



Crawley Borough Council

Licensing Committee

Agenda for the **Licensing Committee** which will be held in **Committee Room C - New Town Hall**, on **12 June 2023** at **7.00 pm**

Nightline Telephone No. 07881 500 227

A handwritten signature in black ink, appearing to read 'A Ashraf', written in a cursive style.

Chief Executive

Membership:
Councillors

I Ashraf (Chair), Z Ali (Vice-Chair), M L Ayling, T G Belben,
B J Burgess, D Crow, I T Irvine, K L Jaggard, M G Jones, K Khan,
Y Khan, K McCarthy, A Nawaz, B Noyce and D M Peck

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RH10 1UZ

The order of business may change at the Chair's discretion

Part A Business (Open to the Public)

	Pages
1. Apologies for Absence	
2. Disclosures of Interest	
In accordance with the Council's Code of Conduct, councillors are reminded that it is a requirement to declare interests where appropriate.	
3. Minutes	3 - 6
To approve as a correct record the minutes of the Licensing Committee held on 7 February 2023.	
4. Public Question Time	
To answer any questions asked by the public which relate to an item on this agenda and which are in line with the Council's Constitution.	
Public Question Time will be concluded by the Chair when all questions have been answered or on the expiry of a period of 15 minutes, whichever is the earlier.	
5. Introduction of a Mobile Homes (Caravan Site) Licensing & Fees Policy	7 - 22
To consider report HCS/059 of the Head of Community Services.	
6. Revision to Licence Condition and Hackney Carriage and Private Hire Licensing Policy	23 - 30
To consider report HCS/060 of the Head of Community Services.	
7. Supplemental Agenda	
Any urgent item(s) complying with Section 100(B) of the Local Government Act 1972.	

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Crawley Borough Council

Minutes of Licensing Committee

Tuesday, 7 February 2023 at 7.00 pm

Councillors Present:

I T Irvine (Chair)

Z Ali (Vice-Chair)

M L Ayling, J Bounds, B J Burgess, J Hart, K L Jaggard, M G Jones, K Khan, K McCarthy,
M Morris, C J Mullins, B Noyce and D M Peck

Also in Attendance:

Councillors R D Burrett, S Malik, M Mwangale and Ian Millarship - LVSA

Officers Present:

Heather Girling

Democratic Services Officer

Chris Pedlow

Democracy & Data Manager

Kareen Plympton

Team Leader - Health, Safety and Licensing

Astrid Williams

Senior Lawyer (Solicitor)

Apologies for Absence:

Councillor A Nawaz

1. Disclosures of Interest

No disclosures of interest were made.

Councillors Ali, Ayling, Bounds, Burgess, Irvine, Jaggard, Jones, Khan, Morris, Mullins, Noyce and Peck confirmed that they had received some form of lobbying in respect of agenda item 4 – Hackney Carriage Unmet Demand Survey 2022.

2. Minutes

The minutes of the meeting of the Licensing Committee held on 7 November 2022 were approved as a correct record and signed by the Chair.

3. Public Question Time

No questions from the public were asked.

4. Hackney Carriage Unmet Demand Survey 2022

The Committee considered a presentation from LVSA on the Unmet Demand Survey 2022 (attached as appendix A to these minutes), along with report [HCS/054](#) of the Head of Community Services. The Health, Safety and Licensing Team Leader presented the report, which set out details of the latest Crawley hackney carriage unmet demand survey. The survey was due to be conducted in 2020/21 but was postponed due to the Coronavirus pandemic, so had instead been carried out throughout the latter half of 2022 and early part of 2023. The findings of the survey indicated that there was no significant level of unmet demand from members of the public for the services of hackney carriage vehicles in the area (although demand had increased slightly since the prior survey, conducted in 2017). The Committee was therefore recommended to consider whether to retain the existing policy of limiting the number of hackney carriage vehicle licenses (currently set at 123).

The Committee was further advised that the Council maintained a policy of retaining a mixed fleet of hackney carriage vehicles, including wheelchair accessible vehicles (WAVs) to cater for the varying needs of service users. Currently, WAV vehicles make up approximately 19% of the hackney carriage fleet. The Council was committed to meeting the needs of the travelling public in Crawley including those who have disabilities of any nature and/wider support needs. In addition to the mandatory disability awareness training all drivers were required to undertake, there was also mandatory wheelchair training, which all hackney carriage drivers would be expected to take, along with safeguarding training for all of the Trade by a prescribed date.

The Committee Chair invited the Chair of Crawley Hackney Carriage Association (Mr Bhatti) to speak on the item. Matters raised included the impact generally on the trade due to the challenges post Covid-19 pandemic and the changes in the night-time economy. It was noted that the Trade were of the view that business had declined since September last year, especially at the Crawley station rank and consequently retaining the existing policy of limiting the number of hackney carriage vehicle licenses was welcomed.

The Committee then discussed the presentation and report. The following matters and views were raised:

- The issues at the High Street and Station ranks were noted in terms of enforcement and provision and it was hoped these could be given future consideration.
- Concern raised over the potential impact on the trade and residents arising from the proposed changes to Three Bridges railway station. The outcome would be following consideration of the application by the Local Planning Authority.
- Signage and promotional material were currently being produced in order to increase awareness and profile of responsible drinking, safer socialising and the importance of planning safe and suitable transport home. Information relating to the current Hackney Carriage and Private Hire functions and enforcement would be scoped to raise the profile of both Trades as a means to educate the travelling public as to the differences and safe travelling practices. This would be shared with Councillors prior to publishing to a wider audience.
- Local authorities had different approaches with regards to implementing policies of limiting hackney carriage proprietor licences. There was no current statutory prohibition on continued numerical restriction (limit) provided the Council was satisfied there was no significant unmet demand. Nonetheless, the Council should demonstrate, if it does not follow the Government Guidance by continuing to limit numbers, that had robust reasons for so doing and had acted reasonably

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in making its determination. The survey conducted every 3 years assisted in confirming its position.

- Support expressed for the training already undertaken and recognition that additional safeguarding measures were being rolled out to include Taxi Marshalls and Night Safe Marshalls. The primary role would be to offer public re-assurance, engagement and facilitate a safe passage home.
- Work on investigating 'dual badge' licences was ongoing as significant work was entailed to ensure robust audit compliance.
- Confirmation that the plate remained the ownership of the authority but in practice a licensed hackney carriage vehicle did command a commercial value if sold to another individual. A hackney carriage proprietor licence being transferred from one individual to another involved a legal process together with concurring a small fee payable to the Council.

The Committee expressed its thanks to those responsible for undertaking the unmet demand survey and was, overall, generally supportive of the recommendation to continue to limit the number of hackney carriage vehicle licenses (set at 123).

RESOLVED

That the Committee:

- a) Confirms that it gave due consideration to the unmet demand survey report, which was undertaken on behalf of Crawley Borough Council, and that it was satisfied that there is no significant unmet demand for the services of hackney carriages.
- b) Agrees that the Council would continue to have a policy of limiting the number of hackney carriage vehicle licences issued by Crawley Borough Council, subject to any applicant demonstrating exceptional circumstances, and confirmed the limit level (number of licences) shall remain at 123 licenses.

Closure of Meeting

With the business of the Licensing Committee concluded, the Chair declared the meeting closed at 8.07 pm

I T Irvine (Chair)

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Agenda Item 5

Crawley Borough Council

Report to Licensing Committee

12 June 2023

Introduction of a Mobile Homes (Caravan Site) Licensing & Fees Policy

Report of the Head of Community Services - HCS/059

1. Purpose

- 1.1. This report seeks the approval of a Caravan Site Licensing Policy, and informs the Licensing Committee of the provisions of the Mobile Homes (Site Licensing (England) Regulations 2014, and the introduction of the fit and proper person test for owners/managers of permanent residential caravan sites under the Mobile Homes (Requirement For Manager of Site to be fit and proper person) England Regulations 2020, and its inter relationship with the Mobile Homes Act 2013 and to approve the proposed fees.
- 1.2. The changes in legislation governing “relevant protected sites”, i.e. permanent residential mobile home sites, following the passing of The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 – (‘the Regulations’) require that a Local Authority must be satisfied that the owner of a mobile home site is a fit and proper person to manage the site, or that a person appointed by the owner to manage the site is a fit and proper person to do so. The local authority also has the power to appoint a fit and proper person to manage the site, with the owner’s consent.
- 1.3. The Regulations require that should a Local Authority intend to charge fees, it must prepare and publish a Fee Policy. In the case of Crawley Borough Council, this Policy also incorporates the “fit and proper person” requirement and reference to conditions applied to sites,

2. Recommendations

- 2.1 The Licensing Committee is recommended to:
 - a) Note the statutory powers local authorities have under the Regulations.
 - b) Adopt the proposed Mobile Homes (Caravan Site) Licensing and Fees Policy as set out within **Appendix A** to report HCS/059.
 - c) Endorse and delegate authority to the Head of Community Services for the amendment of the calculation of fees in response to any surplus or deficit, and the making of minor amendments to the Policy, once adopted, to reflect changes in legislation or guidance and codes of practice where a full review of the policy is not warranted and that this be reflected in the Head of Service sub-delegation scheme.

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3. Reasons for the Recommendations

- 3.1. To ensure compliance with legislative requirements, regulation and fostering transparency and openness in decision making.
- 3.2. To allow the Local Authority to charge appropriate fees in accordance with the Regulations.

4. Background

- 4.1. Under the Community Services Directorate, the Licensing Team is responsible for ensuring good standards in this sector, protecting the health, safety and some rights of the residents.
- 4.2. A licence is not required to operate a caravan site if any of the following apply:
 - Forestry workers, builders, travelling showmen or seasonal workers (like fruit pickers) stay in caravans on the site
 - The site is 5 or more acres and there are 3 or less caravans there for 28 days or less a year
 - The site and owner is a member of an organisation like a caravan club and have a caravan exemption certificate
 - The site is approved by an organisation with a caravan exemption certificate
 - Members of an exempted organisation stay in their caravans on the site
 - The site is used for a social get-together of caravan club members (a 'rally').
- 4.3. A licence cannot be granted unless and until the relevant planning permission is in place.
- 4.4. The Regulations require that where a licence is required, all owners or managers of such sites are fit to manage the sites. As a result, the Council needs a procedure for ensuring this and for charging appropriate fees to cover our costs. The Mobile Homes Act 2013 requires that should a local authority intend to charge fees, it must prepare and publish a Fee Policy. The borough does not currently have any sites which are licensed but in order to respond to applications and meet the requirements of the Regulations, the proposed Mobile Home Licensing and Fees Policy is proposed to help regulate such. (**Appendix A**)
- 4.5. A "relevant protected site" is a permanent residential caravan (mobile home) site which requires a licence but which is not exempt on the basis of being solely for holiday purposes or incapable of being used all year round. The Regulations state that a relevant protected site cannot operate unless the Local Authority is satisfied that the Manager of it qualifies as a "fit and proper" person.
- 4.6. A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) ("the Regulations") must apply to their local authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area ("the Register").
- 4.7. The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
- 4.8. The Regulations permit the local authority to determine the fee for an application or registration for someone to be added to the register. The fee must be included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.

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5. Information and Supporting Analysis - matters to be considered in the test for a Fit and Proper Person

- 5.1. When considering whether a person is 'fit and proper' the local authority must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These include:
- a) Whether the relevant person is able to secure the proper management of the site, including the history of management and financial arrangements;
 - b) criminal convictions relating to fraud, dishonesty, violence or contraventions of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
 - c) has harassed any person in, or in connection with, the carrying on of any business, been insolvent or disqualified from being a director of a company; and
 - d) whether any other local authority has rejected an application for the responsible person to be included in a register;
 - e) the Local Authority may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the relevant protected site or proposed relevant protected site (as the case may be).

The Local Authority can also consider any evidence as to any other relevant matters.

Appeals

- 5.2. Where the Local Authority may seek to remove the relevant person from the register or to impose further conditions a Notice of Proposed Action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued.
- 5.3. A person on whom a final decision notice or a notice of action is served may appeal to a First-tier Tribunal (FTT) against the decisions made.
- 5.4. No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the Local Authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).
- 5.5. Furthermore, the Local Authority may determine in certain cases to attach licence conditions on licences including the list below. Conditions can also be appealed via the Magistrates Court.
- restrictions on when caravans can be placed on the site
 - restrictions on the total number of caravans on the site at any one time
 - controls on the types of caravans allowed on the site
 - positioning of caravans, structures, vehicles or tents
 - preservation and enhancement of the land, including bushes and trees
 - a requirement that fire safety and firefighting systems are provided and maintained as part of a fire safety and risk assessment process.
 - provision of sanitary and other facilities and their maintenance
 - a requirement for work to be carried out to the land.

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Register

- 5.6. The Regulations require a Local Authority to establish and keep up to date a register of persons who they are satisfied are fit and proper persons to manage a relevant protected site in their area. The Register must open to inspection by members of the public at the offices of the local authority by appointment during normal office hours.
- 5.7. The authority must also publish the register online and the contents of the register will be in accordance with the Regulations.
- 5.8. A person's inclusion in the register has effect for a maximum period of 5 years and full details will be included on the Register

Fees

- 5.9. Regulation 10 permits the Local Authority to charge a fee for the processing of applications. A Local Authority is not permitted to make a profit from the fees and therefore the proposed fees are based on the cost of administering the regime. This does not include the costs of enforcement, for which charges may be separately levied when enforcement action is necessary.
- 5.10. The Regulations state that the same fee must be charged for all FPP tests, regardless of the size of site or reputation of the owner or manager.
- 5.11. A Pan Sussex Group have calculated the fees for sites and the costs of administering these tests and calculate that it will take, on average for these tests. In most cases the person would remain on the Register for 5 years and after that time, or when there was a change of management or ownership, a new fee would be payable.
- 5.12. The authority may also decide the amount and frequency of any additional payments required by way of an annual fee. These are included within the proposed Policy, and include fees associated with administering and ensuring compliance with the licensing regime.
- 5.13. The proposed fees will be reviewed each year to determine their accuracy as part of the Council's annual fees and charges setting process, or in the case of an interim review, this would be considered in line with the Council's Constitutional framework.
- 5.14. Where the Local Authority has, with the occupier's consent, appointed a person to manage a site, the Local Authority will recover from the occupier the reasonable costs incurred or to be incurred in making the appointment in accordance with Regulation 10.

Offences

- 5.15. An owner (occupier) of land commits an offence if he causes or permits any part of the land to be used as a "relevant protected site" without the manager of the site being registered with the local authority as a fit and proper person.
- 5.16. An applicant also commits an offence if he withholds information from a registration application or includes false or misleading information in a registration application or fails to comply with a condition imposed under Regulation 6(2)(b) or Regulation 8(1).
- 5.17. An owner (occupier) of land who is guilty of an offence is liable on summary conviction to a level 5 fine (unlimited).

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- 5.18. Where an owner (occupier) of land who holds a site licence in respect of that land contravenes the relevant Regulations, the FTT may, on application by the authority, make an order revoking the site licence in question on the day specified in the order. If this owner is convicted of three such offences, the court may revoke the Licence.

6. Implications

- 6.1. Staffing - There will be an increase in officer workloads as a result of the adoption of a suitable Policy, to include fees. This cost of administering such and compliance will be met via licence fees.
- 6.2. Financing - The Licensing Service is self-financing, and the costs associated with the service are recovered from fees and charges arising from this regime
- 6.3. Equality - Councillors must ensure that they exercise their decision-making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice. Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the 'public sector equality duty'. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
 - b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

- age
- disability
- gender reassignment
- marriage/civil partnership
- pregnancy/maternity
- race
- religion/belief
- gender and sexual orientation.

7. Background Papers

- The Mobile Homes Act 2013
- Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
- MHCLG Guides for Local Authorities to the Fit and Proper Person Test Regulations and Fees Policy

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Mobile Homes (Caravan Site) Licensing & Fees Policy



OVERVIEW

The Caravan Sites and Control of Development Act 1960 (the 1960 Act) was amended by the Mobile Homes Act 2013 (the 2013 Act)¹ and enables Local Authorities to reclaim the costs associated with administering and monitoring site licences for relevant protected sites².

This Policy has been developed in conjunction with the above Acts and with reference to specific Government Guidance³. In addition, this Policy has been framed in conjunction with the Pan-Sussex Group dealing with caravan site licensing and which comprises of most local authorities across East and West Sussex. The Group is attended by Local Authority Officers who regularly deal with caravan site licencing matters.

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¹Department for Communities and Local Government: “Mobile Homes Act 2013: A guide for local authorities on setting licence fees.” (March 2014).

²As per the definition in Appendix A of Department for Communities and Local Government Guidance: advice to local authorities on the new regime for applications for the grant or transfer of a site licence (March 2015).

³Open for Business – LGA guidance on locally set licence fees (June 2017).

2. BACKGROUND

2.1 Local authorities can reclaim costs for administering and monitoring site licences for relevant protected sites¹. This allows for a fee to be levied in relation to the following:

- A new site licence
- Transfer of a site licence
- Variation (amendment) of a site licence
- An annual fee
- Deposition of site rules

2.2 This policy relates to the following:

- the fee payable in each circumstance
- the method of apportionment of those costs in setting the fee
- if an annual fee is payable, when it is to be paid
- determining an implementation date
- how surpluses and deficits will be managed
- other matters that are deemed to be relevant.

3. REVIEW AND PUBLICATION

3.1 This Policy is a working document that may be subject to change from time to time, for example, due to changes in legislation or national guidance. This Policy and associated fees came into force in the borough of Crawley in May 2023, when it was deemed necessary and appropriate. This Policy and fees ,will be reviewed annually. Minor changes and corrections can be made by the Head of Community Services and will be recorded as History of Policy Revisions as appropriate

3.2 This Policy will be published on Crawley Borough Councils website at www.crawley.gov.uk

4. DEFINITION OF A RELEVANT PROTECTED SITE

4.1 Any licensable caravan site will be deemed to be a relevant protected site unless it is exempt. A site is exempt if it has planning permission or a site licence for exclusive holiday use or if there is a restriction on its use as a permanent residential site.

4.2 If a site has consent for holiday use with ancillary residential use (and the residential use is only by the owner or his employees working on the site), then the permanent occupation does not make the site a relevant protected site.

4.3 If any doubt arises as to whether a site falls under the definition of a relevant protected site, the Guidance issued by the Department for Communities and Local Government (DCLG) entitled '*Park Homes: Site Licensing - Definition of relevant*

protected sites will be referred to by Officers to clarify the status of the site and legal advice taken where necessary.

5. BREAKDOWN OF COSTS

5.1 The Mobile Homes Act 2013 enables a Local Authority to reclaim costs for administering and monitoring site licences but prevents the Authority from:

- Making a profit
- Recovering enforcement costs for a breach of condition etc. (separate provisions are provided for under the Mobile Homes Act 2013)
- Recovering costs associated with unlicensed sites.

5.2 Each application type and annual inspection has been broken down into constituent parts in order to clearly identify:

- Each task involved in the process
- The average amount of time taken to complete each task
- The job role of the officer completing the task.

5.3 The 'on-costs' (salary of post holder plus any additional costs incurred by the employer as a result of employing a person in that position) for each job role have also been applied to determine the overall fee associated with each application type and in order to calculate the annual fees. These fees have been agreed as part of the Pan Sussex Working Group previously referred to and will be reviewed annually and adjusted to recover the costs listed above, but this list is not exhaustive.

6. FEES PAYABLE

6.1 The fees are based on the number of units located on each site and are split into individual bandings.

6.2 Below is a table stating the fee associated with each application type within each banding **for 2022/23**.

Number of caravans on the site	2-5 (Band A)	6-24 (Band B)	25-99 (Band C)	100+ (Band D)	Single caravan sites and single-family sites (Band E)
New licence*	£554*	£680*	£775*	£886*	£140
Transfer of licence*	£501*	£596*	£659*	£723*	£140
Variation of licence	£400	£400	£400	£400	£100
Annual Fee	£310	£322	£345	£359	Exempt
Deposition of site rules	£210	£210	£210	£210	N/A

*If the number of land registry titles for the site exceeds one, an additional fee of £100 per additional title will be added to any new and/or transfer application fees stated in the table above.

6.3 The fees stated above are subject to change for the reason outlined in the paragraph below with revised fees published on the Council's website. These will be agreed in accordance with the Council's Constitution by the Head of Community Services and the relevant Portfolio Holder and Licensing Chair.

6.4 A Local Authority cannot make a profit from the proceeds raised from the licensing fees associated with relevant protected sites. To ensure that any surplus or deficit can be responded to quickly, Officers, in consultation with the above, are authorised to amend and update the fees calculations as the need arises.

6.5 Single unit sites and single family sites

6.5.1 The following sites are, as a Policy decision, exempt from having to pay an annual fee:

- site consisting of one unit where the site is considered low risk and the cost of inspection outweighs the cost of administering any charges and where it is not run for financial gain.
- Sites occupied solely by the owner and their immediate family and not run for financial gain (this would include typical small Gypsy Roma and Traveller community sites).
- Designated Gypsy Roma and Traveller (GRT) sites under a specified size. Even if no fees are charged the local authority still has a duty to license such

6.5.2 The above sites have been exempted to not unduly burden individual households. However, even if no fees are charged, the Local Authority still has a duty to licence such sites, subject to planning permission being in place, and has powers of enforcement.

6.5.3 Any complaints received will be responded to in accordance with our complaints procedure.

6.5.4 A nominal fee for the other application types will be charged in respect of single unit site occupiers and family sites to reduce the financial burden upon individual park home-owning households.

6.5.5 If the applicant claims to qualify for B and E due to being a single family site, additional information may be requested by officers in order to verify this claim. If there is any doubt as to the legitimacy of the claim, the matter will be referred to the Health, Safety and Licensing Team Leader or another more senior Manager in Community Services to determine what banding the site falls into, therefore the appropriate fee that needs to accompany any application.

6.6 Depositing Site Rules

- 6.6.1 Site Rules are different to the site licence conditions. Site Rules are put in place by the owner of a site to ensure acceptable standards are maintained which will be of benefit to occupiers or will promote and maintain community cohesion on the site. The Council must keep an up-to-date register of Site Rules on relevant protected sites and publish the register online.
- 6.6.2 Before publishing the Site rules, the council must ensure that the rules deposited with them have been made in accordance with the statutory procedure. A fee can be charged for this function, and this is shown in the table at section 6.2.
- 6.6.3 Any site rules deposited with the local authority for the first time or applications to vary or delete existing site rules must be accompanied by the appropriate fee. The fee is the same for either a first deposit or for a subsequent amendment or deletion. This is because the process is very similar for all three types of deposits.

7. ENFORCEMENT

- 7.1 Where a breach in a Site Licence condition comes to the attention of the Council, we may serve a Compliance Notice. The 2013 Act has amended the 1960 Act so that it details the elements which a Local Authority may include when imposing a charge for enforcement action. These include the time involved in deciding to serve and prepare the notice as well as the action itself.
- 7.2 A detailed breakdown of the relevant expenses will be provided with the compliance notice. Charges will be based on an hourly rate in addition to any other costs incurred (for example legal costs).
- 7.3 Charges for enforcement costs cannot be passed on to the resident's pitch fee.
- 7.4 If any works in the Compliance Notice are not carried out, the licence holder commits an offence and the Local Authority may consider taking legal proceedings. Any costs associated with this process would be awarded at the discretion of a Magistrates Court. If a prosecution was successfully taken, the Council would have the power to carry out the works in default of the licence holder who would be liable for any costs arising.

8. IMPLEMENTATION DATE

This Fees Policy first came into force on XXXX ..

9. ANNUAL FEE CHARGING ARRANGEMENTS

At the time of writing this Policy, the Authority has no sites which require a licence, Any sites licensed for the first time will be subject to an application fee and then after the implementation date of this Policy, will attract an annual fee on the anniversary of the granting of the site licence.

10. MANAGEMENT OF SURPLUSES AND DEFICITS

- 10.1 A Local Authority can only charge in order to recover costs. Therefore, the fees will need to be reviewed annually and adjusted accordingly if a surplus or deficit has inadvertently been made.
- 10.2 Any changes to the calculation of fees will be made by Officers in conjunction with the Councils Constitution via the route described above.

11. FIT & PROPER PERSON & OTHER MATTERS

- 11.1 A Local Authority is not required to consider any application made in relation to a relevant protected site unless that application is accompanied by the correct fee. This also applies to fees due when park rules are being deposited with the Local Authority.
- 11.2 If the application is not approved then the applicant is **not** entitled to a refund. This is because the application has been processed and work carried out by the Local Authority.
- 11.3 If an annual fee is not paid, the Local Authority is entitled to apply to a tribunal for an order requiring it to be paid. If that order is breached, the Local Authority can enforce the order in the County Court. If, after three months from the order the arrears have still not been paid, the Local Authority can apply for an Order to revoke the site licence.
- 11.4 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 apply to owners and licence holders of residential caravan sites.
- 11.5 The purpose of the legislation is to improve the standards of park home site management, by introducing an assessment to ensure that the person responsible for managing the site is suitable and of good character, and as such does not pose a risk to the welfare or safety of persons occupying mobile homes on the site.
- 11.6 The requirement for the person responsible for managing the site to be a fit and proper person is in addition to the requirement for a site to be licensed.
- 11.7 The fit and proper person requirement makes it an offence for a site licence holder to operate a park home site unless they, or their appointed manager,

are a fit and proper person to do so. Under some circumstances, the Local Authority have the power to appoint a fit and proper person to manage the site, with the owner's consent.

- 11.8 A site is exempt from the requirement for a fit and proper person if it is "a non-commercial family occupied site". This is a site only occupied by members of the same family and not being run on a commercial basis for financial gain. See the [GOV.U`1K - legislation website](#) for more details.

12. Caravan Site Licence Conditions

- 12.1 The Local Authority may put conditions a site licence which must be complied with including:

- restrictions on when caravans can be placed on the site
- restrictions on the total number of caravans on the site at any one time
- controls on the types of caravans allowed on the site
- positioning of caravans, structures, vehicles or tents
- preservation and enhancement of the land, including bushes and trees
- a requirement that fire safety and firefighting systems are provided and maintained as part of a fire safety and risk assessment process.
- provision of sanitary and other facilities and their maintenance
- a requirement for work to be carried out to the land

- 12.1.1 The Local Authority may also change these conditions at any time, and require you to return the licence to them to do so Licence conditions must be complied with. Applicants and/or licence holders must also allow a Council Officer to enter the site in order to decide what conditions should be attached to your licence as well as any actions or scheme of work required to comply with such. The Council Officer will also determine whether you are complying with licence conditions and may take enforcement action as detailed previously.

- 12.1.2 There is a right of appeal to the Magistrates Court within a specified period where licence conditions are in in dispute.

APPENDIX A History of Policy Revisions

The below table provides a history of changes to this policy:

Policy version no.	Date	Status	Summary of change(s)
1	May 2023	Pending approval by Licensing Committee	

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Crawley Borough Council

Report to Licensing Committee

12 June 2023

Revision of Licence Conditions and Hackney Carriage and Private Hire Licensing Policy

Report of the Head of Community Services - HCS/060

1. Purpose

- 1.1 Following implementation of the latest [Hackney Carriage and Private Hire Licensing Policy](#) (“the Policy”) on 1st April 2022, revised on 7th November 2022, to further amend the content of this Policy and where relevant, licensing conditions to ensure regulatory compliance and to ensure that public safety remains the overriding purpose of the licensing regime.

2. Recommendations

- 2.1 That the Licensing Committee approves the amended wording and conditions of the Hackney Carriage and Private Hire Licensing Policy, as detailed in report HCS/060.

3. Reasons for the Recommendations

- 3.1 The primary purpose of the licensing regime and overriding principle is public safety. The proposed revisions to licence conditions and the Policy are designed to support and promote public safety.
- 3.2 The proposed changes seek to reinforce the principle of public safety, improve information sharing processes already in place, and raise the standards within the hackney and private hire trade, whilst also placing new obligations on the part of an applicant and/or current licence holder to notify the Council as Licensing Authority if they are placed under investigation, charged with an offence, and/or bailed by a regulatory body such as the Police, HMRC and/or the Home Office, referred to in the below as “licensee self-reporting”.

4. Background

- 4.1 An applicant for a Crawley Borough Council hackney carriage or private hire licence and/or a current licence holder must complete a number of mandatory courses and checks before being considered to be “fit and proper” to hold a licence. There are several stages that must be completed before an individual can secure a licence, including:
- An Enhanced Disclosure and Barring check to ascertain if there are matters of interest which could impact upon a person’s suitability to carry out the role of licensed driver.
 - An Advanced Driving Course with certification to confirm that individuals are competent and professional drivers.

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- A Group II Medical Report and confirmation that an individual is able to attain the Group II Standards required for a licensed driver.
 - Attainment of designated courses including Essential Safeguarding Training for Taxi Drivers, Wheelchair and Disability Awareness Training, Hackney Carriage and Private Hire Knowledge Tests, Communication and English Language Standards.
 - Checks regarding DVLA licence status and endorsements, HMRC Tax Code verification, Right to Work, verification of identification and residential information.
- 4.2 In July 2020, the Department for Transport (DfT) published the document entitled [Statutory Taxi & Private Hire Vehicle Standards](#) (“the Standards”) under Section 177(1) of the Policing and Crime Act 2017. The focus of the Standards is on protecting children and vulnerable adults from harm, however all passengers benefit from any changes made as a result of the implementation of the Standards. The document sets out a framework of policies which Licensing Authorities must have regard to when exercising their functions, including conditions relating to vehicles and drivers.
- 4.3 The Standards detailed within this document have largely been adopted by Crawley Borough Council as the Licensing Authority, with work ongoing in the following areas. These measures will be returned to the Licensing Committee for consideration later in 2023:
- Mandatory CCTV (both audio and visual)
 - Additional mandatory training to ensure that applicants and licence holders exhibit the highest standards and are appropriately trained in a range of matters within the Trade
 - Additional mechanisms in relation to vehicle livery, emissions and safety standards.
- 4.4 It is worth noting that there is no judicially approved test of what makes a person “fit and proper” to hold a licence but the Policy currently in place covers this aspect in some detail. The Standards also state at 5.12:
- “Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver’s licence is a ‘fit and proper’ person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:*
- Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night? If, on the balance of probabilities, the answer to the question is ‘no’, the individual should not hold a licence.”***
- 4.5 The following extracts from the Standards are also particularly relevant as part of the updates proposed to the Policy.
- “1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department’s Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).”*

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“2.1 The Department of Transport recommend that these (Standards) should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.

“2.2 Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers”

5. Proposed Revisions To Policy

- 5.1 The proposed revisions to the Policy aim to strengthen and re-enforce existing information and requirements already detailed in the Policy in relation to disclosure, partnership working with regulatory bodies and other local authorities to ensure that the “fit and proper” test has been met.
- 5.2 Additionally, there are minor revisions to the Policy to correct administrative errors, changes in practice as well as procedures (currently under review) and to ensure that both Guidance information, Policy content and Licence conditions correspond with one another. This includes:
- New applicants to have no more than 3 DVLA Penalty Points on their licence for any driving related matter when first applying for a licence to ensure the highest standard of applicants at the time of first being licensed
 - Revisions to references to UK driving licence revised to require an applicant having held a full GB or Northern Ireland driving licence, or a full EU driving licence for at least 12 months
 - Requirement that applicants read and keep themselves apprised of the Council’s Hackney Carriage and Private Hire Licensing Policy
 - Remove references to he/him and she/her and replace with they or their to recognise equality and diversity
 - Other minor administrative revisions to typographical errors and/or to offer clarity.

Sharing of Information

- 5.3 The Policy revisions offer further detail regarding the increased opportunities to share information with other local authorities, in particular, via the national register of taxi and private hire vehicle driver licence refusals, suspensions and revocations via this register, “NR3S”.

NR3S (NAFN)

- 5.4 The Policy already makes reference at 3.22 regarding the use of the national taxi register of refusals and revocations (NR3)(NAFN).
- 5.5 From the 28th April 2023, the use and updating of this register is a mandatory function which must be carried out by all local authorities, and this Authority has advised all licensed drivers and applicants of this. Steps will include populating historical data in relation to suspensions, revocations and refusals. The recording of suspensions (medical and others since it is considered by the Government that this is still a risk to public safety) is a new requirement, necessitating revision to the Policy.
- 5.6 It is proposed that the Policy is revised to read as follows with the changes **in bold**:

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“3.22 National Register of Taxi Licence Refusals, **Revocations and Suspensions**”

3.22.1 The Council provides information to the National Register of Taxi Licence Refusals and Revocations (NR3S) (NAFN). This allows licensing authorities to share details of individuals who have had a hackney carriage or private hire licence **revoked, refused and/or suspended**. All applications for a new licence or licence renewal will automatically be checked on NR3S. **Any information received from another local authority, or regulatory partner may result in a check of NR3S being carried out in respect of an applicant and/or licence holder prior to the issue of a licence and/or during the currency of any licence. Any information identified as a result of an NR3 search will only be used in respect of the specific licence application, or in relation to an existing licence as applicable, and will be referred to as part of the checks carried out to ensure that individuals are able to meet the specified standards and are and continue to be “fit and proper”. Any information identified as a result of sharing of information by local authorities, be it by NR3S or via other data sharing means, may be considered in deciding whether to grant, renew, refuse, revoke or suspend a licence.**”

Additional Compliance Checks

HMRC Tax Code & Checks

5.7 Since the implementation of the Policy, additional requirements have been placed on local authorities to carry out an HMRC Tax Code Check in respect of licence applicants/holders. The tax check, in place since 4th April 2022, is a simple check to confirm that someone has appropriately registered for tax and applies when licences are renewed, and/or where an applicant has held a hackney carriage or private hire licence previously within specified timescales elsewhere. It is the responsibility of the regulatory authority, Crawley Borough Council to ensure the driver is registered with HMRC for tax and provides the relevant code which is then checked. Failure to provide a code within specific circumstances means that a licence application or renewal cannot be processed. The tax code checks have been carried out since 4th April 2022, with drivers provided with explanatory notes, as well as website information, and so it is considered timely and appropriate to incorporate this into the Policy.

5.8 It is recommended that the following information be included in the Policy as a new section after NR3S (with consequential numbering changes) as follows:

“Applicants for the following licences and those renewing licences may need to complete a tax check if applying for a licence as hackney carriage or private hire driver and/or a private hire operator. The rules for completing a tax check changed on 4 April 2022 in England and Wales. An individual, company or any type of partnership must complete a tax check as required by HMRC when:

- **renewing a licence**
- **applying for the same type of licence previously held, that stopped being valid less than a year ago**
- **applying for the same type of licence already held with another licensing authority**

Individuals will not need to complete a tax check and must check, following the [confirm your tax responsibilities guidance](#), if they have:

- **never held a licence of the same type before**

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- had a licence of the same type that stopped being valid a year or more before making this application

A tax check must be carried out by the person in question and confirms that individuals or partnerships are properly registered for tax, if necessary. It will ask questions about how tax is paid that may be due on income earned from working in the licensed trade. After completing the tax check, a 9-character code will be issued. This tax check code must be provided to the Taxi Licensing Service. Without this, an application cannot be processed. Tax check codes expire after 120 days, and a new tax code will be required if further licence/s are sought after this.”

Revisions to Enforcement (Appendix L)

- 5.9 Revisions to wording in Appendix L (Enforcement) to offer greater clarity and require that new applicants for licences do not have any more than 3 DVLA Driving Penalty Points or other endorsements at the time of application and that this aspect should be revised to read (proposed changes **in bold**):

“2.4 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed or the date on **which DVLA Penalty Points were imposed for driving offences if no fine**) before a licence will be granted.

A new application will not normally be considered or granted if the individual has more than 3 DVLA Penalty Points endorsed on their licence until such time as the matter is removed from a licence. (This includes any Penalty Points, banning period or other sanction.)

.... In respect of convictions of existing licence holders who have committed offences as specified below, their licences will be revoked and the periods below should then elapse following completion of the sentence (or the date of conviction if a fine was imposed or the date on which Penalty Points were imposed for driving offences if no fine) before a new licence will be granted.

11.0 Motoring Offences

11.1 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence (**not including a period where a person is banned from driving or other serious matter**) would not prohibit the grant of a licence, providing it does not result in **more than 3 Penalty points on a DVLA licence being accrued on application for a new licence** and may not result in action against an existing licence.

Subsequent convictions/offences resulting the issuing of Penalty Points reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a fit and proper person to be granted or retain a licence.”

Revisions to Driver Licence Conditions

- 5.10 Whilst it is already contained in the Policy at 3.9.2 regarding licensee self reporting to ensure that the Council as Licensing Authority is kept fully appraised, it is recommended that this wording be revised as follows:

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“New applicants during the currency of their application to become a licensed driver (i.e. after submitting the application and any time up until a decision) and licensed hackney carriage and private hire drivers must, within 48 hours of an incident/occurrence, report in writing to this Licensing Authority the fact that they have been arrested, charged, **bailed, convicted, been issued with an immigration or other regulatory civil/financial penalty, issued with DVLA penalty points or are under investigation for any criminal matter, or subject to civil proceedings which could call into question a person’s fitness and propriety (such as but not limited to being the subject of bankruptcy proceedings or the subject of injunctive proceedings) or motoring offence. Similarly, they must notify the Council within 48 hours of any penalty points imposed on them for any driving offence or of any fixed penalty notice issued to them for any offence.”**

- 5.11 Further that at the Private Hire Driver Conditions, the following should be inserted in Appendix J to ensure that all licensed individuals notify the Council as Licensing Authority of matters as above (proposed changes in **bold**):

“9. Where any of the following occur, the licensed driver must notify the Council of this fact and must do so in writing (or by email to taxis@ Crawley.gov.uk), so that the notification is delivered to the Council within 48 hours, except in the case of medical matters at (h)

(a) Any change to the Licence Holder’s personal details including home address, contact telephone number or email address.

(b) If the Licence Holder is charged with any criminal offence including any motoring offence.

(c) If the Licence Holder has been arrested, charged, bailed, convicted, been issued with an immigration penalty or are under investigation for any criminal matter, or subject to civil proceedings which could call into question a person’s fitness and propriety (such as but not limited to being the subject of bankruptcy proceedings or the subject of injunctive proceedings

(d) Penalty points are imposed on the Licence Holder for any driving offence or of a fixed penalty notice is issued to the Licence Holder for any offence.

(e) If the Licence Holder receives a simple caution from the police for any criminal offence,

(f) If the Licence Holder is convicted of for any criminal offence, including any motoring offence.

(g) If the Licence Holders changes from one private hire operator to another.

(h) In the case medical matters, the Council must be notified immediately, and in any case prior to the driving of any licensed vehicle”

Knowledge of Hackney Carriage and Private Hire Licensing Policy

- 5.12 It is apparent when interviewing new applicants and current licence holders in relation to a range of matters including at the time of application, during renewal and when carrying out investigations into breaches of legislation, licence conditions, bylaws and this Policy that individuals have not read the Policy, nor kept themselves apprised of its content despite consultation and reminders to do so. It is therefore requested that

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the following condition be included on grant and/or renewal of private hire driver licence conditions and that a paragraph be inserted into the Policy to cover this situation in respect of both the hackney carriage and private hire trade. This will help to ensure compliance and high standards within the Trades.

“The Licence Holder must read the Councils Hackney Carriage and Private Hire Licensing Policy, to include vehicle and driver licence conditions prior to carrying out the role of licensed driver, and ensure that during the currency of a licence that they keep their knowledge of the taxi licensing regime and Council Hackney Carriage and Private Hire Licensing Policy up to date for the duration of any licence that is issued to ensure compliance with the licensing regime.”

6. Financial & Legal Implications

- 6.1 The primary and overriding principle of the hackney carriage and private hire licensing regime is public safety.
- 6.2 The Taxi Licensing Service is self-financing and the costs associated with the service are recovered from fees and charges associated with the taxi licensing regime.
- 6.3 Councillors must ensure that they exercise their decision-making powers in a manner which is compliant with the Human Rights Act 1998, and the principles of natural justice.
- 6.4 The Council is required to consider the impact any decision may have on crime and disorder in the area (Crime & Disorder Act 1998) which states as follows;
 - (1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent;
 - (a) Crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment, and
 - (b) The misuse of drugs, alcohol and other substances in its area, and
 - (c) Re-offending in its area.
- 6.5 Pursuant to Section 149 of the Equality Act 2010, the Council when making decisions must have regard to the ‘public sector equality duty’. In summary, this means that the Council must, in the exercise of its functions, have due regard to the need to-
 - (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
 - (b) Advance equality of opportunity between persons who have a relevant protected characteristic and persons who do not share it.
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The characteristics protected by the Equality Act are:

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- age
- disability
- gender reassignment marriage/civil partnership pregnancy/maternity race
- religion/belief
- gender and sexual orientation

7. Background Papers

- [Private Hire and Hackney Carriage Licensing Policy 2022-2026](#)
- [Report HCS/022 - Department for Transport Statutory Taxi & Private Hire Standards: Overview of the Standards, Consultation and Implementation \(Licensing Committee 09.11.20\)](#)
- [Report HCS/053 – Revision of Licence Conditions – Driver and Vehicle Policy \(Licensing Committee 07.11.22\)](#)

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