Our approach**

Stakeholders have called on government to set out its position on key issues with the desire to see consistency across the sector.

Given this, the consultation version has been drafted to set out DfT's proposed position and for the most contentious issues, the consultation paper also sets out the rationale for the proposed position.

This is designed to help the ongoing debates and enable respondents to provide alternatives if they do not support the rationale for the proposed approach.

The recommendations in the consultation version of the best practice guidance result from engagement and discussion with a range of bodies including representatives of licensing authorities, regulators, operators and drivers, and detailed consideration by DfT.

The consultation version of the best practice guidance contains a set of recommendations on what local authorities should and should not require.

It also includes information on existing legal obligations that licensing authorities are already required to meet. This is to provide as comprehensive a document as possible to assist them in administering the licensing regime.

Questions are not posed on every section or element of the guidance where there are already settled positions, such as:

- some parts are simply stating the law (for example, the text on the duration of licences)
- setting out existing government policies (for example, text that is taken from the statutory taxi and private hire vehicle standards)
- DfT's interpretation of the law (for example, the guidance on interim suspensions)
- signposting other information (for example, the community safety accreditation scheme)

The best practice guidance is non-statutory guidance that is intended to assist licensing authorities. Therefore, where the questions in this consultation document ask whether something 'should' or 'should not' be done, this is in the context of whether something should or should not be recommended best practice.

The questions are provided in this document and available through the [online response form](https://www.smartsurvey.co.uk/s/3ABP5T) (<https://www.smartsurvey.co.uk/s/3ABP5T>).

## Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'.

The term 'taxi' is used throughout the consultation version of the best practice guidance and consultation document and refers to all such vehicles. Taxis are able to be hired by hailing on the street or at a rank.

Private hire vehicles (PHV) include minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services.

All private hire vehicle journeys must be prebooked via a licensed private hire vehicle operator.

## Consultation proposals

The focus of the best practice guidance is on how licensing authorities can best use their existing powers to ensure that the taxi and PHV drivers and vehicles, and the PHV operators that they license provide a safe, inclusive, accessible and attractive service for the passengers they carry.

While the safety of the public is paramount, licensing authorities, as regulators, also have a duty to ensure that they carry out their activities in a way that supports the people and businesses that they regulate.

The best practice guidance aligns with overarching principles in the [Regulators' Code](https://www.gov.uk/government/publications/regulators-code) (<https://www.gov.uk/government/publications/regulators-code>) that unnecessary burdens should be avoided and that regulators should choose proportionate approaches.

The best practice guidance focuses on issues outside of the scope of the [statutory taxi and private hire vehicle standards](https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards) (<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>) that are focused on safeguarding.

The consultation version of the best practice guidance should be read before responding to the consultation. DfT has identified areas where further discussion of the issues is considered helpful to those responding to this consultation to reach a conclusion. This information is provided in [section 6](#) and [section 8](#).

## **Section 6: driver licensing – proficiency**

Unlike bus and coach drivers where an additional assessment is required to drive a public service vehicle, the vehicles used for taxi and PHV services are covered by standard driving licence categories such as category B for cars.

The [Road safety statement 2019: a lifetime of road safety](https://www.gov.uk/government/publications/road-safety-statement-2019-a-lifetime-of-road-safety) (<https://www.gov.uk/government/publications/road-safety-statement-2019-a-lifetime-of-road-safety>) is clear that the need to improve road safety does not end with the driving test. Nor does it exclude those who drive or ride professionally or as part of their job.

Elsewhere in the best practice guidance, it is proposed that the granting of a taxi or PHV driver licence should be subject to a higher standard, for example, in the medical and vision assessment.

This is considered proportionate because drivers carry members of the general public who have expectations of a safe journey and drivers are on the road for longer hours than most car drivers.

DfT's guidance on [licensing motorcycles as PHVs](https://www.gov.uk/government/publications/licensing-motorcycles-as-private-hire-vehicles/licensing-motorcycles-as-private-hire-vehicles-a-guidance-note-from-the-department-for-transport#c2--driver-licences) (<https://www.gov.uk/government/publications/licensing-motorcycles-as-private-hire-vehicles/licensing-motorcycles-as-private-hire-vehicles-a-guidance-note-from-the-department-for-transport#c2--driver-licences>) recommends that applicants for a motorcycle PHV driver's licence should, as a minimum, have successfully completed the [IAM RoadSmart](https://www.iamroadsmart.com/) (<https://www.iamroadsmart.com/>) or the [Royal Society for the Prevention of Accidents \(RoSPA\)](https://www.rospace.com/en/) (<https://www.rospace.com/en/>) advanced rider schemes or another course that is demonstrably equivalent or superior.

Successful completion of one of these courses is a good indicator of an individual's ability to ride safely and competently in terms of awareness, anticipation, vehicle handling and general roadcraft.

The majority of licensing authorities require additional driver assessment. As of 31 March 2021, 155 of 281 licensing authorities required taxi drivers to complete advanced driver training and 154 for PHV drivers (as seen in [table TAXI0109](https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2021) (<https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2021>)).

## **Section 6: driver licensing – vocational training and assessment**

Some licensing authorities require drivers to obtain formal vocational qualifications, such as a BTEC in Introduction to the Role of the Taxi and Private Hire Driver.

Although a vocational qualification may provide a degree of transferability among licensing authorities, it is a snapshot of training and assessment undertaken. The curriculum of the qualification at that time may not include elements that most licensing authorities are expected to require of drivers.

The need for training to evolve to meet new challenges is best illustrated by the issues of safeguarding training, which has evolved in recent years in recognition that this is a broader issue than the original focus on sexual exploitation and should now include awareness of county lines.

This snapshot issue may deter licensing authorities from exempting holders of vocational qualifications from in-house training requirements as it could not be assured the same curriculum was covered and/or up-to-date content was included.

DfT acknowledges there may be additional customer service benefits to vocational qualifications, but these are a commercial decision for drivers and PHV operators to consider rather than a requirement that enhances safety or the provision of an accessible service.

## **Section 8: vehicle licensing – tinted windows**

As of 31 March 2021, 87 of 281 licensing authorities had a minimum light transmission policy for rear (those that are rear of the B pillar) windows in taxis and 86 for private hire vehicles ([table TAXI0108 \(https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2021\)](https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2021)).

A restriction on the level of window tinting (which reduces the transmission of light) is usually on the grounds that passengers should be able to see the vehicle is unoccupied before entering and that enforcement officers can see that vehicles are not carrying more passengers than for which the vehicle is licensed.

It is expected that the greatest concerns over visibility will be at night when ambient light levels are low.

Passengers are, however, able to request that the rear windows of a vehicle are opened before entering.

The need for compliance and enforcement officers to check whether a vehicle is overloaded is not disputed. Vehicles are licensed to carry a maximum number of passengers to ensure their safety. The extent to which window tinting makes a significant difference in ascertaining at night whether a moving vehicle is overloaded is not known.

To confirm whether a vehicle was overloaded would require a check when the vehicle is stationary. If a vehicle is stationary, the compliance and enforcement officer can ask that any windows are opened and so the benefits in prohibiting tinted rear windows is unclear.

Licensing authorities that require the removal of factory-fitted tinted windows sometimes allow exemptions from light-transmission requirements for executive hire services.

Most commonly, these vehicles are defined by the list price of the vehicle used. These are, though, licensed as PHVs and it is difficult to prevent them from being used for normal services, nor is it possible to establish a sub-category of drivers that are extra fit and proper.

Given that all PHV drivers are vetted to the same level, regardless of the nature of their work, there seems no rationale for one vehicle being permitted to have tinted windows and another not.

The replacement of rear windows can cost many hundreds if not thousands of pounds.

If licensing authorities are concerned about the safety of passengers, a better option could be for them to consider, after taking into account potential privacy issues, whether the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and PHV users as recommended in the statutory taxi and private hire vehicle standards.

## **Section 8: vehicle licensing – identification and signage**

There are a number of factors to consider in relation to vehicle signage and identification: safety, competition, commercial arguments and the fact that there are a wide variety of approaches taken by licensing authorities.

The government's view is that safety should be the prime consideration and the recommendations in the best practice guidance reflect this.

The intention is to try and make taxis the most noticeable and distinctive vehicle to members of the public who want to engage a taxi or PHV and to make it clear that only taxis can be hired without being prebooked.

Increasing the differentiation between taxis and PHVs, so that taxis are easy to identify and PHVs are less visible would simplify safety messaging to the public that they should only get into a vehicle that looks like a taxi unless prebooked.

Operators should provide information that enables the passenger to identify the driver and vehicle allocated.

Licensing authorities could promote this personal safety messaging to ensure that residents understand

the distinction between taxis and PHVs and how each service can be legally and safely engaged.

This also supports the distinction between the two elements of the trade and reduces the opportunity of unscrupulous drivers (licensed or not) from illegally standing for hire.

An approach that says PHVs should not display signage other than the licence plate or disc and a prebooked only door sign means it's easier for drivers to work with more than one operator.

A requirement to display operator details means, at best, that drivers would need to carry multiple sets of magnetic signs and, at worst, replace adhesive stickers multiple times per shift.

Magnetic signs may be stolen from, or possibly shared by, the licensed trade. If PHV signs continue to be required, the use of magnetic signs also increases the risk of passengers unknowingly using unlicensed drivers and vehicles. A vehicle with a sign may be assumed by the public to be a taxi.

There may be instances where a driver and vehicle proprietor has an exclusive relationship with an operator and both parties may agree that they want to display the operator details.

In these circumstances, the licensing authority could allow the operator details to be displayed discreetly, for example, through small branding on the rear of the vehicle, so as not to undermine the overall objective of enabling the public to easily differentiate between taxi and PHVs.

Many licensing authorities already exempt some services from their PHV signage requirements.

Executive hire services are licensed as PHVs and licensing authorities should assure themselves that, given the signage on private hire vehicles may be negligible, there is sufficient justification to exempt these vehicles from a requirement to display a small plate or disc in the absence of an effective means to prevent the vehicle from being used for normal private hire work.

## **Section 8: vehicle licensing – age limits**

Most licensing authorities have a policy that is focused on the age of a vehicle rather than the outcomes that the policy is intended to deliver, such as clean air.

While an age-based policy will ensure that there is regular turnover of vehicles within the fleet and prevent cliff-edge cases where significant proportions of the fleet must be replaced (to comply with clean air requirements, such an approach may have disbenefits compared to more targeted outcome-based policies, for example).

A requirement for a vehicle to be 3 years old or less at first licensing, say, would mean a 5-year-old used electric vehicle could not be licenced. A better approach could be the introduction of an emissions policy, if that is required/desired, giving the trade a timeline for moving to zero emission, for example.

Removing age limits should not undermine safety, providing those vehicles are maintained appropriately and inspected rigorously.

The best practice guidance recommends annual vehicle test for all taxis and PHVs and proposes that a daily vehicle inspection is conducted by all drivers and that records are kept of vehicle inspection failures. The latter will enable licensing authorities to consider the propriety of vehicle proprietors who consistently present poorly maintained vehicles.

## **Consultation questions**

DfT has carefully considered the recommendations proposed in the draft best practice guidance, but these are, of course, subject to change following this consultation.

While it is useful to have indications of the quantity of respondents that agree or disagree with these proposals, DfT wants to ensure that the final recommendations are informed by all available evidence and suggestions where these can be improved.

Most of the questions ask for quantifiable (agree, disagree or no opinion) and qualitative (comments) responses.

Ahead of the consultation questions, we would like to collect some information about you and your use of and/or role in the taxi and PHV trade. This information will be used to help to give context to the responses we receive from individuals and organisations.

## **Section 4 : accessibility**

In your view, should licensing authorities introduce Inclusive Service Plans for taxis and PHVs?

Do you agree that licensing authorities should introduce the accessibility measures proposed in the best practice guidance?

In your view, are there any other measures licensing authorities should take to improve accessibility of taxis and PHVs?

## **Section 5: enforcing the licensing regime**

### **Point-based enforcement systems**

Do you agree that any points incurred through a points-based enforcement regime should remain on the record for 3 years for drivers from the date of the incident?

Do you agree that points incurred through a points-based enforcement regime should remain on the record for 5 years for PHV operators from the date of the incident?

## **Section 6: driver licensing**

### **Driver proficiency**

Do you agree licensing authorities should require taxi and PHV drivers, as professional drivers, to evidence a higher degree of driving ability than is required for private motorists?

### **Vocational training and assessment**

Do you agree that licensing authorities should not require drivers to obtain a vocational qualification?

### **Topographical knowledge tests**

In your view should a PHV driver be required to pass some form of topographical knowledge test?

If a PHV driver has to pass a topographical test, should this be the same test as a taxi driver? Or, should it evaluate the candidate's ability to plan a route or safely use a navigation system?

### **Vehicle condition check**

Do you agree licensing authorities should require drivers to conduct daily checks on their vehicle similar to the checklist provided?

What, if any, comments do you have on the vehicle condition checklist?

## **Section 8: vehicle licensing**

### **Vehicle safety ratings**

Do you agree licensing authorities should consider the safety benefits to passengers, drivers and pedestrians of vehicles which have received a higher Euro NCAP rating (where these have been assessed) when setting its vehicle requirements?

### **Seating capacity**

Do you agree that each person, regardless of age, should be counted as a passenger?

Do you agree taxis and private hire vehicles should not be licensed to carry more people than the number of seats and seatbelts available?

#### **Tinted windows**

Do you agree that licensing authorities should only require the removal of 'factory fitted' tinted windows as part of vehicle specifications if it can evidence that this is necessary and proportionate?

#### **Vehicle testing**

Do you agree licensing authorities should, where possible, obtain details of vehicle tests, including failures?

Do you agree licensing authorities should require testing stations to provide the outcomes of all examinations carried out, including where vehicles were subject to advisory notices?

#### **Vehicle age limits**

Do you agree licensing authorities should not impose age limits for the licensing of vehicles?

#### **Vehicle identification and signage**

Do you agree licensing authorities should not permit roof signs of any kind on PHVs?

Do you agree that licensing authorities should not impose a livery requirement on PHVs?

Do you agree that private hire vehicle signage requirements should be limited to the authority licence plate or disc and a 'pre-booked only' door sign?

Do you agree that licensing authorities should not require the displaying of private hire vehicle operator details on vehicle?

Do you agree that when an exclusive relationship exists between the vehicle proprietor, driver and operator, licensing authorities should permit the display of private hire vehicle operator details in a discreet manner?

Do you agree with our suggested practice regarding the use of the words taxi or cab, as well as similar meaning words, for display on private hire vehicles?

#### **Environmental considerations**

Do you agree that taxis and private hire vehicle with internal combustion engines should be tested more frequently than annually?

#### **Section 11: taxi rank provision**

Do you agree that taxi rank provision should be reviewed every 3 years?

#### **Annex B: model byelaws for Hackney carriages**

What, if any, comments do you have on the model byelaws?

#### **Annex F: sample notices between taxi driver or PHV driver and passenger**

What, if any, comments do you have on the sample notices?

#### **Annex G: staying safe – guidance for taxi drivers**

What, if any, comments do you have on the staying safe guidance for taxi drivers?

## **Annex H: staying safe – guidance for the PHV trade**

What, if any, comments do you have on the staying safe guidance for the private hire vehicle trade?

## **Annex I : useful questions when assessing taxi quantity controls**

What, if any, comments do you have on the questions for assessing taxi quantity controls?

## **Final comments**

Do you have any other comments?

## **How to respond**

The consultation period began on 28 March 2022 and will run until 23:45 on 20 June 2022. Please ensure that your response reaches us before the closing date.

Alternative formats of this consultation document, such as Braille and audio CD, for example, can be requested at [taxis@dft.gov.uk](mailto:taxis@dft.gov.uk).

You may send your response by:

- completing the [online survey \(https://www.smartsurvey.co.uk/s/3ABP5T/\)](https://www.smartsurvey.co.uk/s/3ABP5T/)
- downloading the [response form \(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/consultation\\_response\\_form\\_data/file/952/taxi-and-private-hire-vehicle-best-practice-guidance.odt\)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/consultation_response_form_data/file/952/taxi-and-private-hire-vehicle-best-practice-guidance.odt) and emailing us the return form at [taxis@dft.gov.uk](mailto:taxis@dft.gov.uk)
- emailing [taxis@dft.gov.uk](mailto:taxis@dft.gov.uk) directly with your comments
- post to:

Department for Transport  
Local Passenger Transport Division  
Taxi and Private Hire Vehicle Best Practice Guidance Consultation 2022  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR

When responding, state whether you are responding as an individual or representing the views of an organisation.

If responding on behalf of a larger organisation, make it clear who the organisation represents and, where applicable, how the views of members were assembled.

If you have any suggestions of others who may wish to be involved in this process, contact us.

## **Confidentiality and data protection**

DfT is carrying out this consultation to gather views and evidence on measures for inclusion within the best practice guidance issued to taxi and PHV licensing authorities.

This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department.

If your answers contain any information that allows you to be identified, DfT will, under data protection law, be the Controller for this information.

As part of this consultation, we are asking for your name and email address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions.

We may contract a third party to analyse the responses we receive to the consultation. If you provide your contact details, we may share this information with a contractor in case they need to contact you regarding your consultation response.

[DfT's privacy policy](#) has more information about your rights in relation to your personal data, how to complain and how to contact the Data Protection Officer.

Your information will be kept securely and destroyed within 12 months after the consultation has been completed. Any information provided through the online questionnaire will be moved from their system to our internal systems within 2 months of the consultation end date.

## What happens next

A summary of responses, including the next steps, will be published. Paper copies will be available on request.

If you have questions about this consultation, contact: [taxis@dft.gov.uk](mailto:taxis@dft.gov.uk).

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# Tax Checks for Hackney Carriage, Private Hire and Combined Drivers

## Information on New Tax Checks

### New rules on tax checks

From 4 April 2022, to renew a licence to drive a taxi or operate a private vehicle hire business, you will need to complete a tax check with HM Revenue and Customs (HMRC).

### What's changing

From 4 April 2022, there will be a small addition to the checks we already have in place. You will need to complete a tax check with HM Revenue and Customs (HMRC) when you renew your licence to:

- drive taxis or private hire vehicles
- operate private hire vehicle businesses (i.e. if you are a Private Hire Operator)
- deal in scrap metal.

The changes will only apply in England and Wales.

### How the changes may affect you

What you need to do will depend on whether you're applying for a licence for the first time or whether you're making a subsequent application, such as renewing a licence.

### Obtaining a new licence

If you are applying for a licence for the first time, you will not need to complete the tax check. However, we will ask you to read HMRC guidance on what you need to do to be properly registered for tax in the future and you will need to confirm you have done this.

### Renewing a licence

From 4 April 2022, if you renew or apply for a subsequent licence under a different licensing body, you will need to do a tax check. You will be able to do this online and you will need to do it yourself i.e. an agent/accountant cannot do it on your behalf.

### About the tax check



You will be able to complete this tax check on GOV.UK, through your Government Gateway account. If you do not already have a Government Gateway account, you can sign up on GOV.UK

The tax check should only take a few minutes. You will only need to answer a few questions to tell HMRC how you pay any tax that may be due on income you earn from your licensed trade. There will be guidance on GOV.UK, and anyone who needs extra support will be able to complete the tax check by phone through HMRC's customer helpline.

When you've completed the tax check, you'll get a code. You must give this code to us as part of your application. We cannot proceed with your licence application or renewal until the tax check is completed and received the code. We will only receive confirmation from HMRC that you've completed the tax check, we will not have access to information about your tax affairs. Once you obtain the tax check code, it is valid for 120 days.

## What you need to do

If you have not registered to pay tax on earnings from your licensed trade, please go to [GOV.UK](#) to check if you need to register as soon as possible:

- If you're an employee, find information on PAYE (Pay as You Earn) at [GOV.UK - how you pay income tax](#)
- If you're self-employed, find information on registering for Self-Assessment at [GOV.UK - register for self assessment](#)
- If you operate through a company, find information on Corporation Tax at: [GOV.UK - corporation tax](#)

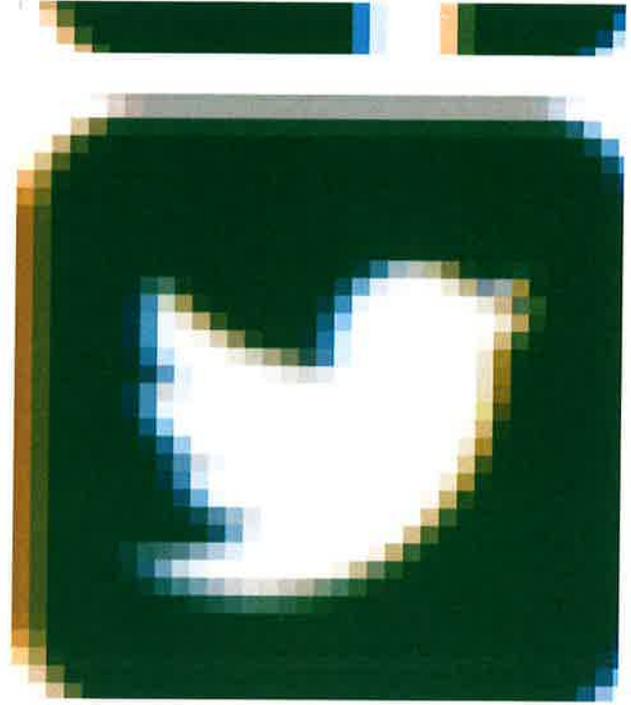
If you should have been registered to pay tax and have not been, HMRC will work with you promptly and professionally to get you back on the right track. It is your responsibility to get your tax right, but HMRC are there to help.

You can get help from HMRC if you need extra support, for example if you need information in a different format or need help filling in forms. Visit [GOV.UK](#) and search 'Get help from HMRC if you need extra support'.

For further guidance on the tax check, please visit: [GOV.UK- changes for taxi private hire or scrap metal licence applications from April 2022](#)

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# Scrap Metal Licence

## Tax Checks for Scrap Metal Site Licences and Scrap Metal Collectors' Licences

### **New rules on tax checks**

From 4 April 2022, the rules are changing for applications for scrap metal site licences and scrap metal collectors' licences.

### **What's changing**

From 4 April 2022, there will be a small addition to the checks we already have in place. Individuals, companies and any type of partnership will need to complete a tax check with HM Revenue and Customs (HMRC) if they are:

- renewing a scrap metal licence
- applying for the same type of licence they previously held that ceased to be valid less than a year ago
- are applying for the same type of licence they already hold with another licensing authority

The changes will only apply in England and Wales.

### **How the changes may affect you**

What you need to do will depend on whether you're applying for a licence for the first time or whether you're making a subsequent application, such as renewing a licence.

### **Obtaining a new licence**

If you are applying for a licence for the first time, you will not need to complete the tax check. However, we will ask you to read HMRC guidance on what you need to do to be properly registered for tax in the future and you will need to confirm you have done this.

### **Renewing a licence**

From 4 April 2022, if you renew or apply for a subsequent licence under a different licensing body, you will need to do a tax check. You will be able to do this online and you will need to do it yourself i.e. an agent/accountant cannot do it on your behalf.

### **About the tax check**

You will be able to complete this tax check on GOV.UK, through your Government Gateway account. If you do not already have a Government Gateway account, you can sign up on GOV.UK



The tax check should only take a few minutes. You will only need to answer a few questions to tell HMRC how you pay any tax that may be due on income you earn from your licensed trade. There will be guidance on GOV.UK, and anyone who needs extra support will be able to complete the tax check by phone through HMRC's customer helpline.

When you've completed the tax check, you'll get a code. You must give this code to us as part of your application. We cannot proceed with your licence application or renewal until the tax check is completed and we have received the code. We will only receive confirmation from HMRC that you've completed the tax check, we will not have access to information about your tax affairs. Once you obtain the tax check code, it is valid for 120 days.

### **What you need to do**

If you have not registered to pay tax on earnings from your licensed trade, please go to [GOV.UK](https://www.gov.uk) to check if you need to register as soon as possible:

- If you're an employee, find information on PAYE (Pay as You Earn) at [GOV.UK - how you pay income tax](https://www.gov.uk/how-you-pay-income-tax)
- If you're self-employed, find information on registering for Self-Assessment at [GOV.UK - register for self assessment](https://www.gov.uk/register-for-self-assessment)
- If you operate through a company, find information on Corporation Tax at: [GOV.UK - corporation tax](https://www.gov.uk/corporation-tax)

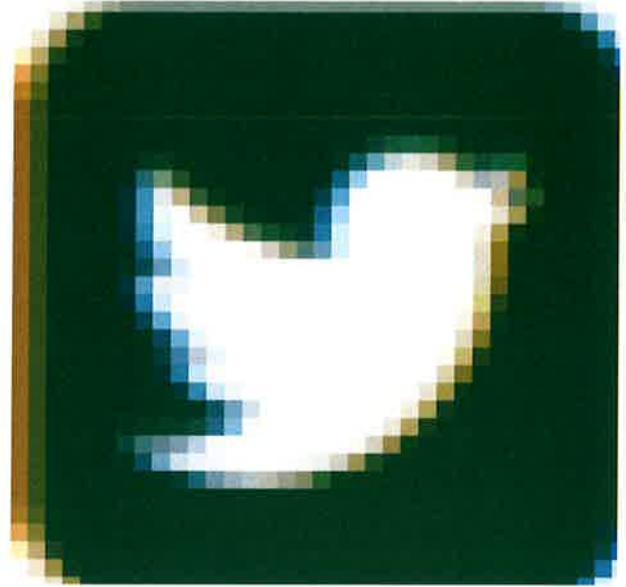
If you should have been registered to pay tax and have not been, HMRC will work with you promptly and professionally to get you back on the right track. It is your responsibility to get your tax right, but HMRC are there to help.

You can get help from HMRC if you need extra support, for example if you need information in a different format or need help filling in forms. Visit [GOV.UK](https://www.gov.uk) and search 'Get help from HMRC if you need extra support'.

For further guidance on the tax check, please visit: [GOV.UK- changes for taxi private hire or scrap metal licence applications from April 2022](https://www.gov.uk/guidance/changes-for-taxi-private-hire-or-scrap-metal-licence-applications-from-april-2022)

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1. [Scrap Metal Licence](#)
2. **You are here: Tax Checks for Scrap Metal Site Licences and Scrap Metal Collectors' Licences**

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

meeting date: TUESDAY, 12 APRIL 2022  
 title: UPDATE ON WHALLEY NIGHT-TIME ECONOMY  
 submitted by: CHIEF EXECUTIVE  
 principal author: STEPHEN BARKER, SOLICITOR

### 1 PURPOSE

1.1 To inform Committee of issues reported by residents of Whalley and actions which might be taken to address those issues, and to explain the Council's role as a responsible authority.

1.2 Relevance to the Council's ambitions and priorities

- |                        |   |  |
|------------------------|---|--|
| • Community Objectives | } | Consideration of these issues will promote the Council's aim to be a well-managed Council. |
| • Corporate Priorities | } |  |
| • Other Considerations | } |  |

### 2 BACKGROUND

2.1 The village of Whalley has a history of a busy night-time economy. Under the previous licensing regime (pre implementation of the Licensing Act 2003), there were 4 public houses in the centre of the village, together with various registered clubs and dining establishments. At one time there were 2 night clubs, one located on George Street and one in the premises which were the former village assembly rooms on Accrington Road. The premises on George Street closed approximately 50 years ago; the premises on Accrington Road remain open. The village has attracted visitors to enjoy its night-time economy from surrounding towns and villages over many years. This remains the case.

2.2 Since the Licensing Act 2003 came into force' premises have had the ability to close later than what had been more tightly regulated hours under the Licensing Act 1964. The earlier legislation involved a closing time for public houses in the Ribble Valley at 11pm (10.30pm on Sundays) unless a special order of exemption had been granted by the Magistrates. Night clubs enjoyed later opening hours provided they were able to offer a substantial meal to customers. There are no such restrictions under the current regime.

2.3 Over recent years, one of the pubs has closed, and is now a supermarket. There have been a number of new premises which have opened, quite often offering a wine bar type experience including provision of food for at least part of the day. Some of these premises have applied for relatively restricted opening hours, whilst others have applied for permission to open until early morning.

2.4 There has always been a mix of residential and commercial premises in the village centre. This does give rise to tension and complaints, particularly regarding noise. Some of this is reported to emanate from premises themselves. The premises about which the greatest number of complaints have been received regarding music volume is a premises which was a former registered club, in which events had been held for many years. Issues have also been raised with regard to two of the premises which have received new licences in recent years.

- 2.5 Residents also complain about the behaviour of people passing between different venues or leaving the village at the end of the night. This includes complaints about people shouting, littering, urinating or vomiting in the streets, and some complaints relating to taxis. Whilst it may be possible to watch people progress from one premises to another, the premises themselves have little control over this behaviour once a customer has left the immediate vicinity of the premises. A number of premises do have conditions on the licence requiring them to request customers to leave quietly and/or to have door staff and/or to implement a dispersal policy. Generally, these conditions are adhered to, and complaints regarding behaviour tend to arise when customers are away from the premises and the control of the door staff.
- 2.6 Anti-social behaviour is the subject of many complaints in the village. Some, but not all of this, arises from the conduct of customers at licensed premises. However, a significant amount of anti-social behaviour occurs well away from licensed premises, and earlier in the day/evening than is related to the night-time economy.
- 2.7 Currently, the police do not report any issues with the conduct of licensed premises in the village. As with other cities, towns and villages where there is an active night-time economy, the police do carry out unannounced visits to premises, regularly accompanied by drug sniffer dogs. The Council's licensing enforcement staff have attended a number of these visits. The police have not sought to review the licence of any premises in the village.
- 2.8 Where reports have been received with regard to noise from premises, the Council's environmental health staff have engaged with those premises.
- 2.9 At the last meeting of Committee, representations were made inviting the Council to become a 'responsible authority' under the Licensing Act. Residents also reported that they had attended a meeting with the police, the Police and Crime Commissioner, the MP and the Council Leader at which they were advised that they should not initiate any licence review.

### 3 ISSUES

#### 3.1 The Council as responsible authority and review of licences

- By section 13za of the Licensing Act 2003, the Council is a responsible authority for the purposes of the Act. Section 51(1) provides that, where a premises licence has effect, a responsible authority or any other person may apply to the relevant licensing authority for review of that licence. Section 53 of the Act provides, where a local authority is both the relevant licensing authority and a responsible authority in respect of any premises, the authority may apply for a review under Section 51 as a responsible authority, and in its capacity as licensing authority determine the application.
- The Council, as local authority, has a scheme of delegation to officers under part 3(2) of the Constitution. Amongst matters, this authorises the Head of Legal and Democratic Services to commence or instigate legal or other proceedings. Thus, if appropriate evidence is available, a licence review could be initiated by officers as a responsible authority.
- The Council's Statement of Licensing Policy for 2021-2026 states at section 10 Licence reviews

The grounds for an application for review of a premises licence must be relevant to one or more of the licensing objectives. An Interested Party (eg a

local resident, local organisation and Councillor) or a Responsible Authority (including the Council) can initiate a review at any time....

- The revised statutory guidance under section 182 of the Licensing Act states at 11.5:

Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons such as local residents or community groups. These individuals or groups are entitled to apply for a review of a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions in the area in which the premises are situated to make the application review.

- At 11.10 of the same guidance, it states:

Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Cooperation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.

- Attention has been drawn to a decision of South Ribble Borough Council where authority was delegated to their Head of Legal and Democratic Services to act as a responsible authority on behalf of the licensing authority. It is noted that the South Ribble Statement of Licensing Policy does not specify, in its sections regarding reviews, that the Council is a responsible authority; this is so specified in the Ribble Valley policy. The delegated authority was then used to initiate review of a premises licence for a restaurant which had been suspended due to non-payment of an annual fee. No other responsible authority or interested party had applied for or supported the application for review. The application was principally focused on resolving administrative issues, and in fact concluded by adoption of revised agreed conditions (the fee having been paid). This application for review reflects the approach that reviews by the Licensing Authority as Responsible Authority occur principally where there is a breach of the licence or its conditions. Very often, where there is alleged to be a breach of one or more of the licensing objectives, the review will be more properly instigated by one of the other Responsible Authorities or an interested party, in accordance with 11.5 of the Guidance.
- Reference was also made to the number of reviews held by various licensing authorities. There have been two applications for review determined by Ribble Valley Borough Council's Licensing Sub-Committee. The first, in 2011, was instigated by the police in relation to the licensing objective of protection of children from harm. The second, in 2014, was initiated by a resident as an

interested party in relation to the licensing objective of prevention of public nuisance and crime and disorder.

- Limitation on officer time and resources mean that it has not been possible to carry out a full survey of the circumstances of applications for review of licences elsewhere in Lancashire. A review of records as far back as late 2016 shows that there were approximately 12 reviews carried out in total in Blackpool, Wyre and Fylde. Of these, only 2, in Blackpool (were initiated by the Council as responsible authority). One case related to the employment of illegal workers (discovered in a multi-agency visit) and the other arose after a licence had been suspended for failure to pay the annual fee for many years.
- To summarise, the Council is a responsible authority; residents are encouraged to apply for review themselves where appropriate evidence exists; a graduated approach is recommended; application for review should be submitted, when appropriate, by the relevant body or individual in relation to particular licensing objectives.

### 3.2 Early Morning Restriction Order (EMRO):

- The statutory guidance regarding EMRO's is as Appendix 1.
- This power was introduced in 2011, to replace provision in relation to Alcohol Disorder Zones (none of which had been introduced since their inception in 2006). Like their precursor, no Council has adopted an EMRO in over 10 years.
- 3 Councils did seek to adopt an EMRO in the three years after their introduction. However, following hearings lasting several days, with one or more partners sometimes represented by experienced licensing Queen's Council, none of Blackpool, Lambeth or Hartlepool decided to make an EMRO. In each case, representations had been made by the police in support of an EMRO.
- Rather than make an EMRO, the Councils decided to engage with the premises in the area concerned. In the case of Blackpool, the Chief Constable was to be contacted to consider an increased level of policing the night-time economy. In Lambeth, encouragement was given for a more user friendly manner for residents to report matters, and for premises to engage with the proposed Business Improvement District (BID). Hartlepool heard from the police and representatives of the local and national licensed trade and decided against an EMRO as they were mindful of the impact on businesses.
- The House of Lords Select Committee review of the Licensing Act, carried out in 2017, believed it appropriate that no EMRO's had been introduced and recommended that, in due course, the provisions on EMRO's be repealed. The Government reply noted that an EMRO is a powerful tool, requiring rigorous gathering of evidence and extensive consultation before adoption, and that there was a small minority of evidence to support the retention of the power.
- Notwithstanding the continued ability to exercise the power, no EMRO's have been adopted, other mechanisms being preferred.

### 3.3 Late night levies (LNL's):

- LNL's were introduced in 2011 to address the costs of alcohol related crime.

- The levy applies to holders of premises licences or club premises certificates during the late night supply period (determined locally and between the hours of midnight and 6am). The levy would apply to the whole licensing area (Ribble Valley) and all premises licensed to supply alcohol during the late night supply period (both on and off sales). The levy amount is specified nationally based on the rateable value of premises. 70% of the levy goes to the police (via the PCC) with the balance being retained by the licensing authority. The police can spend the levy anywhere in the county. The licensing authority is entitled to deduct the cost of administering the levy, as prescribed in regulations.
- A Home Office Impact Assessment before its introduction estimated that the levy would be viable in 94 licensing authorities in England and Wales. The projected cost (in 2012) was £9,981 for an authority to set up the levy, and ongoing annual administration cost of £12,880.
- Amending legislation from 2017 enabling a licensing authority to introduce a LNL in only part of its area has not yet been introduced. Therefore, notwithstanding that only the village of Whalley is under consideration, premises throughout the Ribble Valley, including potentially at least one village hall, would be subject to the levy.
- There are currently 10 authorities with a LNL, 6 of which are in London. Those outside London are Liverpool, Nottingham, Newcastle and Chelmsford. Of those, Chelmsford has the smallest population of 180,000 about 3 times that of Ribble Valley.
- Whilst no calculation has been carried out on viability, there is the risk that operation of the levy in a small authority could be a charge on businesses which does not cover the cost of administration, with no positive result in funding the PCC or the authority in addressing underlying issues.
- Where a LNL has been introduced, there is no clear evidence of its impact in reducing alcohol related crime. When introduced about a quarter of premises apply for a minor variation of their licence to reduce their permitted hours (no fee is payable for this).

#### 3.4 The current position:

- There has been recent co-operation between licensed premises in Whalley, with most of the licence holders attending regular meetings involving the police and licensing enforcement staff. Licensees are also communicating with each other much better than previously.
- Over recent weeks, the police and licensing enforcement have not received complaints with regard to people behaviour between premises, although residents state that Whalley is not like it used to be and there is a lot of litter on the streets at weekends before the arrival of the Council's street cleaning team on those days.
- Consideration could be given to encouraging licence holders to invest in a scheme such as Best Bar None or Licensing Savi (Security and vulnerability initiative). These are quality markers, reflecting knowledge and commitment of licence holders. There is a cost to licensees to achieve such a standard.

- The position does remain fluid, and officers are continuing to monitor, respond and advise and act where appropriate. This will continue as the nights become warmer and days are longer.

#### 4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – The Council’s licensing enforcement, environmental health, and licensing staff administer and enforce the licensing process in relation to the Council’s duties.
- Technical, Environmental and Legal – Where complaints are received or evidence is gathered, decisions will be made upon the appropriate action in the circumstances.
- Political – None.
- Reputation – The Council seeks to promote better lives for the residents of the Ribble Valley and an improved environment for businesses.
- Equality & Diversity – None.

#### 5 CONCLUSION

5.1 That Committee note the report.

STEPHEN BARKER  
SOLICITOR

MARSHAL SCOTT  
CHIEF EXECUTIVE

For further information please ask for Stephen Barker, extension 3216.

REF: SB/EL/CMS/LICENSING/12 APRIL 2022

# 17. Early morning alcohol restriction orders

## General

- 17.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the 2003 Act. The exercise of the licensing authority’s functions may be delegated by its committee to a sub-committee, other than the decision to make, vary or revoke an EMRO (which is exercised by its full council). This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 17.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 17.3 An EMRO:
- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
  - applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
  - applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
  - applies to the whole or any part of the licensing authority’s area;
  - will not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January each year);
  - will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
  - will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

## The EMRO process

- 17.4 An EMRO can apply to the whole or part of the licensing authority’s area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 17.5 If the licensing authority already has a Cumulative Impact Policy (“CIP”) in its Licensing Policy Statement (see Chapter 14 of this Guidance), it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

17.6 Introducing an EMRO is a licensing function. Therefore, this is not the responsibility of a council's executive. The final decision to make an EMRO (or to vary or revoke one) must be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub-committee or officers as it sees fit.

## Evidence

17.7 When establishing its evidence base for making an EMRO, a licensing authority<sup>88</sup> may wish to consider the approach set out in paragraphs 14.24 to 14.28 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant. These matters are not necessarily determinative. They include but are not necessarily limited to:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots, statistics on local anti-social behaviour offences,
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- residents' questionnaires;
- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- changes in terminal hours of premises;
- capacities of different premises at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

17.8 Before a licensing authority makes a determination to recommend to the full council that it makes a proposed EMRO, it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable licensing authorities to draw on their experience from other licensing decisions they make under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including from responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

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<sup>88</sup> The final decision to make an EMRO (or to vary or revoke one) must be made by the full council of the licensing authority. However, all preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub-committee or officers as it sees fit.

## Introducing an EMRO

17.9 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.42-9.44 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim. They should, however, consider whether taking that step is reasonable, justified and proportionate. The introduction of an EMRO may have far-reaching, wider impacts on the socio-economic circumstances in an area. In considering whether the introduction of an EMRO is an appropriate step to promote the licensing objectives, based on whether this is reasonable, justified and proportionate, a licensing authority may hold informal discussions early in the process with a range of interested partners; these include, but are not limited to, premises that may be affected by the introduction of the EMRO. Other measures that could be taken instead of making an EMRO might include:

- working in partnership with licensed premises on voluntary measures and encouraging the creation of business-led best practice schemes in the area;
- reviewing licences of specific problem premises;
- introducing a CIP;
- use of the new closure power in the Anti-social Behaviour, Crime and Policing Act 2014 which replaces section 161 of the 2003 Licensing Act. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. Further guidance on this power can be found on the gov.uk website, under the Anti-social Behaviour, Crime and Policing Act: anti-social behaviour guidance;
- use of other mechanisms such as those set out in paragraph 14.40 of this Guidance

17.10 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order without the need to formally consult on the new date (as if it was a new proposal), provided it does not adversely affect any person as described in paragraph 17.21.

## Advertising an EMRO

- 17.11 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of “days” means a period comprising calendar days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:
- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
  - premises users in relation to TENs to which the proposed EMRO would apply;
  - those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.
- 17.12 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.
- 17.13 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

## Representations

- 17.14 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:
- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
  - be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
  - be received within the deadline; and
  - if made by a person other than a responsible authority, not be frivolous or vexatious.
- Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious. Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.
- 17.15 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).
- 17.16 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:

- residents;
- employees of affected businesses;
- owners and employees of businesses outside the proposed EMRO area; and
- users of the late night economy.

## Hearings

- 17.17 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.
- 17.18 As described in paragraph 17.6, a hearing to consider representations in relation to an EMRO may be held by the licensing committee, the licensing sub-committee or an officer of the licensing authority. It is recommended, however, that such hearings be conducted by the licensing committee or sub-committee.
- 17.19 Licensing committees or sub-committees<sup>89</sup> should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.31 to 9.41). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:
- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
  - the hearing does not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers this approach to be in the public interest;
  - a licensing committee or sub-committee must make its determination within 10 working days of the conclusion of the hearing;
  - the licensing committee or sub-committee is not required to notify those making representations of its determination; and
  - the licensing authority may give notices in relation to a hearing by electronic means provided it is satisfied that the text of the notice is capable of being accessed by the recipient, it is legible in all material respects and is capable of being reproduced in written form (e.g. printed by the recipient).
- 17.20 The licensing committee or sub-committee will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing committee or sub-committee determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.
- 17.21 As a result of the hearing, the licensing committee or sub-committee has three options:
- to determine that the proposed EMRO is appropriate for promotion of the licensing

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<sup>89</sup> This could also be done by a licensing officer, however, it is recommended that representations in relation to an EMRO are conducted by the licensing committee or sub-committee.

objectives;

- to determine that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to determine that the proposed EMRO should be modified.

In the final case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations may be made. However, there will be cases in which it may be possible to modify the terms of a proposed EMRO without being required to formally consult. This may arise where the modified terms would not have a more adverse effect on any person (primarily, if not solely, licensed premises which will be subject of the EMRO) than the EMRO in the terms in which it was originally proposed. Such cases may include the following:

- the modification may shorten the period during which the EMRO would apply or reduce the number of days on which it applies, provided these periods were a part of the original proposal. For example, a change to an EMRO applying on Fridays and Saturdays to just applying on Saturdays may not require re advertisement and consultation of the EMRO design, whereas changing the days the EMRO applies on from Fridays and Saturdays to just Thursdays might reasonably be expected to require further consultation;
- the date on which the EMRO commences is later than that described in the original proposal;

Licensing authorities should consider very carefully in each case (including in relation to legality) whether further consultation on a proposed modification to the EMRO is necessary.

## **Final EMRO**

- 17.22 If the licensing authority determines that the proposed EMRO is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision. There is no time specified in legislation by which the full council must make this decision. This is intended to reflect the fact that the licensing authority may only meet in full council infrequently.
- 17.23 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 17.21. The order must be set out in the prescribed form and contain the prescribed content.
- 17.24 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.
- 17.25 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically

review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.

- 17.26 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.
- 17.27 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.
- 17.28 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

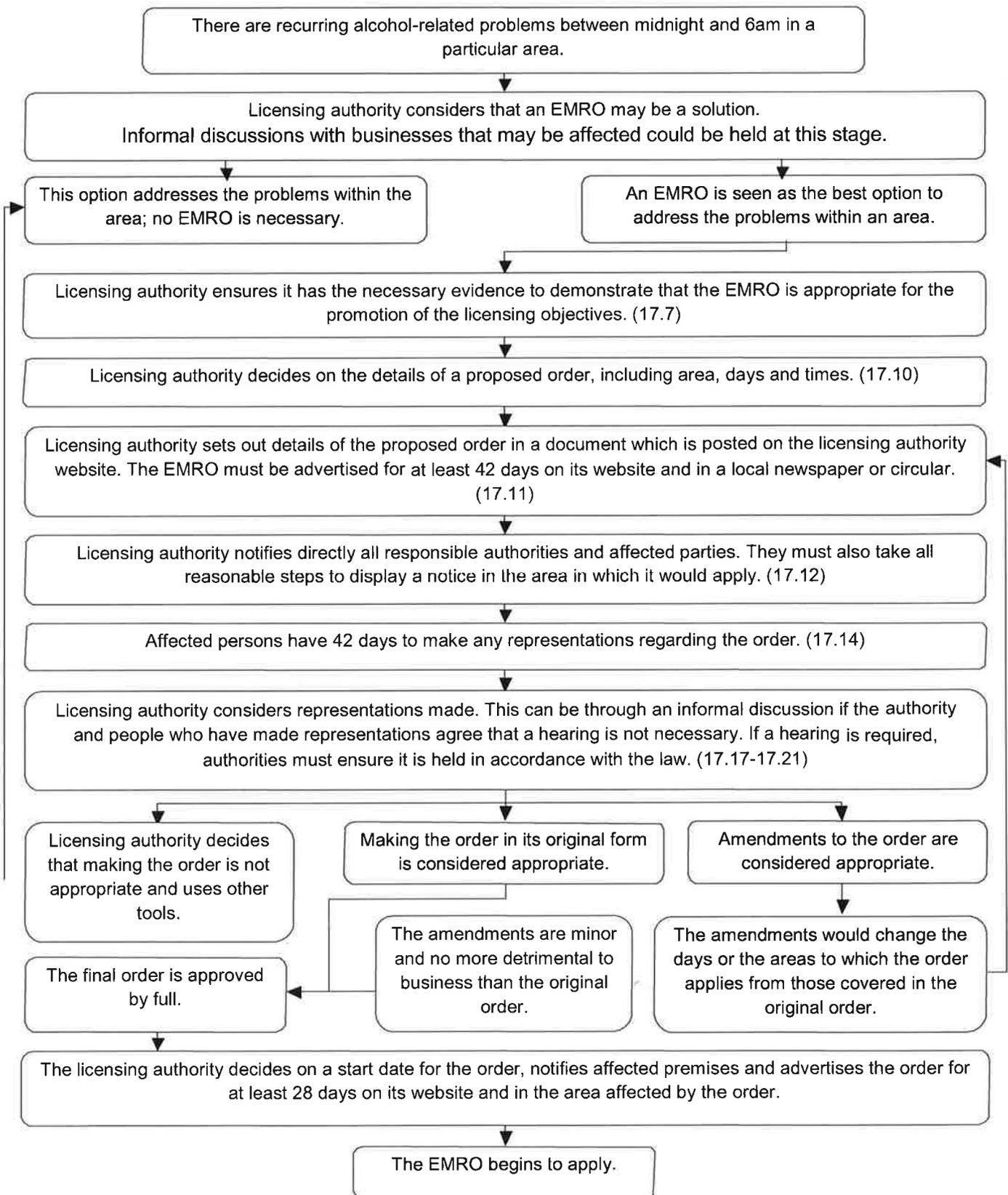
### **Exceptions to an EMRO**

- 17.29 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

### **Enforcement of EMROs**

- 17.30 The sale or supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014 as a precursor to an application for a closure order under section 80 of that Act (which requires the constable or authority that issued the notice to apply to a magistrates' court not later than 48 hours after the service of the closure notice). This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.
- 17.31 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.

# EMRO Process Flowchart



**MINUTES OF THE RV EVENT SAFETY ADVISORY GROUP  
THURSDAY 3 FEBRUARY 2022 @ 2.00pm**

PRESENT:     Adrian Harper (Chair)                     RVBC  
                   Matt Riding                                 RVBC  
                   Jason Middleton                         RVBC  
                   Catherine Moore                        RVBC  
                   Katharine Collinge                     RVBC  
                   Olwen Heap                               RVBC  
                   Samantha Edwards                     Fire & Rescue  
                   Gary Brook                                Fire & Rescue  
                   Gary Makin                                Police - Highways  
                   Shaun Cannings                         Police - Highways  
                   Liz Mason                                 NWAS  
                   Kevin Day                                 Police Sgt, Clitheroe

Gisburne        Daniella Davis  
Park Estate    James Haworth – Simplex Safety

	<b>ACTION</b>
<p><b>APOLOGIES</b></p> <p>Apologies were received from Bruce Bensley (LCC Highways)</p> <p><b>DEBRIEF – GISBURNE PARK ESTATE BONFIRE 2021</b></p> <p>The Chair welcomed Daniella Davis and James Haworth to the meeting.</p> <p>Daniella reported that aside from the traffic / parking problems that the event had run smoothly with no health and safety issues. From reviewing the complaints received they were fully aware that improvements need to be made in relation to the traffic management and parking. They had requested feedback from both Titan Security and Kays Traffic Management company who had both made suggestions.</p> <p>GPE acknowledged that there was not enough parking for the number of tickets sold, and work needed to be done on the car park occupancy.</p> <p><b><u>POLICE</u></b></p> <p>GM pointed out that the car parking had not been managed properly and that there was an obvious misunderstanding as to what had been specified in the Road Closure Order and how that would affect the traffic flow for local residents. The cones had had the desired effect of no parking on Mill Lane but the complete closure had not allowed residents access. He requested that the Police be involved sooner at any future events.</p> <p><b><u>ENVIRONMENTAL HEALTH</u></b></p> <p>MR referred to noise complaints – not particularly from this event – but from others held previously. Daniella reported that a decision had been made not to allow fireworks at events other than the Bonfire and those already booked for 2022. It was suggested that a leaflet drop informing the residents of these events would be a proactive way of keeping them informed.</p> <p><b><u>FIRE &amp; RESCUE</u></b></p> <p>SE had been impressed with the event plan in place for access to emergency vehicles, however, was not sure considering the traffic / parking problems experienced that an appliance would have got through on the night had it needed to. GB insisted that the event must not be based on the numbers that can fit in but on what is safe. They suggested that for the event this year (2022) that a ‘during performance’ test would take place.</p> <p><b><u>NW AMBULANCE SERVICE</u></b></p> <p>LM was also concerned about capacity, as the event plan had said 2000 and it was apparent that there was nearer 3000 people attended. This would affect the medical plan and numbers of personnel the providers need to have on site and whether it should be paramedic led or doctor led. NWAS would liaise directly with the medical providers for any future events.</p>	

#### GPE PROPOSALS for future events include

- 2 car parks – one on the Estate for those travelling from Skipton direction and one on the Auction Mart for those travelling from Clitheroe direction
- Using no waiting cones to prevent cars from parking on Mill Lane (not a full road closure)
- Plan a suitable way of managing Mill Lane
- Having a temporary pedestrian system on Mill Lane to ensure safe usage for both vehicles and attendees
- Starting the event earlier to help with the flow of traffic and car parking
- Extending the car parking facilities
- Working with both security company and traffic management company to understand car parking capacities for all car parks and have a car park plan
- Limiting ticket sales to match car park capacities
- Look to have activities on earlier in the day to help with staggering arrival times
- Working with Gisburn Parish Council and perhaps offering local residents discounted tickets

Daniella informed the meeting that there were no plans for a festival this year, perhaps just a family friendly event at Easter.

Daniella and James left the meeting.

#### GENERAL ESAG MEETING

The event calendar was considered – both past and future events.

- Legend Fires NW Stages Car Rally – 4 police bikes attending, and NWAS in Control. Fire & Rescue would make contact.
- Jubilee Street parties – to be considered individually as they arise
- Beatherder – confirmation that this was going ahead this year. The medical providers had been in touch with NWAS and the Police had a planning meeting scheduled. Adrian suggested that they be asked to attend the next meeting.

#### DATE OF NEXT MEETING

The next meeting of the RVSAG will be held on [Thursday 12 May 2022 @ 2.00pm in the Council Chamber, Clitheroe](#) when representatives of Beatherder would be invited to attend.

**Should any representative, or substitute, not be able to attend, please contact me prior to the meeting.**

Meeting closed at 2.50pm