

Public Document Pack

Portsmouth City Council

A MEETING OF THE COUNCIL will be held at the Guildhall, Portsmouth on Tuesday 22 March 2016, commencing at 2.05pm (or immediately following the conclusion of the Extraordinary Council meeting if later) and all Members of the Council are hereby summoned to attend to consider and resolve upon the following business:-

Agenda

- 1 **Members' Interests**
- 2 **To approve as a correct record the Minutes of** (Pages 1 - 46)
 - the Council meeting held on 9 February 2016
- 3 **To receive such communications as the Lord Mayor may desire to lay before the Council, including apologies for absence.**
- 4 **Deputations from the Public under Standing Order No 24.**
- 5 **Questions from the Public under Standing Order 25.**
- 6 **Appointments**
- 7 **Urgent Business - To receive and consider any urgent and important business from Members of the Cabinet in accordance with Standing Order No 26.**
- 8 **Treasury Management Policy for 2016/17** (Pages 47 - 118)

To receive and consider the attached report and recommendations of the Cabinet held on 3 March 2016 (minute 11 refers).
- 9 **Budget & Performance Monitoring 2015/16 (3rd Quarter) to end December 2015** (Pages 119 - 150)

To receive and consider the attached report and recommendations of the Cabinet held on 3 March 2016 (minute 12 refers).
- 10 **Pay Policy Statement** (Pages 151 - 160)

To receive and consider the attached report of the Employment Committee held on 15 March 2016, the recommendations of which will follow.
- 11 **Hackney Carriage and Private Hire Matters - Statement of Licensing Policy - Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976** (Pages 161 - 330)

To receive and consider the attached report and recommendations of the Licensing Committee held on 24 February 2016 (minute 9 refers).

12 Notices of Motion

(a) Apprenticeships

Proposed by Councillor Ryan Brent
Seconded by Councillor Ian Lyon

The Council recognises the importance of apprenticeships to give young people the opportunities they need to gain skills and have structured paths into full employment, and has been active in creating apprenticeships across a wide range of council services. The Council is committed to providing high-quality, worthwhile and sustainable apprenticeships within its own workforce, and also promoting more and better apprenticeships across the wider local economy. To demonstrate this commitment, the Council endorses the decision of Employment Committee to sign up to the "We Love Apprenticeships" pledge. By signing this pledge, the Council is committing to providing apprenticeships that meet the following principles:

- 1. Be a job with a productive purpose** - Apprentices should have parity of terms and conditions with all other employees. All quality apprenticeships will have progression opportunities to genuine employment.
- 2. Be paid a fair Wage & Supplied with a contract of Employment and paid at least min apprentice wage** - (Employers can pay more than the min wage).
- 3. Ensure high quality training and clear individual development** - Apprenticeship programmes must identify a clear programme of training that is relevant to the job and recognisable in the sector. Apprentices must be given sufficient paid time off the job to study in colleges/training provider centres, or in dedicated training centres at the workplace. On the job training should be fundamental to the apprenticeship. There should be a clear system for supervision, support and mentoring, by appropriately trained work colleagues.
- 4. Be accessible to, and achievable by all** - A good apprenticeship programme will include strategies to ensure that Apprenticeships are accessible to the widest possible demographic and diverse spread of people. Particular attention should be given to enabling people from disadvantaged groups to take up any opportunities offered and support given to complete them successfully, thereby achieving the full benefit of apprenticeship.
- 5. Be part of, and contribute to, a Healthy and Safe environment** - Employers and Training Providers should work together to ensure a safe environment. Particular attention should be given to the unique needs of apprentices and young workers. Apprentices should be given sufficient training on health and safety, including relevant legislation, and the programme should be regularly reviewed from a health and safety perspective.
- 6. A commitment from the employer to complement the workforce, not supplement it** - Apprentices should not be recruited for job substitution, but to fill genuine skills shortages and plan for

future skills gaps.

(b) Local Elections Once Every Four Years

Proposed by Councillor Colin Galloway
Seconded by Councillor Julie Swan

With continuing reductions in central government grants and the desperate need to find ways to make our city budget fit the needs of all our people in Portsmouth, this Council ask the Governance and Audit and Standards Committee to consider the possibility of introducing a four year cycle of local elections so that the costs of holding an election every year can be minimised by holding local elections once every four years.

(c) EU Referendum

Proposed by Councillor Colin Galloway
Seconded by Councillor Julie Swan

"Due to the negative impact that EU directives such as the agency working time directive, the EU procurement rules and the EU waste framework directive have on the ability and cost of Portsmouth City Council to fulfil its obligations, this council agrees that Portsmouth and indeed all of Britain would be better off outside the European Union.

This council is pleased that the EU referendum will give everyone the opportunity to decide on the future of their country and it urges all the people of Portsmouth to use their vote on 23 June 2016"

(d) Shipbuilding

Proposed by Councillor Gerald Vernon-Jackson
Seconded by Councillor Darren Sanders

The City Council notes the undertaking made by the Prime Minister when supporting Conservatives for election in June 2014.

"I MAKE this pledge to you today: this government will do everything we can to protect the future of the shipyard and livelihoods of the people who work there'. 'We also want to retain shipbuilding in the city for which there is still significant, untapped potential."

The City Council notes with real disappointment the news that Magma have chosen not to move into the shipbuilding hall, and all that the city is left with is moving of work within the dockyard.

The City Council resolves to ask that the Leader of the Council, and all other Group Leaders, write to the Prime Minister to express our view that the pledge to the people of Portsmouth has been broken.

(e) EU Referendum

Proposed by Councillor Donna Jones
Seconded by Councillor Simon Boshier

This Council believes that Portsmouth should vote to leave the EU in the forthcoming referendum.

Portsmouth is a primary centre for this country's trade with both the EU and the rest of the world; and the UK's naval assets that help to protect the world's shipping routes (and with them the vast majority of global trade) are substantially based in this City so it is arguable that any impact on trade from Britain's exit from the EU would be felt here. However, regulations imposed by the European Union result in extra costs for both businesses and public bodies, Portsmouth City Council included. Procurement rules and environmental regulations increase Council's cost base, so that fewer services are provided than would otherwise be the case.

It is Council's opinion that the people of Portsmouth only ever wanted an enhanced trading arrangement with the UK's European partners and was willing to cede as much sovereignty as this required and no more.

Council notes that the UK has implemented all of the provisions of the Single European Act (SEA) so that, for example, Germany can sell financial services into Britain, and a French company can own a British energy company. It has been nearly 30 years since the SEA came into force and, while the freedom of movement of goods, capital and people has been broadly implemented, the freedom of movement of services has not. The UK is by far the world's largest exporter of services as a percentage of its GDP and yet the (now) EU has not enforced this key freedom for the UK so that, for example, the UK is still not permitted to sell its financial services into Germany, and a UK company would not be allowed to own a strategic French asset.

Council notes that Britain trades in surplus with the rest of the world outside the EU because it exports its services to all corners of the globe. The UK's trade deficit with the EU member states is greater than its total trade deficit (roughly £80bn compared to £65bn per annum). This means that, in addition to the UK paying the second highest membership fee (of c. £8bn per annum net) behind Germany, Great Britain makes an annual loss on its trading account with EU member states principally because, in relation to the freedom of movement of services within the EU, the Single Market is still incomplete.

Council notes that the recent negotiations with the leaders of other EU member states included the frequently repeated assurance that the EU would "complete the Single Market". This promise has been made at every major negotiation since 1987 and has never been

kept. Given that the freedom of movement of services within the EU is enshrined in a treaty, but the outcome of Britain's recent negotiations is not, Council questions whether the citizens of Portsmouth can rely on the EU to implement in full even the few concessions granted to David Cameron in Brussels on February 20th 2016.

In conclusion, Council believes that, by running a trade deficit with the EU of c. £80bn per annum for which the country pays an annual net fee of a further £8bn, the UK in general and Portsmouth in particular are better off outside the European Union.

Council calls on all Portsmouth residents to vote in the referendum on June 23rd 2016.

(f) Consultation

Proposed by Councillor Gerald Vernon-Jackson
Seconded by Councillor Darren Sanders

The City Council has a role to speak up for the people of this city and for the city. The City Council therefore has a duty to respond to consultations that affect services for residents in the City. The City Council regrets the decision by the Council not to reply to consultations that affect services upon which residents of the city rely as this can mean decisions are taken by others that disadvantage local residents.

(g) Establishing a local lottery

Proposed by Councillor Luke Stubbs
Seconded by Councillor Linda Symes

The power of General Competence contained in the Localism Act confers on local authorities the ability to run local lotteries.

Council notes that Aylesbury Vale District Council has recently taken advantage of this freedom to establish a weekly online draw and that the initial ticket sales have been encouraging.

Council endorses the principle of establishing a local lottery in Portsmouth. It asks the Cabinet Member for Resources to consider requesting the preparation of a report that considers the potential viability of a scheme.

Council asks the Cabinet member to agree that the entire surplus generated by any lottery should be used to support local charities and that in the event that it is decided to proceed with the creation of a lottery, a mechanism should be drawn up to allow people to pick between beneficiaries.

(h) Safeguarding Police Services in Portsmouth

Proposed by Councillor Matthew Winnington
Seconded by Councillor Darren Sanders

This City Council calls on the Government to fund Hampshire Constabulary better so that it can maintain its outstanding service from Portsmouth's four police stations.

If that funding is not available, this City Council calls on the Hampshire Police and Crime Commissioner to ensure funding for at least one police station in the north of Portsmouth and at least one in the south of Portsmouth which is open and accessible to the public at all times of the day.

This City Council also urges that the Police and Crime Commissioner locates a new Police Integrated Centre in Portsmouth with its proximity to the motorways, it being the centre of population in the area and easy access from across the region making it the logical choice for this part of Hampshire.

13 Questions from Members under Standing Order No 17. (Pages 331 - 332)

14 Start time of the Annual Council meeting

To note that the Lord Mayor in consultation with the Leader and the Deputy Lord Mayor has agreed to the start time of the Annual Council meeting on 17 May 2016, being brought forward to 10am in accordance with Standing Order 7.

David Williams
Chief Executive

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Full Council meetings are digitally recorded.

Civic Offices
Guildhall Square
PORTSMOUTH
14 March 2016

Agenda Item 2

9 February 2016

1

MINUTES OF A MEETING OF THE COUNCIL held at the Guildhall
Portsmouth on Tuesday, 9 February 2016 at 2.00 pm

Council Members Present

The Right Worshipful The Lord Mayor
Councillor Frank Jonas (in the Chair)

Councillors

David Fuller	Ian Lyon
Dave Ashmore	Hugh Mason
Simon Boshier	Lee Mason
Jennie Brent	Gemma New
Ryan Brent	Robert New
Yahiya Chowdhury	Stuart Potter
Alicia Denny	Will Purvis
Ben Dowling	Darren Sanders
Ken Ellcome	Phil Smith
Ken Ferrett	Lynne Stagg
Margaret Foster	Sandra Stockdale
Colin Galloway	Luke Stubbs
Paul Godier	Julie Swan
Aiden Gray	Linda Symes
Scott Harris	David Tompkins
Stephen Hastings	Gerald Vernon-Jackson
Hannah Hockaday	Steve Wemyss
Suzy Horton	Matthew Winnington
Lee Hunt	Rob Wood
Donna Jones	Neill Young

1. **Declarations of Interests under Standing Order 13(2)(b)**

Councillor Luke Stubbs, Councillor Hannah Hockaday and Councillor Phil Smith each declared a personal prejudicial interest in agenda item 5 - Save Our Fire Service - in that they are all members of Hampshire Fire Authority and had been advised to leave the Chamber for the debate and also for the associated deputations and public question.

Councillor Julie Swan declared a pecuniary interest in agenda Item 5 in that her house is adjacent to the Fire Station and would also leave for the debate on that item and for the associated deputations and public question.

2. **Minutes of the Meeting of the Council held on 8 December 2015**

It was

Proposed by Councillor Donna Jones

Seconded by Councillor Gerald Vernon-Jackson

2 9 February 2016

That the minutes of the meeting of the council held on 8 December 2015 be confirmed and signed as a correct record.

RESOLVED that the minutes of the meeting of the council held on 8 December 2015 be confirmed and signed as a correct record.

3. Communications from the Lord Mayor including apologies for absence.

Apologies for absence had been received on behalf of Councillor John Ferrett.

The Lord Mayor gave detailed information concerning filming in the chamber advising that notices had been displayed on the walls concerning the council's rules which strictly prohibit the filming, photographing or recording of members of the public unless they are addressing the meeting and only then if they do not actively object. Filming from gallery to gallery is also prohibited.

The Lord Mayor also advised that today's meeting is being filmed from a fixed location camera placed in the chamber with the intention of web streaming the recording and that owing to electrical issues, a bell would be used to control speaking times at today's meeting.

The Lord Mayor then gave details of the evacuation procedure and reminded everyone that there are building evacuation signs displayed both inside the public galleries and in the chamber itself. There is also an in/out log book on reception for the public attending council meetings and Guildhall staff will undertake any roll call of the public using the completed log. Officers will undertake the roll call of members and officers.

4. Petition - "Stop Cuts to Domestic Violence Services"

The lead petitioner Ms Shonagh Dillon, presented the petition as set out on the agenda.

The City Solicitor thanked Ms Dillon for her presentation. He then advised that one deputation request had been received from Mr Jon Woods from Unison who then gave his deputation in support of the petition.

It was

Proposed by Councillor Donna Jones
Seconded by Councillor Rob New

That the Administration's petition response as circulated in the chamber and detailed below be approved.

Owing to a disturbance in the chamber, council adjourned at 2.20 pm.

Council resumed at 2.32 pm.

"On behalf of the administration I would like to thank everyone involved in the Domestic Violence Early Intervention Project work in the city. We pride ourselves on our first class service here in Portsmouth, but acknowledge even

more can be done to help. We would like to take this opportunity to place on record our thanks to the following people:

Cllrs Robert New, Hannah Hockaday, Julie Swan, Darren Sanders, Lynne Stagg and Suzy Horton for their commitment and contribution to raising the awareness amongst the city council of the important work carried out by support services in Portsmouth to support some of the most vulnerable people, mostly women in the city.

The educational journey that Cllrs have gone on over the last 20 months has been staggering in fully understanding the importance of the service and how it helps people.

We would also like to place on record on behalf of Portsmouth City Council our sincere thanks to third sector and non profit organisations in Hampshire who have been invaluable in the 20 months. Southern Domestic Abuse Service and Home Group, to name but two. The support we have received as a city council, free of charge, the advice and new ideas has been inspiring.

We would like to place on record our thanks to the petitioner for raising this issue which also allows us the opportunity to highlight the excellent work that has been achieved so far. Since December 2015, when we had to present to this chamber the news that £180k of the £576k budget for the EIP team was being cut, we made a promise to work to find new funding sources and to not just protect this service long term but to improve it. I am pleased to confirm that before you today in our capital budget is a proposal to increase the council's property investment fund. The reason for the recommendation is to create new income streams for the council.

We are proposing to use £50k of new income this administration will create to fund Domestic Violence support, therefore putting the money back into the city council revenue budget. I am pleased to also confirm that we are in advance talks with the Police & Crime Commissioner Simon Hayes about a jointly commissioned service to cover this area of work from April 2017. In addition we have received confirmation from Michael Lane one of the Police and Crime Commissioner Candidates in the election in May, that if elected, he will fund the remaining £130k gap. In the meantime, our excellent Cabinet member Cllr Robert New has confirmed that he will fund the £130k shortfall from his portfolio reserve until April 2017 meaning there will be absolutely no reduction in service for the next 14 months, no job losses and no cuts to Domestic Violence in the city allowing us time to continue to develop and build our service."

As an amendment it was

Proposed by Councillor Gerald Vernon-Jackson

Seconded by Councillor Hugh Mason

"To delete everything after paragraph 2 and replace with "The council deplores the decision to cut the domestic violence unit.""

Following debate a recorded vote was requested by eight councillors standing. The following members voted in favour of the amendment:

Councillor David Ashmore
Councillor Ben Dowling
Councillor Margaret Foster
Councillor David Fuller
Councillor Suzy Horton
Councillor Lee Hunt
Councillor Hugh Mason

Councillor Will Purvis
Councillor Darren Sanders
Councillor Phil Smith
Councillor Lynne Stagg
Councillor Gerald Vernon-Jackson
Councillor Matthew Winnington
Councillor Rob Wood

The following members voted against the amendment:

Councillor Simon Boshier
Councillor Jennie Brent
Councillor Ryan Brent
Councillor Yahiya Chowdhury
Councillor Alicia Denny
Councillor Ken Ellcome
Councillor Ken Ferrett
Councillor Colin Galloway
Councillor Aiden Gray
Councillor Scott Harris
Councillor Steve Hastings
Councillor Hannah Hockaday

Councillor Donna Jones
Councillor Ian Lyon
Councillor Lee Mason
Councillor Gemma New
Councillor Rob New
Councillor Sandra Stockdale
Councillor Luke Stubbs
Councillor Julie Swan
Councillor Linda Symes
Councillor David Tompkins
Councillor Steve Wemyss
Councillor Neill Young

The following member abstained:

Councillor Stuart Potter

The Liberal Democrat amendment was therefore LOST.

Upon being put to the vote the petition response standing in the name of Councillor Donna Jones was CARRIED.

RESOLVED that on behalf of the administration I would like to thank everyone involved in the Domestic Violence Early Intervention Project work in the city. We pride ourselves on our first class service here in Portsmouth, but acknowledge even more can be done to help. We would like to take this opportunity to place on record our thanks to the following people:

Cllrs Robert New, Hannah Hockaday, Julie Swan, Darren Sanders, Lynne Stagg and Suzy Horton for their commitment and contribution to raising the awareness amongst the city council of the important work carried out by support services in Portsmouth to support some of the most vulnerable people, mostly women in the city.

The educational journey that Cllrs have gone on over the last 20 months has been staggering in fully understanding the importance of the service and how it helps people.

We would also like to place on record on behalf of Portsmouth City Council our sincere thanks to third sector and non profit organisations in Hampshire who have been invaluable in the 20 months. Southern Domestic Abuse Service and Home Group, to name but two. The

support we have received as a city council, free of charge, the advice and new ideas has been inspiring.

We would like to place on record our thanks to the petitioner for raising this issue which also allows us the opportunity to highlight the excellent work that has been achieved so far. Since December 2015, when we had to present to this chamber the news that £180k of the £576k budget for the EIP team was being cut, we made a promise to work to find new funding sources and to not just protect this service long term but to improve it. I am pleased to confirm that before you today in our capital budget is a proposal to increase the council's property investment fund. The reason for the recommendation is to create new income streams for the council.

We are proposing to use £50k of new income this administration will create to fund Domestic Violence support, therefore putting the money back into the city council revenue budget. I am pleased to also confirm that we are in advance talks with the Police & Crime Commissioner Simon Hayes about a jointly commissioned service to cover this area of work from April 2017. In addition we have received confirmation from Michael Lane one of the Police and Crime Commissioner Candidates in the election in May, that if elected, he will fund the remaining £130k gap. In the meantime, our excellent Cabinet member Cllr Robert New has confirmed that he will fund the £130k shortfall from his portfolio reserve until April 2017 meaning there will be absolutely no reduction in service for the next 14 months, no job losses and no cuts to Domestic Violence in the city allowing us time to continue to develop and build our service.

5. Petition - "Save our Fire Service"

The lead petitioner Mr Tom Wood, presented the petition as it appears on the meeting agenda.

The City Solicitor advised that two deputation requests had been made to speak on the petition.

The first deputation was made by Mr Neil Odin, Deputy Chief Fire Officer.

The second deputation was made by Mr Mark Chapman.

It was

Proposed by Councillor Donna Jones
Seconded by Councillor Simon Boshier

That the administration's petition response headed "Agenda Item 5 - Petition - Save our Fire Service" as circulated in the chamber be approved.

Following debate, a recorded vote was requested by eight members standing. The following members voted in favour of the administration's response:

Councillor Simon Boshier
Councillor Jennie Brent
Councillor Ryan Brent
Councillor Ken Ellcome
Councillor Ken Ferrett
Councillor Colin Galloway
Councillor Paul Godier
Councillor Scott Harris
Councillor Steve Hastings
Councillor Frank Jonas

Councillor Donna Jones
Councillor Ian Lyon
Councillor Lee Mason
Councillor Gemma New
Councillor Rob New
Councillor Sandra Stockdale
Councillor Linda Symes
Councillor David Tompkins
Councillor Steve Wemyss
Councillor Neill Young

Those voting against:

Councillor David Ashmore
Councillor Yahiya Chowdhury
Councillor Ben Dowling
Councillor Margaret Foster
Councillor David Fuller
Councillor Aiden Gray
Councillor Suzy Horton
Councillor Lee Hunt

Councillor Hugh Mason
Councillor Will Purvis
Councillor Darren Sanders
Councillor Lynne Stagg
Councillor Gerald Vernon-Jackson
Councillor Matthew Winnington
Councillor Rob Wood

The following members abstained:

Councillor Alicia Denny
Councillor Stuart Potter

The administration's response was therefore CARRIED.

RESOLVED that on behalf of the administration we would like to thank you for presenting the petition concerning Fire Services in Portsmouth to Portsmouth City Council. Fire Services across the city of Portsmouth are an important issue. Portsmouth City Council was notified that the Hampshire Fire and Rescue Authority (HFRA) were undertaking a public consultation on ways to reform the fire services across the counties of Hampshire and the IOW.

Portsmouth City Council has no control over the final decision on how to reform the service, is not a decision this council has any jurisdiction over. The HFRA is a separate body to this council.

Portsmouth City Council does however appoint three representatives onto the HFR Board each year. The current council appointments are Cllrs Luke Stubbs, Hannah Hockaday and Phil Smith. Unfortunately, the Council's representatives are precluded from listening to your presentation of the petition and any subsequent debate, because they have a declarable interest under the Code of Conduct. In other words because they will be voting on the outcome of the substantive consultation it would be wrong of them to remain in this chamber today and take part in the debate.

However, they will be aware of your petition and I am sure they will take it into account when attending the Hampshire Fire and Rescue Authority meeting when this matter is considered. I will ensure that your petition is forwarded to the Hampshire Fire and Rescue Authority Board and that they are made aware of your plight.

Thank you for attending today.

Council adjourned at 4.40 pm.

Council resumed at 4.53 pm.

6. Deputations from the Public under Standing Order No 24 for all items excluding those in respect of items 4 and 5 which are dealt with separately on the agenda.

The City Solicitor advised that two deputation requests had been received on agenda item 11 - Portsmouth City Council - Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20 and two deputation requests had been received on agenda item 12 - Capital Programme 2015/16 to 2020/21.

The first deputation on agenda item 11 was given by Ms Hilary Reed.

The second deputation in respect of agenda item 11, was made by Ms Shefali Uddin.

The first deputation on agenda item 12 - Capital Programme was made by Mr Bonner, Portsmouth Pensioners' Association. The second deputation was made by Mr John Holland of the Portsmouth Cycle Forum.

7. Questions from the Public under Standing Order 25.

Neither of the members of the public who gave notice of wishing to put a question to council were able to be present at the meeting and therefore the questions could not be put. Written responses will be provided to them.

8. Appointments

There were no appointments.

9. Urgent Business - To receive and consider any urgent and important business from Members of the Cabinet in accordance with Standing Order No 26.

There was no urgent and important business.

10. Recommendations from the Cabinet Meeting held on 8 February 2016

The following minute was approved unopposed:

Minute 4 - Council Tax Discounts

The following minutes were opposed:

Minute 5 - Portsmouth City Council - Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20

Minute 6 - Capital Programme 2015/16 to 2020/21

The Lord Mayor explained that further to the letter of 1 February 2016 concerning procedure at the meeting previously sent to members, the Lord Mayor proposed that the Capital Programme and the Budget and Council Tax setting items be taken and debated together on the basis that each item impacts on the other and on the understanding that the Budget and Council Tax item will be voted on first, followed by the Capital Programme.

This was agreed.

It was

Proposed by Councillor Donna Jones

Seconded by Councillor Luke Stubbs

That the recommendations contained in Cabinet minute 5 - Portsmouth City Council - Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20 and Cabinet minute 6 - Capital Programme 2015/16 to 2020/21 be approved.

Councillor Donna Jones presented the Cabinet's recommendations on the Budget and Council Tax setting and the Capital Programme which had been produced by the Conservative group, in consultation with the UKIP and Labour groups and commended the budget to council. The Leader wished to place on record her thanks to:

- Councillors Julie Swan and Stuart Potter in relation to libraries, particularly for their support in developing plans for the Paulsgrove area of the city.
- Councillor Stuart Potter for his work ensuring that RNLI volunteers will get free parking at the seafront when responding to a call out.
- The government for protecting police budgets
- Collette Hill and her team and Councillor Rob New for work relating to the Clean City Team.
- Chris Ward, Julian Pike, cabinet members and to the leaders of the UKIP and Labour groups for their work on the budget.

Following her budget presentation, the Leader commended the proposals to council.

As an amendment to the recommendations in relation to Cabinet minutes 5 and 6, it was

Proposed by Councillor Gerald Vernon-Jackson

Seconded by Councillor Hugh Mason

That the recommendations set out in Appendix 1 attached to these minutes (Liberal Democrat Portsmouth City Council - Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20) and the recommendations set out in Appendix 2 attached to these minutes (Liberal Democrat Capital amendment) be adopted. Councillor Vernon-Jackson then spoke to his group's proposed budget amendments and commended them to the council.

Councillor Colin Galloway next spoke to the budget presented by the administration which he said it was acceptable under the restraints imposed by an unrepresentative central government. His Group did not propose any amendments.

As an amendment to the recommendations in relation to Cabinet minute 5, it was

Proposed by Councillor Aiden Gray
Seconded by Councillor Yahiya Chowdhury

That the recommendations set out in Appendix 3 attached to these minutes (Labour Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20) be adopted. Councillor Aiden Gray, Deputy Labour Group Leader then spoke to his group's proposed budget amendments and commended them to the council.

Following debate, the Lord Mayor called upon the Leader of the Council, Councillor Donna Jones to sum up.

The Lord Mayor advised that regulations require all votes on the budget proposals to be dealt with by means of recorded vote.

Upon the amendment standing in the name of Councillor Gerald Vernon-Jackson on the Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20 being put to the vote, the following members voted in favour:

Councillor David Ashmore	Councillor Will Purvis
Councillor Ben Dowling	Councillor Darren Sanders
Councillor Margaret Foster	Councillor Phil Smith
Councillor David Fuller	Councillor Gerald Vernon-Jackson
Councillor Suzy Horton	Councillor Matthew Winnington
Councillor Lee Hunt	Councillor Rob Wood
Councillor Hugh Mason	

The following members voted against:

Councillor Simon Boshier	Councillor Lee Mason
Councillor Jennie Brent	Councillor Gemma New
Councillor Ryan Brent	Councillor Rob New
Councillor Alicia Denny	Councillor Stuart Potter

Councillor Ken Ellcome
Councillor Ken Ferrett
Councillor Colin Galloway
Councillor Scott Harris
Councillor Steve Hastings
Councillor Hannah Hockaday
Councillor Donna Jones
Councillor Ian Lyon

Councillor Sandra Stockdale
Councillor Luke Stubbs
Councillor Julie Swan
Councillor Linda Symes
Councillor David Tompkins
Councillor Steve Wemyss
Councillor Neill Young

The following members abstained:

Councillor Yahiya Chowdhury
Councillor Aiden Gray

The Liberal Democrat amendment was therefore LOST.

Upon the Labour group amendment standing in the name of Councillor Aiden Gray being put to the vote, the following members voted in favour:

Councillor David Ashmore
Councillor Yahiya Chowdhury
Councillor Ben Dowling
Councillor Ken Ferrett
Councillor Margaret Foster
Councillor David Fuller
Councillor Aiden Gray
Councillor Suzy Horton

Councillor Lee Hunt
Councillor Hugh Mason
Councillor Will Purvis
Councillor Darren Sanders
Councillor Phil Smith
Councillor Gerald Vernon-Jackson
Councillor Matthew Winnington
Councillor Rob Wood

The following members voted against:

Councillor Simon Boshier
Councillor Jennie Brent
Councillor Ryan Brent
Councillor Alicia Denny
Councillor Ken Ellcome
Councillor Colin Galloway
Councillor Scott Harris
Councillor Steve Hastings
Councillor Hannah Hockaday
Councillor Frank Jonas
Councillor Donna Jones
Councillor Ian Lyon

Councillor Lee Mason
Councillor Gemma New
Councillor Rob New
Councillor Stuart Potter
Councillor Sandra Stockdale
Councillor Luke Stubbs
Councillor Julie Swan
Councillor Linda Symes
Councillor David Tompkins
Councillor Steve Wemyss
Councillor Neill Young

There were no abstentions.

The Labour group amendment standing in the name of Councillor Aiden Gray was therefore LOST.

Upon the recommendations in Cabinet minute 5 - Portsmouth City Council - Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20 being put to the vote, the following members were in favour:

Councillor Simon Boshier
 Councillor Jennie Brent
 Councillor Ryan Brent
 Councillor Alicia Denny
 Councillor Ken Ellcome
 Councillor Ken Ferrett
 Councillor Colin Galloway
 Councillor Scott Harris
 Councillor Steve Hastings
 Councillor Hannah Hockaday
 Councillor Frank Jonas
 Councillor Donna Jones

Councillor Ian Lyon
 Councillor Lee Mason
 Councillor Gemma New
 Councillor Rob New
 Councillor Sandra Stockdale
 Councillor Luke Stubbs
 Councillor Julie Swan
 Councillor Linda Symes
 Councillor David Tompkins
 Councillor Steve Wemyss
 Councillor Neill Young

The following members voted against the proposals:

Councillor David Ashmore
 Councillor Ben Dowling
 Councillor Margaret Foster
 Councillor David Fuller
 Councillor Suzy Horton
 Councillor Lee Hunt
 Councillor Hugh Mason

Councillor Stuart Potter
 Councillor Will Purvis
 Councillor Darren Sanders
 Councillor Phil Smith
 Councillor Gerald Vernon-Jackson
 Councillor Matthew Winnington
 Councillor Rob Wood

The following members abstained:

Councillor Aiden Gray
 Councillor Yahiya Chowdhury

The Cabinet recommendations in Cabinet minute 5 - Portsmouth City Council - Budget and Council Tax 2016/17 and Medium Term Budget Forecast 2017/18 to 2019/20 were therefore CARRIED.

RESOLVED

- (1) That the following be approved in respect of the Council's Budget:
 - (a) The revised Revenue Estimates for the financial year 2015/16 and the Revenue Estimates for the financial year 2016/17 as set out in the General Fund Summary (Appendix A)
 - (b) The Portfolio Cash Limits for the Revised Budget for 2015/16 and Budget for 2016/17 as set out in Sections 7 and 9, respectively
 - (c) That the "clawback" requirement for overspendings be waived for 2015/16 for both the Education & Children's Portfolio and the Health & Social Care Portfolio given the scale of those overspendings and also that their Portfolio Cash Limits were set in the knowledge of the financial risks contained therein which were fully provided for within the Council's contingency provision

- (d) That £1.5m be transferred to the Revenue Reserve for Capital to supplement the resources available for the Capital Programme in order to ensure the Council can properly meet its statutory responsibilities including School Places, Sea Defences and Roads Maintenance
- (e) That £1.5m be transferred to the MTRS Reserve to restore it to a level sufficient to enable the Council to pursue both Spend to Save schemes, Invest to Save schemes and fund redundancy costs, all aimed at facilitating the Council's savings strategy
- (f) That £1,686,600 is carried forward from 2015/16 to 2016/17 in respect of contingent items that were expected to arise in 2015/16 but are now expected to occur in 2016/17
- (g) Any further underspendings for 2015/16 arising at the year-end outside of those made by Portfolios be transferred to Capital Resources in order to provide funding for known future commitments such as Secondary School Places, Sea Defences and the enabling transport infrastructure necessary for the City's development and growth which have, as yet, insufficient funding
- (h) The S.151 Officer be given delegated authority to make any necessary adjustments to Cash Limits within the overall approved Budget and Budget Forecasts
- (i) That the level of Council Tax be increased by 1.99% for general purposes in accordance with the referendum threshold¹ for 2016/17 announced by Government (as calculated in recommendation 3.4 (d))
- (j) That the level of Council Tax be increased by a further 2.0% beyond the referendum threshold (as calculated in recommendation (4)d) to take advantage of the flexibility offered by Government to implement a "Social Care Precept"; and that in accordance with the conditions of that flexibility, the full amount of the associated sum generated of £1,254,400 is passported direct to Adult Social Care
- (k) Managers be authorised to incur routine expenditure against the Cash Limits for 2016/17 as set out in Section 9
- (l) That the savings requirement for 2017/18 be set at a minimum on-going sum of £9.0m
- (m) That the S.151 Officer be given delegated authority to make transfers to and from reserves in order to ensure that they are maintained as necessary and in particular, adjusted when reserves are no longer required or need to be replenished

¹ Council Tax increases beyond the referendum threshold can only be implemented following a "Yes" vote in a local referendum

- (n) Directors be instructed to start planning how the City Council will achieve the savings requirements shown in Section 11 and that this be incorporated into Service Business Plans
 - (o) The minimum level of Revenue Balances as at 31 March 2017 be set at £7.0m (£6.5m in 2015/16) to reflect the known and expected budget and financial risks to the Council
 - (p) Members have had regard for the Statement of the Section 151 Officer in accordance with the Local Government Act 2003 as set out in Section 17.
- (2) That the following be noted in respect of the Council's Budget:
- (a) The Revenue Estimates 2016/17 as set out in Appendix A provide full funding for the Domestic Violence Service in 2016/17 ensuring that the service remains intact. A sum of £50,000 funded from additional income arising from the Council's Property Investment Portfolio has been identified to mitigate the overall reduction of £180,000 to the Service in future years. Discussions with Hampshire Police & Crime Commissioner's Office will take place after the May elections with the intent to secure a contribution for the remaining £130,000
 - (b) The Revenue Estimates 2016/17 as set out in Appendix A have been prepared on the basis that the 2% tax increase for the "Social Care Precept" (amounting to £1,254,400) is passported to Adult Social Care in order to provide for otherwise unfunded budget pressures including the cost of the new National Living Wage
 - (c) In the event that the additional flexibility of the "Social Care Precept" and associated 2% tax increase (amounting to £1,254,400) is not taken, then equivalent savings will need to be identified
 - (d) In general, any reduction from the 3.99% Council Tax increase proposed will require additional savings of £627,200 for each 1% reduction in order for the Budget 2016/17 to be approved
 - (e) The Revenue Forecast and the associated provisional Portfolio Cash Limits for 2017/18 onwards as set out in Section 10 and Appendix B
 - (f) The estimated Savings Requirement of £24m for the three year period 2017/18 to 2019/20, for financial and service planning purposes, be phased as follows:

Financial Year	In Year Savings Requirement £m	Cumulative Saving £m
2017/18	9.0	9.0
2018/19	8.0	17.0
2019/20	7.0	24.0

- (g) The MTRS Reserve held to fund the upfront costs associated with Spend to Save Schemes, Invest to Save Schemes and redundancies will hold a relatively modest uncommitted balance of £2.4m² and will only be replenished from an approval to the transfer of any underspends, contributions from the Revenue Budget or transfers from other reserves which may no longer be required
- (h) The Council Tax element of the Collection Fund for 2015/16 is estimated to be a deficit of £269,000 which is shared between the City Council (84%), Police & Crime Commissioner (11%) and the Hampshire Fire & Rescue Authority (4%)
- (i) The Business Rate element of the Collection Fund for 2015/16 is estimated to be a deficit of £635,828 which is shared between the City Council (49%), the Government (50%) and the Hampshire Fire & Rescue Authority (1%)
- (j) The Non Domestic Rates poundage for 2016/17 will be 49.7p, and 48.4p for small businesses
- (k) The Business Rate income³ for 2016/17 (excluding "Top Up") based on the estimated Business Rate element of the Collection Fund deficit as at March 2016, the Non Domestic Rates poundage for 2016/17 and estimated rateable values for 2016/17 has been set at £39,581,127
- (3) That the S.151 Officer has determined that the Council Tax base for the financial year 2016/17 will be **53,538.8** [item T in the formula in Section 31 B(1) of the Local Government Finance Act 1992, as amended (the "Act")].
- (4) That the following amounts be now calculated by the Council for the financial year 2016/17 in accordance with Section 31 and Sections 34 to 36 of the Local Government Finance Act 1992:
- (a) £478,280,306 Being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act.

² Including the transfer into the reserve of £1.5m contained with the recommendations in this report and the transfer out of the reserve of £0.3m as described in the Capital Programme 2015/16 to 2020/21 report contained elsewhere on this agenda

³ Including the Collection Fund deficit of £311,600 and excluding the "Top Up" grant from Government of £4,503,001.

- (b) £413,052,380 Being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
- (c) £65,227,926 Being the amount by which the aggregate at 3.4 (a) above exceeds the aggregate at 3.4(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. (Item R in the formula in Section 31B(1) of the Act.
- (d) £1,218.33 Being the amount at 3.4(c) above (Item R), all divided by Item 3.3 above (Item T), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year.
- (e) Valuation Bands (Portsmouth City Council)

A £	B £	C £	D £	E £	F £	G £	H £
812.2 2	947.5 9	1,082.9 6	1,218.3 3	1,489.0 7	1,759.8 1	2,030.5 5	2,436.6 6

Being the amounts given by multiplying the amount at (4)(d) above by the number which, in the proportion set out in Section 5(1) of the Act, is applicable to dwellings listed in a particular valuation band divided by the number which in that proportion is applicable to dwellings listed in Valuation Band D, calculated by the Council, in accordance with Section 36(1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings in different valuation bands.

- (5) That it be noted that for the financial year 2016/17 the Hampshire Police & Crime Commissioner is consulting upon the following amounts for the precept to be issued to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of the dwellings shown below:

Valuation Bands (Hampshire Police & Crime Commissioner)

A £	B £	C £	D £	E £	F £	G £	H £
106.97	124.80	142.63	160.46	196.12	231.78	267.43	320.92

- (6) That it be noted that for the financial year 2016/17 Hampshire Fire and Rescue Authority are recommending the following amounts for the precept issued to the Council in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of the dwellings shown below:

Valuation Bands (Hampshire Fire & Rescue Authority)

A £	B £	C £	D £	E £	F £	G £	H £
41.73	48.69	55.64	62.60	76.51	90.42	104.33	125.20

- (7) That having calculated the aggregate in each case of the amounts at (4)e, (5) and (6) above, the Council, in accordance with Sections 31A, 31B and 34 to 36 of the Local Government Finance Act 1992 as amended, hereby sets the following amounts as the amounts of Council Tax for the financial year 2016/17 for each of the categories of dwellings shown below:

Valuation Bands (Total Council Tax)

A £	B £	C £	D £	E £	F £	G £	H £
960.92	1,121.08	1,281.23	1,441.39	1,761.70	2,082.01	2,402.31	2,882.78

- (8) The S.151 Officer be given delegated authority to implement any variation to the overall level of Council Tax arising from the final notification of the Hampshire Police & Crime Commissioner and Hampshire Fire and Rescue Authority precepts.

Upon the amendment standing in the name of Councillor Gerald Vernon-Jackson concerning Cabinet minute 6 - Capital Programme 2015/16 - 2020/21 being put to the vote, the following members voted in favour:

Councillor David Ashmore
Councillor Ben Dowling
Councillor Margaret Foster
Councillor David Fuller
Councillor Suzy Horton
Councillor Lee Hunt
Councillor Hugh Mason

Councillor Will Purvis
Councillor Darren Sanders
Councillor Phil Smith
Councillor Gerald Vernon-Jackson
Councillor Matthew Winnington
Councillor Rob Wood

The following members voted against the proposal:

Councillor Simon Boshier
Councillor Jennie Brent
Councillor Ryan Brent
Councillor Alicia Denny
Councillor Ken Ellcome
Councillor Ken Ferrett
Councillor Colin Galloway
Councillor Scott Harris
Councillor Steve Hastings
Councillor Hannah Hockaday
Councillor Donna Jones

Councillor Ian Lyon
Councillor Lee Mason
Councillor Gemma New
Councillor Rob New
Councillor Stuart Potter
Councillor Sandra Stockdale
Councillor Luke Stubbs
Councillor Julie Swan
Councillor Linda Symes
Councillor David Tompkins
Councillor Steve Wemyss
Councillor Neill Young

The following members abstained:

Councillor Yahiya Chowdhury
Councillor Aiden Gray

The Liberal Democrat amendment to the Capital Programme was therefore LOST.

Upon the recommendations in Cabinet minute 6 - Capital Programme 2015/16 - 2020/21 being put to the vote, the following members were in favour:

Councillor Simon Boshier	Councillor Donna Jones
Councillor Jennie Brent	Councillor Ian Lyon
Councillor Ryan Brent	Councillor Lee Mason
Councillor Yahiya Chowdhury	Councillor Gemma New
Councillor Alicia Denny	Councillor Rob New
Councillor Ken Ellcome	Councillor Sandra Stockdale
Councillor Ken Ferrett	Councillor Luke Stubbs
Councillor Colin Galloway	Councillor Julie Swan
Councillor Aiden Gray	Councillor Linda Symes
Councillor Scott Harris	Councillor David Tompkins
Councillor Steve Hastings	Councillor Steve Wemyss
Councillor Hannah Hockaday	Councillor Neill Young
Councillor Frank Jonas	

The following members voted against:

Councillor David Ashmore	Councillor Stuart Potter
Councillor Ben Dowling	Councillor Will Purvis
Councillor Margaret Foster	Councillor Darren Sanders
Councillor David Fuller	Councillor Phil Smith
Councillor Suzy Horton	Councillor Gerald Vernon-Jackson
Councillor Lee Hunt	Councillor Matthew Winnington
Councillor Hugh Mason	Councillor Rob Wood

There were no abstentions.

The proposal to approve the Cabinet recommendations referred to in minute 6 was therefore CARRIED.

RESOLVED

- (1) That the following be approved in respect of the Council's Capital Programme:
 - 1) The Revised Capital Programme 2015/16 to 2020/21 attached as Appendix 1 which includes all additions, deletions and amendments for slippage and rephrasing described in Sections 6 and 8 be approved
 - 2) The S.151 Officer be given delegated authority to determine how each source of finance is used to fund the overall Capital

Programme and to alter the overall mix of financing, as necessary, to maximise the flexibility of capital resources used and minimise the ongoing costs of borrowing to the Council

- 3) That the S.151 Officer in consultation with the Leader of the Council be given delegated authority to release capital resources held back for any contingent items that might arise, and also for any match funding requirements that may be required of the City Council in order to secure additional external capital funding (e.g. bids for funding from Government or the Solent Local Enterprise Partnership)
- 4) The following schemes as described in Section 9 and Appendix 2 be reflected within the recommended Capital Programme 2015/16 to 2020/21 and be financed from the available corporate capital resources:

Recommended New Capital Schemes	Corporate Resources Required £	Total Scheme Value £
Children & Education		
School Conditions Project	725,000	750,000
Special Education Needs - Building Alterations	1,200,000	3,200,000
Secondary School Places Expansion 2016/17 - 2018/19 (Phase 1)	1,500,000	1,500,000
Secondary School Places Expansion 2019/20 - 20/21 (Phase 2)	1,800,000	1,800,000
Culture & Leisure		
Round Tower Improvement Works	80,000	80,000
Environment & Community Safety		
Southsea Coastal Flood Defence	1,250,000	82,063,000
Health & Social Care		
Refurbishment of Hilsea Lodge Annexe	140,000	140,000
Reconfiguration of Corben Lodge	1,150,000	1,150,000
Housing		
New Green & Clean Rest Areas	67,000	67,000
PRED		
Public Realm Improvement By The Hard	300,000	300,000
Guildhall Investment (Match funding)	300,000	300,000
Resources		
Landlord's Maintenance	1,100,000	1,100,000
Utilities' Management	983,000	1,233,000
Traffic & Transportation		
LTP3	353,000	353,000
Traffic Signal Upgrade Packages	910,000	910,000
Eastern Road Waterbridge	1,060,000	1,800,000
Total Recommended Sum to be Approved	12,918,000	96,746,000

- 5) The following schemes as described in Section 10 and Appendix 2 be approved as Invest To Save Schemes and funded from Prudential Borrowing (subject to the approval of a detailed financial appraisal by the S.151 Officer) up to the limit shown:

	Prudential Borrowing Required £
Eastern Road New Build	1,723,000
Purchase of New Depot	2,200,000
Commercial Property Acquisition	60,000,000
Purchase of Linkspans Berths 3 and 4	8,700,000
Utilities' Management	250,000
Photovoltaic Cell Investment Fund	1,950,000
Total Recommended Sum to be Approved	74,823,000

- 6) As described in Section 10, early years borrowing costs relating to the above schemes totalling £73,900 in 2016/17 and £179,900 in 2017/18 be funded from the MTRS reserve
- 7) The following Schemes as described in Section 13 be included within the "Reserve List" of Capital Schemes to be considered once additional capital resources are identified

Future Priority Capital Schemes – Not in Priority Order
Secondary School Places 2018/19 to 2020/21
Special Educational Needs Re-modelling
School Condition (roofs, boilers, electrics, windows etc.)
Sea Defences
Enabling Transport Infrastructure match funding - City development
City Promotion & Inward Investment schemes
Landlords Repairs & Maintenance
Local Transport Plan - Road safety and traffic improvement schemes

- 8) The Prudential Indicators described in Section 14 and set out in Appendix 3 be approved.
- (2) That the following be noted in respect of the Council's Capital Programme:
- 1) That the capital resources proposed to be allocated include £1.5m of funding from Revenue as recommended in the "Budget and Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20" report contained elsewhere on the agenda. In the event that this funding is not approved, schemes with Corporate Capital Resources amounting to £1.5m will be required to be removed from the new schemes starting in 2016/17 detailed in Appendix 2

20 9 February 2016

- 2) The passported Capital Allocations (Ring-fenced Grants) as set out in Section 7
- 3) As outlined in Section 12 and Appendix 2 the use of The Parking Reserve to fund the refurbishment of Isambard Brunel Car Park at a cost of £450,000
- 4) The City Council note that Prudential Borrowing can only be used as a source of capital finance for Invest to Save Schemes as described in Section 14.

11. Licensing Committee Recommendation from its meeting held on 15 January 2016

Minute 5 - Licensing Act 2003 - Statement of Licensing Policy 2016 - 2021 - Approval of interim measures

It was

Proposed by Councillor Julie Swan
Seconded by Councillor Lee Mason

That the Licensing Policy Committee recommendation from its meeting held on 15 January 2016 be approved.

As an amendment it was

Proposed by Councillor Hannah Hockaday
Seconded by Councillor Gemma New

To amend the "with effect" date of the interim measures to 9 February 2016.
To therefore read

RESOLVED that the Licensing Committee recommend to Full Council that it adopts the existing Statement of Licensing Policy with effect from 9 February 2016 as an interim measure pending the Council making a final decision on the outcome of the review and consultation on the Statement of Licensing Policy for the period 2016 until 2021.

The amendment to the recommendations was accepted by the mover of the original proposal. Upon the substantive proposal being put to the vote this was CARRIED.

RESOLVED that full council adopts the existing statement of licensing policy with effect from 9 February 2016 as an interim measure pending the council making a final decision on the outcome of the review and consultation on the statement of licensing policy for the period 2016 until 2021.

12. Notices of Motion

(a) **Cancelled Meetings**

It was

Proposed by Councillor Matthew Winnington
Seconded by Councillor Ben Dowling

That this notice of motion be debated today.

It was

Proposed by Councillor Donna Jones
Seconded by Councillor Simon Boshier

That the notice of motion (a) - Cancelled Meetings be not debated today but be referred to the Governance & Audit & Standards Committee.

On being put to the vote this was CARRIED.

RESOLVED that the notice of motion (a) be not debated today but be referred to the Governance & Audit & Standards Committee.

(b) Driver-only Trains

It was

Proposed by Councillor Darren Sanders
Seconded by Councillor Hugh Mason

That notice of motion (b) as set out on the agenda be debated today.

Upon being put to the vote this was CARRIED.

It was

Proposed by Councillor Darren Sanders
Seconded by Councillor Hugh Mason

That the Council notes the proposal by Govia Thameslink to introduce driver-only trains on services operated by Southern into Portsmouth and elsewhere.

Council agrees with the Commons Transport Committee which said in 2013 that proposals to cut staff on trains 'could make the railway less safe, particularly at night, and deter women and vulnerable users from travelling by train'.

Council supports the RMT's campaign to retain conductors and guards on these long-distance trains and recognises the problems it could create for Portsmouth residents. It asks the Cabinet Member for

Transport to write to the CEO of Southern's parent company requesting that this decision be reversed.

As an amendment it was

Proposed by Councillor Steve Wemyss
Seconded by Councillor Julie Swan

Delete all after "Council notes" in the first paragraph and add

" that Govia Thames Link were awarded a franchise for running services that included Southern Railway back in May 2014. At the same time they were also awarded the franchise for both ThamesLink and Great Northern. On some parts of their network they have since started using trains with driver only operation."

Delete and replace paragraph 2 with

"It is understandable that some passengers may feel less safe when travelling on such trains, especially at night, should driver only operation be extended to Portsmouth routes that could affect our residents."

Delete the first sentence in paragraph 3.

In para 3, 2nd sentence, delete and replace "It asks" with "This council therefore requests" and delete and replace "requesting that this decision be reversed." with "expressing our concern that passengers who do not feel safe may be deterred from using his company's services, and to ask how his company will address those concerns."

Upon being put to the vote the amendment standing in the name of Councillor Steve Wemyss was CARRIED. Upon the substantive notice of motion being put to the vote this was unanimously CARRIED.

RESOLVED that council notes that Govia Thames Link were awarded a franchise for running services that included Southern Railway back in May 2014. At the same time they were also awarded the franchise for both ThamesLink and Great Northern. On some parts of their network they have since started using trains with driver only operation.

It is understandable that some passengers may feel less safe when travelling on such trains, especially at night, should driver only operation be extended to Portsmouth routes that could affect our residents.

This council therefore requests the cabinet member for Transport to write to the CEO of Southern's parent company expressing our concern that passengers who do not feel safe may be deterred from using his company's services, and to ask how his company will address those concerns.

13. Questions from Members under Standing Order No 17.

There were three questions before Council,

Question No 1 was from Councillor Colin Galloway

"At our meeting of 13 October 2015 I withdrew my question to the Governance and Audit Standards Committee concerning an update of the full costing details of the progress at moving towards a more open and transparent committee system of governance. Having allowed sufficient time for such a report to be prepared, may I now ask the Chair of the Governance and Audit and Standards Committee to advise this Chamber accordingly?"

This and supplementary questions were answered by Councillor Boshier, Chair of Governance and Audit and Standards Committee.

Question No. 2 was from Councillor Matthew Winnington to the Leader of the Council, Councillor Donna Jones

"Would the Leader of the Council take this opportunity to apologise to the members of the Friends of Cumberland House for laughing out loud at the suggestion that the cut of their Development Officer post might lead to some of them stopping volunteering due to the perceived lack of support from this administration for Cumberland House Natural History Museum?"

This and supplementary questions were answered by the Leader of the Council, Councillor Donna Jones.

Question No. 3 was from Councillor Colin Galloway

"Will the Leader please tell this Chamber what actions are being taken to remove and discourage the occupation of shop doorways in Commercial Road particularly, by vagrants and presumably homeless people?"

This and supplementary questions were answered by the Leader of the Council, Councillor Donna Jones.

The meeting concluded at 8.50 pm.

Lord Mayor

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Amendment proposed by the Liberal Democrat Group

Portsmouth City Council - Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20

That the recommendations of the Cabinet of 8 February 2016 (Minute 5/16) on "Portsmouth City Council - Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20 be amended as follows:-

Recommendation 1 (a) be amended to

1(a) The revised Revenue Estimates for the financial year 2015/16 and the Revenue Estimates for the financial year 2016/17 as set out in the General Fund Summary (Appendix A) as amended by paragraph (q) below:-

1(q) the following changes be made to Cash Limits for 2016/17 and future years as set out in the table below, but Members note that:

the responsibility of the City Council is to approve the overall Budget and the associated cash limits of its Portfolios and Committees; it is not the responsibility of the City Council to approve any individual savings or additions within those Portfolios/Committees, that responsibility is reserved for Cabinet Members. The budget savings and additions in the tables below are therefore indicative only.

i) Reductions to Revenue Estimates

Indicative Portfolio Savings Proposal	Impact on Level of Service & Service Outcomes	2016/17	2017/18 & Future Years
		£	£
Resources			
Delete 1 post in the Strategy Unit	Significant reduction in the Council's ability to manage and oversee its major risks and projects and the Council's overall performance management and governance arrangements. Capacity to deliver future transformation will also be diminished. Support to the following will be reduced or provided by other Services where appropriate: Health & Well Being Board, Children's Trust Board, Public Services Board, Health & Social Care Executive, Health Integration, External Funding Bids, Devolution, University Technical College, Multi Assessment Teams project, preparation for Inspections, Risk Management, Performance Management.	(50,000)	(50,000)
Delete 1 post in Corporate Communications	Limited ability to respond to the media, provide information to the public and run campaigns. Potential negative impact on income and access to services	(44,000)	(44,000)
Delete 1 Financial Services Management post	Reduction in level of financial control over budgets and the ability to provide effective support to the financial evaluation of proposals and initiatives	(62,000)	(62,000)
Deletion of Leader's Project Manager post (return to 1 full time support officer)	Reduction in the availability and effectiveness of the Leader of the Council to promote the City and undertake Council duties	(36,000)	(36,000)
20% Reduction in all Councillor Allowances*	A reduction in allowances may cause future recruitment of Councillors more challenging	(120,800)	(120,800)

Indicative Portfolio Savings Proposal	Impact on Level of Service & Service Outcomes	2016/17	2017/18 & Future Years
		£	£
Reduce PA's of Senior Management by 50%	Reduction in the capacity, availability and accessibility of Senior Officers. Senior Officers will spend a meaningful proportion of their time on administrative functions	(101,000)	(101,000)
Traffic & Transportation			
Reduction in middle management	Reduction in business planning, performance management, and capacity to deliver projects/new work streams aimed at making savings and efficiencies across the whole directorate. Specifically the provision of support to the Council's Enterprise Centres will be reduced	(48,000)	(48,000)
Re-instatement of MB Parking Zone to efficiently manage the provision of on-street parking in the area and in accordance with the vote from residents	Expected to lead to additional parking demand in adjacent areas as a consequence of displacement. This is likely to generate further requests for residents parking schemes.	(29,000)	(49,000)
Re-instatement of MC Parking Zone to efficiently manage the provision of on-street parking in the area and in accordance with the vote from residents	Expected to lead to additional parking demand in adjacent areas as a consequence of displacement. This is likely to generate further requests for residents parking schemes.	(67,000)	(100,000)
Implementation of residents' car parking zones to efficiently manage the provision of on-street parking in the area and where residents have voted in favour of doing so. <u>North Kings:</u> (Area 1 of the Five Zone Survey of Central Southsea 2014)	Expected to lead to additional parking demand in adjacent areas as a consequence of displacement. This is likely to generate further requests for residents parking schemes.	(11,000)	(45,000)

Indicative Portfolio Savings Proposal	Impact on Level of Service & Service Outcomes	2016/17	2017/18 & Future Years
		£	£
<p>Implementation of residents' car parking zones to efficiently manage the provision of on-street parking in the area and where residents have voted in favour of doing so.</p> <p><u>Owens Gardens</u> - boundary Grove Road South, Elm Grove, Merton/Nelson Road and Victoria Road South: (Area 2 of the Five Zone Survey of Central Southsea 2014)</p>	Expected to lead to additional parking demand in adjacent areas as a consequence of displacement. This is likely to generate further requests for residents parking schemes.	(4,000)	(31,000)
<p>Implementation of residents' car parking zones to efficiently manage the provision of on-street parking in the area and where residents have voted in favour of doing so.</p> <p><u>South Kings:</u> (Area 3 of the Five Zone Survey of Central Southsea 2014)</p>	Expected to lead to additional parking demand in adjacent areas as a consequence of displacement. This is likely to generate further requests for residents parking schemes.	(11,000)	(45,000)
<p>Implementation of residents' car parking zones to efficiently manage the provision of on-street parking in the area and where residents have voted in favour of doing so.</p> <p><u>Boundary of Highland Road, Winter Road, Goldsmith Avenue and Francis Avenue:</u> (Area 5 of the Five Zone Survey of Central Southsea 2014)</p>	Expected to lead to additional parking demand in adjacent areas as a consequence of displacement. This is likely to generate further requests for residents parking schemes.	(43,000)	(107,000)

Indicative Portfolio Savings Proposal	Impact on Level of Service & Service Outcomes	2016/17	2017/18 & Future Years
		£	£
Introduction of Car Parking charges for Councillors at Civic Offices (£30 per car per annum)	An effective reduction in the remuneration of Councillors and the potential additional difficulty in the future recruitment of Councillors.	(1,000)	(1,000)
Total		(627,800)	(839,800)

* Members should have regard to the report of the Independent Remuneration Panel and recommendations of Council on 22nd January 2013 as amended by the City Council on 15 July 2014

ii) Additions to Revenue Estimates

Saving No.	Increases to Portfolio Cash Limits - Deletion of Indicative Savings	2016/17	2017/18 & Future Years
		£	£
Children & Education			
019	Re-instate - Review the number and use of Children's Centres, and instead provide more outreach services	221,000	221,000
New	Introduction of new provision of Open Access Youth Services	0	104,500
Culture, Leisure & Sport			
049	Post re-instated on a part-time basis - Post of Development Support Officer at Cumberland House is currently vacant.	17,000	17,000
New	Re-open Southsea Library on a Sunday	11,000	11,000
New	Provision of 1 Dog Exercise and Training Area in the City (subject to identification of suitable areas and planning permission)	9,500	500
Environment & Community Safety			
063	Re-instate 50% of the operation of the Hate Crime Prevention Service (Victim Support)	50,000	50,000
064	Re-instate - Anti social behaviour unit service reduction	27,000	27,000
069	Re-instate ahead of the re-building of Sea Defences - Coastal Defences reduction in reactive maintenance budget	25,000	25,000

Saving No.	Increases to Portfolio Cash Limits - Deletion of Indicative Savings	2016/17	2017/18 & Future Years
		£	£
New	Re-instate the arrangement for the following Charities to receive a proportion of textile bank income: <ul style="list-style-type: none"> • Scope • Hampshire & I.O.W Air Ambulance • Dreams Come True • Salvation Army • British Heart Foundation • TRAIID 	55,000	55,000
New	Re-instatement of the Free Bulky Waste Collection Service	10,000	10,000
New	Provision of 10 Multi Use Waste Bins located across the City	6,500	3,000
New	Re-instate funding for Domestic Abuse Service	0	130,000
Health & Social Care Portfolio			
084	Re-instate a third - Reduce funding for alcohol contracts and services that are achieving outcomes	11,800	11,800
Traffic & Transportation			
162	Re-instatement of the two evening routes after 6pm of the No. 15 Bus (The Hard, City Centre, Elm Grove, Devonshire Ave., Bransbury Park, Ferry Rd.)	19,000	19,000
167	Re-instate - School Crossing Patrols subsidised traded services offer	135,000	135,000
New	Provision of Duty Parking Passes to the Royal National Lifeboat Institution (RNLI) volunteers whilst on lifeboat duty (loss of parking income)	10,000	10,000
New	Programme to remove street "build outs" across the City	10,000	10,000
New	Pump priming grant to support the set up costs of re-introducing the Hayling Island Ferry Service	10,000	
Total		627,800	839,800

Recommendation 1(b) be amended to:-

1(b) The Portfolio Cash Limits for the Revised Budget for 2015/16 and Budget for 2016/17 as set out in Sections 7 and 9, respectively as amended by paragraph (r) below:-

1(r) The following changes be made to Cash Limits for 2016/17 and future years

Portfolio / Committee	2016/17 £	Future Years £
Children & Education	221,000	325,500
Culture, Leisure & Sport	37,500	28,500
Environment & Community Safety	173,500	300,000
Health & Social Care	11,800	11,800
Resources	(413,800)	(413,800)
Traffic & Transportation	(30,000)	(252,000)
Total	0	0

SECTION 151 OFFICER'S COMMENTS

Under Recommendation 1(p), the Section 151 Officer advises as follows:-

The proposals contained within this amendment do not alter the statements made by the Section 151 Officer in Section 17 of this report.

CITY SOLICITOR'S COMMENTS

The City Solicitor is satisfied that it is within the City Council's powers to approve the amendment as set out, and supports the advice of the Section 151 Officer given above.

Liberal Democrat Group Amendment

GENERAL FUND SUMMARY - 2015/16 to 2019/20

APPENDIX A

Original Budget 2015/16 £	NET REQUIREMENTS OF PORTFOLIOS	Revised Budget 2015/16 £	Original Budget 2016/17 £	Forecast 2017/18 £	Forecast 2018/19 £	Forecast 2019/20 £
49,657,057	Children & Education	50,148,757	49,825,257	52,023,757	52,712,957	53,436,557
10,889,660	Culture Leisure & Sport	11,085,560	10,269,560	10,528,460	10,700,160	10,888,660
17,261,513	Environment & Community Safety	16,961,513	16,203,213	16,632,913	16,995,113	17,393,813
44,983,979	Health & Social Care	43,993,979	42,262,079	45,396,879	50,240,979	55,922,779
7,454,128	Housing	9,701,528	9,348,628	9,517,728	9,505,528	9,595,628
235,553	Leader	261,253	257,853	262,653	274,953	274,953
6,702,329	Planning Regeneration Economic Development Resources	4,993,529	3,688,129	3,094,329	3,112,529	2,847,729
23,611,634	Traffic & Transportation	24,463,534	21,804,734	22,588,534	23,115,734	23,694,034
16,641,207	Governance, Audit & Standards Committee	17,425,907	14,864,007	15,767,207	16,671,107	16,265,307
288,800	Licensing Committee	318,800	249,700	114,600	120,100	125,800
(226,295)		(226,195)	(210,295)	(210,795)	(216,395)	(222,595)
177,499,565	Portfolio Expenditure	179,128,165	168,562,865	175,716,265	183,225,765	190,222,665
0	Other Expenditure	0	0	37,400	38,300	38,300
(125,000)	Precepts	(125,000)	(125,000)	(100,000)	(100,000)	(100,000)
6,261,000	Porchester Crematorium - Share of Dividend	6,261,000	6,172,000	7,172,000	7,672,000	7,672,000
7,305,000	Pension Costs	5,600,000	6,673,600	4,607,500	4,607,500	4,607,500
65,500	Contingency Provision	1,645,700	1,565,500	1,500,000	0	0
1,411,700	Revenue Contributions to Capital Reserve	1,444,900	(438,300)	(585,400)	(503,000)	(503,000)
(27,300,865)	Transfer to / (from) Other Reserves	(29,478,065)	(27,242,965)	(25,815,965)	(26,591,165)	(25,278,465)
3,224,000	Asset Management Revenue Account	2,748,000	2,325,000	1,775,000	2,375,000	3,125,000
	Other Expenditure					
(9,158,665)	Other Expenditure	(11,903,465)	(10,570,165)	(11,409,465)	(12,501,365)	(10,438,665)
168,340,900	TOTAL NET EXPENDITURE	167,224,700	157,992,700	164,306,800	170,724,400	179,784,000
	FINANCED BY:					
1,150,431	Contribution (to) from Balances and Reserves	(1,531,854)	(1,426,053)	9,237,942	15,731,202	23,924,278
38,375,386	Revenue Support Grant	36,537,645	30,363,225	22,313,120	16,956,583	11,482,607
42,768,544	Business Rates Retention	42,768,544	44,084,127	45,268,918	46,604,385	48,093,945
21,783,181	Other General Grants	23,184,969	19,970,156	19,652,090	20,884,689	22,916,811
64,263,358	Collection Fund	64,265,396	65,001,245	67,834,730	70,547,541	73,366,359
168,340,900		167,224,700	157,992,700	164,306,800	170,724,400	179,784,000
	BALANCES & RESERVES					
14,599,236	Balance brought forward at 1 April	14,863,858	16,395,712	17,821,765	8,583,823	(7,147,379)
(1,150,431)	Deduct (Deficit) / Add Surplus for Year	1,531,854	1,426,053	(9,237,942)	(15,731,202)	(23,924,278)
13,448,805	Balance carried forward at 31 March	16,395,712	17,821,765	8,583,823	(7,147,379)	(31,071,657)
6,500,000	Minimum Level of Balances	6,500,000	7,000,000	7,600,000	7,600,000	7,600,000
1,150,431	Underlying Budget Deficit / (Surplus)	(1,531,854)	(1,426,053)	9,237,942	15,731,202	23,924,278

Amendment proposed by the Liberal Democrat Group

Capital Programme 2015/16 to 2020/21

That the recommendations of the Cabinet of 8 February 2016 (Minute 6/16) on "Capital Programme 2015/16 to 2020/21" be amended as follows:-

Recommendation 4) be amended to reflect the following changes and the Revised Capital Programme 2015/16 to 2020/21 attached at Appendix 1 be amended accordingly:

Scheme Description - Reductions		Increase / (Decrease) in Corporate Resources	Total Corporate Resources Allocated
		£	£
Deletions to Proposed Capital Schemes:			
	New Green & Clean Rest Areas	(67,000)	0
Reductions to Proposed Capital Schemes:			
	Reduction of Traffic Signal Upgrade Packages to delete the following schemes: <ul style="list-style-type: none"> • Havant Rd. / Spur Rd. Junction (£120,000) • Southwick Hill Rd. / Q.A. Hospital Junction (£150,000) • A3 / A27 / M27 Junction (£60,000) • Winston Churchill Ave. / Hampshire Terrace Junction (£20,000) • Milton Rd. / St. Mary's Hospital Junction (£60,000) 	(410,000)	500,000

Scheme Description - Additions	Increase / (Decrease) in Corporate Resources	Total Corporate Resources Allocated
	£	£
Additional Capital Scheme Proposals (New):		
Disability Discrimination Act Access Improvements supplemented by £41,500 Milton Neighbourhood CIL funding for a total scheme amounting to £218,500 and covering the following: <ul style="list-style-type: none"> • Alderman Lacy Library (steps and ramp to main entrance and wheelchair accessible toilet) • Beddow Library (wheelchair accessible toilet and relocation of dispensers and pipework) • Southsea Library (acoustically suited suspended ceiling) • Kingston Cemetery (wheelchair accessible toilet in out building plus signage and general pictogram signage for other areas of the cemetery) • Baffins Community Centre (Entrance improvements for wheelchair users) • King George's Playing Field Pavillion (Entrance improvements, Internal Door widening, disabled user changing facilities, wheelchair and ambulant toilet facilities, spectating spaces, emergency exits for disabled) • Milton Cemetery (Improvements to male and female external toilets, toilet signage, handrails to chapel steps) • Bransbury Park (Football) Changing room (Unisex wheelchair accessible toilets for spectators) 	177,000	177,000
Green Travel Fund - to support the implementation of "A City to Share". To commence a programme to install electric charging points for electric cars in order to reduce emissions within the City	300,000	300,000
Total Overall Change	0	

In accordance with the changes described above, that recommendation 4) be replaced with the following:-

Recommended New Capital Schemes	Corporate Resources Required £	Total Scheme Value £
Children & Education		
School Conditions Project	725,000	750,000
Redwood Park School (Phase 1)	1,200,000	3,200,000
Secondary School Places Expansion 2016/17 - 2018/19 (Phase 1)	1,500,000	1,500,000
Secondary School Places Expansion 2019/20 - 20/21 (Phase 2)	1,800,000	1,800,000
Culture Leisure & Sport		
Round Tower	80,000	80,000
Environment & Community Safety		
Southsea Coastal Flood Defence	1,250,000	82,063,000
Health & Social Care		
Hilsea Lodge Annexe	140,000	140,000
Corben Lodge	1,150,000	1,150,000
PRED		
Public Realm Improvement The Hard	300,000	300,000
Guildhall Investment (Match funding)	300,000	300,000
Resources		
Landlord's Maintenance	1,100,000	1,100,000
Utilities Management	983,000	1,233,000
Disability Discrimination Act Access Improvements (supplemented by £41,500 from Milton Neighbourhood CIL for a total scheme of £218,500)	177,000	218,500
Traffic & Transportation		
LTP3	353,000	353,000
Traffic Signal Upgrade Packages	500,000	500,000
Eastern Road Waterbridge	1,060,000	1,800,000
Green Travel Fund	300,000	300,000
Total Recommended Sum to be Approved	12,918,000	96,787,500

Recommendation 5) be amended to include the following:

5 i) That 50% of the £60,000,000 Commercial Property Acquisition scheme be reserved for acquisitions within the Portsmouth boundary or on land owned by Portsmouth City Council but which lies outside of the Portsmouth boundary.

Recommendation 8) be replaced by:-

The Prudential Indicators as described in Section 14 and set out in the amended Appendix 3 be approved.

SECTION 151 OFFICER'S COMMENTS

The proposals set out within this amendment are affordable within the overall capital resources available to the Council.

CITY SOLICITOR'S COMMENTS

The City Solicitor is satisfied that it is within the City Council's powers to approve the amendment as set out, and supports the advice of the Section 151 Officer given above.

Capital Expenditure							
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Children & Education	10,309	17,992	11,765	2,238	-	1,800	-
Culture & Leisure	1,181	843	3,714	3,011	-	-	-
Environment & Community Safety	897	8,205	16,559	29,707	24,706	37,147	50,651
Health & Social Care (Adults Services)	907	683	7,100	1,755	400	-	-
Planning, Regeneration & Economic Development	5,238	119,423	142,817	27,027	40,443	21,400	13,978
Commercial Port	839	5,509	2,303	11,643	2,700	5,110	-
Resources	7,050	5,934	9,435	45	-	-	-
Traffic & Transportation	7,290	14,569	16,167	4,761	4,586	3,030	1,502
Housing General Fund	1,918	2,768	2,260	1,855	1,901	1,949	1,997
Local Enterprise Partnership	6,325	-	-	-	-	-	-
Non HRA	41,954	175,926	212,120	82,042	74,736	70,436	68,128
HRA	26,370	34,087	38,874	23,803	17,526	17,564	24,036
Total	68,324	210,013	250,994	105,845	92,262	88,000	92,164

Ratio of Financing Costs to Net Revenue Stream							
	2014/15 Actual	2015/16 Estimate	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate	2020/21 Estimate
Non - HRA	8.7%	11.7%	13.3%	14.2%	13.8%	14.6%	16.7%
HRA	13.4%	13.2%	12.7%	13.4%	13.6%	13.5%	13.1%

Capital Financing Requirement							
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Non - HRA	250,599	305,596	380,872	387,830	387,228	384,101	373,408
HRA	153,391	154,536	168,667	170,606	167,652	164,698	161,744

HRA Limit on Indebtedness							
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
HRA	181,701	181,701	196,821	196,821	196,821	196,821	196,821

Authorised Limit for External Debt							
	2014/15 Estimate £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Borrowing	416,768	410,925	486,586	499,682	503,400	504,381	504,995
Other Long Term Liabilities (ie Credit Arrangements)	86,095	84,355	81,263	77,429	74,085	69,929	63,623
Total	502,863	495,280	567,849	577,112	577,485	574,310	568,618

Operational Boundary for External Debt							
	2014/15 Estimate £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Borrowing	397,422	392,974	468,276	481,006	484,350	484,950	485,176
Other Long Term Liabilities (ie Credit Arrangements)	86,095	84,355	81,263	77,429	74,085	69,929	63,623
Total	483,517	477,329	549,540	558,436	558,436	554,879	548,798

Incremental Impact of Capital Investment Decisions on the Council Tax							
	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000	
Revenue effect of existing capital programme	742	93,291	35,796	25,650	31,530	38,478	
Revenue effect of proposed capital programme	834	91,591	33,293	22,685	28,567	35,511	
Increase in revenue effect	92	(1,700)	(2,503)	(2,965)	(2,963)	(2,967)	
Increase in Council Tax Band D	£1.73	(£31.76)	(£46.75)	(£55.38)	(£55.35)	(£55.41)	

Incremental Impact of Capital Investment Decisions on Housing Rents							
	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000	
Revenue effect of existing capital programme	26,653	20,035	16,422	16,882	16,740	18,798	
Revenue effect of proposed capital programme	26,644	19,997	16,364	16,822	16,680	18,738	
Increase in revenue effect	(9)	(38)	(59)	(59)	(59)	(59)	
Effect on average weekly rent	(£0.01)	(£0.05)	(£0.08)	(£0.08)	(£0.08)	(£0.08)	

NOTES TO THE LIBERAL DEMOCRAT AMENDMENT - Capital Programme 2015/16 to 2020/21

The overall financial effect of the proposals is set out below:

	Corporate Resources Required
	£
Deletions to Proposed Capital Schemes:	
New Green and Clean Rest Areas	(67,000)
Reductions to Proposed Capital Schemes:	
Traffic Signal Upgrade Packages	(410,000)
Additional Capital Scheme Proposals (New):	
Disability Discrimination Act Access Improvements	177,000
Green Travel Fund - to support the implementation of "A City to Share".	300,000
Total Overall Change	0

AGENDA ITEM 11 - Portsmouth City Council Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20

Amendment to Cabinet recommendations attached.

Proposed by (Name) _____

Signed _____

Seconded by (Name) _____

Signed _____

Amendment proposed by the Labour Group

Portsmouth City Council - Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20

That the recommendations of the Cabinet of 8 February 2016 (Minute 5/16) on "Portsmouth City Council - Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20 be amended as follows:-

Recommendation 1 (a) be amended to

1(a) The revised Revenue Estimates for the financial year 2015/16 and the Revenue Estimates for the financial year 2016/17 as set out in the General Fund Summary (Appendix A) as amended by paragraph (q) below:-

1(q) the following changes be made to Cash Limits for 2016/17 and future years as set out in the table below, but Members note that:

the responsibility of the City Council is to approve the overall Budget and the associated cash limits of its Portfolios and Committees; it is not the responsibility of the City Council to approve any individual savings or additions within those Portfolios/Committees, that responsibility is reserved for Cabinet Members. The budget savings and additions in the tables below are therefore indicative only.

i) Reductions to Revenue Estimates

Indicative Portfolio Savings Proposal	Impact on Level of Service & Service Outcomes	2016/17	2017/18 & Future Years
		£	£
Resources			
Delete 1 post in the Strategy Unit	Significant reduction in the Council's ability to manage and oversee its major risks and projects and the Council's overall performance management and governance arrangements. Capacity to deliver future transformation will also be diminished. Support to the following will be reduced or provided by other Services where appropriate: Health & Well Being Board, Children's Trust Board, Public Services Board, Health & Social Care Executive, Health Integration, External Funding Bids, Devolution, University Technical College, Multi Assessment Teams project, preparation for Inspections, Risk Management, Performance Management.	(50,000)	(50,000)
Deletion of Leader's Project Manager post (return to 1 full time support officer)	Reduction in the availability and effectiveness of the Leader of the Council to promote the City and undertake Council duties	(36,000)	(36,000)
20% Reduction in all Councillor Allowances*	A reduction in allowances may cause the future recruitment of Councillors to be more challenging	(120,800)	(120,800)
Reduce PA's of Senior Management by 25%	Reduction in the capacity, availability and accessibility of Senior Officers. Senior Officers will spend a meaningful proportion of their time on administrative functions	(50,500)	(50,500)
A reduction in Cabinet Members from 8 to 6 **	A re-organisation of the portfolios of Cabinet Members such that some (or all) of the remaining Cabinet Members take on increased responsibilities.	0**	0**
Total		(257,300)	(257,300)

* Members should have regard to the report of the Independent Remuneration Panel and recommendations of Council on 22nd January 2013 as amended by the City Council on 15 July 2014

** Members should note that, in accordance with the Local Government Act 2000, this is a decision for the Leader of the Council not the Council itself. In the event that the Leader elects to take such a decision, the savings amount will increase by £14,700.

ii) Additions to Revenue Estimates

Saving No.	Increases to Portfolio Cash Limits - Deletion of Indicative Savings and/or New Spending Proposals	2016/17	2017/18 & Future Years
		£	£
Children & Education			
New	To enable additional staffing and a greater range of activities to be provided from Children's Centres	257,300*	257,300*
Total		257,300*	257,300*

* In the event that the Leader accepts the proposal to reduce the number of Cabinet Members from 8 to 6, than the amount available for this proposal will increase by £14,700

Recommendation 1(b) be amended to:-

1(b) The Portfolio Cash Limits for the Revised Budget for 2015/16 and Budget for 2016/17 as set out in Sections 7 and 9, respectively as amended by paragraph (r) below:-

1(r) The following changes be made to Cash Limits for 2016/17 and future years

Portfolio / Committee	2016/17 £	Future Years £
Children & Education Resources	257,300 (257,300)	257,300 (257,300)
Total	0	0

SECTION 151 OFFICER'S COMMENTS

Under Recommendation 1(p), the Section 151 Officer advises as follows:-

The proposals contained within this amendment do not alter the statements made by the Section 151 Officer in Section 17 of this report.

CITY SOLICITOR'S COMMENTS

The City Solicitor is satisfied that it is within the City Council's powers to approve the amendment as set out, and supports the advice of the Section 151 Officer given above.

Labour Group Amendment

GENERAL FUND SUMMARY - 2015/16 to 2019/20

APPENDIX A

Original Budget 2015/16 £	NET REQUIREMENTS OF PORTFOLIOS	Revised Budget 2015/16 £	Original Budget 2016/17 £	Forecast 2017/18 £	Forecast 2018/19 £	Forecast 2019/20 £
49,657,057	Children & Education	50,148,757	49,861,557	51,956,157	52,643,857	53,365,957
10,889,660	Culture Leisure & Sport	11,085,560	10,232,060	10,499,160	10,670,160	10,857,860
17,261,513	Environment & Community Safety	16,961,513	16,029,713	16,329,713	16,684,113	17,074,213
44,983,979	Health & Social Care	43,993,979	42,250,279	45,384,879	50,228,679	55,910,279
7,454,128	Housing	9,701,528	9,348,628	9,517,728	9,505,528	9,595,628
235,553	Leader	261,253	257,853	262,653	268,553	274,953
6,702,329	Planning Regeneration Economic Development	4,993,529	3,688,129	3,094,329	3,112,529	2,847,729
23,611,634	Resources	24,463,534	21,961,234	22,747,834	23,276,334	23,856,834
16,641,207	Traffic & Transportation	17,425,907	14,894,007	16,020,007	16,932,307	16,536,007
288,800	Governance, Audit & Standards Committee	318,800	249,700	114,600	120,100	125,800
(226,295)	Licensing Committee	(226,195)	(210,295)	(210,795)	(216,395)	(222,595)
177,499,565	Portfolio Expenditure	179,128,165	168,562,865	175,716,265	183,225,765	190,222,665
	<u>Other Expenditure</u>					
0	Precepts	0	0	37,400	38,300	38,300
(125,000)	Portchester Crematorium - Share of Dividend	(125,000)	(125,000)	(100,000)	(100,000)	(100,000)
6,261,000	Pension Costs	6,261,000	6,672,000	7,172,000	7,672,000	7,672,000
7,305,000	Contingency Provision	5,600,000	6,673,600	4,607,500	4,607,500	4,607,500
65,500	Revenue Contributions to Capital Reserve	1,645,700	1,565,500	1,500,000	0	0
1,411,700	Transfer to / (from) Other Reserves	1,444,900	(438,300)	(585,400)	(503,000)	(503,000)
(27,300,865)	Asset Management Revenue Account	(29,478,065)	(27,242,965)	(25,815,965)	(26,591,165)	(25,278,465)
3,224,000	Other Expenditure	2,748,000	2,325,000	1,775,000	2,375,000	3,125,000
(9,158,665)	Other Expenditure	(11,903,465)	(10,570,165)	(11,409,465)	(12,501,365)	(10,438,665)
168,340,900	TOTAL NET EXPENDITURE	167,224,700	157,992,700	164,306,800	170,724,400	179,784,000
	FINANCED BY:					
1,150,431	Contribution (to) from Balances and Reserves	(1,531,854)	(1,426,053)	9,237,942	15,731,202	23,924,278
38,375,386	Revenue Support Grant	38,537,645	30,363,225	22,313,120	16,956,583	11,482,607
42,768,544	Business Rates Retention	42,768,544	44,084,127	45,268,918	46,604,385	48,093,945
21,783,181	Other General Grants	23,184,969	19,970,156	19,652,090	20,884,689	22,916,811
64,263,358	Collection Fund	64,265,396	65,001,245	67,834,730	70,547,541	73,366,359
168,340,900		167,224,700	157,992,700	164,306,800	170,724,400	179,784,000
	BALANCES & RESERVES					
14,599,236	Balance brought forward at 1 April	14,863,858	16,395,712	17,821,765	8,583,823	(7,147,379)
(1,150,431)	Deduct (Deficit) / Add Surplus for Year	1,531,854	1,426,053	(9,237,942)	(15,731,202)	(23,924,278)
13,448,805	Balance carried forward at 31 March	16,395,712	17,821,765	8,583,823	(7,147,379)	(31,071,657)
6,500,000	Minimum Level of Balances	6,500,000	7,000,000	7,600,000	7,600,000	7,600,000
1,150,431	Underlying Budget Deficit / (Surplus)	(1,531,854)	(1,426,053)	9,237,942	15,731,202	23,924,278

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Agenda Item 8

From CABINET MEETING held on 3 March 2016

Council Agenda Item 8 (Cabinet minute 11)

Treasury Management Policy for 2016/17

RECOMMENDED to Council that

- 1a** the Head of Financial Services and Section 151 Officer and officers nominated by him be given authority to lend surplus funds as necessary in accordance with the Treasury Management Policy;
- 1b** the Council adopts a risk appetite statement that permits investments to be made in instruments that do not guarantee that the capital sum will not be diminished through movements in prices;
- 1c** the Director of Finance and Information Services (Section 151 Officer) is given delegated authority to either replace maturing debt or repay it depending on the outlook for long term interest rates that exists at the time
- 1d** the upper limits for fixed interest exposures are set as follows:
- | | |
|---------|-------|
| 2015/16 | £195m |
| 2016/17 | £358m |
| 2017/18 | £446m |
| 2018/19 | £482m |
- 1e** the upper limits for variable interest exposure are set as follows:
- | | |
|---------|-----------------------------------|
| 2015/16 | (£265m) – Investments up to £265m |
| 2016/17 | (£444m) – Investments up to £444m |
| 2017/18 | (£526m) – Investments up to £526m |
| 2018/19 | (£555m) – Investments up to £555m |
- 1f** the following limits be placed on principal sums invested for periods longer than 364 days:
- | | |
|-----------|-------|
| 31/3/2016 | £286m |
| 31/3/2017 | £196m |
| 31/3/2018 | £123m |

- 1g the City Council set upper and lower limits for the maturity structure of its borrowings as follows:**

Amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate.

	Upper Limit	Lower Limit
Under 12 Months	10%	0%
12 months & within 24 months	10%	0%
24 months & within 5 years	10%	0%
5 years & within 10 years	20%	0%
10 years & within 20 years	30%	0%
20 years & within 30 years	30%	0%
30 years & within 40 years	30%	0%
40 years & within 50 years	40%	0%

- 1h authority to reschedule debt during the year is delegated to the Director of Finance and Information Services (Section 151 Officer) subject to conditions being beneficial to the City Council;**
- 1i no restriction be placed on the amount that can be borrowed in sterling from an individual lender provided it is from a reputable source and within the authorised limit for external debt approved by the City Council;**
- 1j the principles upon which the apportionment of borrowing costs to the Housing Revenue Account (HRA) should be based are as follows:**
- **The apportionment is broadly equitable between the HRA and the General Fund, and is detrimental to neither;**
 - **The loans portfolio is managed in the best interests of the whole authority;**
 - **The costs and benefits of over and under borrowing above or below the capital financing requirement (CFR) are equitably shared between the General Fund and the HRA;**
- 1k the Council adopts a Minimum Revenue Provision (MRP) policy based on a straight 2% for pre 1 April 2008 debt and government supported**

debt excluding finance leases and service concessions (including Private Finance Initiative schemes);

- 1l the MRP on finance leases and service concessions including Private Finance Initiative (PFI) arrangements equals the charge that goes to write down the balance sheet liability;**
- 1m the asset life (annuity) method of calculating MRP is applied to post 1 April 2008 self-financed borrowing but excluding:**
- Finance leases**
 - Service concessions (including Private Finance Initiative schemes)**
 - Borrowing to fund long term debtors (including finance leases)**
 - Borrowing to fund investment properties**
 - Borrowing to fund equity shares purchased in pursuit of policy objectives;**
- 1n the principal element of the income receivable from long term debtors be set aside to repay debt if the asset was financed through self-financed borrowing in order that the repayment of the debt is financed from the capital receipt;**
- 1o the principal element of the rent receivable from finance leases be set aside to repay debt if the asset was financed through self-financed borrowing in order that the repayment of the debt is financed from the capital receipt;**
- 1p that debt resulting from self-financed borrowing to fund investment properties be provided for by setting aside the capital receipt on disposal**
- 1q the Council sets aside the capital receipt to provide for the repayment of the self-financed borrowing in the event of it selling its shares in the Municipal Bonds Agency or Hampshire Community Bank**
- 1r the Housing Revenue Account (HRA) provide for the repayment of the Self Financing Payment over 30 years;**
- 1s that specified investments should only be placed with institutions that have a long term credit rating of at least A- from at least two credit rating agencies except registered social landlords for which a single credit rating will be required;**
- 1t investments should only be placed with institutions based in either the United Kingdom or sovereign states with an AA+ credit rating;**
- 1u the Council's investments are limited to senior debt;**

- 1v** the Director of Finance and Information Services (Section 151 Officer) be given delegated authority to invest the Council's funds in structured investment products which follow the developed stock markets but do not fully protect the Council's capital invested;
- 1w** the bodies meeting the criteria of categories 1 to 8 in paragraph 18.17 are approved as repositories of specified investments of the City Council's surplus funds;
- 1x** that credit ratings be reviewed weekly and that any institution whose credit rating falls below the minimum level stated in paragraph 18.17 of the Treasury Management Policy be removed from the list of specified investments;
- 1y** that institutions that are placed on negative watch or negative outlook by the credit rating agencies be reassigned to a lower category;
- 1z** that non-specified investments in aggregate are limited to the following:

	£
Building societies with a BBB credit rating and unrated building societies	81m
Investments in MMD (Shipping Services) Ltd including funds lodged to guarantee the company's banking limits. MMD is a wholly owned subsidiary of the City Council.	2m
Long term investments	286m
Investments denominated in foreign currencies to hedge against contracts priced or indexed against foreign currencies	5m
Total	374m

- 1aa** the total amount that can be directly invested with any organisation at any time should be limited as follows (see paragraph 20.1):

	Maximum Investment in Single Organisation
Category 1	Unlimited for up to 6 years
Category 2	£30m for up to 6 years
Category 3	£30m for up to 10 years
Category 4	£26m for up to 6 years
Category 5	£20m for up to 10 years
Category 6	£20m for up to 6 years
Category 7	£13m for up to 6 years
Category 8	£10m for up to 6 years

Category 9	£10m for up to 2 years
Category 10	£6m for up to 2 years
Category 11	£6m for up to 364 days
MMD (Shipping Services) Ltd including sums lodged to guarantee the company's banking limits	£2m for up to 364 days

1ab the Director of Finance and Information Services (Section 151 Officer) in consultation with the Leader of the Council is given delegated authority to revise the total amount that can be directly invested with any organisation at any time

1ac the following investment limits be applied to sectors:

Money market funds	£80m
Building societies	£107m
Registered social landlords	£80m
Investments tracking the equity markets	£70m

1ad the following investment limits be applied to regions outside the United Kingdom:

Asia & Australia	£60m
Americas	£60m
Eurozone	£30m
Continental Europe outside the Eurozone	£30m

2 the Director of Finance and Information Services (Section 151 Officer) submits the following:

- (i) an annual report on the Treasury Management outturn to the Cabinet by 30 September of the succeeding financial year;**
- (ii) A Mid-Year Review Report to the Cabinet and Council;**
- (iii) the Annual Strategy Report to the Cabinet in March 2017;**
- (iv) quarterly Treasury Management monitoring reports to the Governance and Audit and Standards Committee.**

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Decision maker:	Cabinet City Council
Subject:	Treasury Management Policy for 2016/17
Date of decision:	3 March 2016 (Cabinet) 11 March 2016 (Governance and Audit and Standards Committee – information only) 22 March 2016 (City Council)
Report by:	Chris Ward, Director of Finance and Information Services (Section 151 Officer)
Wards affected:	All
Key decision:	Yes
Full Council Meeting:	Yes

1. Summary

This report sets out the Council's policies on borrowing, providing for the repayment of debt and investing for 2016/17.

The Council's treasury management operation has a cash limit of £23m and therefore can have a significant effect on the revenue available to fund the Council's front line services. In addition the Council has investments with 57 institutions amounting to £385m. If an institution defaulted on one of the Council's investments the loss would have to be borne by the General Fund.

2. Purpose of report

The purpose of this report is to obtain the Council's approval for 2016/17 to the Treasury Management Policy Statement (attached) which includes:

- Annual Minimum Revenue Provision for Debt Repayment Statement
- Annual Investment Strategy

3. Recommendations

3.1a the Head of Financial Services and Section 151 Officer and officers nominated by him be given authority to lend surplus funds as necessary in accordance with the Treasury Management Policy;

3.1b the Council adopts a risk appetite statement that permits investments to be made in instruments that do not guarantee that the capital sum will not be diminished through movements in prices;

3.1c the Director of Finance and Information Services (Section 151 Officer) is given delegated authority to either replace maturing debt or repay it depending on the outlook for long term interest rates that exists at the time

3.1d the upper limits for fixed interest exposures are set as follows:

2015/16 £195m

2016/17 £358m

2017/18 £446m

2018/19 £482m

3.1e the upper limits for variable interest exposure are set as follows:

2015/16 (£265m) – Investments up to £265m

2016/17 (£444m) – Investments up to £444m

2017/18 (£526m) – Investments up to £526m

2018/19 (£555m) – Investments up to £555m

3.1f the following limits be placed on principal sums invested for periods longer than 364 days:

31/3/2016 £286m

31/3/2017 £196m

31/3/2018 £123m

31/3/2019 £90m

3.1g the City Council set upper and lower limits for the maturity structure of its borrowings as follows:

Amount of projected borrowing that is fixed rate maturing in each period as a percentage of total projected borrowing that is fixed rate.

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20 years & within 30 years	30%	0%
30 years & within 40 years	30%	0%
40 years & within 50 years	40%	0%

3.1h authority to reschedule debt during the year is delegated to the Director of Finance and Information Services (Section 151 Officer) subject to conditions being beneficial to the City Council;

3.1i no restriction be placed on the amount that can be borrowed in sterling from an individual lender provided it is from a reputable source and within the authorised limit for external debt approved by the City Council;

3.1j the principals upon which the apportionment of borrowing costs to the Housing Revenue Account (HRA) should be based are as follows:

- The apportionment is broadly equitable between the HRA and the General Fund, and is detrimental to neither;**
- The loans portfolio is managed in the best interests of the whole authority;**
- The costs and benefits of over and under borrowing above or below the capital financing requirement (CFR) are equitably shared between the General Fund and the HRA;**

- 3.1k** the Council adopts a Minimum Revenue Provision (MRP) policy based on a straight 2% for pre 1 April 2008 debt and government supported debt excluding finance leases and service concessions (including Private Finance Initiative schemes);
- 3.1l** the MRP on finance leases and service concessions including Private Finance Initiative (PFI) arrangements equals the charge that goes to write down the balance sheet liability;
- 3.1m** the asset life (annuity) method of calculating MRP is applied to post 1 April 2008 self-financed borrowing but excluding:
- Finance leases
 - Service concessions (including Private Finance Initiative schemes)
 - Borrowing to fund long term debtors (including finance leases)
 - Borrowing to fund investment properties
 - Borrowing to fund equity shares purchased in pursuit of policy objectives;
- 3.1n** the principal element of the income receivable from long term debtors be set aside to repay debt if the asset was financed through self-financed borrowing in order that the repayment of the debt is financed from the capital receipt;
- 3.1o** the principal element of the rent receivable from finance leases be set aside to repay debt if the asset was financed through self-financed borrowing in order that the repayment of the debt is financed from the capital receipt;
- 3.1p** that debt resulting from self-financed borrowing to fund investment properties be provided for by setting aside the capital receipt on disposal
- 3.1q** the Council sets aside the capital receipt to provide for the repayment of the self-financed borrowing in the event of it selling its shares in the Municipal Bonds Agency or Hampshire Community Bank
- 3.1r** the Housing Revenue Account (HRA) provide for the repayment of the Self Financing Payment over 30 years;
- 3.1s** that specified investments should only be placed with institutions that have a long term credit rating of at least A- from at least two credit rating agencies except registered social landlords for which a single credit rating will be required;

- 3.1t investments should only be placed with institutions based in either the United Kingdom or sovereign states with an AA+ credit rating;
- 3.1u the Council's investments are limited to senior debt;
- 3.1v the Director of Finance and Information Services (Section 151 Officer) be given delegated authority to invest the Council's funds in structured investment products which follow the developed stock markets but do not fully protect the Council's capital invested;
- 3.1w the bodies meeting the criteria of categories 1 to 8 in paragraph 18.17 are approved as repositories of specified investments of the City Council's surplus funds;
- 3.1x that credit ratings be reviewed weekly and that any institution whose credit rating falls below the minimum level stated in paragraph 18.17 of the Treasury Management Policy be removed from the list of specified investments;
- 3.1y that institutions that are placed on negative watch or negative outlook by the credit rating agencies be reassigned to a lower category;
- 3.1z that non-specified investments in aggregate are limited to the following:

	£
Building societies with a BBB credit rating and unrated building societies	81m
Investments in MMD (Shipping Services) Ltd including funds lodged to guarantee the company's banking limits. MMD is a wholly owned subsidiary of the City Council.	2m
Long term investments	286m
Investments denominated in foreign currencies to hedge against contracts priced or indexed against foreign currencies	5m
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3.1ab the Director of Finance and Information Services (Section 151 Officer) in consultation with the Leader of the Council is given delegated authority to revise the total amount that can be directly invested with any organisation at any time

3.1ac the following investment limits be applied to sectors:

Money market funds	£80m
Building societies	£107m
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Investments tracking the equity markets	£70m

3.1ad the following investment limits be applied to regions outside the United Kingdom:

Asia & Australia	£60m
Americas	£60m
Eurozone	£30m
Continental Europe outside the Eurozone	£30m

3.2 the Director of Finance and Information Services (Section 151 Officer submits the following:

- (i) an annual report on the Treasury Management outturn to the Cabinet by 30 September of the succeeding financial year;**
- (ii) A Mid-Year Review Report to the Cabinet and Council;**
- (iii) the Annual Strategy Report to the Cabinet in March 2017;**
- (iv) quarterly Treasury Management monitoring reports to the Governance and Audit and Standards Committee.**

3. Background

The City Council has adopted the Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management in the Public Services Code of Practice. The Code of Practice requires the City Council to approve a Treasury Management Strategy before the start of the financial year.

In addition the Government has issued statutory guidance that requires the Council to approve an Annual Minimum Revenue Provision for Debt Repayment Statement and an Annual Investment Strategy before the start of the financial year.

The Treasury Management Strategy, the Annual Minimum Revenue Provision for Debt Repayment Statement and the Annual Investment Strategy are all contained within the attached Treasury Management Policy Statement.

4. Reasons for recommendations

The recommendations within the attached Treasury Management Policy Statement reflect the Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management Code of Practice and have regard to statutory guidance issued by the Government. These are designed to:

- Enable the Council to borrow funds as part of managing its cash flow or to fund capital expenditure in a way that minimises risk and costs
- Provide for the repayment of borrowing
- Ensure that the Council's investments are secure
- Ensure that the Council maintains sufficient liquidity
- Maximise the yield on investments in a way that is commensurate with maintaining the security and liquidity of the investment portfolio

It is recommended that the risk appetite statement in paragraph 4.2 of the Treasury Management Policy be amended so that the Council invests in a range of instruments consistent with a *low risk* of the capital sum being diminished through movements in prices rather than *avoiding the risk* of the capital sum being diminished through movements in prices. This is to enable the Council to invest in low risk structured investment products with returns that follow the developed stock markets but do not fully protect the Council's capital invested (**recommendation 3.1b**). It is also recommended that the maximum duration of investments with most organisations offering high credit quality be increased from 5 years to 6 years (**recommendation 2.1aa**). Investing in low risk structured investment products with returns that follow the developed stock markets with a maximum duration of 6 years can reduce the risk of the capital sum being diminished through price movements as there is more time for the product to lock into a stock market gain, although it also allows more time for the credit quality of the institution holding the investment to deteriorate.

There are also a number of recommended changes to the Minimum Revenue Provision (MRP) for debt repayment policy (**recommendations 3.1k, p and q**). 62% of the Council's borrowings mature in over 30 years' time. All but £11m of the Council's borrowing is Public Works Loans Board (PWLB) debt. The PWLB introduced new lower discount rates to calculate premiums on the early repayment of debt in 2010. The increased premiums resulting from this means that the existing debt is unlikely to be repaid early or rescheduled. These changes to the MRP policy are intended to defer making provision for the repayment of debt to help prevent large cash balances building up prior to being able to actually repay the debt. The need to invest such high cash balances exposes the Council to credit risk in the event that

one of the Council's investment counterparties gets into financial difficulties.

5. Equality impact assessment (EIA)

The contents of this report do not have any relevant equalities impact and therefore an equalities assessment is not required.

6. Legal Implications

The Section 151 Officer is required by the Local Government Act 1972 and by the Accounts and Audit Regulations 2011 to ensure that the Council's budgeting, financial management, and accounting practices meet the relevant statutory and professional requirements. Members must have regard to and be aware of the wider duties placed on the Council by various statutes governing the conduct of its financial affairs.

7. Head of Finance's comments

All financial considerations are contained within the body of the report and the attached appendices

.....
Signed by Director of Finance and Information Services (Section 151 Officer)

Appendix: Treasury Management Policy Statement, Annual Minimum Revenue Provision for Debt Repayment Statement and Annual Investment Strategy 2016/17

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
1 Information pertaining to the treasury management strategy	Financial Services
2	

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TREASURY MANAGEMENT POLICY STATEMENT INCLUDING:

- **TREASURY MANAGEMENT STRATEGY**
- **ANNUAL MINIMUM REVENUE PROVISION FOR DEBT REPAYMENT STATEMENT**
- **ANNUAL INVESTMENT STRATEGY 2016/17**

**Portsmouth City Council
Director of Finance and Information Services (Section 151
Officer)**

TREASURY MANAGEMENT POLICY STATEMENT 2016/17

Section	CONTENTS	Page No.
1	Background	3
2	Borrowing Limits and Prudential Code	4
3	Treasury Management Policy Statement	5
4	Treasury Management Strategy for 2016/17	7
5	Approved Methods of Raising Capital Finance	18
6	Approved Sources of Borrowing	19
7	Apportionment of Borrowing Costs to the Housing Revenue Account (HRA)	21
8	Annual Minimum Revenue Provision for Debt Repayment Statement	22
9	Government – Supported Borrowing Other Than Finance Leases, Service Concessions including PFI Schemes	22
10	Finance Leases & Service Concessions including PFI Schemes	23
11	Self - Financed Borrowing Excluding Borrowing to Fund Long Term Debtors (Including Finance Leases), Investment Properties and Equity Shares Purchased in Pursuit of Policy Objectives	24
12	Self-Financed Borrowing to Fund Long Term Debtors Including Finance Leases	25
13	Self-Financed Borrowing to Fund Investment Properties	25
14	Self-Financed Borrowing to Fund Equity Shares Purchased in Pursuit of Policy Objectives	26
15	Housing Revenue Account (HRA) Borrowing	27
16	Annual Investment Strategy	27
17	Investment Consultants	28
18	Specified Investments	28
19	Non-Specified Investments	33
20	Maximum Level of Investment in Individual Organisations	37
21	Liquidity of Investments	39
21	Investment of Money Borrowed in Advance of Need	39
22	Training of Investment Staff	40
23	Delegated Powers	40
24	Treasury Systems and Documentation	40
25	Review and Reporting Arrangement	41
	Appendix A Prudential Indicators	
	Appendix B Loan Maturity Pattern	
	Appendix C Minimum Revenue Provision for Government Supported Borrowing	
	Appendix D Minimum Revenue Provision for Self-Finance Borrowing	
	Appendix E Definition of Long Term Credit Ratings	
	Appendix F Financial institutions meeting investment criteria	

1 BACKGROUND

- 1.1 This Council defines its Treasury Management activities as “the management of the organisation’s investments and cash flows, its banking, money market and capital market transactions, the effective control of the risks associated with those activities, and the pursuit of optimum performance consistent with those risks.”
- 1.2 This Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation.
- 1.3 This Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance management techniques, within the context of effective risk management.
- 1.4 The City Council’s treasury management activities are governed by various codes of practice and guidance that the Council must have regard to under Local Government Act 2003. The main codes and guidance that the Council must have regard to are:
 - Treasury Management in the Public Services Code of Practice published by the Chartered Institute of Public Finance and Accountancy (CIPFA) which sets out the key principles and practices to be followed.
 - The Prudential Code for Capital Finance in Local Authorities published by CIPFA which governs borrowing by local authorities.
 - The Guidance on Local Government Investments published by the Department for Communities and Local Government which governs local authorities investment activities and stipulates that investment priorities should be security (protecting the capital sum from loss) and liquidity (keeping money readily available for expenditure when needed), rather than yield.

2 BORROWING LIMITS AND THE PRUDENTIAL CODE

2.1 The Prudential Code requires the City Council to approve an authorised limit and an operational boundary for external debt together with other prudential indicators designed to ensure that the capital investment plans are affordable, prudent and sustainable. These were approved by the City Council on 9th February 2016.

i) Authorised Limit

The authorised limit for external debt is the maximum amount of debt which the authority may legally have outstanding at any time. The Authorised Limit includes headroom to enable the Council to take advantage of unexpected movements in interest rates and to accommodate any short-term debt or unusual cash movements that could arise during the year

	£m
Borrowing	487
Other Long Term Credit Liabilities	<u>81</u>
	<u>568</u>

ii) Operational Boundary

The Operational Boundary is based on the probable external debt during the course of the year. It is not a limit, but acts as a warning mechanism to prevent the authorised limit (above) being breached.

	£m
Borrowing	468
Other Long Term Credit Liabilities	<u>81</u>
	<u>549</u>

iii) Other Prudential Indicators contained in the Prudential Code

The following indicators are also included in the Prudential Code:

- Capital expenditure
- Ratio of financing costs to net revenue stream
- Capital financing requirement
- Housing Revenue Account (HRA) limit on indebtedness
- Incremental effect of capital investment decisions on council tax at band D
- Incremental effect of capital investment decisions on housing rents

These are contained in Appendix A.

The Prudential Code also requires local authorities to adopt the Chartered Institute of Public Finance and Accountancy's (CIPFA) Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes. These are guides to good practice that the City Council has adopted and followed for several years.

3 TREASURY MANAGEMENT POLICY STATEMENT

3.1 The prime objective of the Treasury Management function is the effective management and control of risk associated with the activities described in paragraph 1.1. The Code identifies the main Treasury Management risks, some of which may not apply to the City Council, as:

- Credit risk – ie. that the local authority is not repaid, with due interest in full, on the day repayment is due.
- Liquidity risk – ie. that cash will not be available when it is needed, or that the ineffective management of liquidity creates additional, unbudgeted costs.
- Interest rate risk – ie. that the authority fails to get good value for its cash dealings (both when borrowing and investing) and the risk that interest costs incurred are in excess of those for which the authority has budgeted.
- Exchange rate risk – This is the risk that the authority enters into a contract priced in a foreign currency and the exchange rate fluctuates adversely between entering the contract and settling the contract.
- Maturity (or refinancing risk) – This relates to the authority's borrowing or capital financing activities, and is the risk that the authority is unable to repay or replace its maturing funding arrangements on appropriate terms.
- Legal risk – ie. that one or other party to an agreement will be unable to honour its legal obligations.
- Procedures (or systems) risk – ie. that a treasury process, human or otherwise, will fail and planned actions are not carried out through fraud, error or corruption.
- Market risk – This is the risk of adverse market fluctuations in the value of the principal sums of tradable investments such as Government gilts.

3.2 The approved activities of the Treasury Management operation are as follows: -

- (a) Cash flow (daily balance and longer term forecasting);
- (b) Investing surplus funds in approved investments;
- (c) Borrowing to finance cash deficits;
- (d) Funding of capital payments through borrowing, capital receipts, grants or leasing;
- (e) Management of debt (including rescheduling and ensuring an even maturity profile);
- (f) Interest rate exposure management;
- (g) Dealing procedures;
- (h) Use of external managers for temporary investment of funds.

3.3 It is proposed that the Director of Finance and Information Services (Section 151 Officer) and officers nominated by him be given authority to lend surplus funds as necessary in accordance with the Treasury Management Policy **(Recommendation 2.1(a))**.

4 TREASURY MANAGEMENT STRATEGY FOR 2016/17

4.1 Objectives

It is estimated that the net interest and debt repayment costs for 2016/17 will amount to approximately £32.3m. The Treasury Management policy will therefore form a cornerstone of the Medium Term Resource Strategy. Specific objectives to be achieved in 2016/17 are:

(a) Borrowing

- To minimise the revenue costs of debt
- To manage the City Council's debt maturity profile to ensure that no single financial year exposes the authority to a substantial borrowing requirement when interest rates may be relatively high
- To match the City Council's debt maturity profile to the provision of funds to repay debt if this can be achieved without significant cost
- To effect funding in any one year at the cheapest long term cost commensurate with future risk
- To forecast future interest rates and borrow accordingly (i.e. short term and/or variable when rates are 'high', long term and fixed when rates are 'low').
- To monitor and review the level of variable interest rate loans in order to take greater advantage of interest rate movements
- To reschedule debt in order to take advantage of potential savings as interest rates change or to even the maturity profile.

(b) Lending

- To ensure the security of lending (the maximisation of returns remains a secondary consideration) by investing in:
 - the United Kingdom Government and institutions or projects guaranteed by the United Kingdom Government;
 - Other local authorities in England, Scotland and Wales
 - Aa rated money market funds including enhanced money market funds;
 - British institutions including commercial companies and registered social landlords (RSLs) that meet the City Council's investment criteria
 - Foreign institutions including commercial companies that meet the City Council's investment criteria within the jurisdiction of a AA+ government
- To maintain £10m in instant access accounts
- To make funds available to Council's subsidiaries
- To make funds available for the regeneration of Hampshire
- To optimise the return on surplus funds
- To manage the Council's investment maturity profile to ensure that no single month exposes the authority to a substantial re-investment requirement when interest rates may be relatively low to the extent that this can be managed without compromising the security of lending

4.2 Risk Appetite Statement

The Council attaches a high priority to a stable and predictable revenue cost from treasury management activities in the long term. This reflects the fact that debt servicing represents a significant cost to the Council's net revenue budget. The Council's objectives in relation to debt and investment can accordingly be stated as follows:

To assist the achievement of the council's service objectives by obtaining funding and managing the debt and treasury investments at a net cost which is as low as possible, consistent with a high degree of long term interest cost stability. Sums are invested with a diversified range of counter parties using the maximum range of instruments consistent with a low risk of the capital sum being diminished through movements in prices.

This means that the Council is not totally risk averse. Treasury management staff have the capability to actively manage treasury risks within the scope of the Council's treasury management policy and strategy.

In particular when investing surplus cash, the Council will not necessarily limit itself to making deposits with the UK Government and local authorities, but may invest in other bodies including unrated building societies, RSLs and corporate bonds. The Council may invest surplus funds through tradable instruments such as treasury bills, gilts, certificates of deposit and corporate bonds. The duration of such investments will be limited so that they do not have to be sold (although they may be) prior to maturity thus avoiding the risk of the capital sum being diminished through movements in prices. The Council may invest in low risk structured investment products that follow the developed equity markets where movements in prices may diminish the capital sum invested.

It is recommended that the Council adopts a risk appetite statement that permits investments to be made in instruments that do not guarantee that the capital sum will not be diminished through movements in prices (**Recommendation 3.1(b)**). These investments, and indeed any other investment, could also be diminished if the counter party defaults. Although the Council only invests in counter parties offering good credit quality, the credit quality of an investment counter party can decline during the life of the investment. This is particularly the case with long term investments.

4.3 Gross Debt and the Capital Financing Requirement

In order to ensure that over the medium term, debt will only be for a capital purpose, CIPFA's Prudential Code which the City Council is legally obliged to have regard to requires the City Council to ensure that debt does not, except in the short term, exceed the total of capital financing requirement (CFR). The CFR measures the Council's underlying need to borrow. If in any year there is a reduction in the capital financing requirement, this reduction is ignored in estimating the cumulative increase in the capital financing requirement which is used for the comparison with gross external debt. The Council's forecast gross debt is shown in the table below.

	2015/16 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000
Borrowing	391,120	387,769	384,417	381,066
Finance leases	4,100	3,479	2,828	2,171
Service Concessions (including Private Finance Initiative schemes)	82,109	79,639	76,456	73,769
Total Gross debt	<u>477,329</u>	<u>470,887</u>	<u>463,701</u>	<u>457,006</u>
Capital Financing Requirement (CFR):				
Opening CFR in 2015/16	403,990			
Change in CFR in 2015/16	56,142			
Closing CFR in 2015/16	460,132	460,132	460,132	460,132
Cumulative increase in CFR in future years		89,407	98,304	-
Closing CFR	<u>460,132</u>	<u>549,539</u>	<u>558,436</u>	<u>558,436</u>
Under / (Over) Borrowing	<u>(17,197)</u>	<u>78,652</u>	<u>94,735</u>	<u>101,430</u>

The Council's gross debt exceeds its estimated CFR, ie. it is over borrowed, in 2015/16 because £18m was borrowed from the Public Works Loans Board (PWLB) at the project rate which is 0.20% below the certainty rate at which the PWLB normally lends to local authorities. The Council had an £18m allocation of project rate funding for 2015/16 to finance the development of Dunsbury Hill Farm, Tipner and Horsea Island.

The capital programme approved by the City Council on 9th February 2016 includes £99.3m of capital expenditure financed by borrowing in 2016/17. This includes £66.0m of expenditure on the acquisition of commercial properties to provide an income stream to support the Council's services. This is expected to cause the Council's CFR to rise above its gross debt, ie. it is expected to become under borrowed in 2016/17.

4.4 Gross and Net Debt

4.4.1 The borrowing and investment projections for the Council are as follows:

	2015/16 £'000	2016/17 £'000	2017/18 £'000	2018/19 £'000
Gross Debt at 31 March	477,329	470,887	463,701	457,006
Investments at 31 March	(324,659)	(117,000)	(89,000)	(75,000)
Estimated Net Debt	152,670	353,887	374,701	382,006

4.4.2 The Council currently has a high level of investments relative to its gross debt due to having a high level of reserves and provisions, mainly built up to meet future commitments under the Private Finance Initiative schemes and future capital expenditure. However the Council's treasury management investments are expected to decline in 2016/17 as funds are used to invest in commercial properties.

4.5 Interest Rates

4.5.1 Interest Rate Forecasts for 2016/17

No treasury consultants are currently employed by the City Council to advise on the borrowing strategy. However, the City Council does employ Capita Asset Services to provide an economic and interest rate forecasting service and maintains daily contact with the London Money Market.

4.5.2 Long Term Borrowing Interest Rates

The following table gives Capital Asset Services central view.

	Mar-16	Jun-16	Sep-16	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19
Bank rate	0.50%	0.50%	0.50%	0.75%	0.75%	1.00%	1.00%	1.25%	1.25%	1.50%	1.50%	1.75%	1.75%
5yr PWLB rate	2.00%	2.10%	2.20%	2.30%	2.40%	2.50%	2.60%	2.70%	2.80%	2.90%	3.00%	3.10%	3.20%
10yr PWLB rate	2.60%	2.70%	2.80%	2.90%	3.00%	3.10%	3.20%	3.30%	3.40%	3.50%	3.60%	3.60%	3.70%
25yr PWLB rate	3.40%	3.40%	3.50%	3.60%	3.70%	3.70%	3.80%	3.90%	4.00%	4.00%	4.10%	4.10%	4.10%
50yr PWLB rate	3.20%	3.20%	3.30%	3.40%	3.50%	3.60%	3.70%	3.80%	3.90%	3.90%	4.00%	4.00%	4.00%

UK GDP growth rates in 2013 of 2.2% and 2.9% in 2014 were the strongest growth rates of any G7 country; the 2014 growth rate was also the strongest UK rate since 2006 and although the 2015 growth rate is likely to be a leading rate in the G7 again, it looks likely to disappoint previous forecasts and come in at about 2%. Quarter 1 of 2015 was weak at +0.4% (+2.9% y/y) though there was a slight increase in quarter 2 to +0.5% (+2.3% y/y) before weakening again to +0.4% (2.1% y/y) in quarter 3. The August Bank of England Inflation Report included a forecast for growth to remain around 2.5 – 2.7% over the next three years, driven mainly by strong consumer demand as the squeeze on the disposable incomes of consumers has been reversed by a recovery in wage inflation at the same time that CPI inflation has fallen to, or near to, zero since February 2015. Investment expenditure is also expected to support growth. However, since the August Inflation report was issued, most worldwide economic statistics have been weak and financial markets have been particularly volatile. The November Inflation Report flagged up particular concerns for the potential impact of these factors on the UK.

The Inflation Report was also notably subdued in respect of the forecasts for inflation; this was expected to barely get back up to the 2% target within the 2-3 year time horizon. The increase in the forecast for inflation at the three year horizon was the biggest in a decade and at the two year horizon was the biggest since February 2013. However, the first round of falls in oil, gas and food prices over late 2014 and also in the first half 2015, will fall out of the 12 month calculation of CPI during late 2015 / early 2016 but a second, more recent round of falls in fuel and commodity prices will delay a significant tick up in inflation from around zero: this is now expected to get back to around 1% by the end of 2016 and not get to near 2% until the second half of 2017, though the forecasts in the Report itself were for an even slower rate of increase. However, more falls in the price of oil and imports from emerging countries in early 2016 will further delay the pick up in inflation. There is therefore considerable uncertainty around how quickly pay and CPI inflation will rise in the next few years and this makes it difficult to forecast when the MPC will decide to make a start on increasing Bank Rate.

The weakening of UK GDP growth during 2015 and the deterioration of prospects in the international scene, especially for emerging market countries, have consequently led to forecasts for when the first increase in Bank Rate would occur being pushed back to quarter 4 of 2016. There is downside risk to this forecast i.e. it could be pushed further back.

Borrowing interest rates have been highly volatile during 2015 as alternating bouts of good and bad news have promoted optimism, and then pessimism, in financial markets. Gilt yields have continued to remain at historically phenomenally low levels during 2015.

There will remain a cost of carry to any new borrowing which causes an increase in investments as this will incur a revenue loss between borrowing costs and investment returns.

4.5.3 Short Term Investment Interest Rates

Investment returns are likely to remain relatively low during 2016/17 and beyond.

4.6 Borrowing / Lending Requirements

Over the last few years the Council has had an overall net lending requirement. However the considerable amount of estimated capital expenditure in 2016/17 financed from borrowing is expected to turn this into an overall net borrowing requirement from 2016/17 onwards.

The Council does not expect to run out of cash until 2021/22. This will enable the Council to delay actually undertaking further borrowing until 2021/22, ie. the Council will be able to borrow internally from its own reserves. However, this needs to be carefully reviewed to avoid incurring higher borrowing costs in later times, when the Council will not be able to avoid new borrowing to finance new capital expenditure and / or to refinance maturing debt.

It has been assumed that existing maturing debt of £3.4m in 2016/17 will not be replaced. Instead this debt will be repaid using internal funds (see paragraph 6.1(g)). It is recommended however, that the Director of Finance and Information Services (Section 151 Officer) be given delegated authority to either replace maturing debt or repay it depending on the outlook for long term interest rates that exists at the time **(Recommendation 3.1(c))**.

4.7 Volatility of Budgets

The budget for interest payments and receipts is based on both the level of cash balances available and the interest rate forecasts contained in paragraph 4.5. Any deviation of interest rates from these forecasts will give rise to budget variances.

The Council is exposed to interest rate fluctuations through the need to invest up to £325m of surplus cash in the short term.

The Council currently has substantial sums of cash invested in the short term, and if interest rates fall below the budget forecast, investment income will be less than that budgeted. For example, if short-term interest rates fall to 0.5% below the budget forecast, the income from the Council's investments will be £1,625k below budget in 2016/17. Conversely, if short-term interest rates rise to 0.5% above the budget forecast, income from the Council's investments will exceed the budget by £1,625k in 2016/17.

4.8 Upper limits for fixed interest rate exposures

The CIPFA Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes require local authorities to set upper limits for fixed interest rate exposures.

The City Council's maximum fixed interest rate exposure throughout each year is anticipated to be as follows:

	2015/16	2016/17	2017/18	2018/19
	£m	£m	£m	£m
Maximum Projected Gross Borrowing – Fixed Rate	391	464	479	482
Minimum Projected Gross Investments – Fixed Rate	(196)	(106)	(33)	-

It is recommended that the upper limits for fixed interest rate exposures be set as follows (**Recommendation 3.1(d)**):

2015/16 £195m

2016/17 £358m

2017/18 £446m

2018/19 £482m

The recommended upper limits for fixed interest rate exposure are set to provide sufficient flexibility for the Head of Financial Services and Section 151 Officer to take out fixed rate loans to finance capital expenditure if interest rates fall or are expected to rise significantly.

4.9 Upper limits for variable interest rate exposures

The CIPFA Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes require local authorities to set upper limits for variable interest rate exposures.

The City Council's maximum variable interest rate exposure throughout each year is anticipated to be as follows:

	2015/16	2016/17	2017/18	2018/19
	£m	£m	£m	£m
Minimum Projected Gross Borrowing – Variable Rate	-	-	-	-
Maximum Projected Gross Investments – Variable Rate	(265)	(444)	(526)	(555)

The Council's variable interest rate exposure is negative because it has no variable rate loans and a high proportion of its investments are either variable rate or will need to be reinvested within a year. The Council's requirement for cash varies considerably through the year. Therefore the Council needs to invest a proportion of its surplus cash either in instant access accounts or short term investments to avoid becoming overdrawn. The Council is exposed to an interest rate risk in that its investment income will fall if interest rates fall, whilst its borrowing costs will remain the same as all its loans are fixed at rates that will not fall with investment rates. Investment rates are currently very low and the scope for further reductions is very limited. The Council's maximum projected gross variable interest rate investments increases as existing long term fixed interest rate investments mature. Some of this risk may be mitigated through making further long term fixed rate investments. However, this will increase credit risk. It would also be prudent to maintain an even maturity profile so that the Council can benefit from rising interest rates in the future.

It is recommended that the upper limits for variable interest rate exposures be set as follows (**Recommendation 3.1(e)**):

2015/16 (£265m) – Investments up to £265m

2016/17 (£444m) – Investments up to £444m

2017/18 (£526m) – Investments up to £526m

2018/19 (£555m) – Investments up to £555m

4.10 Limits on total principal sums invested for periods longer than 364 days

Under the Treasury Management Code it is necessary to specify limits on the amount of long term investments, ie. investments exceeding 364 days that have maturities beyond year end.

Investing long term at fixed rates provides certainty of income and reduces the risk of interest rates falling. However this benefit is significantly reduced at the moment as the interest rates on new investments are low, typically less than 2% which restricts how much further returns can fall. At the current time, investing long term allows higher yields to be obtained, although it would be prudent to maintain opportunities to invest when interest rates are higher. There are regular fluctuations in the Council's cash balances which can amount to £110m. In addition cash balances are expected to be at their lowest at the end of the financial year as tax receipts are lower in March. On this basis it is recommended that the following limits be placed on total principal sums invested for periods longer than 364 days to **(Recommendation 3.1(f))**:

31/3/2016 = £286m

31/3/2017 = £196m

31/3/2018 = £123m

31/3/2019 = £90m

4.11 Limits for the maturity structure of borrowing

The Government has issued guidance on making provision for the repayment of General Fund debt (see paragraph 8) which the Council is legally obliged to have regard to. The City Council is required to begin to make provision for the repayment of debt in advance of most of the Council's debt falling due for repayment. Therefore the City Council is required to provide for the repayment of debt well in advance of it becoming due. This is illustrated in the table below. This means that it is necessary to invest the funds set aside for the repayment of debt with its attendant credit and interest rate risks (see paragraph 3.1). The City Council could reschedule its debt, but unless certain market conditions exist at the time, premium payments have to be made to lenders (see paragraph 4.12).

CIPFA's Treasury Management in the Public Services Code of Practice which the City Council is legally obliged to have regard to requires local authorities to set upper and lower limits for the maturity structure of their borrowing.

It is recommended that the upper limit should be set high enough to allow for debt to be rescheduled into earlier years and for any new borrowing to mature over a shorter period than that taken out in the past. The high upper limit for debt maturing in over 40 years time reflects existing borrowing as the upper limit cannot be set lower than the existing maturity profile and is also necessary because no provision is being made for the repayment of debt incurred by the Housing Revenue Account apart from the Self Financing payment.

It is recommended that the lower limit be set at 0%.

In order to ensure a reasonably even maturity profile (paragraph 4.1(a)), it is recommended that the council set upper and lower limits for the maturity structure of its borrowings as follows (**Recommendation 3.1(g)**).

Amount of fixed rate borrowing maturing in each period as a percentage of total projected borrowing that is fixed rate.

	Loan Debt Maturity	Loans Minimum Revenue Provision (MRP)	% Over / (Under) Loans MRP	Upper limit	Lower limit
Under 12 months	4%	3%	1%	10%	0%
12 months and within 24 months	1%	3%	(2)%	10%	0%
24 months and within 5 years	3%	8%	(5)%	10%	0%
5 years and within 10 years	4%	14%	(10)%	20%	0%
10 years and within 20 years	19%	27%	(8)%	30%	0%
20 years and within 30 years	10%	22%	(12)%	30%	0%
30 years and within 40 years	23%	16%	7%	30%	0%
40 years and within 50 years	36%	7%	29%	40%	0%

The current maturity pattern contained in Appendix B is well within these limits.

4.12 Debt Rescheduling

4.12.1 At the present time, all the City Council's long term external debt has been borrowed at fixed interest rates ranging from 2.73% to 5.01%. 59% of the Council's debt matures in over 30 years' time. Appendix B shows the long term loans maturity pattern. Therefore debt rescheduling could be beneficial in evening out the debt maturity profile.

4.12.2 In the event that it was decided to further reschedule debt, account will need to be taken of premium payments to the PWLB. These are payments to compensate the PWLB for any losses that they may incur.

4.12.3 The HRA will be responsible for its proportion of the premium due for early redemption of debt, based on the percentage of debt attributable to the HRA at the start of the financial year. The premiums would be charged to the General Fund and the HRA. Regulations allow the City Council to spread the cost of the premiums over a number of years, during which the accounts would benefit from reduced external interest rates.

4.12.4 The Director of Finance and Information Services (Section 151 Officer) will continue to monitor the Council's debt and will undertake further rescheduling if it would be beneficial.

4.12.5 It is recommended that authority to reschedule debt during the year be delegated to the Director of Finance and Information Services (Section 151 Officer) subject to conditions being beneficial to the City Council **(Recommendation 3.1(h))**.

5 APPROVED METHODS OF RAISING CAPITAL FINANCE

5.1 The following list specifies the various types of borrowing instruments which are available: -

	Variable	Fixed
PWLB	Y	Y
Market Long-term	Y	Y
Municipal Bonds Agency		Y
Market Temporary	Y	Y
Overdraft	Y	
Negotiable Bonds	Y	
Internal (capital receipts & revenue balances)	Y	Y
Commercial Paper	Y	Y
Medium Term Notes	Y	Y
Leasing	Y	Y
Bills & Local Bonds	Y	Y

5.2 The main methods of raising capital finance used by the City Council are discussed in greater detail within Section 6 of this policy. Other methods are not generally used because of the perceived risk or because administrative costs are high, such as in the case of Local Bonds.

5.3 Local authorities are not required to conform to the Money Laundering Regulations stipulated in the Financial Services Acts. However, these principles where practical will be applied when arranging future money market borrowing to ensure that funds are not obtained from potentially unscrupulous sources.

6 APPROVED SOURCES OF BORROWING

6.1 Further information on some of the main borrowing instruments used by the City Council is set out below: -

(a) Public Works Loans Board (PWLB)

The main source of longer term borrowing for the City Council for many years has been from the Government through the Public Works Loans Board. The PWLB offers fixed rate loans from 1 year to 50 years at varying rates with different methods of repayment.

Alternatively the PWLB offers variable rate loans for 1 to 10 years, where the interest rate varies at 1, 3 or 6 month intervals. These loans can be replaced by fixed rate loans before maturity at an opportune time to the authority.

(b) Money Market Loans – Long Term

Loans for 1 to 70 years are available through the London Money Market although, depending of the type of loan being arranged, the rates of interest offered may not match those available from the PWLB, especially for Equal Instalment of Principal loans (E.I.P. loans). Any loans to be taken are evaluated to ensure that the interest rate is the lowest the City Council could obtain.

Loans offered by the money market are often LOBO (Lenders Option, Borrowers Option) loans. This enables the authority to take advantage of low fixed interest for a number of years before an agreed variable rate comes into force. At the time when the interest rate becomes variable, the lender has the option to increase the rate charged every 6 months (or any other agreed review period). The borrower has the option to repay the loan with no penalties if the interest rate is increased on any of the review dates.

(c) Bonds

Bonds may be suitable for raising sums in excess of around £150m. The interest payable on bonds may be less than that charged by the PWLB, but considerable upfront fees would be incurred. To obtain the best interest rate, the Council would need to obtain a credit rating which would need to be maintained. This would incur a further upfront fee and an annual maintenance fee.

Because such a large amount needs to be borrowed to attract investors and also to reduce the upfront fees and negate the need for an individual credit rating a pooled issuance with other local authorities may be more viable.

(d) Municipal Bonds Agency (MBA)

A municipal bonds agency has been established by the Local Government Association (LGA) to enable local authorities to undertake long term borrowing at lower rates than those offered by the PWLB. The MBA is expected to issue its first bond and advance its first loans to local authorities in 2016/17. Loans will be advanced on fixed dates determined by the municipal bonds agency. Loans will be repayable at maturity with the duration of the loan being fixed by the MBA.

(e) Money Market Loans – Temporary (Loans up to 364 days)

The use of temporary borrowing through the London Money Market forms an important part of the strategy. The authorised limit for external debt in 2016/17 of £568m set by the City Council on 9 February 2016 must not be exceeded. It is anticipated that the City Council will not need to use the temporary borrowing facility in 2016/17.

(f) Overdraft

An overdraft limit of £2m has been agreed with the Barclays Bank plc. Interest on the overdraft is charged at 1% above base rate. The City Council does not anticipate that short-term borrowing will generally be necessary during 2016/17 as it currently holds sufficient funds to enable the authority's cash flow to be managed without the need to borrow. However, the overdraft facility may be used when there are unforeseen payments and funds placed on temporary deposit cannot be called back in time.

(g) Internal Funds

Internal funds include all revenue reserves and other specific reserves maintained by the City Council, including the minimum revenue provision which is available to either repay debt or to be used instead of new borrowing. The cash held in internal funds such as earmarked reserves can be borrowed in the short term to finance capital expenditure or the repayment of debt, thus delaying the need to borrow externally.

- 6.2 It is recommended that no restriction be placed on the amount that can be borrowed in sterling from an individual lender provided it is from a reputable source and within the authorised limit for external debt approved by the City Council (**Recommendation 3.1(i)**).

7. APPORTIONMENT OF BORROWING COSTS TO THE HOUSING REVENUE ACCOUNT (HRA)

- 7.1 The Localism Act 2011 requires local authorities to allocate existing and future borrowing costs between council housing (the HRA) and the General Fund. It is for local authorities to choose an allocation method that achieves the principles detailed in their treasury management strategies.
- 7.2 In 2011/12 the Council was required to make an £88.6m payment to the Government under the HRA Self Financing scheme. The expected direction of gilt yields at that time was upwards and the Council borrowed £84m. Subsequently the Government announced that they would allow local authorities to borrow this sum from the Public Works Loans Board at National Loans Fund (NLF) rates. NLF rates are typically 1.13% below the rates the PWLB normally offers to local authorities. The Council therefore took advantage of this and borrowed a further £88.6m. The Council then switched the original PWLB borrowing of £84m taken earlier in the year and applied that to fund existing and future General Fund capital expenditure.
- 7.3 The approved Treasury Management Strategy for 2012/13 provided for a single loans pool to be maintained for both HRA and General Fund. This reflects the previous co-operation between the General Fund and the HRA and provides for the loans portfolio to be managed in the best interests of the whole authority. If the HRA had its own loans pool, having already borrowed £84m at an average rate of 4.51% to fund the Self Financing payment, it would not have been able to borrow much at the NLF rates that were subsequently offered. A single loans pool means that the HRA gets more of the long term benefits of the 3.49% NLF rate loans than it could have done on its own. Although a single loans pool does not allow the HRA to directly benefit from the NLF rate loans, it is felt that a single loans pool is broadly equitable between the HRA and the General Fund in the Council's circumstances.
- 7.4 It is proposed to continue to operate with a single loans pool and apportion costs according to locally established principles. It is recommended that the principles upon which the apportionment of borrowing costs should be based are as follows (**recommendation 3.1(j)**):
- The apportionment is broadly equitable between the HRA and the General Fund, and is detrimental to neither;
 - The loans portfolio is managed in the best interests of the whole authority;
 - The costs and benefits of over and under borrowing above or below the capital financing requirement (CFR) are equitably shared between the General Fund and the HRA.

- 7.5 For the purpose of apportioning borrowing costs it will be assumed that the HRA is under or over financed in the same proportion as the Council as a whole. The HRA will be charged interest at the Council's average cost of borrowing adjusted to take account of any under or over financing which will be charged at the average return on the Council's investments.

8 ANNUAL MINIMUM REVENUE PROVISION FOR DEBT REPAYMENT STATEMENT

- 8.1 The Local Authorities (Capital Finance and Accounting) (Amendment) Regulations 2012 require the Council to make "prudent provision" for the repayment of General Fund debt from 2008/09 onwards. There is no requirement to make "prudent provision" for the repayment of Housing Revenue Account (Council Housing) debt. The Government has provided a definition of "prudent provision" which the Council is legally obliged to "have regard" to. The guidance aims to ensure that the provision for the repayment of borrowing which financed the acquisition of an asset should be made over a period bearing some relation to that over which the asset continues to provide a service.
- 8.2 The guidance also requires the Council to adopt an Annual Minimum Revenue Provision (MRP) for Debt Repayment Statement. This is contained within paragraphs 9 to 15 below.

9 GOVERNMENT- SUPPORTED BORROWING OTHER THAN FINANCE LEASES AND SERVICE CONCESSIONS INCLUDING PRIVATE FINANCE INITIATIVE SCHEMES

- 9.1 The Government has supported some local authority borrowing through the Formula Grant. Provision may be made for the repayment of existing and new government supported borrowing through the Capital Financing Requirement Method or the Regulatory Method.
- 9.2 For debt that is supported by Formula Grant, authorities are able to make revenue provision for the repayment by setting aside 4% of their Adjusted Non-Housing Capital Financing Requirement (CFR). The CFR represents the underlying requirement to borrow for capital expenditure. It takes the total value of the City Council's fixed assets and determines the amount that has yet to be repaid or provided for within the Council's accounts. The CFR is adjusted so that it excludes self-financed debt incurred after 1 April 2008. This is known as the CFR Method.

- 9.3 Alternatively, for debt that is supported by Formula Grant, it is suggested that authorities could continue to use the formulae in the previous regulations, since Formula Grant is calculated on that basis. This is known as the Regulatory Method. This method is also based on the CFR but is adjusted by the effect of the previous regulations. This method is more complex than the CFR method. However it is estimated that the MRP under this method would be £320k less per annum than under the CFR method. The Council has previously adopted the Regulatory Method of calculating MRP to be applied to pre 1 April 2008 debt and new government supported debt.
- 9.4 However, 62% of the Council's borrowings mature in over 30 years' time. All but £11m of the Council's borrowing is PWLB debt. The PWLB introduced new lower discount rates to calculate premiums on the early repayment of debt in 2010. The increased premiums resulting from this means that the existing debt is unlikely to be repaid early or rescheduled. In the meantime providing MRP on the basis of a 4% reducing balance is contributing to the Council's high cash balances. The need to invest such high cash balances exposes the Council to credit risk in the event that one of the Council's investment counterparties gets into financial difficulties. In addition an MRP policy based on a reducing balance will never fully provide for the repayment of the debt.
- 9.5 Authorities must always have regard to the guidance, but having done so, may consider that a more individually designed MRP approach is justified. It is therefore recommended that the Council adopts a MRP policy for supported borrowing based on a straight 2% (**Recommendation 3.1(k)**). This will ensure that provision was made for the repayment of all unsupported borrowing in a way that better reflects the maturity pattern of the Council's borrowing and avoids the credit risk associated with providing for the repayment of debt long before there is any realistic chance of the debt actually being repaid. The graph in Appendix C illustrates these points. It should also be borne in mind that the real value of the Council's long term borrowing will be considerably eroded by inflation prior to it becoming due for repayment which is a further argument for not providing for its repayment excessively early.

10. FINANCE LEASES AND SERVICE CONCESSIONS INCLUDING PRIVATE FINANCE INITIATIVE SCHEMES

- 10.1 It is recommended that MRP continues to be provided for finance leases and service concessions (including Private Finance Initiative schemes) as principal repayments are made to the lessor or the PFI operator (**Recommendation 3.1 (i)**). The principal repayments made to lessors and PFI operators are already calculated on an annuity basis.

11. SELF- FINANCED BORROWING EXCLUDING BORROWING TO FUND LONG TERM DEBTORS (INCLUDING FINANCE LEASES), INVESTMENT PROPERTIES AND EQUITY SHARES PURCHASED IN PURSUIT OF POLICY OBJECTIVES

11.1 For new borrowing under the prudential system for which no Government support is being given and is therefore self-financed, there are three options suggested by the guidance, the Asset Life (Equal Instalment) Method, the Asset Life (Annuity) Method and the Depreciation Method. The guidance suggests that the Asset Life (Annuity) Method is only appropriate for projects where income or savings will increase over time. In 2014/15 and prior years the Council adopted the Asset Life (Equal Instalment) Method with MRP being made from the year following completion of the asset with the exception of:

- Finance Leases
- Service concessions (including Private Finance Initiative schemes)
- Borrowing to fund long term debtors (including finance leases)

11.2 Providing MRP using the asset life equal instalment method contributed to the Council's high cash balances. The need to invest such high cash balances exposes the Council to credit risk in the event that one of the Council's investment counterparties gets into financial difficulties.

11.3 Authorities must always have regard to the guidance, but having done so, may consider that a more individually designed MRP approach is justified. It is recommended that the annuity method of calculating the minimum revenue provision (MRP) for the repayment of debt is applied to General Fund post 1 April 2008 self-financed borrowing with MRP being made from the year after practical completion of the scheme (**Recommendation 3.1(m)**). This will still ensure that provision is made for the repayment of unsupported borrowing within the life of the assets that it is used to finance, but in a way that better reflects the maturity pattern of the Council's borrowing and avoids the credit risk associated with providing for the repayment of debt long before there is any realistic chance of the debt actually being repaid. The graph in Appendix D illustrates this point. It should also be borne in mind that the real value of the Council's long term borrowing will be considerably eroded by inflation prior to it becoming due for repayment which is a further argument for not providing for its repayment excessively early.

12 SELF FINANCED BORROWING TO FUND LONG TERM DEBTORS INCLUDING FINANCE LEASES

- 12.1 The income received from long term debtors has an interest and a principal element. The interest element is credited to the revenue account. The principal part of the income receivable will be taken to reduce the loan asset on the balance sheet rather than being credited to the revenue account. This part of the rent receivable generates a capital receipt. Capital receipts can principally be used to finance new capital expenditure or repay debt. It is recommended that the principal element of the rent receivable be set aside to repay the borrowing that financed these assets **(recommendation 3.1(n))**. This is in line with the MRP policy adopted for 2015/16 for long term debtors funded by unsupported borrowing.
- 12.2 Under finance leases the risks and rewards of asset ownership rest with the lessee and the assets are not shown on the City Council's balance sheet. These leases are therefore in effect a form of lending. A part of the rent receivable will be taken to reduce the loan asset value on the balance sheet rather than being credited to the revenue account. This part of the rent receivable generates a capital receipt which can principally be used to finance new capital expenditure or repay debt. It is recommended that the principal element of the rent receivable be set aside to repay the borrowing that financed these assets **(recommendation 3.1(o))**. This is in line with the MRP policy adopted for 2015/16 for finance leases funded by unsupported borrowing.

13 SELF FINANCED BORROWING TO FUND INVESTMENT PROPERTIES

- 13.1 The Council has purchased investment properties in 2015/16 with a view to generating long term rental income streams to support the delivery of Council services in the future and reduce dependence on Government grant. The Council plans to purchase more investment properties in 2016/17. The Property Investment Strategy approved by the Council on 7 July 2015 provides for an investment "holding period" before sale to be defined from purchase with a view to preventing significant depreciation eroding the value of the property or the need for re-development arising. As the investment properties will be sold before there is significant consumption of the assets, it is recommended that the Council provides for the repayment of the unsupported borrowing by setting aside the capital receipt on disposal rather than providing a revenue provision **(recommendation 3.1(p))**.

14 SELF FINANCED BORROWING TO FUND EQUITY SHARES PURCHASED IN PURSUIT OF POLICY OBJECTIVES

- 14.1 The Council has purchased £150k of ordinary shares in the Municipal Bonds Agency (MBA). The establishment of the MBA will offer a number of long term benefits including:
- Cheaper access to borrowing for local authorities - expected to be between 20 to 25 basis points (or £20,000 p.a. to £25,000 p.a. per £10m borrowed or £600,00 to £750,000 over the life of a 30 year loan;
 - Loans from the MBA should be cheaper to reschedule;
 - Increased opportunities for local authorities to lend to each other;
 - The ordinary shares purchased may provide a dividend in future years
 - Insulate local authorities from future policy changes by the PWLB regarding interest rates.
- 14.2 The Council has also purchased ordinary share capital in Hampshire Community Bank (HCB) and plans to increase its shareholding to £5m in 2016/17. The primary purpose of this capital expenditure is to create a local bank that will focus on lending to small and medium sized enterprises and thus be a powerful force in achieving the following:
- Securing a strong and sustainable local economy in Hampshire
 - Working with businesses, councils and charities to deliver sustainable economic growth
 - Retaining wealth in the local area
- Creation of the HCB will be in line with the following strategies:
- the LEP Strategy for Growth
 - PCC's Regeneration Strategy
 - the Medium Term Financial Strategy that aims to drive regeneration, and reduce the demand for council services.
- The bank is expected to generate a 6% return for its founding investors. On this basis we expect the value of shares in the bank to increase rather than decrease in value.
- 14.3 The Government's statutory guidance suggests that MRP for the acquisition of share capital should be made over 20 years to discourage the use of this form of investment (paragraph 45 of Part 1 of the Guidance). The Council see the MBA and HCB as important policy tools rather than primarily as an investment. The guidance aims to ensure that the provision for the repayment of borrowing which financed the acquisition of an asset should be made over a period bearing some relation to that over which the asset continues to provide a service. However, the MBA and HCB will have indeterminate lives and therefore it is not recommended that the Council makes MRP in relation to its unsupported borrowing in respect of the MBA and HCB. Instead it is recommended that the Council sets aside the capital receipt to provide for the repayment of the unsupported borrowing in the event of it selling its shares in the MBA or HCB (**recommendation 3.1(q)**).

15 HOUSING REVENUE ACCOUNT (HRA) BORROWING

- 15.1 There is no statutory requirement for the HRA to provide for the repayment of its debt. On 28 March 2012 the HRA was required to make a self financing payment to the Government of £88.619m. It is recommended that the HRA provide for the repayment of this debt over 30 years in line with the HRA Business Plan (**recommendation 3.1(r)**). The HRA will continue its practice of not providing for the repayment of its other debts.

16 ANNUAL INVESTMENT STRATEGY

- 16.1 The Government has also issued guidance on investments. The guidance requires the City Council to adopt an Annual Investment Strategy. This is contained within paragraphs 16 to 22 below. The requirements of the Department for Communities and Local Government are in addition to the requirements of the Chartered Institute of Public Finance and Accountancy's Treasury Management in Public Services: Code of Practice.
- 16.2 During the year the Council may be asked to approve a revised strategy if there are investment issues which the full Council might wish to have brought to their attention.
- 16.3 The guidance defines a prudent policy as having two objectives:
- achieving first of all security (protecting the capital sum from loss);
 - liquidity (keeping the money readily available for expenditure when needed).
- Only when proper levels of security and liquidity have been secured should yield be taken into account.
- 16.4 Investment strategies usually rely on credit ratings and both the current and recommended Investment Strategies are based on credit ratings. Although the recommended Investment Strategy is based on credit ratings other sources of information will be taken into account prior to placing deposits such as information in the quality financial press and credit default swaps (CDS) prices.
- 16.5 CDS are a financial instrument for swapping the risk of debt default. The buyer of a credit default swap pays a premium for effectively insuring against a debt default. He receives a lump sum payment if the debt instrument is defaulted. The seller of a credit default swap receives monthly payments from the buyer. If the debt instrument defaults they have to pay an agreed amount to the buyer of the credit default swap.

17. INVESTMENT CONSULTANTS

17.1 The City Council currently employs consultants to provide the following information:

- Interest rate forecasts
- Credit ratings
- CDS prices

17.2 The City Council does not employ consultants to provide strategic advice.

18. SPECIFIED INVESTMENTS

18.1 The Government requires the Council to identify investments offering high security and high liquidity. These are known as specified investments. Specified investments will be made with the minimum of procedural formalities. They must be made in sterling with a maturity of no more than one year and must not involve the acquisition of share capital in any corporate body.

18.2 Credit rating information is available to the financial market through three main credit rating bodies ie. Moody's, Fitch, and Standard and Poor. The credit ratings provided are as follows:

- Short Term Rating (measures an institution's suitability for short term investment)
- Long Term Rating (measures an institution's suitability for long term investment). These ratings are explained in Appendix E.
- Viability Rating (where available measures the likelihood that an organisation will require assistance from third parties such as its owners or official institutions)
- Support Rating (where available measures a potential supporter's (either a sovereign state's or an individual owner's) propensity to support a bank and its ability to support it)

18.3 The grades of short and long term credit rating are as follows with the best credit ratings at the top. The credit ratings that meet the City Council's investment criteria for specified investments are shaded.

Fitch		Moody's		Standard & Poor's	
Short Term	Long Term	Short Term	Long Term	Short Term	Long Term
F1+	AAA	P-1	Aaa	A-1+	AAA
	AA+		Aa1		AA+
	AA		Aa2		AA
	AA-		Aa3		AA-
F1	A+		A1	A-1	A+
	A	P-2	A2		A
	A-		A3	A-2	A-
F2	BBB+	P-3	Baa1	A3	BBB+
	BBB		Baa2		BBB
F3	BBB-		Baa3		BBB-

Support ratings are graded 1 to 5, with 1 being the highest rating.

18.4 The main rating agencies (Fitch, Moody's and Standard & Poor's) have, through much of the financial crisis, provided some institutions with a ratings "uplift" due to implied levels of sovereign support. Commencing in 2015, in response to the evolving regulatory regime, all three agencies have begun removing these "uplifts" with the timing of the process determined by regulatory progress at the national level. The process has been part of a wider reassessment of methodologies by each of the rating agencies. In addition to the removal of implied support, new methodologies are now taking into account additional factors, such as regulatory capital levels. In some cases, these factors have "netted" each other off, to leave underlying ratings either unchanged or little changed. A consequence of these new methodologies is that they have also lowered the importance of the (Fitch) Support and Viability ratings and have seen the (Moody's) Financial Strength rating withdrawn by the agency.

18.5 In keeping with the agencies' new methodologies, the rating element of our own credit assessment process now focuses solely on the Short and Long Term ratings of an institution. While this is the same process that has always been used for Standard & Poor's, this has been a change in the use of Fitch and Moody's ratings. It is important to stress that the other key elements to our process, namely the assessment of Rating Watch and Outlook information as well as the Credit Default Swap (CDS) prices have not been changed.

- 18.6 It is important to stress that these rating agency changes do not reflect any changes in the underlying status or credit quality of the institution. They are merely reflective of a reassessment of rating agency methodologies in light of enacted and future expected changes to the regulatory environment in which financial institutions operate. While some banks have received lower credit ratings as a result of these changes, this does not mean that they are suddenly less credit worthy than they were formerly. Rather, in the majority of cases, this mainly reflects the fact that implied sovereign government support has effectively been withdrawn from banks. They are now expected to have sufficiently strong balance sheets to be able to withstand foreseeable adverse financial circumstances without government support. In fact, in many cases, the balance sheets of banks are now much more robust than they were before the 2008 financial crisis when they had higher ratings than now. However, this is not universally applicable, leaving some entities with modestly lower ratings than they had through much of the “support” phase of the financial crisis.
- 18.7 It is recommended that specified investments should only be placed with institutions that have a long term credit rating of at least A- from at least two rating agencies except registered social landlords for which a single credit rating will be required (**Recommendation 3.1s**). Registered social landlords (RSLs) are regulated by the Government and their debts can be secured on their housing stock. However, most RSLs are only rated by a single agency.
- 18.8 In addition to rating financial institutions the rating agencies also rate governments. These are known as sovereign credit ratings. The evolving regulatory environment, in tandem with the rating agencies’ new methodologies also means that sovereign ratings are now of lesser importance in the assessment process with the new regulatory environment attempting to break the link between sovereign support and domestic financial institutions. However sovereign credit ratings are also dependent on a government’s ability to raise taxes and thus also give an indication of the state of a nation’s general economy. It is recommended that investments should only be placed with institutions based in either the United Kingdom or states with an AA+ credit rating (**Recommendation 3.1t**).
- 18.9 When an institution or state has differing ratings from different agencies, the average rating will be used to assess its suitability. Those institutions that have not been rated by a particular agency will not be discarded because of the lack of ratings.
- 18.10 It is proposed that investments be allowed in government bodies, banks including supranational banks, building societies, money market funds, enhanced money market funds, RSLs and corporate bonds that meet the Council’s investment criteria.
- 18.11 Money market funds are well diversified funds that invest in high quality very short term instruments enabling investors to have instant access to their funds. Enhanced money market funds, also known as short dated investment funds, are also well diversified funds investing in high quality counter parties, but for longer periods, and require a few days’ notice of withdrawals.

- 18.12 Corporate bonds are tradable loan instruments issued by commercial companies. Credit ratings measure the risk of default, ie. the risk of not receiving principal and interest when it is due, across these institutions in a way that allows them to be compared. However, other measures of credit risk such as CDS prices are not available for all institutions including most building societies, RSLs and commercial companies.
- 18.13 There are over 30 registered social landlords (RSLs) with a single or double A credit rating. RSLs are subject to Government regulation but their debts are not guaranteed by the Government. As RSLs own houses, lending to RSLs can be secured by a charge against the RSLs properties.
- 18.14 The risk of loss following a default is much smaller for building societies. Building societies also operate under a separate legal regime to banks, which limits the amount of lending not secured on residential property and limits the amount of wholesale funding.
- 18.15 It is recommended that the Council's investments be limited to senior debt **(Recommendation 3.1(u))**. Subordinated corporate bonds are sometimes issued by financial institutions and commercial companies. Subordinated corporate bonds offer higher yields, but in the event of an institution defaulting, senior debtors are repaid before subordinated debtors. Because of this, subordinated bonds often have a lower credit rating than senior debt issued by the same institution.
- 18.16 On 25 September 2015 the Council gave the Director of Finance and Information Services (Section 151 Officer) delegated authority to invest the Council's funds in equity trackers which follow the developed stock markets with a floor of 100% of the capital invested, ie. the Council's capital was guaranteed. Market conditions for equities have deteriorated and there is evidence to suggest that the probability of a fully capital protected equity tracker paying a return is less than 60%. There are structured investment products available that pay returns in excess of 6% per annum provided that neither the FTSE 100, S&P 500 or Eurostoxx 50 decline by more than 40% over 5 years and repay the capital invested if the worst performing index and the Eurostoxx 50 do not fall by more than 65%. There are also similar structured investment products available that will pay in excess of 6% per annum provided that none of the indices decline by more than 50% over 6 years. It is therefore recommended that the Director of Finance and Information Services (Section 151 Officer) be given delegated authority to invest the Council's funds in structured investment products which follow the developed stock markets that do not fully protect the Council's capital invested **(Recommendation 3.1(v))**. In order to accommodate this type of investment it is also recommended that the maximum duration of investments in categories 1, 2, 4, 6, 7, and 8 below be increased from 5 years to 6 years. These products are effectively bank deposits where the return is determined by stock market performance. As such they are subject to credit risk if the issuer defaults.

18.17 It is proposed to divide the approved counter parties for specified investments into eight categories as follows:

	Recommended Maximum Investment in a Single Organisation
<u>Category 1</u> United Kingdom Government including the Debt Management Office Deposit Facility	Unlimited investments for up to 6 years
<u>Category 2</u> Local authorities in England, Scotland and Wales	£30m for up to 6 years
<u>Category 3</u> RSLs with a single long term credit rating of Aa-	£30m for up to 10 years
<u>Category 4</u> Banks with a short term credit rating of F1+ and a long term rating of Aa-. Aaa rated money market funds, Aa rated enhanced money market funds	£26m for up to 6 years
<u>Category 5</u> RSLs with a single A long term credit rating of A-	£20m for up 10 years
<u>Category 6</u> Banks and corporate bonds with a short term credit rating of F1 and a long term rating of A+. Building societies with a short term credit rating of F1 and a long term rating of A.	£20m for up to 6 years.
<u>Category 7</u> Banks and corporate bonds with a short term credit rating of F1 and a long term rating of A. Building societies with a short term credit rating of F1 and a long term rating of A-.	£13m for up to 6 years
<u>Category 8</u> Banks and corporate bonds with a short term credit rating of F1 and a long term rating of A-.	£10m for up to 6 years

18.18 It is proposed that the bodies meeting the criteria of categories 1 to 8 in paragraph 18.17 be approved as repositories of specified investments of the City Council's surplus funds (**Recommendation 3.1(w)**). A list of financial institutions currently meeting the Councils investment criteria is contained in Appendix F. There are too many RSLs and companies issuing corporate bonds to include in the list.

18.19 It is recommended that the credit ratings be reviewed weekly and that any institution whose lowest credit rating falls below the criteria for category 8 in paragraph 18.17 be removed from the list of specified investments **(Recommendation 3.1(x))**.

18.20 It is recommended that institutions that are placed on negative watch or negative outlook by the credit rating agencies be reassigned to a lower category **(Recommendation 3.1(y))**.

19. NON-SPECIFIED INVESTMENTS

19.1 The Government's Guidance requires that other less secure types of investment be identified and that a limit be set on the overall amount that may be held in such investments at any time in the year. Non-specified investments are investments that are not secure, ie. do not have an "A" credit rating or are not liquid, ie. have a maturity in excess of 364 days. Investments that are not denominated in sterling would also be non-specified investments due to exchange rate risks.

19.2 In order to reduce the risks associated with placing funds with a relatively small number of counter parties and to improve returns it is recommended that further investment categories be established for non-specified investments that do not meet the criteria for specified investments.

Category 9 - £10m for 2 years

Short Term – F2 (or equivalent from Moody's and Standard & Poor)

Long Term – BBB or better (or equivalent from Moody's and Standard and Poor)

Category 9 will consist of rated building societies that meet the above criteria.

Category 10 - £6m for 2 years

Many smaller building societies that have been more conservative in their lending approach do not have credit ratings. An analysis of building society accounts suggests that many of those without credit ratings are in a better financial position than some of the larger ones who do hold credit ratings.

Category 10 consists of the unrated building societies in the strongest financial position.

The limits on these building societies are less than £6m to take account of their small size in terms of assets.

Building Society	Limit
Leek United	£4.5m
Furness	£4.4m
Newbury	£4.1m
Market Harborough	£2.1m
Melton Mowbray	£1.9m
Marsden	£1.9m
Tipton and Coseley	£1.9m
Hanley Economic	£1.8m
Dudley	£1.6m
Harpenden	£1.5m
Loughborough	£1.4m
Staffordshire Railway	£1.3m
Swansea	£1.1m
Chorley and District	£1.1m
Buckinghamshire	£1.1m

Category 11 - £6m for 364 days

Category 11 consists of the unrated building societies that are in a strong financial position.

The limits on some building societies are less than £6m to take account of their small size in terms of assets.

Building Society	Limit
Nottingham	£6.0m
Progressive	£6.0m
Monmouthshire	£5.2m
Hinkley & Rugby	£2.7m
Darlington	£2.7m
Scottish	£1.9m
Mansfield	£1.4m
Vernon	£1.4m

- 19.3 The Council's treasury management operation is exposed to the Council's subsidiary company MMD (Shipping Services) Ltd. The Council has £550k lodged with Lloyds Bank to guarantee MMD's banking limits.
- 19.4 The Annual Investment Strategy provides for the Council to lend to the United Kingdom Government and local authorities in England, Scotland and Wales, A rated financial institutions and A rated corporate bonds for 6 years, and to RSLs for 10 years. However as these investments would be over a year they cannot be included as specified investments.
- 19.5 The Council sometimes enters into contracts denominated in foreign currencies. Such contracts normally relate to civil engineering schemes at the port. It can be beneficial to buy Euros early to fund these projects and avoid the associated currency risk.

19.6 It is recommended that non-specified investments should in aggregate be limited to the following (**Recommendation 2.1 (z)**):

	£
Building societies with a BBB credit rating and unrated building societies	81m
Investments in MMD (Shipping Services) Ltd including funds lodged to guarantee the company's banking limits. MMD is a wholly owned subsidiary of the City Council.	2m
Long term investments	286m
Investments in foreign currencies to hedge against contracts priced or indexed against foreign currencies	5m
Total	374m

20. MAXIMUM LEVEL OF INVESTMENT IN INDIVIDUAL ORGANISATIONS

- 20.1 The Government's Guidance does not require a limit to be placed on the amount that can be placed in any one investment. However in order to minimise risk further, it is proposed that the total amount that can be directly invested with any organisation at any time should be limited as follows (**Recommendation 3.1(aa)**):

	Maximum Investment in Single Organisation
Category 1	Unlimited for up to 6 years
Category 2	£30m for up to 6 years
Category 3	£30m for up to 10 years
Category 4	£26m for up to 6 years
Category 5	£20m for up to 10 years
Category 6	£20m for up to 6 years
Category 7	£13m for up to 6 years
Category 8	£10m for up to 6 years
Category 9	£10m for up to 2 years
Category 10	£6m for up to 2 years
Category 11	£6m for up to 364 days
MMD (Shipping Services) Ltd including sums lodged to guarantee the company's banking limits	£2m for up to 364 days

The duration limits for categories 1, 2, 4, 6, 7 and 8 was previously 5 years. It is recommended that the duration limits for these categories be increased to 6 years to facilitate the purchase of structured investment products that follow the developed equity markets (see paragraph 18.5)

- 20.2 It is recommended that the Director of Finance and Information Services (Section 151 Officer) in Consultation with the Leader of the Council be given delegated authority to revise the total amount that can be directly invested with any organisation at any time (**Recommendation 3.1(ab)**).
- 20.3 AA money market funds offer security and same day access. By aggregating investments they can also invest in financial institutions that may not be interested in the relatively small sums that the Council can invest. Although AA money market funds are well diversified in their investments there is a risk that more than one fund could have investments with the same bank or that the Council may also have invested funds in the same bank as a money market fund. Therefore it is proposed that the Council should aim to have no more than £70m invested in money market funds with an absolute limit of £80m.
- 20.4 Most building society lending is secured against residential properties. If property prices fall there may be inadequate security to support building societies lending giving rise to a systemic risk.
- 20.5 As RSL's offer one principal service and their assets principally consist of residential properties, excessive investments in RSLs would also expose the Council to a systemic risk.
- 20.6 Excessive investments in investment products tracking equity markets could also expose the Council to a systemic risk.
- 20.7 In order to minimise systemic credit risk in any sector it is recommended that the following limits be applied (**Recommendation 3.1(ac)**):

Money market funds	£80m
Building societies	£107m
Registered Social Landlords	£80m
Investments tracking the equity markets	£70m

- 20.8 In order to minimise systemic credit risk in any region it is recommended that the following limits be applied to the geographic areas where investments can be made in foreign countries.

20.9 It is recommended that the following limits be applied (**Recommendation 3.1(ad)**):

Asia & Australia	£60m
Americas	£60m
Eurozone	£30m
Continental Europe outside the Eurozone	£30m

20.10 The limits above only apply to direct investments. The City Council's exposure to any institution, sector or region may exceed the limits stated above through indirect investments via money market funds. Money market funds employ specialist staff to assess counter party risks and all investments made by money market funds are short-term.

21. LIQUIDITY OF INVESTMENTS

18.1 The Council's cash flow forecast for the current year is updated daily. In addition, the Council maintains a long term cash flow forecast that extends to 2023/24. These forecast are used to determine the maximum period for which funds may be prudently committed, ie. the City Council's core cash. The City Council maintains at least £10m invested on an instant access basis to ensure that unforeseen cash flows can be financed.

21. INVESTMENT OF MONEY BORROWED IN ADVANCE OF NEED

21.1 Section 12 of the Local Government Act gives a local authority the power to invest for "any purpose relevant to its functions under any enactment or for the prudent management of its financial affairs". While the speculative procedure of borrowing purely to invest at a profit is clearly unlawful, there is no legal obstacle to the temporary investment of funds borrowed for the purpose of funding capital expenditure incurred in the reasonably near future.

21.2 Borrowing in advance of need may enable the City Council to obtain cheaper loans than those available at the time when expenditure is incurred, although the consequent investment of funds borrowed in advance of need does expose the City Council to credit risk. The interest payable on funds borrowed in advance of need is likely to exceed the interest earned on the investment of those funds in the current economic climate.

- 21.3 The Council's gross debt currently exceeds its estimated CFR by £17m, ie. it is over borrowed, in 2015/16 because £18m was borrowed from the Public Works Loans Board (PWLB) at the project rate which is 0.20% below the certainty rate at which the PWLB normally lends to local authorities. The Council had an £18m allocation of project rate funding for 2015/16 to finance the development of Dunsbury Hill Farm, Tipner and Horsea Island.
- 21.4 The capital programme approved by the City Council on 9th February 2016 includes £99.3m of capital expenditure financed by borrowing. This is expected to cause the Council's CFR to rise above its gross debt, ie. it is expected to become under borrowed in 2016/17.

22. TRAINING OF INVESTMENT STAFF

- 22.1 The Finance Manager (Technical & Financial Planning) manages the treasury function and is a qualified Chartered Public Finance Accountant and holds the Association of Corporate Treasurers Certificate in International Treasury Management. The Finance Manager (Technical & Financial Planning) is assisted by the Treasury Manager who is a qualified Chartered Certified Accountant. The City Council is also a member of CIPFA's Treasury Management Network which provides training events throughout the year. Additional training for investment staff is provided as required.

23. DELEGATED POWERS

- 23.1 Once the Treasury Policy has been approved, the Head of Financial Services and Section 151 Officer has delegated powers under the constitution of the City Council, to make all executive decisions on borrowing, investments or financing.

24. TREASURY SYSTEMS AND DOCUMENTATION

- 24.1 Once the Policy Statement has been approved by the Council, the documentation of the Treasury Systems will be updated so that all employees involved in Treasury Management are clear on the procedures to be followed and the limits applied to their particular activities.

- 24.2 The Treasury Management Practices document covers the following topics: -
- risk management
 - best value and performance measurement
 - decision making and analysis
 - approved instruments, methods and techniques
 - organisation, clarity and segregation of responsibilities, and dealing arrangements
 - reporting requirements and management information arrangements
 - budgeting, accounting and audit arrangements
 - cash and cash flow management
 - money laundering
 - staff training and qualifications
 - use of external service providers
 - corporate governance

25. REVIEW AND REPORTING ARRANGEMENTS

- 25.1 The Head of Financial Services and Section 151 Officer will submit the following:-
- (i) an annual report on the treasury management outturn to the Cabinet by 30 September of the succeeding financial year
 - (ii) a mid year review to the Council
 - (iii) the Annual Strategy Report to the Council in March 2017
 - (iv) quarterly treasury management monitoring reports to the Governance and Audit and Standards Committee

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Capital Expenditure							
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Children & Education	10,309	17,992	11,765	2,238	-	1,800	-
Culture & Leisure	1,181	843	3,714	3,011	-	-	-
Environment & Community Safety	897	8,205	16,559	29,707	24,706	37,147	50,651
Health & Social Care (Adults Services)	907	683	7,100	1,755	400	-	-
Planning, Regeneration & Economic Development	5,238	119,423	142,817	27,027	40,443	21,400	13,978
Commercial Port	839	5,509	2,303	11,643	2,700	5,110	-
Resources	7,050	5,934	9,217	45	-	-	-
Traffic & transportation	7,290	14,569	16,278	4,761	4,586	3,030	1,502
Housing General Fund	1,918	2,768	2,260	1,855	1,901	1,949	1,997
Local Enterprise Partnership	6,325	-	-	-	-	-	-
Non HRA	41,954	175,926	212,013	82,042	74,736	70,436	68,128
HRA	26,370	34,087	38,939	23,803	17,526	17,564	24,036
Total	68,324	210,013	250,952	105,845	92,262	88,000	92,164

Ratio of Financing Costs to Net Revenue Stream							
	2014/15 Actual	2015/16 Estimate	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate	2020/21 Estimate
Non - HRA	8.7%	11.7%	13.3%	14.2%	13.8%	14.6%	16.7%
HRA	13.4%	13.2%	12.7%	13.4%	13.6%	13.5%	13.1%

Capital Financing Requirement							
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Non - HRA	250,599	305,596	380,872	387,830	387,228	384,101	373,408
HRA	153,391	154,536	168,667	170,606	167,652	164,698	161,744

HRA Limit on Indebtedness							
	2014/15 Actual £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
HRA	181,701	181,701	196,821	196,821	196,821	196,821	196,821

Authorised Limit for External Debt							
	2014/15 Estimate £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Borrowing	416,768	410,925	486,586	499,682	503,400	504,381	504,995
Other Long Term Liabilities (ie Credit Arrangements)	86,095	84,355	81,263	77,429	74,085	69,929	63,623
Total	502,863	495,280	567,849	577,112	577,485	574,310	568,618

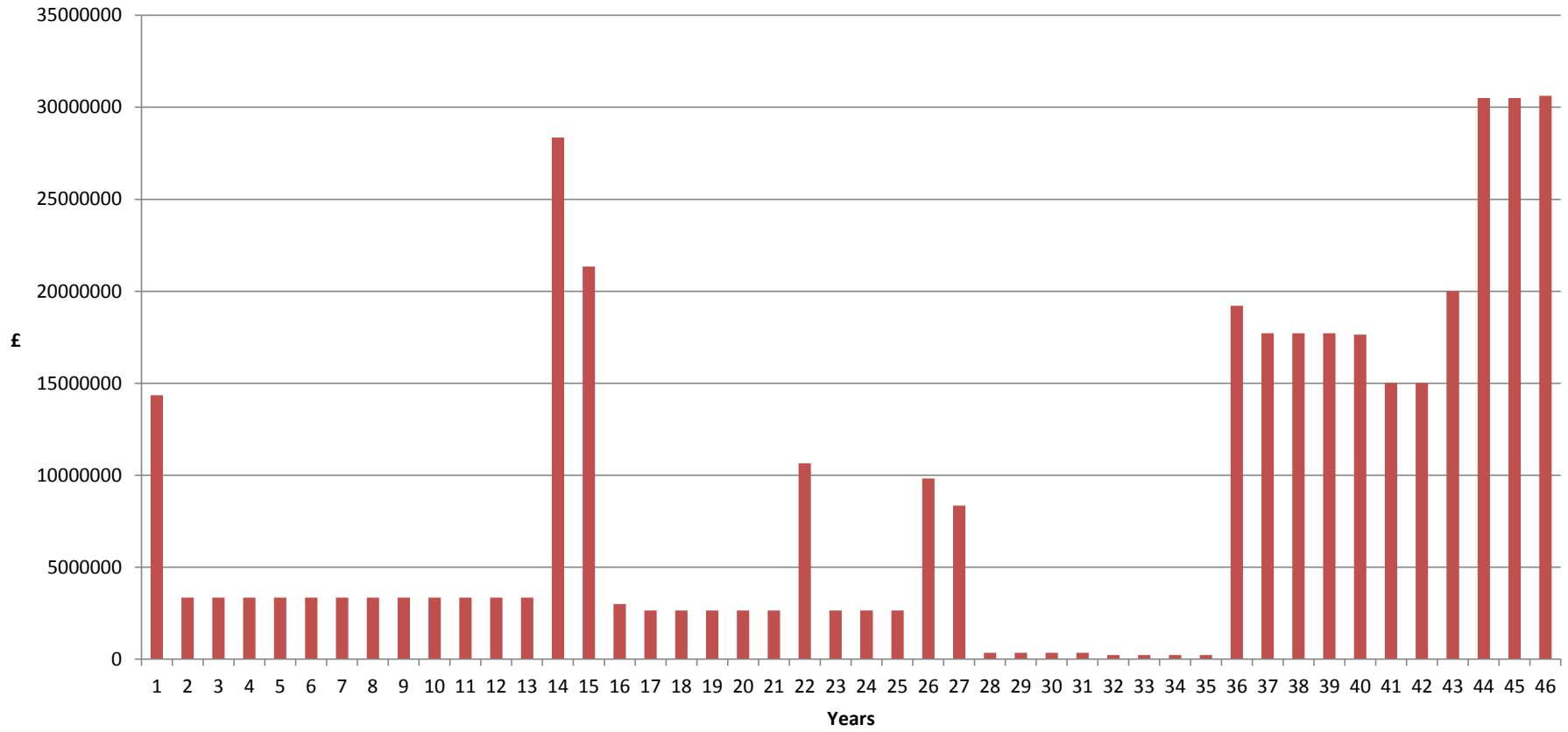
Operational Boundary for External Debt							
	2014/15 Estimate £000	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000
Borrowing	397,422	392,974	468,276	481,006	484,350	484,950	485,176
Other Long Term Liabilities (ie Credit Arrangements)	86,095	84,355	81,263	77,429	74,085	69,929	63,623
Total	483,517	477,329	549,540	558,436	558,436	554,879	548,798

Incremental Impact of Capital Investment Decisions on the Council Tax							
	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000	
Revenue effect of existing capital programme	742	93,291	35,796	25,650	31,530	38,478	
Revenue effect of proposed capital programme	834	91,591	33,293	22,685	28,567	35,511	
Increase in revenue effect	92	(1,700)	(2,503)	(2,965)	(2,963)	(2,967)	
Increase in Council Tax Band D	£1.73	(£31.76)	(£46.75)	(£55.38)	(£55.35)	(£55.41)	

Incremental Impact of Capital Investment Decisions on Housing Rents							
	2015/16 Estimate £000	2016/17 Estimate £000	2017/18 Estimate £000	2018/19 Estimate £000	2019/20 Estimate £000	2020/21 Estimate £000	
Revenue effect of existing capital programme	26,653	20,035	16,422	16,882	16,740	18,798	
Revenue effect of proposed capital programme	26,644	19,997	16,364	16,822	16,680	18,738	
Increase in revenue effect	(9)	(38)	(59)	(59)	(59)	(59)	
Effect on average weekly rent	(£0.01)	(£0.05)	(£0.08)	(£0.08)	(£0.08)	(£0.08)	

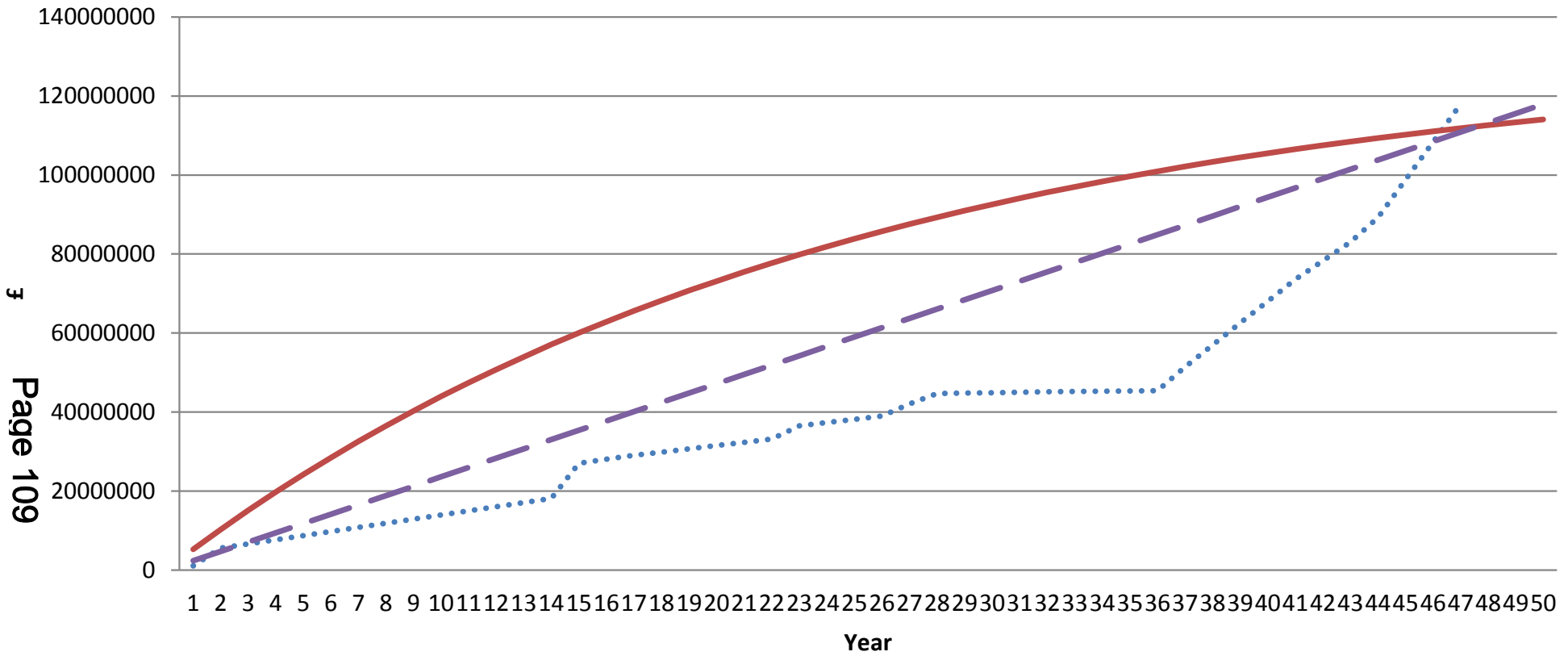
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Principal Repayment of Debt



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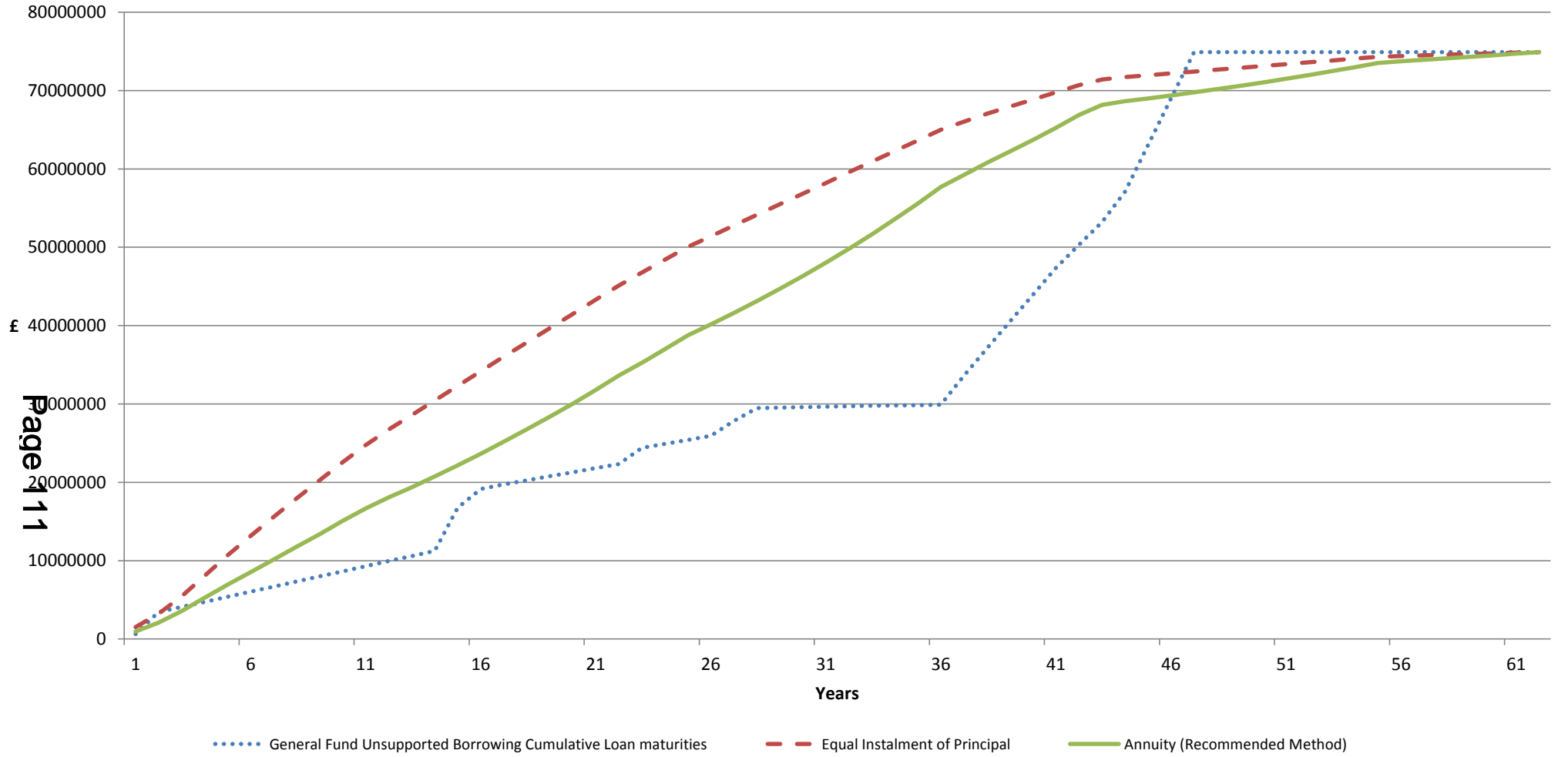
MRP Policies for Supported Borrowing



- Cumulative Proportion of Loan Principal Relating to Supported General Fund Borrowing
- Cumulative MRP Under 4% REDUCING BALANCE (2015/16 Methodology)
- - - - Cumulative MRP Under STRIAGHT 2% (Recommended Methodology)

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METHODS OF CALCULATING MINIMUM REVENUE PROVISION FOR SELF FINANCED BORROWING



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DEFINITIONS OF LONG TERM CREDIT RATINGS

Credit ratings are issued by three main credit rating agencies, Fitch, Moody's and Standard & Poor. All three agencies use broadly the same scale. Fitch defines its long term ratings as follows:

AAA: Highest credit quality

"AAA" ratings denote the lowest expectation of default risk. They are assigned only in cases of exceptionally strong capacity for payment of financial commitments. This capacity is highly unlikely to be adversely affected by foreseeable events.

AA: Very high credit quality

"AA" ratings denote expectations of very low default risk. They indicate very strong capacity for payment of financial commitments. This capacity is not significantly vulnerable to foreseeable events.

A: High Credit Quality

"A" ratings denote expectations of low default risk. The capacity for payment of financial commitments is considered strong. This capacity may, nevertheless, be more vulnerable to adverse business or economic conditions than in the case of the higher ratings.

BBB: Good credit quality

"BBB" ratings indicate that expectations of default risk are currently low. The capacity for payment of financial commitments is considered adequate but adverse business or economic conditions are more likely to impair this capacity.

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INVESTMENT COUNTER PARTY LIST

Category	Counter Party	Average Long Term Credit Rating *	Comments	Investment Limit £	Maximum Term
1	United Kingdom Government including investments explicitly guaranteed by the UK Government	AA+		Unlimited	6 years
2	All local authorities in England, Scotland & wales	n/a		30,000,000	6 years
3	Registered Social Landlords (RSLs)	AA-		30,000,000	10 years
4	Australia & New Zealand Banking Group	AA-		26,000,000	6 years
4	Commonwealth Bank of Australia	AA-		26,000,000	6 years
4	National Australia Bank	AA-		26,000,000	6 years
4	Westpac Banking Corporation	AA-		26,000,000	6 years
4	Toronto Dominion Bank	AA		26,000,000	6 years
4	Royal Bank of Canada	AA-	Upgraded from category 6	26,000,000	6 years
4	DZ Bank AG	AA-		26,000,000	6 years
4	Landwirtschaftliche Rentenbank	AAA		26,000,000	6 years
4	NRW Bank	AA		26,000,000	6 years
4	Bank Nederlanden Gemeeten	AA+		26,000,000	6 years
4	Nederlandse Waterschapsbank NV	AA+		26,000,000	6 years
4	Rabobank Nederland NV	AA-	Upgraded from category 6	26,000,000	6 years
4	DBS Bank	AA		26,000,000	6 years
4	Overseas Chinese Banking Corp	AA		26,000,000	6 years
4	United Overseas Bank	AA		26,000,000	6 years
4	Nordia Bank AB	AA-		26,000,000	6 years
4	Svenska Handelsbanken	AA-		26,000,000	6 years
4	HSBC Bank plc	AA-		26,000,000	6 years
4	Bank of New York Mellon	AA-		26,000,000	6 years
4	JP Morgan Chase Bank NA	AA-		26,000,000	6 years
4	Wells Fargo Bank NA	AA-		26,000,000	6 years
4	Nordic Investment Bank	AAA		26,000,000	6 years
4	Inter-American Development Bank	AAA		26,000,000	6 years
4	IBRD (World Bank)	AAA		26,000,000	6 years
4	Council of Europe Development Bank	AA+		26,000,000	6 years
4	European Bank for Reconstruction & Development	AAA		26,000,000	6 years
4	European Investment Bank	AA+		26,000,000	6 years

Category	Counter Party	Average Long Term Credit Rating *	Comments	Investment Limit £	Maximum Term
4	Global Treasury Funds Plc	AAA	Money Market Fund	26,000,000	Instant Access
4	Morgan Stanley Funds Plc	AAA	Money Market Fund	26,000,000	Instant Access
4	Short Term Investment Company (Global Series) Plc	AAA	Money Market Fund	26,000,000	Instant Access
4	Goldman Sachs Sterling Liquidity Reserve	AAA	Money Market Fund	26,000,000	Instant Access
4	Scottish Widows Investment Partnership Global Liquidity Sterling Fund	AAA	Money Market Fund	26,000,000	Instant Access
4	BNY Mellon Sterling Liquidity Fund	AAA	Money Market Fund	26,000,000	Instant Access
4	Deutsche Global Liquidity Series Plc	AAA	Money Market Fund	26,000,000	Instant Access
4	Morgan Stanley Funds Plc	AAA	Money Market Fund	26,000,000	Instant Access
4	Aberdeen Investment Cash OEIC Plc	AAA		26,000,000	Instant Access
4	Insight Investment	AAA		26,000,000	Instant Access
4	Federated Investors (UK) LLP	AAA		26,000,000	Instant Access
4	Royal London Asset Management	AAA		26,000,000	Instant Access
4	Standard Life Sterling Liquidity Fund	AAA		26,000,000	Instant Access
5	Registered Social Landlords (RSLs)	A-		20,000,000	10 years

Category	Counter Party	Average Long Term Credit Rating *	Comments	Investment Limit £	Maximum Term
6	Lloyds Bank plc	A+		20,000,000	6 years
6	Close Brothers Ltd	A+	New counter party	20,000,000	6 years
6	Bank of Montreal	A+		20,000,000	6 years
6	Canadian Imperial Bank of Commerce	A+		20,000,000	6 years
6	Bank of Nova Scotia	A+	Downgraded from category 4	20,000,000	6 years
6	National Bank of Canada	A+	Upgraded from category 7	20,000,000	6 years
6	Pohjola Bank plc	A+	New counter party	20,000,000	6 years
6	Landesbank Hessen - Thuringen	A+		20,000,000	6 years
6	Swedbank AB	A+		20,000,000	6 years
6	Skandinaviska Enskilda Banken (SEB)	A+	Upgraded from category 7	20,000,000	6 years
6	Bank of America NA	A+		20,000,000	6 years
6	Citibank NA	A+		20,000,000	6 years
6	Morgan Stanley	A+		20,000,000	6 years
6	Coventry Building Society	A		20,000,000	6 years
6	Nationwide Building Society	A		20,000,000	6 years
6	Standard Life Investments	AAA	Short Duration Cash Fund	20,000,000	3 working days notice
6	Aberdeen Investment Cash OEIC Plc	AAA	Cash Investment Fund	20,000,000	3 working days notice
6	Insight Investment	AAA	Liquidity Plus Fund	20,000,000	4 working days notice
6	Federated Investors (UK) LLP	AAA	Cash Plus Fund	20,000,000	2 working days notice
6	Royal London Asset Management	AA	Cash Plus Fund	20,000,000	2 working days notice

Category	Counter Party	Average Long Term Credit Rating *	Comments	Investment Limit £	Maximum Term
7	Santander UK Plc	A		13,000,000	6 years
7	Barclays Bank Plc	A		13,000,000	6 years
7	Sumitomo Mitsui Banking Corporation Eurpoe Ltd	A	Downgraded from category 6	13,000,000	6 years
7	Danske Bank	A		13,000,000	6 years
7	Landesbank Baden Wurtenburg	A		13,000,000	6 years
7	Bayern LB	A	Upgraded from category 8	13,000,000	6 years
7	ABN Amro Bank NV	A		13,000,000	6 years
7	ING Bank NV	A		13,000,000	6 years
7	Credit Suisse	A		13,000,000	6 years
7	UBS AG	A		13,000,000	6 years
7	Goldman Sachs (including Goldman Sachs International Bank)	A		13,000,000	6 years
7	National Bank of Canada	A		13,000,000	6 years
7	Leeds Building Society	A-		13,000,000	6 years
8	Deutsche Bank AG	A-		10,000,000	6 years
8	Norddeutsche Landsbank Girozentrale	A-	New counter party	10,000,000	6 years
9	Yorkshire Building Society	A-	Short term rating P2	10,000,000	2 years
10	Furness Building Society	Unrated		4,400,000	2 years
10	Leek United Building Society	Unrated		4,500,000	2 years
10	Newbury Building Society	Unrated		4,100,000	2 years
10	Market Harborough Building Society	Unrated	Upgraded from category 10	2,100,000	2 years
10	Tipton & Coseley Building Society	Unrated		1,900,000	2 years
10	Marsden Building Society	Unrated		1,900,000	2 years
10	Melton Mowbray Building Society	Unrated	Upgraded from category 10	1,900,000	2 years
10	Hanley Economic Building Society	Unrated	Upgraded from category 10	1,800,000	2 years
10	Dudley Building Society	Unrated		1,600,000	2 years
10	Loughborough Building Society	Unrated		1,400,000	2 years
10	Harpenden Building Society	Unrated		1,500,000	2 years
10	Stafford Railway Building Society	Unrated		1,300,000	2 years
10	Swansea Building Society	Unrated		1,100,000	2 years
10	Buckinghamshire Building Society	Unrated	New counter party	1,100,000	2 years
10	Chorley and District	Unrated		1,100,000	2 years
11	Nottingham Building Society	BBB	Single rating	6,000,000	364 days
11	Progressive Building Society	Unrated		6,000,000	364 days
11	Monmouthshire Building Society	Unrated		5,200,000	364 days
11	Hinckley & Rugby Building Society	Unrated	Downgraded from category 10.	2,700,000	364 days
11	Darlington Building Society	Unrated		2,700,000	364 days
11	Scottish Building Society	Unrated		1,900,000	364 days
11	Mansfield Building Society	Unrated		1,400,000	364 days
11	Vernon Building Society	Unrated		1,400,000	364 days

Notes

* The long term credit ratings shown are adjusted to take account of possible future actions resulting from negative watches & outlooks.

Agenda Item 9

From CABINET MEETING held on 3 March 2016

Council Agenda Item 9 (Cabinet minute12)

Budget & Performance Monitoring 2015/16 (3rd Quarter) to end December 2015

RECOMMENDED to Council that

- (i) The forecast outturn position for 2015/16 be noted:**
 - (a) An underspend of £1,727,700 before further forecast transfers from/to Specific Reserves**
 - (b) An underspend of £1,481,000 after further forecast transfers from/to Specific Reserves.**
- (ii) Members note:**
 - (a) that on 9th February 2016 City Council approved that the "clawback" requirement for overspendings be waived for 2015/16 for both the Children & Education Portfolio and the Health & Social Care Portfolio given the scale of those overspendings and also that the financial risks contained therein were fully provided for within the Council's contingency provision**
 - (b) that on 9th February 2016 City Council approved that any underspending for 2015/16 arising at year-end outside of those made by Portfolios (currently forecast at £1,481,000) be transferred to Capital Resources.**
 - (c) that all other actual portfolio overspends at year end will in the first instance be deducted from any Portfolio Specific Reserve balance and once depleted then be deducted from the 2016/17 Cash Limit.**
- (iii) Directors, in consultation with the appropriate Cabinet Member, consider options that seek to minimise any forecast overspend presently being reported and prepare strategies outlining how any consequent reduction to the 2016/17 Portfolio cash limit will be managed to avoid further overspending during 2016/17.**

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Decision maker: Cabinet 3rd March 2016
City Council 22nd March 2016

Subject: Budget & Performance Monitoring 2015/16 (3rd Quarter) to end
December 2015

Report by: Section 151 Officer

Wards affected: All

Key decision (over £250k): Yes

1. Purpose of Report

- 1.1 The purpose of this report is to update members on the current Revenue Budget position of the Council as at the end of the third quarter for 2015/16 in accordance with the proposals set out in the "Portsmouth City Council - Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20" report approved by the City Council on the 9th February 2016.
- 1.2 This report has been prepared on the basis of the Revised Estimate 2015/16 approved by Full Council on 9th February 2016. It therefore reports on the City Council Financial position after the decisions were taken to use the £5.7m improvement reported to Council. The forecast underspend in this report therefore is in addition to the £5.7m improvement reported to Council on 9th February 2016.

2. Recommendations

2.1 It is recommended that:

- (i) The forecast outturn position for 2015/16 be noted:
- (a) An underspend of £1,727,700 before further forecast transfers from/to Specific Reserves
 - (b) An underspend of £1,481,000 after further forecast transfers from/to Specific Reserves.
- (ii) Members note:
- (a) that on 9th February 2016 City Council approved that the "clawback" requirement for overspendings be waived for 2015/16 for both the Children & Education Portfolio and the Health & Social Care Portfolio given the scale of those overspendings and also that the financial risks contained therein were fully provided for within the Council's contingency provision
 - (b) that on 9th February 2016 City Council approved that any underspending for 2015/16 arising at year-end outside of those made by Portfolio's (currently forecast at £1,481,000) be transferred to Capital Resources.

- (c) that all other actual portfolio overspends at year end will in the first instance be deducted from any Portfolio Specific Reserve balance and once depleted then be deducted from the 2016/17 Cash Limit.
- (iii) Directors, in consultation with the appropriate Cabinet Member, consider options that seek to minimise any forecast overspend presently being reported and prepare strategies outlining how any consequent reduction to the 2016/17 Portfolio cash limit will be managed to avoid further overspending during 2016/17.

3. Background

- 3.1 The Revised Budget for 2015/16 of £167,224,700 was approved by City Council on the 9th February 2016. This level of spending enabled an overall contribution to General Reserves of £1.532m after in-year spending and in-year income from all sources is taken into account.
- 3.2 This is the third quarter monitoring report of 2015/16 and reports on the forecast 2015/16 outturn as at the end of December 2015. The forecasts summarised in this report and detailed in the attached papers are made on the basis that management action to address any forecast overspends are only brought in when that action has been formulated into a plan and there is a high degree of certainty that it will be achieved.
- 3.3 Any variances within Portfolios that relate to windfall costs or windfall savings will be met / taken corporately and not generally considered as part of the overall budget performance of a Portfolio. “Windfall costs” are defined as those costs where the manager has little or no influence or control over such costs and where the size of those costs is high in relation to the overall budget controlled by that manager. “Windfall costs” therefore are ordinarily met corporately from the Council's central contingency. A manager / Cabinet Member however, does have an obligation to minimise the impact of any “windfall cost” from within their areas of responsibility in order to protect the overall Council financial position. Similarly, “windfall savings” are those savings that occur fortuitously without any manager action and all such savings accrue to the corporate centre.
- 3.4 The Financial Pack attached at Appendix A has been prepared in Portfolio format and is similar in presentation, but not the same as, the more recognisable “General Fund Summary” presented as part of the Budget report approved by Council on 9th February 2016. The format presented at Appendix A has been amended to aid understandability for monitoring purposes by excluding all non cash items which have a neutral effect on the City Council's budget such as Capital Charges. In addition to this, Levies and Insurances are shown in total and have therefore been separated from Portfolios to also provide greater clarity for monitoring purposes.

4 Forecast Outturn 2015/16 – As at end December 2015

- 4.1 At the third quarter stage, the revenue outturn for 2015/16 after further forecast transfers to Portfolio Specific Reserves (which are retained by right) and transfers

from the ring fenced Public Health Reserve is forecast to be underspent by £1,481,000 representing an overall budget variance of 0.9%.

4.2 The quarter 3 variance consists of a number of forecast under and overspends.

Before forecast transfers from Specific Reserves the most significant overspendings at the quarter 3 stage are:

Quarter 1 Forecast Variance	Quarter 2 Forecast Variance		Quarter 3 Forecast Variance	Quarter 3 Forecast Variance (After Transfers From Portfolio Reserves)
£	£		£	£
2,312,200	2,292,300	Children and Education	1,789,200	1,789,200
	291,500	Environment & Community Safety		
2,926,500	2,152,500	Health and Social Care	2,553,900	1,887,100
292,100		PRED		
650,000	650,000	Other Expenditure		

These are offset by the following significant forecast underspends at the quarter 3 stage:

Quarter 1 Forecast Variance	Quarter 2 Forecast Variance		Quarter 3 Forecast Variance	Quarter 3 Forecast Variance (After Transfers To Portfolio Reserves)
£	£			£
		Culture, Leisure & Sport	101,000	Nil
		PRED	418,900	Nil
208,600	870,400	Commercial Port	183,000	Nil
		Resources	241,400	Nil
	141,500	Traffic & Transportation		
450,300	1,433,500	Asset Management Revenue Account	427,300	427,300
		Other Miscellaneous	4,730,000	4,730,000

5 Quarter 3 Significant Budget Variations – Forecast Outturn 2015/16

5.1 Children and Education – Overspend £1,789,200 (or 5.8%)

The cost of Children and Education Services is forecast to be £1,789,200 higher than budgeted.

The key variances are:

- Inclusion Services is forecast to overspend by £144,700. Within this, home to school and college transport is forecasting an overspend of £208,000 due to the number of children being supported. New transport policies were implemented from September 2014 and the cost of travel compared to 2013/14 has already reduced. This overspend is partially offset by the application of Pupil Premium funding towards the costs of the Virtual School Team.
- Looked After Children is forecasting an overspend of £1,565,300.
 - Whilst the continuing review of placements and placement plans has produced a reduction in external residential numbers, this has not yet matched budgeted numbers. Similarly numbers in Independent Fostering placements are also reducing but at a slower rate than planned and in house placements continue to rise (£1,109,300).
 - In addition, staffing costs are currently projected to exceed the budget provision by £113,000, largely as a result of the loss of one-off funding allocations which have not been able to be matched with similar spending reductions or savings arising from reduced placement numbers as anticipated.
 - The added focus on Adoption Support, in line with the government's adoption agenda, to move children into permanent arrangements has led to an anticipated pressure of £210,000 associated with the purchase of placements. It is likely that this may be reduced following the recent announcement by the Government that they will pay the inter-agency fee for a targeted group of children.
 - A further £133,000 projected overspend relates to savings proposals on income generation that are proving difficult to implement, £40,000 of which relates to the decision not to pursue parental contributions (means tested contributions in respect of placements under s.20 of the Children's Act 1989)
- Safeguarding & Monitoring is forecasting an overspend of £195,800. Of this, £97,000 relates to a reduction in budget arising from an anticipated improvement in service absence management. A further £59,000 relates to the delayed implementation of savings plans together with increased recharges and a further £40,000 is as a result of the enhancement of

contracted Family Group conferencing and Information governance arrangements.

- Staff vacancies and additional income from training courses has resulted in underspends elsewhere within the Portfolio of £150,200.

Whilst there are individual variances within budget areas covered by the Dedicated Schools Grant, in aggregate these are neutral.

It was reported to the Cabinet on 3rd December 2015 that Children's Social Care and Safeguarding was forecast to exceed the budget provision by £2.7m in 2015/16. At the same meeting, proposals totalling £2.7m (in a full year) were approved in order to reduce the operating expenditure requirements of the Portfolio.

Whilst these savings proposals will reduce the underlying budget deficit being experienced by the Portfolio in 2015/16, and are designed to eliminate it from 2016/17, as reported to the City Council within the Budget Report on 9th February 2016, given the proximity to the end of the financial year, the scale of this overspend cannot be rectified within the current financial year. To ensure that the Council's budget overall remained robust, some funding was retained within the Council's corporate contingency provision to cover the 2015/16 overspend position of the Portfolio. This is described further in paragraph 5.8.

5.2 Health and Social Care – Overspend £2,553,900 (or 6.3%) or After Transfers From Portfolio Reserves & Ring Fenced Public Health Reserve £1,887,100 (4.6%)

The cost of Health & Social Care is forecast to be £2,553,900 higher than budgeted.

The key variances are:

- A greater volume of older persons domiciliary care being required due to demographic pressures and unforeseen delays in the implementation of savings in 2015/16 has resulted in a forecast overspend of £1,339,500
- Learning Disability Support is forecasting an overspend of £666,600 due to an increased volume of clients transitioning from Children's Services, a delayed initiation of the review of day care services and claims for funding from other Local Authorities under the ordinary residence ruling
- Due to an increased volume of clients requiring residential care placements Mental Health Support is forecasting an overspend of £298,300
- A delay in the implementation of client charging within the Supporting People service has resulted in a forecast overspend of £95,200
- In the autumn of 2015 the Department of Health announced an in year reduction to the Public Health Grant of £1.126m. Public Health has been unable to identify equivalent savings in year and is currently forecasting an overspend of £643,000. This overspending will be met from the ring fenced Public Health Reserve that contains the balance of unspent Public Health Grant received in previous years whilst further reductions in spending plans are formulated.

- These overspends are offset by underspending elsewhere totalling £488,700 primarily as a result of increased funding from the Better Care Fund.

It was reported to the Cabinet on 3rd December 2015 that the Health & Social Care Portfolio was forecast to exceed the budget provision by £2.4m in 2015/16. At the same meeting, proposals totalling £2.4m (in a full year) were approved in order to reduce the operating expenditure requirements of the Portfolio.

Whilst these savings proposals will reduce the underlying budget deficit being experienced by the Portfolio in 2015/16, and are designed to eliminate it from 2016/17, as reported to the City Council within the Budget Report on 9th February 2016, given the proximity to the end of the financial year, the scale of this overspend cannot be rectified within the current financial year. To ensure that the Council's budget overall remained robust, some funding was retained within the Council's corporate contingency provision to cover the 2015/16 overspend position of the Portfolio. This is described further in paragraph 5.8.

5.3 Culture, Leisure & Sport – Underspend £101,100 (or 1.4%) (No variance after transfers to Portfolio Reserves)

As a result of staff being redeployed to capital schemes the Portfolio revenue budget is forecasting an underspend of £101,100.

5.4 PRED – Underspend £418,900 (or 16.8%) (No variance after transfers to Portfolio and Investment Fund Reserves)

The Portfolio is currently forecasting an underspend of £418,900.

The underspending is primarily as a result of additional income from increased occupancy of Enterprise Centres (£107,000), net additional income arising from the Property Portfolio (£540,900) offset by reduced manufacturing income at PCMI (£143,000) and reduced contract income from Community Learning and Pride in Pompey (£28,000).

5.5 PRED (Port) – Underspend £183,000 (or 3.3%) (No variance after transfers to Portfolio Reserves)

Overall net income from the Port is forecast to be £183,000 above target income.

The improvement over the target net income is as a result of increased income from pilotage and throughput coupled with a reduction in Operational Employee, security and berthing costs.

5.6 Resources – Underspend £241,400 (or 1.2%) (No variance after transfers to Portfolio Reserves)

The Portfolio is forecasting an underspend of £241,400.

A number of underspendings are forecast across the Portfolio mainly as a result of posts that are being held vacant (£168,100). In addition Landlords Maintenance is expected to be £198,900 lower than budget due to the final cost of works completed in previous years being lower than expected. These underspends have been offset

by an overspend compared to budget within the AMS design and Maintenance Team (£188,200) as a result lower fee earning work relating to capital schemes and delays in implementing savings proposals.

5.7 Asset Management Revenue Account – Underspend £427,300 (or 2.0%)

This budget funds all of the costs of servicing the City Council's long term debt portfolio that has been undertaken to fund capital expenditure. It is also the budget that receives all of the income in respect of the investment of the City Council's surplus cash flows. As a consequence, it is potentially a very volatile budget particularly in the current economic climate and is extremely susceptible to both changes in interest rates as well as changes in the Council's total cash inflows and outflows.

5.8 Other Miscellaneous – £4,730,000

As described in the Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20 Report to Council on 9th February 2016, the Children and Education and Health and Social Care Portfolios are experiencing difficulty containing expenditure within budgeted limits. The Revised Budget approved by the City Council on the 9th February 2016 was prepared to include a Contingency provision of £4.5m which was set aside to guard against an overall overspend on the Children's Safeguarding and Adult Social Care budgets. It is now anticipated that £3.7m will be required to cover these overspendings. The Contingency set aside for these overspendings (£4.5m) plus a further £230,000 currently provided for other items within the 2015/16 contingency is now available.

6 Other Minor Budget Variations – Forecast Outturn 2015/16

6.1 Environment and Community Safety – Minor Overspend £75,000 (0.5%) (No variance after transfers from Portfolio Reserves)

The Portfolio is currently forecasting an overspend of £75,000.

A number of areas of under and over spending are currently being forecast across the Portfolio. The more significant areas of under and over spending are:

- The Waste Disposal service is forecast to overspend by £279,400 due to an underlying budget pressure of £181,000, which will be met from Portfolio Specific Reserves in 2015/16 while a plan to resolve the deficit is formulated. A shortfall in income received from the sale of recyclable material is also now expected due to reduced market prices arising from a fall in world demand which combined with an increase in the volume of non-recyclable waste has resulted in an overspend of £98,400.
- Clean City is forecasting an overspend of £113,500. A service review is currently underway to address this overspending, however the full year effect of the review will now not be achieved until 2016/17.
- These overspending areas are offset by underspends within Hidden Violence & Abuse (£133,500) as a result of posts being held vacant in anticipation of future savings requirements, salary charges to major sea defence capital

schemes (£51,000) and Refuse Collection following a contract review (£86,200).

- 6.2 Housing – Minor Underspend £73,400 (or 1.9%) (No variance after transfers to Portfolio Reserves)
- 6.3 Leader – Minor Overspend £3,500 (or 1.5%) (No variance after transfers from Portfolio Reserves)
- 6.4 Traffic & Transportation – Overspend £32,700 (0.2%) (No variance after transfers from Portfolio Reserves)
- 6.5 Licensing Committee – No variance
- 6.6 Governance, Audit and Standards Committee – Underspend £6,900 (or 2.5%) (No variance after transfers to Committee Reserves)
- 6.7 Levies – No Forecast Variance
- 6.8 Insurance – No Forecast Variance

7. Transfers From/To Specific Reserves

In November 2013 Full Council approved the following changes to the Council's Budget Guidelines and Financial Rules:

- Each Portfolio to retain 100% of any year-end underspending and to be held in an earmarked reserve for the relevant Portfolio
- The Portfolio Holder be responsible for approving any releases from their reserve in consultation with the Head of Finance and Section 151 Officer
- That any retained underspend (held in an earmarked reserve) be used in the first instance to cover the following for the relevant portfolio:
 - i. Any overspendings at the year-end
 - ii. Any one-off Budget Pressures experienced by a Portfolio
 - iii. Any on-going Budget Pressures experienced by a Portfolio whilst actions are formulated to permanently mitigate or manage the implications of such on-going budget pressures
 - iv. Any items of a contingent nature that would historically have been funded from the Council's corporate contingency provision
 - v. Spend to Save schemes, unless they are of a scale that is unaffordable by the earmarked reserve (albeit that the earmarked reserve may be used to make a contribution)
- Once there is confidence that the instances i) to v) above can be satisfied, the earmarked reserve may be used for any other development or initiative

The forecast balance of each Portfolio Specific Reserve that will be carried forward into 2016/17 is set out below:

Portfolio/Committee Reserve	Balance	Approved	Forecast	Balance
	Brought Forward	Transfers 2015/16	Under/ (Over) Spending	Carried Forward
	£	£	£	£
Children & Education	42,000	(42,000)	0	0
Culture, Leisure & Sport	409,800	40,000	101,100	550,900
Environment & Community Safety	1,241,300	(222,500)	(75,000)	943,800
Health & Social Care	730,700	(706,900)	(23,800)	0
Housing	541,700	(95,000)	73,400	520,100
Leader	6,900	(700)	(3,500)	2,700
PRED	919,400	50,000	418,900	1,388,300
Port	879,900	513,900	183,000	1,576,800
Resources	1,397,600	(595,600)	241,400	1,043,400
Traffic & Transportation	32,700		(32,700)	0
Licensing	0		0	0
Governance, Audit & Standards	255,300	92,000	6,900	354,200
Total	6,457,300	(966,800)	889,700	6,380,200

Note: Releases from Portfolio Reserves to fund overspending cannot exceed the balance on the reserve

In addition a transfer of £643,000 from the Ring Fenced Public Health Reserve to meet an in year reduction to the Public Health grant paid by the Department of Health will be required to balance Public Health income and expenditure.

8. Conclusion - Overall Finance & Performance Summary

- 8.1 The overall forecast outturn for the City Council in 2015/16, before further transfers from/to Specific Reserves as at the end of December 2015, is forecast to be £165,497,000. This is an overall underspend of £1,727,700 against the Revised Budget and represents a variance of 1.0%. Once all transfers from/to Specific Reserves are taken into account (Transfers to Portfolio Reserves £889,700 less Transfers from Public Health Reserve £643,000) the forecast outturn for the City Council increases by £246,700 to £165,743,700. This is an overall underspend against the revised budget of £1,481,000 representing a variance of 0.9%.
- 8.2 The forecast takes account of all known variations at this stage, but only takes account of any remedial action to the extent that there is reasonable certainty that it will be achieved.
- 8.3 The overall financial position is deemed to be “green” since the forecast outturn after transfers from/to Portfolio Specific Reserves is lower than budgeted and finance is not having a negative impact on the overall performance status of the Council’s activities.
- 8.4 In financial terms, the forecast overspend within the Children and Education and Health and Social Care Portfolios represent the greatest concerns in terms of the impact that they have on the overall City Council budget for 2015/16. Furthermore, a significant proportion of the overspending is of an ongoing nature representing an underlying deficit. For both Children & Education and Health & Social Care Portfolios,

on 3rd December 2015 Cabinet approved a package of savings proposals to remedy these underlying budget deficits from 2016/17.

- 8.5 The prospects for the Children & Education and Health & Social Care Portfolio Budgets in 2016/17 remain challenging but achievable if the proposals described in the reports to Cabinet in December 2015 to save £5.1m are successfully delivered.
- 8.6 On 9th February 2016 City Council approved that the "clawback" requirement for overspendings be waived for 2015/16 for both the Education & Children's Portfolio and the Health & Social Care Portfolio given the scale of those overspendings and also in the knowledge of the financial risks contained therein which were fully provided for within the Council's contingency provision.
- 8.7 Where a Portfolio is presently forecasting a net overspend and does not have a waiver approved by City Council, in accordance with current Council policy, any overspending in 2015/16 will be deducted from cash limits in 2016/17 and therefore the appropriate Directors in consultation with Portfolio Holders should prepare an action plan outlining how their 2015/16 forecast outturn or 2016/17 budget might be reduced to alleviate the adverse variances currently being forecast.
- 8.8 Based on the Revised Budget of £167,224,700 the Council will remain within its minimum level of General Reserves for 2015/16 of £6.5m as illustrated below:

	<u>£m</u>
General Reserves brought forward @ 1/4/2015	14.864
<u>Add:</u>	
Forecast Underspend 2015/16	1.481
Planned Contribution to General Reserves 2015/16	1.532
<u>Less:</u>	
Forecast Contribution to Capital Reserve	(1.481)
Forecast General Reserves carried forward into 2016/17	16.396

Levels of General Reserves over the medium term are assumed to remain within the Council approved sum of £6.5m in 2015/16 and future years since any ongoing budget pressures / savings will be reflected in future years' savings targets.

- 8.9 Financial resources are not seen as a primary barrier during the current year to either performance achievement or performance improvement. Although there are no specific requests for additional resourcing to ensure targets are achieved, or objectives met through this report, in some cases resources may be a possible risk to future delivery which ought to be considered in the context of all other current and emerging budget pressures and evaluated in relation to each other.

9. City Solicitor’s Comments

9.1 The City Solicitor is satisfied that it is within the Council’s powers to approve the recommendations as set out.

10. Equalities Impact Assessment

10.1 This report does not require an Equalities Impact Assessment as there are no proposed changes to PCC’s services, policies, or procedures included within the recommendations.

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Chris Ward

S151 Officer

Background List of Documents –

Section 100D of the Local Government Act 1972

The following documents disclose facts or matters which have been relied upon to a material extent by the author in preparing this report –

Title of Document	Location
Budget & Council Tax 2016/17 & Medium Term Budget Forecast 2017/18 to 2019/20	Office of Deputy Director of Finance & Section 151 Officer
Electronic Budget Monitoring Files	Financial Services Local Area Network

The recommendations set out above were:

Approved / Approved as amended / Deferred / Rejected by the Cabinet on 3rd March, 2016

Signed:

Approved / Approved as amended / Deferred / Rejected by the City Council on 22nd March, 2016

Signed:

**FINANCIAL & SERVICE
PERFORMANCE**

**QUARTER 3
2015/16**

INFORMATION PACK

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16	
PORTFOLIO	City Council General Fund
BUDGET	Total General Fund Expenditure
TOTAL CASH LIMIT	167,224,700
CHIEF OFFICER	All Budget Holders
MONTH ENDED	December 2015

ITEM No.	BUDGET HEADING	BUDGET FORECAST 2015/16			
		Total Budget	Forecast Year End Outturn	Variance vs. Total Budget	
		£	£	£	%
1	Children & Education	31,054,300	32,843,500	1,789,200	5.8%
2	Culture, Leisure & Sport	7,215,100	7,114,000	(101,100)	(1.4%)
3	Environment & Community Safety	15,182,500	15,257,500	75,000	0.5%
4	Health & Social Care	40,680,200	43,234,100	2,553,900	6.3%
5	Housing	3,958,700	3,885,300	(73,400)	(1.9%)
6	Leader	241,300	244,800	3,500	1.5%
7	PRED	(2,495,100)	(2,914,000)	(418,900)	(16.8%)
8	Port	(5,552,200)	(5,735,200)	(183,000)	(3.3%)
9	Resources	20,244,800	20,003,400	(241,400)	(1.2%)
10	Traffic & Transportation	16,742,000	16,774,700	32,700	0.2%
11	Licensing Committee	(241,900)	(241,900)	0	0.0%
12	Governance, Audit & Standards Com	271,900	265,000	(6,900)	(2.5%)
13	Levies	73,700	73,700	0	0.0%
14	Insurance	1,299,800	1,299,800	0	0.0%
15	Asset Management Revenue Account	20,975,000	20,547,700	(427,300)	(2.0%)
16	Other Miscellaneous	17,574,600	12,844,600	(4,730,000)	(26.9%)
TOTAL		167,224,700	165,497,000	(1,727,700)	(1.0%)
Total Value of Remedial Action (from Analysis Below)			0		
Forecast Outturn After Remedial Action		167,224,700	165,497,000	(1,727,700)	(1.0%)
Forecast Transfers To Portfolio Specific Reserves			889,700		
Forecast Transfer From Ring Fenced Public Health Reserve			(643,000)		
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves		167,224,700	165,743,700	(1,481,000)	(0.9%)

Note All figures included above exclude Capital Charges

Income/underspends is shown in brackets and expenditure/overspends without brackets

VALUE OF REMEDIAL ACTIONS & TRANSFERS (FROM)/TO PORTFOLIO SPECIFIC RESERVES

Item No.	Reason for Variation	Value of Remedial Action	Forecast Portfolio Transfers
1	Children & Education	0	0
2	Culture, Leisure & Sport	0	101,100
3	Environment & Community Safety	0	(75,000)
4	Health & Social Care	0	(23,800)
5	Housing	0	73,400
6	Leader	0	(3,500)
7	PRED	0	418,900
8	Port	0	183,000
9	Resources	0	241,400
10	Traffic & Transportation	0	(32,700)
11	Licensing Committee	0	0
12	Governance, Audit & Standards Com	0	6,900
13	Levies	0	
14	Insurance	0	
15	Asset Management Revenue Account	0	
16	Other Miscellaneous	0	
Total Value of Remedial Action		0	889,700

Note Remedial Action resulting in savings should be shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

PORTFOLIO Children and Education

BUDGET	6,673,300	Education
	22,475,400	Children's Social Care & Safeguarding
	1,508,800	Public Health
	396,800	Regulatory Services Community Safety & Troubled Families

TOTAL CASH LIMIT 31,054,300

CHIEF OFFICER Di Smith

Risk indicator	
Low	L
Medium	M
High	H

MONTH ENDED December 2015

ITEM No.	BUDGET HEADING
1	Individual Schools Budget - DSG
2	Other School Expenditure
3	DSG & Pupil Premium Funding
4	Strategic Commissioning
5	Early Support
6	Children's Centres
7	Education Improvement
8	Inclusion Services
9	Troubled Families & MST
10	Assessment & Intervention
11	Looked After Children
12	Safeguarding & Monitoring
13	Youth Support [YSS]
14	Support Activities

BUDGET FORECAST 2015/16				RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
£	£	£	%	
77,208,600	77,421,500	212,900	0.3%	L
22,593,200	22,382,400	(210,800)	(0.9%)	L
(99,801,800)	(99,801,800)	0	0.0%	L
1,235,900	1,214,800	(21,100)	(1.7%)	L
640,100	554,100	(86,000)	(13.4%)	L
1,508,800	1,561,700	52,900	3.5%	L
581,500	491,600	(89,900)	(15.5%)	L
4,215,800	4,360,500	144,700	3.4%	M
396,800	396,800	0	0.0%	M
5,526,800	5,573,600	46,800	0.8%	M
13,226,200	14,791,500	1,565,300	11.8%	M
2,001,200	2,197,000	195,800	9.8%	H
1,330,300	1,308,900	(21,400)	(1.6%)	H
390,900	390,900	0	0.0%	M

TOTAL	31,054,300	32,843,500	1,789,200	5.8%
Total Value of Remedial Action (from Analysis Below)	0			
Forecast Outturn After Remedial Action	31,054,300	32,843,500	1,789,200	5.8%
Forecast Transfers From Portfolio Specific Reserves	0			
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves	31,054,300	32,843,500	1,789,200	5.8%

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial
4	Staffing turnover and vacancies	(21,100)		
5	Staffing turnover and vacancies held in anticipation of future savings requirements and additional income generation as a result of training courses offered to nursery providers	(86,000)		
6	Delay in the implementation of savings due to revised savings plan	52,900		
7	Staffing vacancies held in anticipation of future savings requirements and pending service review	(89,900)		
8	An overspend on the Home to School / College transport is currently projected at £208,000. The projection basis is now being reviewed with expectation of reduction reflecting the effect of the new transport policies implemented in September 2015 and reduced numbers. This is partially offset by applying pupil premium funding towards the costs of the virtual school team thereby realising a saving	144,700		
10	Staffing vacancies are expected to result in a cost reduction of £290,000. However, this is insufficient to offset increased legal and parking charges of £260,000 coupled with additional care leaver requirements of £77,000	46,800		
11	Placement numbers and costs are expected to lead to a projected overspend of around £1.1m. Loss of prior year funding together with an inability to deliver anticipated income levels alongside ongoing spending in support of Fostering and Adoption activities have further added to the budget pressure currently being experienced	1,565,300		
12	Staffing requirements, inability to progress savings plans due to the redirection of resources and increased project funding requirements have contributed to a forecast overspend	195,800		
13	Current numbers and support requirements of care leavers has resulted in higher expenditure than budgeted. However, this overspend has been offset by reduced numbers in Youth Offending enabling posts to be held vacant	(21,400)		
	TOTAL PROJECTED VARIANCE	1,787,100	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16			
PORTFOLIO	Culture, Leisure & Sport		
BUDGET	7,215,100	City Development & Cultural Services	
TOTAL CASH LIMIT	7,215,100		
CHIEF OFFICER	Various		Risk indicator
			Low L
			Medium M
MONTH ENDED	December 2015		High H

ITEM No.	BUDGET HEADING
1	Parks, Gardens & Open Spaces
2	Seafront Management
3	Golf Courses
4	Pyramids
5	Mountbatten & Gymnastic Centres
6	Other Sports & Leisure Facilities Inc. (POC)
7	Sports Development
8	Departmental Establishment (Leisure)
9	Libraries
10	Museum Services
11	Cultural Partnerships (Previously Arts Service)
12	Community Centres
13	Events

BUDGET FORECAST 2015/16					RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		%	
£	£	£	%		
2,114,000	2,114,000	0	0.0%		H
149,000	149,000	0	0.0%		H
-211,000	-211,000	0	0.0%		H
191,000	191,000	0	0.0%		M
313,000	313,000	0	0.0%		M
282,000	282,000	0	0.0%		M
240,000	240,000	0	0.0%		L
455,100	354,000	(101,100)	(22.2%)		H
2,066,000	2,066,000	0	0.0%		M
795,000	795,000	0	0.0%		M
355,000	355,000	0	0.0%		L
286,000	286,000	0	0.0%		L
180,000	180,000	0	0.0%		H
7,215,100	7,114,000	(101,100)	(1.4%)		
Total Value of Remedial Action (from Analysis Below)		0			
7,215,100	7,114,000	(101,100)	(1.4%)		
Forecast Transfers To Portfolio Specific Reserves		(101,100)			
7,114,000	7,114,000	0	0.0%		

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
8	Staff employed in this area have been redeployed to capital schemes. This has resulted in the favourable variance in this area.	(101,100)		
TOTAL PROJECTED VARIANCE		(101,100)	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

PORTFOLIO Environment & Community Safety

BUDGET	442,400	Transport Environment & Business Support
	250,900	Culture & City Development
	11,600,900	Property & Housing Services
	2,888,300	Regulatory Services Community Safety & Troubled Families
TOTAL CASH LIMIT	15,182,500	

CHIEF OFFICER Various

Risk indicator	
Low	L
Medium	M
High	H

MONTH ENDED December 2015

ITEM No.	BUDGET HEADING
1	Environmental Protection
2	Environment Admin & Management
3	Community Safety Administration & Management
4	Environmental Health - Commercial Services
5	Port Health
6	Trading Standards
7	Welfare Burials
8	Refuse Collection
9	Waste Disposal
10	Waste Recycling
11	Public Conveniences
12	Street Cleansing
13	Clean City
14	Control Of Dogs
15	Sea Defences And Drainage
16	Coastal Partnership
17	Cemeteries
18	Contaminated Land
19	Carbon Allowances
20	Carbon Management Team
21	Hidden Violence And Abuse
22	Community Safety Strategy And Partnership
23	CCTV
24	Community Wardens
25	Anti Social Behaviour Unit
26	Substance Misuse (including Alcohol)
27	Civil Contingencies (Emergency Planning)

BUDGET FORECAST 2015/16					RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget			
		£	%		
370,800	376,500	5,700	1.5%	L	
34,700	32,800	(1,900)	(5.5%)	L	
14,700	13,900	(800)	(5.4%)	L	
323,600	302,800	(20,800)	(6.4%)	M	
(24,300)	(26,300)	(2,000)	(8.2%)	L	
295,100	295,100	0	0.0%	M	
31,400	13,300	(18,100)	(57.6%)	L	
3,308,400	3,222,200	(86,200)	(2.6%)	H	
4,491,000	4,770,400	279,400	6.2%	H	
145,400	135,900	(9,500)	(6.5%)	L	
334,900	334,900	0	0.0%	L	
3,023,500	3,023,500	0	0.0%	L	
64,000	177,500	113,500	177.3%	L	
87,800	94,300	6,500	7.4%	M	
279,000	228,000	(51,000)	(18.3%)	M	
164,000	164,000	0	0.0%	L	
(9,000)	(4,000)	5,000	55.6%	L	
108,000	113,000	5,000	4.6%	L	
48,600	48,600	0	0.0%	L	
151,000	151,000	0	0.0%	M	
948,800	815,300	(133,500)	(14.1%)	L	
228,700	243,200	14,500	6.3%	H	
236,200	221,700	(14,500)	(6.1%)	H	
185,100	160,400	(24,700)	(13.3%)	L	
151,700	164,100	12,400	8.2%	L	
0	(5,000)	(5,000)	-	L	
189,400	190,400	1,000	0.5%	L	
TOTAL	15,182,500	15,257,500	75,000	0.5%	
Total Value of Remedial Action (from Analysis Below)		0			
Forecast Outturn After Remedial Action	15,182,500	15,257,500	75,000	0.5%	
Forecast Transfers From Portfolio Specific Reserves	75,000				
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves	15,257,500	15,257,500	0	0.0%	

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
4	Portfolio Reserve transfer for work to combat noise levels on the M275 as yet to be commissioned	(20,800)		
7	Portfolio Reserve funding allocated earlier in the year to meet rising demand has been offset by changed working practices.	(18,100)		
8	The underspend is largely due to the identification of ongoing efficiencies that have been made within the refuse collection contract, following a collaborative review of costs involving PCC and the contractor	(86,200)		
9	The anticipated overspend is the result of a number of compounding issues. There has been a fall in the amount of recycling that has gone through the Material Recycling Facility, at the same time that prices paid for recyclable goods has fallen. This has resulted in a significant loss of income from recyclable waste. In addition, there has been an increase in the volume of non-recyclable and increased contaminated recycling has further depressed the price paid, capacity limitations at the Council's waste incinerator has resulted in increased non-recyclables being sent to landfill, which has resulted in an increase in the cost of disposal	279,400		
13	Staffing levels are being reduced within Community Wardens and Clean City in order to meet the approved budget reductions from the City Wide Anti Social Behaviour review. The overspend is the result of this review of the Clean City element being delayed in order to ensure a more detailed review of the Clean City service, which is anticipated to deliver larger ongoing savings. The full saving is therefore anticipated to be achieved from 2016/17	113,500	The service (Community Wardens and Clean City) has been restructured but the full year effect will not come into effect until 2016/17.	
15	The Coastal and Drainage Manager has been engaged on external fee earning schemes during the third quarter resulting in higher fee income. Additionally a Employee costs are lower due to a vacancy with the Drainage team	(51,000)		
21	Staffing vacancies held in anticipation of future savings requirements	(133,500)		
24	Staffing levels have been reduced within Community Wardens following the transfer of the management to Property and Housing Services, earlier than previously anticipated. Further savings are anticipated following the fuller Clean City review.	(24,700)	The service (Community Wardens and Clean City) has been restructured but the full year effect will not come into effect until 2016/17.	
25	Overspend due to delayed implementation of solicitor post saving due to wider review of legal services.	12,400		
	Other minor variances	4,000		
	TOTAL PROJECTED VARIANCE	75,000	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16	
PORTFOLIO	Health & Social Care
BUDGET	40,680,200
TOTAL CASH LIMIT	40,680,200
CHIEF OFFICER	Various
MONTH ENDED	December 2015

Risk indicator	
Low	L
Medium	M
High	H

ITEM No.	BUDGET HEADING	BUDGET FORECAST 2015/16				RISK INDICATOR
		Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
		£	£	£	%	
1	Physical Support	12,419,300	12,804,900	385,600	3.1%	M
2	Sensory Support	360,000	360,000	0	0.0%	L
3	Memory & Cognition	2,191,400	3,145,300	953,900	43.5%	H
4	Learning Disability Support	16,381,400	17,048,000	666,600	4.1%	M
5	Mental Health Support	2,014,700	2,313,000	298,300	14.8%	H
6	Social Support: Substance Misuse Support	138,700	138,700	0	0.0%	L
7	Assistive Equipment & Technology	692,100	815,200	123,100	17.8%	H
8	Social Care Activities	3,664,700	3,648,900	(15,800)	(0.4%)	L
9	Information & Early intervention	65,300	45,200	(20,100)	(30.8%)	H
10	Commissioning and Service Delivery	1,401,800	825,900	(575,900)	(41.1%)	H
11	Supporting People - Housing	1,350,800	1,446,000	95,200	7.0%	H
12	Sexual Health Mandatory - services	3,495,800	3,558,000	62,200	1.8%	M
13	Sexual Health Non Mandatory - services	228,900	243,800	14,900	6.5%	H
14	Smoking	630,400	519,700	(110,700)	(17.6%)	H
15	Children 5-19 Programme	2,636,800	2,563,900	(72,900)	(2.8%)	M
16	Health Checks	362,900	380,000	17,100	4.7%	M
17	Obesity	306,400	266,900	(39,500)	(12.9%)	H
18	Substance Misuse	4,263,800	4,221,000	(42,800)	(1.0%)	M
19	Public Health Advice	173,000	122,700	(50,300)	(29.1%)	H
20	Miscellaneous Public Health Services	(12,098,000)	(11,233,000)	865,000	(7.1%)	M
TOTAL		40,680,200	43,234,100	2,553,900	6.3%	
Total Value of Remedial Action (from Analysis Below)			0			
Forecast Outturn After Remedial Action		40,680,200	43,234,100	2,553,900	6.3%	
Forecast Transfers From Portfolio Specific Reserves			23,800			
Forecast Transfer From Ring Fenced Public Health Reserve			643,000			
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves		41,347,000	43,234,100	1,887,100	4.6%	

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
1 to 3	Greater volume of older persons domiciliary care required due to demographic pressures. There have also been unforeseen delays in implementing 2015/16 savings proposals for this area of the budget.	1,339,500	The service is currently reviewing options to reduce the currently forecast overspend.	
4	Increased volume of clients transitioning from Children's Service's in conjunction with a delayed initiation of the review of day care services. There have also been ongoing claims for funding from other authorities under the ordinary residence ruling.	666,600		
5	Increased volume of clients with mental health support needs requiring residential care placements.	298,300		
11	Supporting People - delay in implementation of client charging due to consultation	95,200		
20	In the Autumn of 2015 the Department of Health announced an in year reduction to the Public Health Grant of £1.126m. As a result Public Health has been unable to contain expenditure within the total 2015/16 budget	643,000	This element of the overspend which will be financed from the Public Health Ring Fenced reserve	
	Other Miscellaneous - primarily increased funding from Better Care Fund	(488,700)		
TOTAL PROJECTED VARIANCE		2,553,900	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings should be shown as minus figures

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16									
PORTFOLIO	Leader								
BUDGET	241,300								
<hr/>									
TOTAL CASH LIMIT	241,300								
<hr/>									
CHIEF OFFICER									
<table border="1" style="float: right; border-collapse: collapse;"> <tr> <th colspan="2">Risk indicator</th> </tr> <tr> <td>Low</td> <td style="text-align: center;">L</td> </tr> <tr> <td>Medium</td> <td style="text-align: center;">M</td> </tr> <tr> <td>High</td> <td style="text-align: center;">H</td> </tr> </table>		Risk indicator		Low	L	Medium	M	High	H
Risk indicator									
Low	L								
Medium	M								
High	H								
MONTH ENDED	December 2015								

ITEM No.	BUDGET HEADING	BUDGET FORECAST 2015/16				RISK INDICATOR
		Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
		£	£	£	%	
1	Portsmouth Civic Award	1,000	1,000	0	0.0%	L
2	Leader Initiatives	25,000	25,000	0	0.0%	L
3	Lord Mayor	107,500	109,500	2,000	1.9%	L
4	Lord Mayor's Events	5,800	7,300	1,500	25.9%	L
5	Civic Events	102,000	102,000	0	0.0%	L
TOTAL		241,300	244,800	3,500	1.5%	
Total Value of Remedial Action (from Analysis Below)		0				
Forecast Outturn After Remedial Action		241,300	244,800	3,500	1.5%	
Forecast Transfers From Portfolio Specific Reserves		3,500				
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves		244,800	244,800	0	0.0%	

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
	TOTAL PROJECTED VARIANCE	0	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

PORTFOLIO Planning Regeneration & Economic Development (Excluding Commercial Ferry Port)

BUDGET 914,300 Culture & City Development
 (210,300) Transport Environment & Business Support
 (3,199,100) Housing & Property Services

TOTAL CASH LIMIT (2,495,100)

CHIEF OFFICER Michael Lawther

Risk indicator	
Low	L
Medium	M
High	H

MONTH ENDED December 2015

ITEM No.	BUDGET HEADING
1	Planning Development Control
2	City Centre Business Support
3	Markets
4	Building Regulations & Control
5	Economic Regeneration and Service Plan
6	Tourism
7	Enterprise Centres
8	PCMI
9	Community Learning & Pride in Pompey
10	Administrative Buildings
11	Guildhall
12	Property Portfolio

BUDGET FORECAST 2015/16					RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget			
£	£	£	%		
211,000	215,000	4,000	1.9%	H	
239,000	241,000	2,000	0.8%	M	
(40,000)	(39,000)	1,000	2.5%	M	
35,000	35,000	0	0.0%	H	
210,000	211,000	1,000	0.5%	H	
259,000	259,000	0	0.0%	M	
(279,000)	(386,000)	(107,000)	(38.4%)	H	
69,000	212,000	143,000	207.2%	H	
0	28,000	28,000	-	H	
1,559,000	1,634,000	75,000	4.8%	M	
449,000	424,000	(25,000)	(5.6%)	L	
(5,207,100)	(5,748,000)	(540,900)	(10.4%)	H	

TOTAL	(2,495,100)	(2,914,000)	(418,900)	(16.8%)
Total Value of Remedial Action (from Analysis Below)	0			
Forecast Outturn After Remedial Action	(2,495,100)	(2,914,000)	(418,900)	(16.8%)
Forecast Transfers To Portfolio Specific Reserves	(418,900)			
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves	(2,914,000)	(2,914,000)	0	0.0%

Note All figures included above exclude Capital Charges, Levies and Insurances
 Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
7	Higher than targeted occupancy levels at the Enterprise Centres has resulted in higher levels of income than expected. Targets were set based upon prior year's performance and the service has managed to put in place processes to effectively reduce periods of vacancy between occupying businesses. This is likely to continue improving for existing units, however the impact of the new centre in Limberline, which is competing for businesses, may have an impact the increase in income	(107,000)		
8	The overspend is largely due to a shortfall in income from the manufacturing element of the business. A service review has been undertaken during the current year, to ensure that the business can be operated at lower cost, with the aim being for the business to break-even over the longer term, however it has resulted in a number of one-off costs being incurred (eg redundancy costs)	143,000		
9	Income levels for the Pride in Pompey are lower than expected due to the end of contracts that have not currently been renewed. This loss is offset by reduced staffing and running costs. This service is currently being reviewed with a view to achieving cost reductions	28,000		
10	The overspend being forecast is primarily due to: the higher maintenance and refurbishment costs associated with the letting out of the building, and the loss of external rent	75,000		
11	Premises related expenditure at the Guildhall is expected to be lower than budgeted, due to the reprioritisation of works following a complete review of the building's maintenance needs	(25,000)		
12	Net additional income arising from the acquisition of investment properties offset by lower rental income across the property portfolio, due to rent reviews and asset disposals	(540,900)		
	Other minor variances	8,000		
	TOTAL PROJECTED VARIANCE	(418,900)	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

PORTFOLIO Planning Regeneration & Economic Development (Commercial Ferry Port)

BUDGET (5,552,200)

TOTAL CASH LIMIT (5,552,200)

CHIEF OFFICER Martin Putman

MONTH ENDED December 2015

Risk indicator	
Low	L
Medium	M
High	H

ITEM No.		BUDGET PROFILE 2015/16				RISK INDICATOR
		Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
		£	£	£	%	
1	Income	(13,816,200)	(13,929,200)	(113,000)	(0.8%)	H
2	Operational Costs	6,572,800	6,494,600	(78,200)	(1.2%)	M
3	Management and General Expenses	1,691,200	1,699,400	8,200	0.5%	L
OPERATING SURPLUS		(5,552,200)	(5,735,200)	(183,000)	(3.3%)	
TOTAL		(5,552,200)	(5,735,200)	(183,000)	(3.3%)	

Total Value of Remedial Action (from Analysis Below)

0

Forecast Outturn After Remedial Action

(5,552,200) (5,735,200) (183,000) (3.3%)

Forecast Transfers To Portfolio Specific Reserves

(183,000)

Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves

(5,735,200) (5,735,200) 0 0.0%

Capital Charges & Other Corporate Costs	4,782,000	4,851,000	69,000	1.4%
Net (Profit) / Loss	(770,200)	(884,200)	(114,000)	14.8%

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
Income	Favourable variance due to increased port throughput, and additional pilotage acts resulting from shipping movements associated with demolishing a navigational hazard at the port	(113,000)		
Operational Costs	Favourable variance due to a maintenance scheme costing less than anticipated and scheme slippage, savings made within new contracts, partly offset by additional employee costs due to an increase in pilotage acts.	(78,200)		
Management and General Expenses	Adverse variance because of an increase in employee costs due to recruitment fees and sickness cover.	8,200		
TOTAL PROJECTED VARIANCE		(183,000)	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16											
PORTFOLIO	Resources										
BUDGET		20,244,800									
TOTAL CASH LIMIT		20,244,800									
CHIEF OFFICER	Various		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">Risk indicator</th> </tr> </thead> <tbody> <tr> <td style="width: 80%;">Low</td> <td style="text-align: center;">L</td> </tr> <tr> <td>Medium</td> <td style="text-align: center;">M</td> </tr> <tr> <td>High</td> <td style="text-align: center;">H</td> </tr> </tbody> </table>	Risk indicator		Low	L	Medium	M	High	H
Risk indicator											
Low	L										
Medium	M										
High	H										
MONTH ENDED	December 2015										

ITEM No.	BUDGET HEADING	BUDGET PROFILE 2015/16				RISK INDICATOR
		Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
		£	£	£	%	
1	Miscellaneous Expenses	236,800	209,900	(26,900)	(11.4%)	M
2	HR, Legal and Performance	3,336,700	3,324,000	(12,700)	(0.4%)	M
3	Transformation Workstream Investment	50,000	50,000	0	0.0%	M
4	Customer & Community Services	1,468,600	1,442,400	(26,200)	(1.8%)	M
5	Grants & Support to the Voluntary Sector	612,800	598,700	(14,100)	(2.3%)	L
6	Financial Services	4,362,800	4,345,300	(17,500)	(0.4%)	L
7	Information Services	3,887,700	3,867,700	(20,000)	(0.5%)	M
8	AMS Design & Maintenance	617,700	805,900	188,200	30.5%	H
9	Property Services	297,600	297,600	0	0.0%	M
10	Landlords Repairs & Maintenance	1,185,200	986,300	(198,900)	(16.8%)	H
11	Spinnaker Tower	(640,000)	(640,000)	0	0.0%	L
12	MMD Crane Rental	(385,400)	(385,400)	0	0.0%	M
13	Administration Expenses	5,000	5,000	0	0.0%	L
14	Housing Benefit - Rent Allowances	(580,800)	(694,400)	(113,600)	(19.6%)	H
15	Housing Benefit - Rent Rebates	(265,400)	(151,800)	113,600	42.8%	H
16	Local Taxation	1,338,400	1,338,400	0	0.0%	L
17	Local Welfare Assistance Scheme	100,000	65,200	(34,800)	(34.8%)	M
18	Benefits Administration	1,809,300	1,789,300	(20,000)	(1.1%)	M
19	Land Charges	(85,200)	(73,000)	12,200	14.3%	M
20	Democratic Representation & Management	1,008,200	997,400	(10,800)	(1.1%)	L
21	Corporate Management	1,083,700	1,036,900	(46,800)	(4.3%)	M
22	Coroners	801,100	788,000	(13,100)	(1.6%)	L
TOTAL		20,244,800	20,003,400	(241,400)	(1.2%)	
Total Value of Remedial Action (from Analysis Below)		0				
Forecast Outturn After Remedial Action		20,244,800	20,003,400	(241,400)	(1.2%)	
Variances Arising From Windfall Items		0				
Forecast Transfers To Portfolio Specific Reserves		(241,400)				
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves		20,003,400	20,003,400	0	0.0%	

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
2	The service underspend arises from posts being held vacant to prepare for savings requirements in future years	(12,700)		
4	Underspend across a number of Customer & Community Service areas due to the holding of vacancies in order to prepare for saving requirements in future years	(26,200)		
5	The underspend relates to a staff vacancy that arose in year that has now been filled	(14,100)		
6	The service is holding vacancies in order to prepare for saving requirements in future years	(17,500)		
7	The service is projecting an underspend due to posts being held vacant in preparation for future years savings	(20,000)		
8	The projected overspend is primarily due to fee income earned by the Service being below target. This is the result of a number of fee earning capital schemes being delayed or altered due to changing client need, as well as a significant proportion of the teams time being focussed toward delivering non fee earning revenue work, which aims to generate significant ongoing savings across the Council as a whole	188,200	Services continue to seek further fee earning work. In addition, those delayed fee earning projects will now commence in next year, the result being an increase in fee income in that year. In the current year, this overspend will be met by the projected underspend within the Landlords Maintenance budget, Line 10 below.	
10	Landlords Maintenance is lower than originally budgeted. The underspend will be used to offset the expected overspend within the other Design/Maintenance budgets (Line 8 above). However, this is dependent on the weather over the winter months which can have a large impact on this budget, e.g. reactive repair work	(198,900)		
17	The remaining balance on the LWAS is not expected to be spent at this point in time.	(34,800)		
18	The service is projecting an underspend due to vacant posts being held in preparation for future years savings	(20,000)		
19	Land Charges have experienced lower than expected demand for property searches which is determined by the private sector property market	12,200		
20	Corporate Subscriptions have been negotiated at a lower price than originally budgeted. In addition to this, a review of the Members Support Service has created an underspend within the staffing budget	(10,800)		
21	The Strategy unit is underspending due to posts being held vacant in preparation for future years savings	(46,800)		
22	Underspend due to a contribution from Hampshire County Council for the refurbishment costs in relation to the Coroners relocation to the Civic Offices	(13,100)		
	Variance less than £5,000	(26,900)		
TOTAL PROJECTED VARIANCE		(241,400)	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

PORTFOLIO Traffic & Transportation
BUDGET 16,742,000

TOTAL CASH LIMIT 16,742,000

CHIEF OFFICER Various

Risk indicator	
Low	L
Medium	M
High	H

MONTH ENDED December 2015

ITEM No.	BUDGET HEADING
1	Off-Street Parking
2	Road Safety & Sustainable Transport
3	Network Management
4	Highways Infrastructure
5	Highways Routine
6	Highways Street Lighting (Electricity)
7	Highways Design
8	Travel Concessions
9	Passenger Transport
10	Integrated Transport Unit
11	School Crossing Patrol
12	Transport Policy
13	Group Administration and Support
14	Tri-Sail Maintenance
15	Transport Infrastructure Schemes
TOTAL	

BUDGET FORECAST 2015/16				RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
£	£	£	%	
(1,896,300)	(1,796,600)	99,700	5.3%	H
210,000	165,400	(44,600)	(21.2%)	L
578,300	587,100	8,800	1.5%	M
8,699,700	8,699,900	200	0.0%	L
2,836,300	2,796,400	(39,900)	(1.4%)	H
1,198,100	1,253,600	55,500	4.6%	H
(46,900)	(47,200)	(300)	(0.6%)	M
4,363,800	4,548,700	184,900	4.2%	H
(290,500)	(354,800)	(64,300)	(22.1%)	M
114,700	106,300	(8,400)	(7.3%)	L
341,900	251,300	(90,600)	(26.5%)	M
114,400	137,300	22,900	20.0%	L
424,500	386,000	(38,500)	(9.1%)	M
38,900	38,900	-	0.0%	L
55,100	2,400	(52,700)	(95.6%)	M
16,742,000	16,774,700	32,700	0.2%	

Total Value of Remedial Action (from Analysis Below)

Forecast Outturn After Remedial Action

Forecast Transfers From Portfolio Specific Reserves

Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves

16,742,000	16,774,700	32,700	0.2%	
32,700				
16,774,700	16,774,700	0	0.0%	

Note All figures included above exclude Capital Charges, Levies and Insurances
 Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
1	The increase in net operating costs is primarily as a result of the loss of the Royal Mail parking contract (£60,000) and a reduction in income relating to staff parking permits following the inception of a project to relocate staff parking and to rationalise the need for permits issued to staff	99,700		
2	Forecast underspend due to a combination of holding posts vacant and increased income from fee earning work	(44,600)		
4	Reduced expenditure on discretionary elements (including Winter Maintenance and Grounds Maintenance)	(39,900)		
6	The installation of LED street lights will lead to significant savings in electricity costs and the budget was constructed on this basis. However this capital scheme is currently on hold pending the outcome of the Highways PFI review and the savings will not be realised in the current financial year	55,500		
8	Payments to Bus Operators for the National Travel Concession scheme are higher than originally budgeted. The reimbursement is calculated based on a combination of actual usage and average fares both of which are higher than was originally estimated	184,900		
9	Following the reletting of tendered bus route contracts, costs are lower than originally estimated. This has resulted in a £40,000 favourable variance. In Addition increased income from staffing charges to fee generating schemes has arisen	(64,300)		
11	Underspend has arisen as a result of difficulties encountered filling vacant School Crossing Patrol posts.	(90,600)		
12	Additional costs associated with updating traffic modelling which is required in the sub region for future transport related capital schemes	22,900		
13	Forecast reduction in net cost due increased income from fee earning work	(38,500)		
15	Reduced expenditure as a result of vacant posts	(52,700)		
	Other minor variances	300		
	TOTAL PROJECTED VARIANCE	32,700	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

COMMITTEE Governance, Audit and Standards Committee

BUDGET 271,900

TOTAL CASH LIMIT 271,900

CHIEF OFFICER Michael Lawther

MONTH ENDED December 2015

Risk indicator	
Low	L
Medium	M
High	H

ITEM No.	BUDGET HEADING
1	Municipal Elections
2	Registration Of Electors
3	Registrar of Births, Deaths & Marriages

BUDGET FORECAST 2015/16				RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
£	£	£	%	
166,000	167,000	1,000	0.6%	L
251,800	241,000	(10,800)	(4.3%)	M
(145,900)	(143,000)	2,900	2.0%	M
271,900	265,000	(6,900)	(2.5%)	
Total Value of Remedial Action (from Analysis Below)		0		
Forecast Outturn After Remedial Action	271,900	265,000	(6,900)	(2.5%)
Forecast Transfers To Portfolio Specific Reserves	(6,900)			
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves	265,000	265,000	0	0.0%

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
2	The in year funding received to provide the Individual Electoral Registration service has exceeded the cost of providing the service. This has been due to a concerted effort to minimise expenditure in the knowledge that there will be no further funding in later years and any underspends held will be used to contribute towards the cost of service provision in future years.	(10,800)		
	Variance less than £5,000	3,900		
	TOTAL PROJECTED VARIANCE	(6,900)	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16	
PORTFOLIO	Other Expenditure
BUDGET	73,700 Levies
<hr/>	
TOTAL CASH LIMIT	73,700
<hr/>	
CHIEF OFFICER	Michael Lawther
MONTH ENDED	December 2015

Risk indicator	
Low	L
Medium	M
High	H

ITEM No.	BUDGET HEADING	BUDGET FORECAST 2015/16				RISK INDICATOR
		Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
		£	£	£	%	
1	Environment & Flood Defence Agency	37,100	37,100	0	0.0%	M
2	Southern Sea Fisheries	36,600	36,600	0	0.0%	L
TOTAL		73,700	73,700	0	0.0%	
Total Value of Remedial Action (from Analysis Below)		0				
Total Net Forecast Outturn (after remedial action)		73,700	73,700	0	0.0%	

Note All figures included above exclude Capital Charges and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
TOTAL PROJECTED VARIANCE		0	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16

PORTFOLIO Other Expenditure
 BUDGET 20,975,000 Asset Management Revenue Account

TOTAL CASH LIMIT **20,975,000**

CHIEF OFFICER Michael Lawther

Risk indicator	
Low	L
Medium	M
High	H

MONTH ENDED December 2015

ITEM No.	BUDGET HEADING
1	External Interest Paid
2	External Interest Earned
3	Net Minimum Revenue Provision

BUDGET FORECAST 2015/16				RISK INDICATOR
Total Budget	Forecast Year End Outturn	Variance vs. Total Budget		
£	£	£	%	
18,824,900	18,824,900	0	0.0%	H
(4,084,700)	(4,512,000)	(427,300)	(10.5%)	H
6,234,800	6,234,800	0	0.0%	M
20,975,000	20,547,700	(427,300)	(2.0%)	

TOTAL

Total Value of Remedial Action (from Analysis Below)

0

Total Net Forecast Outturn (after remedial action)

20,975,000 20,547,700 (427,300) (2.0%)

Note All figures included above exclude Capital Charges, Levies and Insurances
 Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
2	Improved returns through diversifying the investment portfolio	(427,300)		
	TOTAL PROJECTED VARIANCE	(427,300)	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

FINANCIAL AND SERVICE PERFORMANCE MONTH ENDING DECEMBER 2015

MONTHLY BUDGET MONITORING STATEMENT - CASH LIMIT 2015/16			
PORTFOLIO	Other Expenditure		
BUDGET	17,574,600	Miscellaneous	
TOTAL CASH LIMIT		17,574,600	
CHIEF OFFICER	Michael Lawther		
MONTH ENDED	December 2015		

Risk Indicator	
Low	L
Medium	M
High	H

ITEM No.	BUDGET HEADING	BUDGET FORECAST 2015/16				RISK INDICATOR
		Total Budget £	Forecast Year End Outturn £	Variance vs. Total Budget		
				£	%	
1	Precepts	0	0	0	-	L
2	Portchester Crematorium	(125,000)	(125,000)	0	0.0%	L
3	Compensatory Added Years & Contribution to Prior Years Pension Deficit	6,261,000	6,261,000	0	0.0%	L
4	Contingency	5,600,000	870,000	(4,730,000)	(84.5%)	H
5	Revenue Contributions to Capital	1,645,700	1,645,700	0	0.0%	L
6	MMD Losses	1,874,000	1,874,000	0	0.0%	L
7	Off Street Parking Reserve	(1,558,200)	(1,558,200)	0	0.0%	L
8	Transfer to / (From) MTRS Reserve	188,000	188,000	0	0.0%	L
9	Other Miscellaneous	874,000	874,000	0	0.0%	L
10	Other Transfers to / (from) Reserves	2,815,100	2,815,100	0	0.0%	L
TOTAL		17,574,600	12,844,600	(4,730,000)	(26.9%)	
Total Value of Remedial Action (from Analysis Below)		0				
Forecast Outturn After Remedial Action		17,574,600	12,844,600	(4,730,000)	(26.9%)	
Forecast Transfers To Portfolio Specific Reserves		889,700	889,700			
Forecast Transfer From Ring Fenced Public Health Reserve		(643,000)	(643,000)			
Forecast Outturn After Transfers (From)/To Portfolio Specific Reserves		18,464,300	13,734,300	(4,730,000)	(25.6%)	

Note All figures included above exclude Capital Charges, Levies and Insurances
Income/underspends is shown in brackets and expenditure/overspends without brackets

REASONS FOR VARIATIONS AGAINST TOTAL BUDGET 2015/16

Item No.	Reason for Variation	Variance £	Remedial Action	Value of Remedial Action
	TOTAL PROJECTED VARIANCE	0	TOTAL VALUE OF REMEDIAL ACTION	0

Note Remedial Action resulting in savings is shown in brackets

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Agenda item:

Decision maker:	Employment Committee
Subject:	Pay Policy Statement
Date of decision:	15 th March 2016
Report by:	Jon Bell - Director of HR, Legal and Procurement
Wards affected:	n/a
Key decision (over £250k):	n/a
Full Council Decision:	Yes

1. Purpose of report

The Council is required by section 38(1) of the Localism Act 2011 (openness and accountability in local pay) to prepare a Pay Policy Statement.

The Local Government Transparency Code 2014 further clarifies and describes the information and data local authorities are required to publish to increase democratic accountability.

A Pay Policy Statement must articulate the Council's policies towards a range of issues relating to the pay of its workforce, particularly its senior staff, Chief Officers and its lowest paid employees.

A Pay Policy Statement must be prepared for each financial year, approved by Full Council no later than 31st March of each financial year and published on the council's website. The statement relates to the financial year 2015/16, and so is, in effect, retrospective.

2. Recommendations

The Employment Committee is asked to:

- 2.1 Approve the draft Pay Policy Statement attached as **Appendix 1** to go forward for approval by the Full Council on 22nd March 2016.

3. Background

3.1 Increased transparency about how taxpayers money is used, including the pay and reward of public sector staff is now a legislative requirement under section 38(1) of the Localism Act 2011. The Department for Communities and Local Government published a revised Local Government Transparency Code on 3rd October 2014. The code enshrines the principles of transparency and asks relevant authorities to follow these three principles when publishing the data they hold. These are as follows:

- Responding to public demand
- Releasing data in open format available for re-use; and
- Releasing data in a timely way

This includes data on senior salaries and how they relate to the rest of the workforce (pay multiple).

3.2 The Council must have regard to the Secretary of State guidance "Openness and accountability in local pay: Draft guidance under section 40 of the Localism Act". It is now essential that an authority's approach to pay, as set out in a Pay Policy Statement, is accessible for citizens and enables taxpayers to take an informed view of whether local decisions on all aspects of remuneration are fair and make the best use of public funds.

Approved statements must be published on the authority's website and in any other manner that the authority thinks appropriate, as soon as reasonably practical after they have been approved by Full Council.

3.3 The Act also requires that authorities include in their pay policy statement, their approach to the publication of and access to information relating to the remuneration of chief officers. Remuneration includes salary, expenses, bonuses, performance related pay as well as severance payments.

3.4 The definition of a chief officer as set out in the Act is not limited to Heads of Paid Service or statutory chief officers. It also includes those who report directly to them.

3.5 The draft Portsmouth Pay Policy statement is attached as **Appendix 1**.

3.6 Whilst the Pay Policy Statement relates to the year 2015/16, Members' attention is drawn to the changing shape of the council and the environment in which it operates, and the impact this may have in future on its pay structure. In particular:

- The need for officers to operate across organisational boundaries, e.g. with the health sector
- The increased commercialisation of the council and the need to recruit and retain suitably skilled staff (who may expect alternative reward packages)
- The council's role as accountable body for commercial or quasi-commercial bodies
- The increased specialisation of skills in some employment markets, driving pay inflation that the council's pay structure is not well suited to meet

Members approval will be sought for any significant changes to the Council's pay structure resulting from these, or other factors.

4. Conclusions

The Council is required by the Localism Act 2011, section 38(1) to publish a Pay Policy Statement on a yearly basis which is approved by Full Council.

5. Equality Impact Assessment (EIA)

An equality impact assessment is not required as the recommendation doesn't have a negative impact on any of the protected characteristics as described in the Equality Act 2010.

6. Legal Comments

6.1 The Director of HR, Legal and Procurement is satisfied the Pay Policy Statement at Appendix 1 meets the legislative requirements under Section 38 Pay Accountability, of

the Localism Act 2011 and is in line with the Local Government Transparency Code 2014.

6.2 The Council is required to prepare a Pay Policy Statement for the financial year 2015/16 and each subsequent year, which sets out the policies, remuneration and other benefits of its chief officers and lowest paid employees and the relationship between its chief officers and every other officer.

6.3 The Pay Policy Statement must be approved by Full Council before 31st March 2016 and can only be amended thereafter by a resolution to Full Council.

7. Finance Comments

There are no financial implications arising from the recommendations contained within this report.

.....
Signed by: Jon Bell - Director of HR, Legal & Procurement

February 2016

Appendices: Pay Policy Statement

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

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PAY POLICY STATEMENT FOR THE FINANCIAL YEAR 2015/16

Approved by Full Council on 22nd March 2016

INTRODUCTION

This policy statement has been produced in accordance with Sections 38 to 43 of the Localism Act 2011 (the Act), and is compliant with the Local Government Transparency Code 2014.

The pay policy statement will be reviewed on an annual basis, and a new version of the policy will be approved before the start of each subsequent financial year, which will need to be complied with during that year.

SECTION 1: REMUNERATION OF STATUTORY AND NON-STATUTORY CHIEF OFFICERS, DEPUTY CHIEF OFFICERS, AND MONITORING OFFICER

1.1 REMUNERATION COVERED IN THIS SECTION OF THE POLICY

This section covers the Council's policies in relation to the remuneration of its senior employees, including:

- Its Chief Executive (who is its Head of Paid Service);
- Its Deputy Chief Executive (and Monitoring Officer);
- The Directors, who report to and are directly accountable to the Chief Executive or Deputy Chief Executive These Directors fulfil the roles of statutory Chief Officers, Section 151 Officer, and non-statutory Chief Officers;
- The Port Manager;
- The managers who report to and are directly accountable to the Port Manager.

1.2 OVERALL POLICY ON REMUNERATION FOR SENIOR ROLES

The Council's remuneration policy complies with all equal pay, discrimination and other relevant legislation.

The Council's Job Evaluation Support Scheme (JESS) is used when setting pay levels for all posts within the Council. This system is a factor-based analytical job evaluation scheme designed to measure the relative responsibilities of all jobs fairly and accurately.

1.3 THE REMUNERATION OFFERED TO SENIOR EMPLOYEE

At Chief Executive, Deputy Chief Executive and Director level (and for the Port Manager and his direct reports), the Council offers only an annual salary, access to the Local Government Pension Scheme, and the payment of a small number of allowances, details of which are set out below. No other cash benefits or benefits in kind are offered. The Council does not offer performance related payments or bonuses to its senior employees.

All are employed on PAYE taxation arrangements. However in exceptional circumstances e.g. interim appointments, an alternative form of engagement/employment may if appropriate be used.

Annual salaries

Annual salary levels for senior employees are set in accordance with the overall principles set out in section 1.3, above. At Chief Executive and Director level, they consist of a grade range which is determined locally by the Council. This grade range consists of a number of incremental salary points, through which employees may progress until the top of the grade is reached.

The current pay ranges are:

Chief Executive	£134,705 to £148,885
Deputy Chief Executive	£100,987 to £109,430
Port Manager	£100,987 to £109,430
Director (upper band)	£100,987 to £109,430
Director (mid band)	£86,650 to £95,675
Director (lower band)	£74,195 to £82,006
Senior Managers	£67,432 to £74,033

Remuneration of senior employees on recruitment

The Council's policy is that any newly appointed senior employee will commence employment at the lowest pay point in the pay range for their job, other than in circumstances where it is necessary to pay at a higher point within the range in order to match the salary of their previous post with another organisation. Any decision to appoint a senior employee on a higher pay point within the relevant pay range would be made by the Members Appointment Committee.

Pay progression

Pay progression is by annual increment, payable from 1st April. Pay progression is based on the period of time the employee has served in that grade.

There is no scope for accelerated progression beyond one increment per annum, or for progression beyond the top of the grade's pay range.

Pay awards

The salaries of Directors will be increased in line with any pay increase agreed nationally in line with the Joint National Councils (JNCs) for Chief Executives and Chief Officers. Senior Managers pay will be increased with any pay increase agreed nationally in line with the National Joint Council (NJC).

Bonuses

The Council does not pay bonuses to any of its employees.

Other Allowances and Payments

Other payments and allowances that the Chief Officers may be eligible for are detailed in Section 4 – **POLICIES COMMON TO ALL EMPLOYEES**. This includes Market Supplements, Local Government Pension Scheme (LGPS), Payments on Termination of Employment, Allowances.

Election fees

Senior Manager salaries are inclusive and election fees are not paid.

Where a Director acts as the Deputy Returning Officer the appropriate fee at that time is paid.

SECTION 2: REMUNERATION OF LOWEST PAID EMPLOYEES

2.1 DEFINITION OF LOWEST PAID EMPLOYEES

The definition of the “lowest-paid employees” adopted by the Council for the purposes of this statement is as follows:

The lowest paid employees within the Council are those employees who are paid on the minimum salary point of the Council’s substantive pay structure, i.e. spinal column point 1, within Band 1 of its salary scales.

However, with effect from 1st November 2014, the Employment Committee made the commitment to Portsmouth City Council Employees (subject to agreement by governing bodies of schools) to pay the Living Wage rate as a supplement to base pay. Therefore, all employees from SCP1 to SCP12 will receive a minimum hourly rate of £7.85 per hour.

The current annual full-time equivalent value of this pay level, based on a 37-hour standard working week at £7.85 per hour, for the financial year 2015/16 is £15,144.

SECTION 3: PAY RELATIONSHIPS

Under the provisions of the Code of Recommended Practice for Local Authorities on Data Transparency, issued by the Department for Communities and Local Government under Section 2 of the Local Government Planning and Land Act 1980, the Council is expected to publish its “pay multiple”, i.e. the ratio between the highest paid salary and the median salary of the whole of the local authority’s workforce. This multiple, for the financial year ending 31 March 2015 was 6.4.

(The median salary figure is the salary value at which 50% of the salaries which apply to the whole of the local authority’s workforce are below that value and 50% are above it. The lowest pay point in the overall salary range which has been used by the Council in calculating the median salary is that which applies to its lowest paid employees, as defined in section 2 of this pay policy statement.)

The Council considers that the current pay multiple, as identified above, represents an appropriate, fair and equitable internal pay relationship between the highest salary and the pay levels which apply to the rest of the workforce. It will therefore seek to ensure that, as far as possible, the multiple remains at its current level.

The Council also considers that the relationship between the base salaries of its highest and lowest paid employees, which is currently a ratio of 10.9, represents an appropriate, fair and equitable internal pay relationship.

SECTION 4: POLICIES COMMON TO ALL EMPLOYEES

The following elements of remuneration are determined by corporate policies or arrangements which apply to all permanent employees of the Council (including its Chief Executive, Deputy Chief Executive, Directors and the lowest paid employees as defined above), regardless of their pay level, status or grading within the Council:

Market Supplements

A Market Supplement payment may be made if there is a clear business need, supported by effective market data, where a post is difficult to recruit to or to retain key members of staff, in addition to the normal reward package.

The supplement payment will be made in strict accordance with the Recruitment and Retention Policy and will be reviewed biennially. The full Recruitment and Retention Policy will be provided on request.

Payments on Termination of Employment

Other than payments made under the LGPS, the Council's payments to any employee whose employment is terminated on grounds of redundancy or in the interests of the efficiency of the service will be in accordance with the policy the Council has adopted for all its employees in relation to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. This policy (Early Termination of Employment Payments) has been published in accordance with the requirements of Regulation 7 of these regulations and is available on request.

Reimbursement of removal/relocation costs on appointment

The Council's relocation scheme is to enable financial assistance (within pre-defined limits) to be given to any employee who is required to relocate to the Portsmouth area to take up an appointment in a post deemed 'hard to fill' by the appropriate Director. Full details of the policy can be provided on request.

Honoraria

The Council pays honoraria to any employee only in accordance with its corporate scheme for such payments. This scheme provides that honoraria payments may be made to any employee who undertakes exceptional additional duties unrelated to those of a higher post, for example a special project. Such payments must be approved by a Director and will not normally exceed £999 per annum. The Council does not normally pay honoraria for posts graded above Director level.

Acting-up/additional responsibility payments

Where employees are required to "act-up" into a higher-graded post and take on additional responsibilities beyond those of their substantive post, for a temporary/time-limited period (which must exceed 4 weeks), they may receive an additional payment in accordance with the terms of the Council's policy. The payment will be based on the percentage of the higher duties and responsibilities undertaken and on the salary that would apply were the employee promoted to the higher post. (i.e. the lowest spinal column point of the higher grade).

Standby and call out allowances

Any employee who is required to undertake standby and call-out duties will be paid at the appropriate rate and in accordance with the policy. A full copy of the policy can be provided on request.

Mileage rates

The Council compensates employees who are authorised to use their own car, motorcycle or bicycle on Council business, in accordance with the mileage rates set out by HMRC.

Subsistence allowance

The Council reimburses expenditure on meals and accommodation and any other expenses necessarily incurred by employees who have to be away from home on Council business on the basis of actual expenditure incurred. These allowance rates are set out by HMRC.

Child care (salary sacrifice scheme)

Childcare is available to all employees via the HMRC-approved salary sacrifice scheme. There is no direct subsidy towards childcare costs by the Council.

SECTION 5: DECISION MAKING ON PAY

The provisions of this pay policy statement will apply to any determination made by the Council in the relevant financial year in relation to the remuneration, or other terms and conditions, of a Chief Officer of the Authority and of its lowest paid employees, as defined in this statement. The Council will ensure that the provisions of this pay policy statement are properly applied and fully complied with in making any such determination.

This pay policy statement has been approved by the Full Council of the Authority on 22nd March 2016.

Any proposal to offer a new chief officer appointment on terms and conditions which include a total remuneration package of £100,000 or more, which would routinely be payable to the appointee and any benefits in kind to which the officer would be entitled as a result of their employment (but excluding employer's pension contributions), will be referred to the Full Council for approval before any such offer is made to a particular candidate.

Additionally, any severance payments over £100,000 are referred to Full Council for approval.

SECTION 6: AMENDMENTS TO THIS PAY POLICY STATEMENT

This pay policy statement relates to the financial year 2015/16.

The Council may agree any amendments to this pay policy statement during the financial year to which it relates, but only by a resolution of the full Council.

A new policy statement will be agreed by the Council in March 2017 for the financial year 2016/17.

SECTION 7: PUBLICATION OF AND ACCESS TO INFORMATION

The Council will publish this pay policy statement on its website as soon as is reasonably practicable after it has been approved by the Council. Any subsequent amendments to this pay policy statement made during the financial year to which it relates will also be similarly published.

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Agenda Item 11

LICENSING COMMITTEE RECOMMENDATION TO FULL COUNCIL - (from meeting held on 24 February 2016).

COUNCIL AGENDA ITEM 11

**Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976
Hackney Carriage and Private Hire Matters - Statement of Licensing Policy**

This report has been prepared for consideration by Council with a recommendation to approve and adopt the statement of licensing policy for the control, supervision and enforcement of the respective hackney carriage and private hire trades and to delegate future overall responsibility of the policy to the Licensing Committee and appropriate head of service.

RESOLVED to recommend to Council:

- 1) That the council notes and approves the recommendations and resolutions of the Licensing Committee, and adopts the Statement of Licensing Policy (as attached to the agenda) and resolves to delegate the hackney carriage and private hire statement of licensing policy together with the scheme of delegations to the Licensing Committee and appropriate head of service.**
- 2) That the council delegates approval to the Licensing Committee to retain overall responsibility for the policy, to include any future amendments, variations, substitutions or deletions as may be required and after appropriate consultation.**
- 3) That the policy commence with effect from 01 April 2016.**

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Title of meeting: LICENSING COMMITTEE - 24 FEBRUARY 2016
FULL COUNCIL - 22 MARCH 2016

Subject: Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976
Hackney Carriage and Private Hire Matters - Draft Statement of Licensing Policy

Report by: DIRECTOR OF CULTURE & CITY DEVELOPMENT

Wards affected: ALL

Key decision: No
Full Council decision: Yes

1. Purpose of report

- 1.1 To receive, recommend for approval and to adopt the draft statement of licensing policy for the control, supervision and enforcement of the respective hackney carriage and private hire trades within the City of Portsmouth. Further, to note and approve the summary of recommendations together with the scheme of working delegations to the Licensing Committee and appropriate head of service.
- 1.2 To note the prior consultation on the draft policy and to take into consideration any received comments from trade representatives, individual licence holders, members of the public and members alike and to incorporate such relevant amendment(s) to the policy as the committee consider appropriate.
- 1.3 To recommend to council the formal approval of the statement of licensing policy for a 3 year period commencing on 01 April 2016 and to seek approval for the Licensing Committee to retain future responsibility for the control and administration of the policy.

2. Recommendations

To the Licensing Committee:

1) That the report and draft statement of licensing policy for the control, supervision and enforcement of the hackney carriage and private hire trades within the City of Portsmouth together with the scheme of delegations and relevant appendices be noted and approved (subject to any final amendments) by the Licensing Committee with effect from 01 April 2016.

2) That the policy be reviewed by the Licensing Committee every 3 years with the appropriate head of service authorised to make such minor typographical and other corrective administrative amendments from time to time and as required.

To the Council:

1) That the council notes and approves the recommendations and resolutions of the Licensing Committee and resolves to delegate the hackney carriage and private hire statement of licensing policy together with the scheme of delegations to the Licensing Committee and appropriate head of service.

2) That the council delegates approval to the Licensing Committee to retain overall responsibility for the policy, to include any future amendments, variations, substitutions or deletions as may be required and after appropriate consultation.

3) That the policy commence with effect from 01 April 2016.

3. Background

3.1 The Licensing Committee received a report from the Licensing Manager in November 2014 and instructed that the head of service "undertake a thorough review of hackney carriage and private hire policy in respect of drivers, vehicles and private hire operators". Minute 07/2014 refers.

3.2 In the initial preparation of the policy review the head of service has consulted with and/or has had regard to verbal or written representations received from:

- licensed drivers, vehicle proprietors and operators
- Recognised hackney carriage and private hire trade representatives
- Adams Morey as the council's nominated vehicle testing and inspection provider
- The Portsmouth Disability Forum via the council's Equalities Advisor
- The Chief Officer of Police
- The Chief Fire Officer
- The Blue Lamp Trust
- DVLA and DVSA
- Local Insurance brokers
- Fleet garages to include Scope Leasing, Outlook and FTVL
- The council's Environmental Health Manager
- The council's Transport Fleet Manager

- 3.3 The review also recognises and has taken into consideration, where appropriate, the Department for Transport "Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010" (shown in blue italics in the policy review papers) together with the Freight Transport Association best practice (PATN) guide for the inspection of hackney carriage and private hire vehicles.
- 3.4 The previously expressed views of the committee are contained generically in the review - having been stated, in general terms, at paragraph 1.7 on page 4 of the review introduction.

The Licensing Committee met informally on 13 November 2015 to consider the draft policy. A number of minor amendments were discussed and will be incorporated within the draft policy. The committee also met informally with recognised trade representatives on 17 February 2016.

The policy was made available for consultation between 29 December 2015 and 05 February 2016 via the following means:

- The PCC web via "consultations"
- Copies made available in the Licensing Service public reception area
- Copies distributed to all licensed private hire operators within the city
- Copies distributed to all recognised trade representatives within the city
- Copies distributed to all the big "fleet" garages within the city

All drivers, vehicle proprietors and operators have been previously invited to contribute to the review exercise by way of their respective 2015 and 2016 renewal papers.

- 3.5 Subject to approval, the individual recommendations relating to driver and vehicle age limits or other specified requirements **will not** be applied retrospectively but will normally apply, in general terms, from any approved commencement date(s).
- 3.6 Any operator, vehicle or driver application (or other matter due for consideration) which is subsequently received AND is at variance with the adopted policy guidelines; will nevertheless be considered, on individual merit, using the guiding principles at paragraphs 3.0 - 3.3 at page 5 of the policy document.
- 3.7 The policy review has considered the question of fees and charges associated with the hackney carriage and private hire trades. Any proposed variations to such fees will be the subject of a separate report by the Licensing Manager and appropriate head of service and subject to any statutory public consultation as required.
- 3.8 The policy will be kept under review every 3 years.

4. Reasons for recommendations

- 4.1 To approve the draft licensing policy in accordance with the previous instruction and resolution of the Licensing Committee for the head of service to undertake a thorough review of the hackney carriage and private hire trades. To further recommend to council the approval of the policy and appropriate delegations to the Licensing Committee and head of service.
- 4.2 To provide clear and precise policy directives for applicants, licence holders, their legal representatives, the Licensing Committee and officers alike.
- 4.3 To formally delegate approval from full council to the Licensing Committee to retain overall future responsibility for the policy, to include any future amendments, variations, substitutions or deletions as may be required and after appropriate consultation.

5. Equality impact assessment

An EIA has been completed.

6. Legal implications

The legal implications are embodied in the review document.

7. Finance comments

None applicable directly to this report but recommended guiding principles for "Fees and Charges" are contained within chapter 16 of the policy review document.

.....
Signed by:

Appendices:

1. Statement of Licensing Policy for the control, supervision and enforcement of the hackney carriage and private hire trades incorporating the committee's recommendations:
2. Copies of representations and comments received (redacted where necessary) - see <http://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=125&MId=3384&Ver=4>
3. LGA Taxi and Private Hire licensing - councillors' handbook - see <http://democracy.portsmouth.gov.uk/ieListDocuments.aspx?CId=125&MId=3384&Ver=4>

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:



Title of document	Location
Nil	Nil

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Statement of licensing policy

April 2016

www.portsmouth.gov.uk

For the control, supervision and enforcement of the hackney carriage and private hire trades within the city of Portsmouth



Contents

Chapter 1: Introduction	3
Chapter 2: Summary of key resolutions	9
Chapter 3: Scheme of delegation and associated responsibilities	14
Chapter 4: Hackney carriages – demand and quantity control	21
Chapter 5: Hackney carriage stands	30
Chapter 6: Trade representatives and consultation	32
Chapter 7: Duration of licences	34
Chapter 8: The test of ‘fit and proper’	40
Chapter 9: Rehabilitation of Offenders Act 1974	54
Chapter 10: Vehicle specification requirements	57
Chapter 11: Vehicle testing requirements	62
Appendix: PATN Vehicle testing guidance	70
Chapter 12: Vehicle age limits	94
Chapter 13: CCTV provision in vehicles	98
Chapter 14: Conditions of licence and byelaws	104
Appendix: Proposed conditions (A–D) and byelaws	107
Chapter 15: Licensing enforcement	125
Chapter 16: Fees and charges	141
Chapter 17: Law Commission proposals	150
Chapter 18: Contact information	152
Chapter 19: References	153
Chapter 20: Glossary of terms	154
Chapter 21: Map of Portsmouth	156
Footnotes & Commentary	157

Chapter 1: Introduction

- 1.0 This review has been prepared by the Director of Culture and City Development and follows the decision of the Licensing Committee in November 2014 to request that the Licensing Manager “undertake a thorough review of hackney carriage and private hire policy” (minute 7/2014 refers).
- The last major review of the respective hackney carriage and private hire trades was undertaken in 2001. Prior to that, a review was considered by the then Licensing Panel in 1986.
- 1.2 The Council recognises that all persons, including those involved in the provision of local transport, should work together to help shape the great waterfront city. The Council aspires to provide safe communities and accordingly recognises that the taxi and private hire industry have an important role to play.
- The determination of policy and associated guidelines can be shaped by many elements but an overriding emphasis of promoting a **local policy** based on **local needs** and having due regard to **local knowledge and evidence** for and from **local people** is of paramount importance.
- 1.3 Never more so is this apparent than when dealing with the Portsmouth taxi and private hire undertaking. Consultation must be undertaken and respective views heard.
- Each local authority will have policies and conditions reflecting on local working practices and whilst good national practices will be embraced – the composition, supervision and day to day control of the local private hire and hackney carriage fleets is for the city council and city council alone to administer.¹
- It is often said, but not often remembered, that a licence is a statutory and lawful permission with authority to do something subject to compliance with conditions, byelaws or regulations. With any licence comes responsibility and accountability – particularly when the public safety is of paramount concern.
- For these reasons, a licence is a privilege which should be treated as such accordingly.
- 1.4 Portsmouth hackney carriages are the **only vehicles** lawfully permitted to stand and ply for the hire from the streets of Portsmouth. No other vehicles have the authority and privilege to provide this service in Portsmouth.

1.5 The importance of the respective trades cannot be underestimated and this is seen in the thousands of jobs accepted and undertaken on a daily basis – whether conveying vulnerable children and adults to and from school or on other social services contracts, picking up passengers from the train stations and Ferry Port, conveying holiday makers to the airports or helping to clear the late night economy areas of revellers night after night after night.

1.6 The Council recognises and acknowledges that the vast majority of licensed taxi and private hire drivers are extremely hard working and committed to representing the city, as the local licensing authority, in a positive and professional manner.

Equally, the Council notes the important role both private hire operators and vehicle proprietors play in providing and facilitating modern and technologically advanced booking services and a fleet of vehicles in the city.

The respective private hire and hackney carriage trades play a critical role in providing a 24/7 local transport provision for residents and visitors alike.

1.7 That said however, the main function of the Council and Licensing Committee, as the local licensing authority, is to protect and to have regard to the public interest.

In recent times members have expressed concern about the following:

- The number of hackney carriages licensed to ply for hire and the resulting anecdotal evidence of “the buying and selling” of plates which are council property
- Whether the hackney carriage trade should be subject to numeric control
- The suitability of some drivers by way of background checks and ability to communicate in English and to know their way around the city
- The conduct of some drivers who, on the evidence, have behaved poorly with examples of consensual sexual contact with passengers and the need to establish firmer guidance and clear disciplinary sanctions to support the concept of drivers continuing to be “fit and proper”
- The quality of vehicles from both an age and mechanical suitability point of view and having regard to the local environmental issues such as air quality



- 1.8 National headlines about the conduct of licensed drivers from Rotherham and Milton Keynes have resulted in recommended changes to the guidelines on convictions (and conduct) and are contained within the review proper. There is no evidence whatsoever to support any local concern about safeguarding issues but nevertheless the need to continue to work closely with the trade, the police and partner agencies is paramount.
- 2.0 The Department for Transport – “Best Practice Guidance”² features heavily in the review. The council recognises and endorses, where possible, the guidance but notes that the guidance is “to assist licensing authorities” with the council making the final decision(s) on any matters. All reference to the guidance is shown in blue italics.

A link to the guidance is show below.

www.gov.uk/government/publications/taxi-and-private-hire-vehicle-licensing-best-practice-guidance

Policy

- 3.0 This review will form the foundation and basis of future policy in respect of the hackney carriage and private hire undertaking in Portsmouth for the foreseeable future, but will be subject to regular review.
- 3.1 The purpose of policy is to “set the standards” and to offer informed advice and expectations to applicants, licence holders and their appointed representatives alike.
- Policy should be made (and based) on evidence in order to formulate any local requirements and should **not** be introduced without prior consultation or on a whim.
- 3.2 Policy directives assist both members and officers in dealing with licensing matters in a uniform and consistent way and ultimately gives guidance to those in subsequent appeal situations as to the underlying rationale behind any individual decision making process.

- 3.3 No policy can ever be considered to be an absolute requirement, although the committee will look to persons to explain, in plain and clear terms, why a particular aspect of policy or a directive should not apply to them.

Applicants and licence holders are advised that each case will be heard and determined on merit with the policy used to “guide but not to bind” the decision maker – whether this is the Licensing Committee/Sub-Committee or officers acting under delegated authority and on behalf of the head of service.

General

- 4.0 The council and committee must exercise any function with a view to preventing crime and disorder in accordance with section 17 of the Crime and Disorder Act 1998.
- 5.0 The Human Rights Act 1998 provides that persons are entitled to a fair hearing and this is recognised as a fundamental right particularly when consideration of disciplinary action by way of suspension, revocation or the non-renewal of a licence is under consideration. The legal advisor will always guide and alert the committee on any human rights matters.
- 5.1 The committee recognises however that a licence is NOT a personal piece of property for the purposes of the 1998 act but nevertheless will always strive to act in a fair and proportionate way.³
- 6.0 The Law Commission report and draft bill on taxi law reform has put forward proposals for the reform of the respective private hire and hackney carriage trade(s). The proposals have no lawful status at present and the committee is therefore at liberty to consider and implement the local policy framework on merit at this time.

A summary of the Commission’s work, for information purposes, is found at Chapter 17.

About the City of Portsmouth

- 7.0 The City of Portsmouth is situated in the ceremonial county of Hampshire and is at the heart of Britain's southern coastline with long established direct road and rail links to London, the Midlands and Wales.
- 7.1 Portsmouth is undergoing great change with a £2billion investment plan underway. Elements such as the Tipner motorway junction and park and ride are already completed while there is more to come with new homes, businesses and jobs to come from the City Deal sites and the exciting regeneration plans for The Hard.
- 7.2 Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.
- 7.3 As the local highway authority the council is responsible for approximately 458km of vehicular carriageway in partnership with Colas and Ensign. Up to 90,000 inbound vehicle movements are recorded in any one 24 hour period and previous census data indicates 397 vehicles per 1000 people in Portsmouth.
- 7.4 A significant naval port for centuries, it is home to the world's oldest dry dock and to world famous ships including HMS Victory, HMS Warrior 1860 and the Mary Rose. Major investment around the harbour has transformed the "great waterfront city".

Home to Ben Ainslie Racing and hosting the preliminary 2015 America's Cup racing series, the dynamic waterfront city still has an important role as a major dockyard and home base to the Royal Navy.

- 8.0 The city offers a vibrant mix of entertainment facilities for residents and visitors alike with two established theatres, restaurants, cinemas, concert venues and a variety of pubs and clubs. The late night economy is well served with venues in the north located at Port Solent, the city centre located near the Guildhall and in the south both at Gunwharf Quays and in Southsea.

Major music festivals are held during the summer months attracting tens of thousands of revellers.



The Hackney Carriage and Private Hire Trades

- 9.0 There are 5 licence types associated with the hackney carriage and private hire trades as follows:
- **Hackney carriage vehicle licence (with recognition of the proprietors)**
 - **Hackney carriage driver licence**
 - **Private hire operator licence**
 - **Private hire vehicle licence**
 - **Private hire driver licence**
- 9.1 A licensed hackney carriage can ply for hire and seek customers from within the city (from ranks, cruising and being flagged down) and can also do private hire work. The vehicle, dependent on size, cannot seat more than 8 passengers. The number of hackney carriages may be limited. The driver must be licensed.
- 9.2 Conversely, a private hire vehicle can only pick up pre-booked fares (up to 8 passengers) given, in advance, by a licensed private hire operator. The operator, vehicle and driver licences are issued by the same council. The committee cannot limit the number of private hire vehicle licences.
- Sometimes the public find it difficult to understand the legal difference between the respective trades and see all vehicles as “taxis” and a means of getting home after a night out. It is for this reason, and to support the differences between the trades, that local authorities including Portsmouth have policies designed to reflect the difference by way of vehicle colour, the use (or not) of TAXI roof signs and the use of locally prescribed liveries.
- 9.3 The committee can set the maximum fares that hackney carriages can charge but have no power to set private hire fares. It is for the individual operator and the market to determine.
- 9.4 The private hire operator is the “pinnacle” and all persons who, in the course of business, make provision for the invitation or acceptance of bookings for a private hire vehicle must be licensed. The operator is legally liable if unlicensed vehicles and drivers are used.⁴
- The operator can be a single person, a partnership or a company. The legal concept is the same however (and regardless of size) in that the operator must be a “fit and proper” person.
- Advanced modern technology utilising the latest forms of communication, GPS satellite tracking and mobile phone apps is now the norm and not the exception with operators finding more intuitive ways of encouraging customers to both book and continue to use their particular service provision. The 1976 act has been woefully left behind with the rapid advance of technology as operators can now command global audiences via the world wide web let alone those close to home. This makes the interpretation and enforcement of matters such as “cross border hirings and plying for hire” sometimes very challenging.
- Operators in Portsmouth (particularly of recent) have insisted that drivers wear appropriate branded clothing to promote both individual company and the general trade image. This is to be supported. Likewise, the airport and specialist companies provide a “chauffeur” style service with uniformed drivers and high end luxury vehicles being utilised.
- 9.5 Vehicle proprietors can supply either the one vehicle or hundreds of vehicles. For example, Scope Leasing, Outlook UK and FTVL are the recognised major vehicle providers to Aqua Cars Ltd.
- 9.6 Portsmouth has one of the largest combined hackney carriage and private hire fleets on the south coast with over 2600 driver and vehicle licences issued in 2015. The private hire vehicle fleet alone comprises over 1000 licensed vehicles.

9.7 There are 22 licensed operators working in the city and providing a 24/7 public service together with specialist businesses, executive contracts and/or airport contracts as follows:

- 1st Choice Cars
- Airports Direct Ltd
- Airport Transfers
- Airport Travel
- Apex Airport Cars
- Andicars Portsmouth
- Aqua Cars Ltd
- Beckett Chauffeur Services
- Blue Star
- Breeze Airport Cars
- Citywide Taxis
- Clarks Airport Transfers
- Dovecote Executive Travel Services
- Evocatus
- Kals Airways Cars
- Livingstone
- Marina Cars
- MCA Cars
- North End Cars
- PDS Autos
- Smith's for Airports
- Uber Britannia Ltd

9.8 The local scene is currently dominated by vehicles and drivers affiliated to the Aqua Cars Ltd radio circuit.

Equally, Citywide Taxis based at The Hard provide a comprehensive combined hackney carriage and private hire service within the city and these two operators remain "the big two" and duly licensed by the council.



9.9 So far as drivers are concerned, both hackney carriage and private hire drivers must be licensed and be "fit and proper" persons. The same administrative arrangements and processes apply to help determine the fitness of drivers.

The main difference is that private hire drivers are governed by conditions and hackney carriage drivers by byelaws.

Policy Review

10.0 This licensing policy will be reviewed, if required, by the Licensing Committee every 3 years.

The Licensing Service will recognise and work to the core "objectives" (shown at the head of each relevant chapter) at all times and will constantly have regard to these basic principles.

The day to day upkeep of the policy will be undertaken by the Licensing Manager in consultation with the head of service. Accordingly, the Licensing Manager shall be authorised to make such minor typographical and other corrective administrative amendments to the policy document as required.

Chapter 2: Summary of resolutions

(As approved by the Licensing Committee on 24 February 2016 under minute 9/2016)

Chapter 3: Scheme of Delegation and Associated Responsibilities

1. That the scheme of delegation be noted and adopted by the Licensing Committee and officers alike.
2. That the Licensing Committee approve the scheme of delegation.
3. That the scheme of delegation be reviewed every 3 years.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 4: Hackney Carriages – Demand and Quantity Control

The committee resolved:

1. a) To retain the existing numeric limit (234 vehicles) on the number of hackney carriages licensed to ply for hire within the City of Portsmouth and to instruct the head of service to identify a suitably qualified independent transport consultant to carry out a survey on the demand or otherwise for the services of hackney carriages within Portsmouth;
- b) That such fees and costs (including staff costs) arising from the survey to be determined by the committee and paid for by the hackney carriage trade by way of “one off” increase in the vehicle (proprietor) fees;
- c) That the consultant to report back to the committee with recommended options

Chapter 6: Trade Representatives and Consultation

1. That Licensing Sub Committee minute 10/1987 be noted and amended.
2. That the terms of reference, as previously approved by the committee, be varied so that reference to “meetings to be held six monthly” be substituted with “a meeting will be held once a year”.
3. That the Licensing Manager be authorised to appoint and remove trade representatives and that the change to the scheme of delegation be approved accordingly.

Chapter 7: Duration of Licences

1. That the changes to the duration of driver and operator licences contained in the Deregulation Act 2015 be noted.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals; in particular to provide for:
 - The introduction of a “rolling 3 year licence period” for hackney carriage and private hire drivers
 - The introduction of a “rolling 5 year licence period” for private hire operators
 - The introduction of DBS checks to coincide with the renewal dates for both driver and operator licences
3. That the head of service be given delegated authority to grant and renew driver licences (hackney carriage or private hire) for a period of less than 3 years but only after having regard to the circumstances of any one individual case
4. That the head of service bring forward proposals to amend/vary fees for driver, vehicle and operator licences commensurate with these proposals.

Chapter 8: The Test of “Fit and Proper”

1. That the contents be noted and endorsed.
2. That the Licensing Committee approve the:
 - I. The policy statement and guidelines on the relevance of convictions at paragraphs **5.2** and **5.4** respectively
 - II. The requirement for applicants for both hackney carriage and private hire drivers to have held a full driving licence for 2 years at paragraph **7.2**
 - III. The change to the drug testing requirements at paragraphs **9.1** and **9.3**
 - IV. The requirement to adopt a minimum entry age limit to the trade of 21 at paragraph **10.2**
 - V. The need to establish mandatory NEW driver training (for both hackney carriage and private hire drivers) to comprise of:
 - English language competency and proficiency testing at the discretion of the head of service who will arrange such local training provision to commence by **1 July 2016**
 - Disability and wheelchair awareness training – mandatory
 - Driving assessment training – mandatory to include eco driving assessment
3. That the head of service:
 - a) be authorised to finalise, appoint and to provide details of available courses and appropriate training providers with a view to commencing mandatory training for new drivers by no later than **1 July 2016**.
 - b) be authorised to formally request and require existing hackney carriage and private hire drivers to complete such disability and wheelchair awareness training together with driving assessment training (as the case may be) following receipt of a complaint or by way of refresher training as appropriate (NOTE – all such training to be paid directly to the service provider by the applicant or licence holder)
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 10: Vehicle Specification Requirements

1. That:
 - a) the general vehicle specifications shown in paragraph **4.4** be approved and adopted.
 - b) the previous exemption from the standard vehicle specifications for “stretch limousines” be retained and that the head of service be authorised to consider such vehicle applications on individual merit and provided evidence of vehicle type approval is received.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.
3. That the head of service be authorised, if required, to finalise a revised corporate livery and specification for both hackney carriages and private hire vehicles.

Chapter 11: Vehicle Testing Requirements

1. That the PATN (Public Authority Transport Network – Technical Officer Group) best practice guidance for the inspection of hackney carriage and private hire vehicles and reproduced as an appendix be approved and adopted by the council for the purposes of complimenting and guiding the local vehicle testing and inspection criteria.
2. That the vehicle inspection and testing report shown at paragraph 4.7 be approved and adopted and the head of service (in consultation with the council's approved vehicle inspectors) be authorised to amend, vary, add or substitute to such local testing criteria as considered appropriate in the future.
3. That all vehicles presented for initial licensing (with the exception of temporary use vehicles which must provide a current MOT) be subject to inspection and test at Adams Morey, Burrfields Road, Portsmouth.
4. i) **That all licensed vehicles over 3 years old be subject to a minimum of 2 vehicle inspections** at Adams Morey per licensing year – the second test to be approximately 6 months after the first test and to comprise a “mini” test for the following:
 - Lighting equipment
 - Exhaust, Fuel & Emissions
 - Vehicle body & structureii) Should the vehicle fail ANY of the mini test criteria – a full inspection and test will be subsequently booked and completed and at the expense of the vehicle proprietor.
5. That all licensed vehicles **over 5 years old** be subject to a minimum of **2 full** vehicle inspections at Adams Morey Portsmouth per licensing year.
6. Should the subsequent full test for any vehicle contain at least 3 failures and/or the imposition of a red traffic light marker – the vehicle proprietor will be reported to the committee for consideration of the suspension or revocation of the respective vehicle licence.⁵
7. That the requirement for proprietors to make application to “extend a vehicle licence” after 6 years of age be abolished and that committee minute 37/1991 be rescinded accordingly.
8. That the head of service be authorised to amend such vehicle conditions so far as this relates to:
 - The need to carry a serviceable fire extinguisher (not recommended as a mandatory requirement)⁶
9. That the head of service bring forward proposals in relation to any variations to the fees and charges associated with the vehicle inspection and testing regime and commensurate with these proposals.
10. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 12: Vehicle Age Limits

1. That minute 23/2006 be rescinded.
2. That, as a matter of local policy and condition for both hackney carriage and private hire vehicle licences; all private hire and hackney carriage vehicles presented for initial licensing shall be under **3 years of age** on first licensing and may remain licensed until **8 years of age** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
3. That any vehicle presented for a **temporary use** licence shall be under **1 year old** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 13: CCTV Provision in Vehicles

1. That the Licensing Committee endorse and approve the mandatory use of in car CCTV camera surveillance in both licensed hackney carriage and private hire vehicles (to include "temporary use" vehicles).
2. That any camera system installed in a licensed vehicle shall comply with the technical specifications referred to in **5.3**
3. That the committee approve the following new condition for both hackney carriage and private hire vehicle licences:

The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days.

The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the committee for the time being in force.

The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.

The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.

The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.

4. That "airport only" vehicles and vehicles used mainly for executive account type work be exempted from the requirement to have CCTV installed and the head of service be given delegated authority to grant such exemptions to vehicle proprietors on individual merit.
5.
 - i) That all existing licensed hackney carriage and private hire vehicles as appropriate be fitted with compliant CCTV cameras by **30 September 2017**.
 - ii) That any newly licensed hackney carriage or private hire vehicle from 1 April 2016 onwards be required to be fitted with compliant CCTV cameras with immediate effect.
6. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.



Chapter 14: Conditions of Licence and Byelaws

1. That the Licensing Committee approve and adopt the revised conditions of licence for hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers with immediate effect.
2. That the head of service be authorised to impose such further “special conditions” on individual licences, as considered appropriate and proportionate, and in respect of hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers. But this authority is NOT to be used to amend or vary any of the prescribed standard conditions.
3. That the conditions of licence for hackney carriages, private hire operators, private hire vehicles and private hire drivers be reviewed every 3 years.
4. That the use of the current adopted byelaws be endorsed and noted.

Chapter 15: Licensing Enforcement

1. That the Licensing Committee note and endorse the contents.
2. That the Licensing Committee approve the changes to the local penalty points system and to come into force with immediate effect.
3. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 3: Scheme of delegation and associated responsibilities

Objective:

“To note the delegated powers and responsibilities to both the Licensing Committee and head of service alike and to formally re-establish and record the “working” delegations for the supervision, control and administration of all hackney carriage and private hire matters”

1.0 Introduction & Legal Provisions

1.1 The current scheme of delegations and the resulting “power to licence” the various functions under the control of the Licensing Committee are contained within the council’s constitution made pursuant to the executive arrangements under the Local Government Act 2000.

1.2 The discharge of functions can be by:

- The council
- A committee
- A sub committee
- Officer(s)
- Another local authority (by way of agency arrangement)
- Jointly with another local authority

1.3 The council is a statutory body pursuant to the Local Government Act 1972. As such can undertake activities and functions for which there is an expressed statutory power or where empowered to do so by way of, for example, a “well-being” power such as prescribed by the Local Government Act 2000 – which provides for a council to carry out functions likely to achieve the promotion of economic, social or environmental well-being in the area.

1.4 The constitution provides for the Licensing Committee (currently comprising of 15 members) to carry out the functions relating to many licensing and registration matters including the hackney carriage and private hire undertaking.

Equally, there are other precise statutory provisions and guidance as, for example, matters relating to the administration of the Licensing Act 2003 are neatly summarised at section 7 of the act by the following:

“All matters relating to the discharge by a licensing authority of its licensing functions are, by virtue of this subsection, referred to its Licensing Committee and, accordingly, that committee must discharge those functions on behalf of the authority.”

1.5 For the purposes of hackney carriage and private hire matters the constitution specifies the functions shown below (and which are prescribed by the functions regulations)⁷ to the Licensing Committee:

- **Power to licence hackney carriages and private hire vehicles.**

As to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57);

As to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

- **Power to licence drivers of hackney carriages and private hire vehicles.**

Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

- **Power to licence operators of hackney carriages and private hire vehicles.**

Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.

1.6 The executive is prohibited from carrying out the above functions which are deemed to be “council” functions.⁸ The executive cannot be responsible for the imposition of conditions or the imposition/consideration of any terms or restrictions subject to which the licence or permission is held. The executive cannot suspend or revoke licences nor take enforcement action to secure compliance.

Finally, the executive cannot set or regulate fees associated with these licensing functions.

There are however, two areas of taxi licensing where the Licensing Committee are not expressly empowered (by either the council’s constitution or the function regulations) to make binding decisions without referral to the cabinet or appropriate cabinet member. These are the fixing of hackney carriage fares and the appointment of hackney carriage stands pursuant to sections 63 and 65 of the 1976 act. They are “executive” and not “council” functions.⁹

In practical terms, the Licensing Committee has historically heard from established trade representatives about matters relating to taxi stands and officers have prepared appropriate Members Information Service reports for consideration - with the highway authority and/or cabinet member for Traffic & Transportation being subsequently invited to approve (or otherwise) the appropriate traffic regulation orders. There is no reason why the Licensing Committee cannot continue to act as a conduit for considering and receiving trade requests for the provision of taxi stands (and their subsequent variation or revocation) but with any final report and decisions being made by the appropriate cabinet member or officers of the highway authority acting under existing delegated authority.

In all cases involving the appointment, variation or revocation of taxi stands, it is important that the prescribed statutory requirements contained in the 1976 act are complied with.

The fixing of taxi fares has, however, been historically approved by the Licensing Committee and/or via the Members Information Service. It is therefore recommended, for future considerations, that the Licensing Committee continue to receive initial requests from the trade and other interested parties about future taxi fare rise proposals and submit a short briefing report and any recommendation(s) from the committee to the cabinet for final approval.

1.7 The constitution currently provides for the head of service to:

“Approve registrations or to issue licences, certificates in respect of:

Hackney carriages (including the power to grant but not to refuse the allocation of vacant plates).

Hackney carriage proprietors, drivers, private hire operators, vehicles and drivers”

There is a corresponding power to the head of service to suspend both hackney carriage and private hire driver licences pursuant to section 61 of the Local Government (Miscellaneous Provisions) 1976.¹⁰

1.8 The scheme of delegation from Full Council to the Licensing Committee (and subsequently to officers) ensures that there is no ambiguity and a clear and transparent decision making process is in place.¹¹

This is important as it permits applicants, licence holders and their respective legal advisors to know that decisions of the committee or officers are decisions of the council and thus are binding without any need for referral or subject to any “call in” procedure to another decision making body.

Accordingly, any subsequent appeal process against a decision of the committee or an officer can be instigated quickly following receipt of the formal decision notice.

1.9 The widely accepted working model for any licensing provision is for the “day to day” management of licensing matters (together with routine and non-contentious applications) being dealt with by officers BUT with matters in conflict with policy or by their unusual nature or public interest together with contested applications being determined by the committee as appropriate and in accordance with any locally devolved delegation powers.

2.0 The accepted principle therefore is for officers to generally grant but not to refuse licences¹² – with all contested applications (or those with a public interest or where representations have been made) to be put before the Licensing Committee or a sub-committee for final determination.

This accords with the well-established principles of administrative law relating to the rules of natural justice and allows for persons to generally present their case, in person, and to be heard before members make a final determination.

3.0 Historically, the Licensing Service was, for many years, aligned with the former Director of Corporate Services/City Solicitor but more recently became a function under the control of the Head of Health, Safety & Licensing.

That has changed with the service (from 2015) now reporting to the Director of Culture and City Development and the team have now re-located to a new purpose built lower ground floor office.

3.1 As a result of the recent changes (and having regard to the fact that the committee has asked for a total review of the taxi and private hire licensing undertaking), the Licensing Manager has asked for a formal written scheme of those existing delegated functions (to reflect on the particular work of the committee and reporting officers) to be endorsed and approved by the committee.

This will enable applicants, licence holders and their legal representatives to be absolutely clear about the responsibilities given to members and officers alike.

4.0 Accordingly, the Licensing Committee is asked to approve the scheme of delegation as shown on pages 17–20.

Scheme Of Delegation

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
<p>1 Determination of all policy matters relating to the hackney carriage and private hire undertaking</p> <p>To include determining the number of hackney carriages licensed to ply for hire within the city AND</p> <p>If mindful of retaining a fixed number of hackney carriages to appoint appropriate consultants' to carry out any future "unmet demand" surveys</p>	In all cases ¹³		
<p>2 Determination and approval of all standard conditions for operators, vehicles and drivers to include any variations and amendments.</p> <p>Determination of "numeric thresholds" against vehicle proprietors, operators and drivers for the purposes of a sub-committee appearance resulting from the penalty points scheme and to vary, substitute or modify the penalty points scheme</p>	In all cases		
<p>3 Determination and approval of hackney carriage byelaws to include any proposed variations and amendments for consideration by the Secretary of State</p>	In all cases		
<p>4 Determination of all fees* and charges in respect of the private hire and hackney carriage undertaking</p> <p>*but for the head of service to authorise such refunds or amendments to respective operator, vehicle or driver fees as appropriate.</p>	In all cases		
<p>5 Grant or renewal of hackney carriage vehicle licence to include a temporary use licence</p>			In all cases
<p>6 Refusal to grant, renew, suspend* or revoke a hackney carriage vehicle licence including a temporary vehicle licence</p> <p>*under section 60 of the 1976 act</p>		In all cases	
<p>7 Grant or renewal of hackney carriage driver licence</p>			In all cases
<p>8 Refusal to grant, renew or to revoke* a hackney carriage driver licence</p> <p>*but see 24 post</p>		In all cases	
<p>9 Grant or renewal of private hire operator licence</p>			In all cases
<p>10 Refusal to grant, renew, suspend or revoke a private hire operator licence</p>		In all cases	
<p>11 Grant or renewal of private hire vehicle licence to include a temporary use licence</p>			In all cases

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
12 Refusal to grant, renew, suspend* or revoke a private hire vehicle licence including a temporary vehicle licence *under section 60 of the 1976 act		In all cases	
13 Grant or renewal of private hire driver licence			In all cases
14 Refusal to grant, renew or to revoke* a private hire driver licence *but see 24 below		In all cases	
15 Grant or refusal/revocation of a notice of exemption for hackney carriage or private hire driver from carrying guide, hearing or assistance dogs on medical grounds – Disability Discrimination Act 1995 as amended			In all cases and subject to satisfactory medical enquiry and reports being received
16 Determination of whether a vehicle is deemed “silver” or not and to refuse to grant or renew or to suspend a respective hackney carriage or private hire vehicle licence on these grounds accordingly			In all cases
17 Determination of passenger seating capacity for a hackney carriage or private hire vehicle			In all cases
18 Design of private hire operator paper licences			In all cases
19 Design of hackney carriage and private hire vehicle paper licences, windscreen licence discs, licence plates and all internal notices			In all cases
20 Design of hackney carriage and private hire driver paper licences and their respective badges			In all cases
21 Design of approved internal and external corporate livery for both hackney carriage and private hire vehicles and to grant or refuse permission for any other external or internal sign(s)			In all cases but in consultation with corporate communications
22 Design and content of all hackney carriage and private hire application forms to include any other required form(s) or notices commensurate with the provisions of the 1847 and 1976 acts. ‘Content’ includes the receipt of any further information that the Licensing Manager considers appropriate in order to determine whether a person is “fit and proper”.			In all cases
23 Suspension* of hackney carriage or private hire vehicle licences pursuant to section 68 of the 1976 act *with the sub-committee considering vehicle suspensions pursuant to section 60 of the 1976 act			In all cases

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
24 Suspension of hackney carriage or private hire driver licences pursuant to section 61 of the 1976 act and/or to revoke, with immediate effect, an existing hackney carriage or private hire driver licence having regard to the "interests of public safety" ¹⁴			In all cases
25 Determination of application for exemption from the requirements to have CCTV in a private hire vehicle – NO EXEMPTION FOR HACKNEY CARRIAGES			In all cases
26 Determination of application for plate and/or livery exemption for private hire vehicles – NO EXEMPTION FOR HACKNEY CARRIAGES			In all cases
27 The grant or renewal, after consideration on individual merit, of a hackney carriage or private hire driver licence for a limited duration		If necessary	In all cases
28 The imposition of special conditions for private hire operator, private hire vehicle, hackney carriage vehicle or private hire driver licences as appropriate			In all cases but not to amend the standard conditions for the time being in force
29 The refusal to grant or renew a hackney carriage or private hire driver licence in certain EXCEPTIONAL circumstances			In all cases BUT only by reason of: <ol style="list-style-type: none"> 1. Evidenced repeated knowledge test failure 2. Evidenced poor communication skills 3. Evidenced medical concerns¹⁵ 4. Failure of prescribed driving and or other competency tests as prescribed

Matter to be dealt with	Full Licensing Committee	Sub-Committee	Officers
30 Fixing of hackney carriage fares ¹⁶	To receive trade proposals and to make such recommendations to the cabinet as appropriate		
31 Appointment of hackney stands (to include proposed variations and revocations to such stands) ¹⁷	To receive trade proposals and to make such recommendations to the cabinet member for Traffic & Transportation as appropriate		
32 To determine and appoint hackney carriage and private hire trade representatives and to rescind any appointment if appropriate ¹⁸			In all cases
33 Any changes to the committee's prescribed vehicle mechanical and cosmetic inspection testing report for hackney carriage and private hire vehicles ¹⁹			In all cases and after discussion with the council's appointed vehicle testing contractor
34 Penalty points scheme – power to issue points		If necessary	In all cases
35 Consideration of any disciplinary action against licence holders for reaching the appropriate penalty points "thresholds"		In all cases	
36 To instruct the City Solicitor to commence proceedings ²⁰ for any offences and/or to offer a simple caution or attendance by an applicant or licence holder at any training course(s)			In all cases

Resolved

1. That the scheme of delegation as specified in **4.0** above be noted and adopted by the Licensing Committee and officers alike.
2. That the Licensing Committee approve the scheme of delegation.
3. That the scheme of delegations be reviewed every 3 years.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 4: Hackney carriages – demand and quantity control

Objective

“To determine the number of hackney carriages licensed to stand and ply for hire within the City of Portsmouth together with such quantity and/or quality controls as may be appropriate”

1.0 Introduction & Legal Provisions

- 1.1 The committee has previously expressed concern about hackney carriage plates (which remain the property of the council) changing hands for tens of thousands of pounds.

The trade say they are entitled to sell and pass on the “goodwill and business” associated with the previous long term use of a hackney carriage plate and that the transfer of a proprietorship interest in a licensed vehicle is lawful.²¹ They warn against the consequences of an “open door” policy of de-restricting taxi vehicle numbers with a resultant loss in business.

On the other hand, issuing further licences could allow new blood to enter the trade and thus increase freedom of choice for the travelling public. Both the Department for Transport “best practice” guidance and the report into the regulation of the UK taxi industry by the Office of Fair Trading support this view.

Any appeal against the refusal to grant a hackney carriage licence is direct to the Crown Court.

- 1.2 This area of law has received much judicial scrutiny. The control (or otherwise) of hackney carriage numbers must be based on a local determination of local issues and focusing on local evidence of unmet demand for the distinct services of hackney carriages.

“Unmet demand” evidence should realistically be based on empirical independent survey data and not just on the anecdotal views of local trade representatives (or drivers) although the committee should give due regard to their representations and work related experiences.

In this context the committee are currently in a potentially weak bargaining position in justifying the refusal of any new hackney carriage licences as the last recorded survey to assess the demand for hackney carriages within the city was undertaken in 2006 and is now 9 years old.²²

- 1.3 The committee should consider the detailed Department for Transport best practice guidance²³ reproduced at paragraphs 3.0–3.7 together with the report from the Office of Fair Trading²⁴.

Equally, the extracts shown in paragraphs 1.4–1.5 (as amended) are taken from the “Options for Change” review considered by the committee in 2001 and remain as pertinent now as they did 14 years ago.

1.4 The Town Police Clauses Act of 1847 is still the primary legislation controlling hackney carriage vehicles, proprietors and their drivers. By virtue of Section 37, the committee previously had an absolute unfettered discretion to determine the number of hackney carriages that could be available at any one time to stand or ply for hire within the city of Portsmouth.

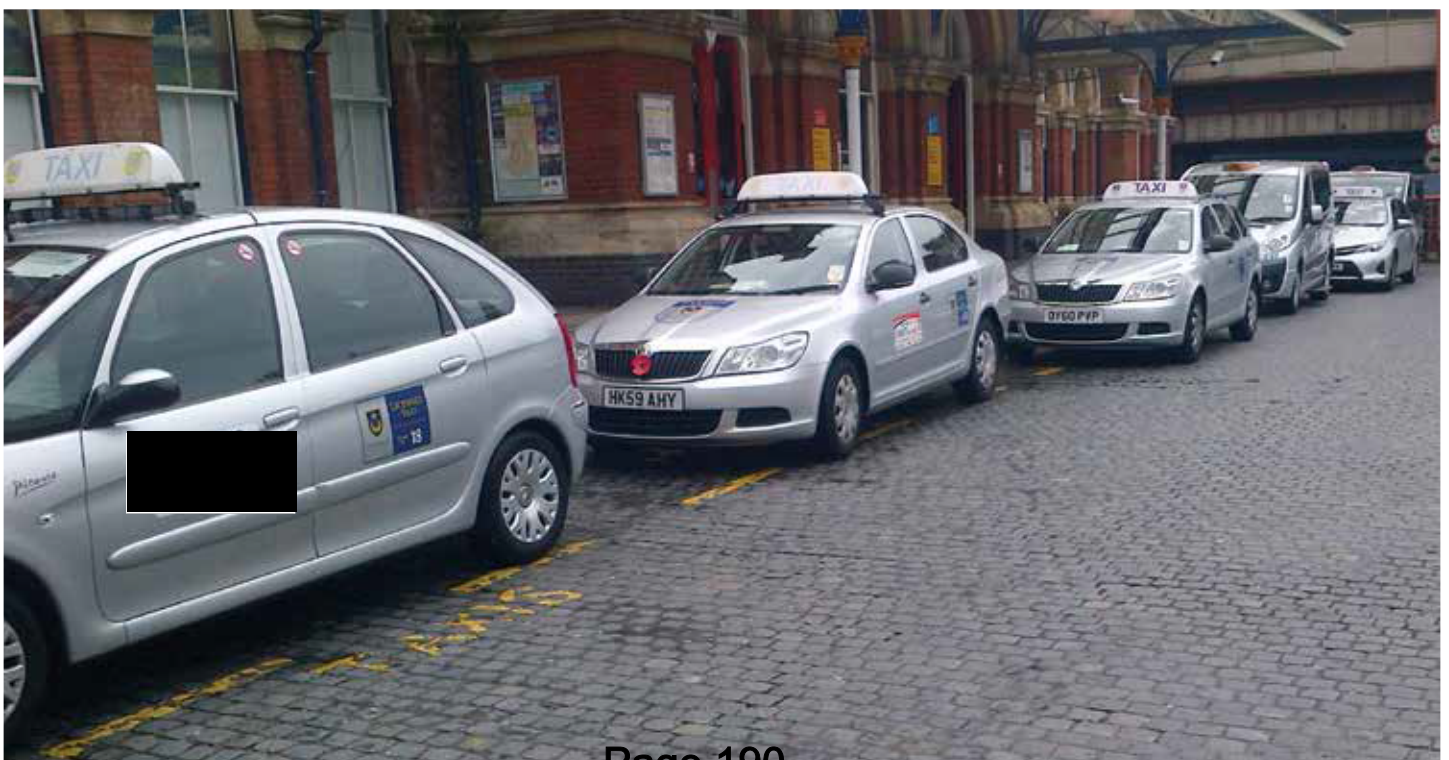
Without exception, such restricted practices of quantity control introduced a “monopoly” scenario with plates only being made available by a culture of “buying and selling”. Inevitably, waiting lists from applicants desirous of obtaining a coveted hackney carriage plate were commonplace with the committee receiving multiple enquiries from potentially suitable applicants in the rare event of a plate becoming available. Waiting lists and registers were kept for this purpose but quickly became strained and out of date due to persons moving away, family arguments over proprietorship details becoming apparent and ultimately with persons on the list passing away. The lists became almost impossible to manage and, as a consequence, were discontinued and destroyed in the early 1980s.

Strict quantity control measures on vehicle numbers also attracted hard and inflexible local conditions of licence and policy directives requiring, for example, full time driving, owners having no other work interests and a requirement for proprietors to personally drive their own vehicles.

Anecdotal evidence of proprietors “disguising” the truthfulness of their interest (or otherwise) in a licensed vehicle were apparent – particularly where a “one person one plate” policy was in force.

1.5 However, Section 16 of the Transport Act 1985 qualified the absolute discretion to limit the number of taxi licences by requiring the local authority to be satisfied “... that there is no significant unmet demand for taxi services ...” within the area. The burden shifted to the committee to be satisfied as to the demand or otherwise rather than the applicant to show evidence of demand when submitting an application.

This does not mean that a council MUST limit numbers if satisfied that demand is met but acts to forbid, by statutory instruction, local authorities from restricting vehicle numbers if not satisfied that there is no significant demand for the services of taxis.



Ironically, Part II of the Local Government (Miscellaneous) Provisions Act 1976 (the licensing code for private hire vehicles) specifically prohibits the local authority from controlling private hire vehicle numbers.

This change in the law had immediate and significant implications to local authorities and hackney carriage plate holders alike. The Department of Transport issued advice (Circular 3/85) to local authorities on the grant of taxi licences summarised in the following terms:–

“District councils may wish to review their policy on the control of taxi numbers in the light of this new section. A limitation of taxi numbers can have many undesirable effects – an insufficiency of taxis either generally or at particular times or in particular places, insufficient competition between the providers of taxi service, detrimental customer satisfaction and prices for “transfer” of taxi licences from one person to another which may imply an artificial restriction of supply.”

The circular gave a clear indication that district councils should not rely on the assertion of local taxi licence holders that demand was already catered for as they had evidence only of demand which they satisfied. The circular stated that it was for the committee to examine the evidence of unmet demand using local knowledge and circumstances. Councils were encouraged to consider whether persons had given up trying to use taxis because of an inadequacy of service or whether there would be a latent demand in parts of the local authority that had not been adequately served. In other words, those that might wish to use taxis may not have demonstrated their demand since there had been no opportunity of having it satisfied.

Equally, the circular advised that general overcrowding at designated taxi stands was not in itself evidence of unmet demand but rather that the provision of taxi stands was too limited.

The circular accepted that an immediate policy of “deregulation” could lead to an abandonment of quality control with an initial oversupply of taxis before market forces could bring about an appropriate equilibrium.

As a consequence there have been a number of court decisions on the question of demand for the services of hackney carriages:–

“If demand for the services of hackney carriages is met a local authority can still issue licences. The licensing authority can adopt a reasonably broad approach in asking itself whether or not it is satisfied that there is no significant demand for the services of hackney carriages within its area to which the licence would apply which is unmet”. *“The authority in my view is entitled to consider the situation in relation to the area as a whole and is also entitled to consider the position from a temporal point of view as a whole”.* *“It does not have to condescend into detailed consideration as to what may be the position on every limited area of the authority in relation to a particular time of the day”* **R -v- Great Yarmouth Borough Council ex parte Sawyer 1988.**

“If an assessment of the number of hackney carriages to meet a significant unmet demand has been approved, and the committee grant up to that number, it may refuse further applications provided it is satisfied afresh as to the absence of any further demand” **Ghafoor -v- Wakefield District Council 1990.**

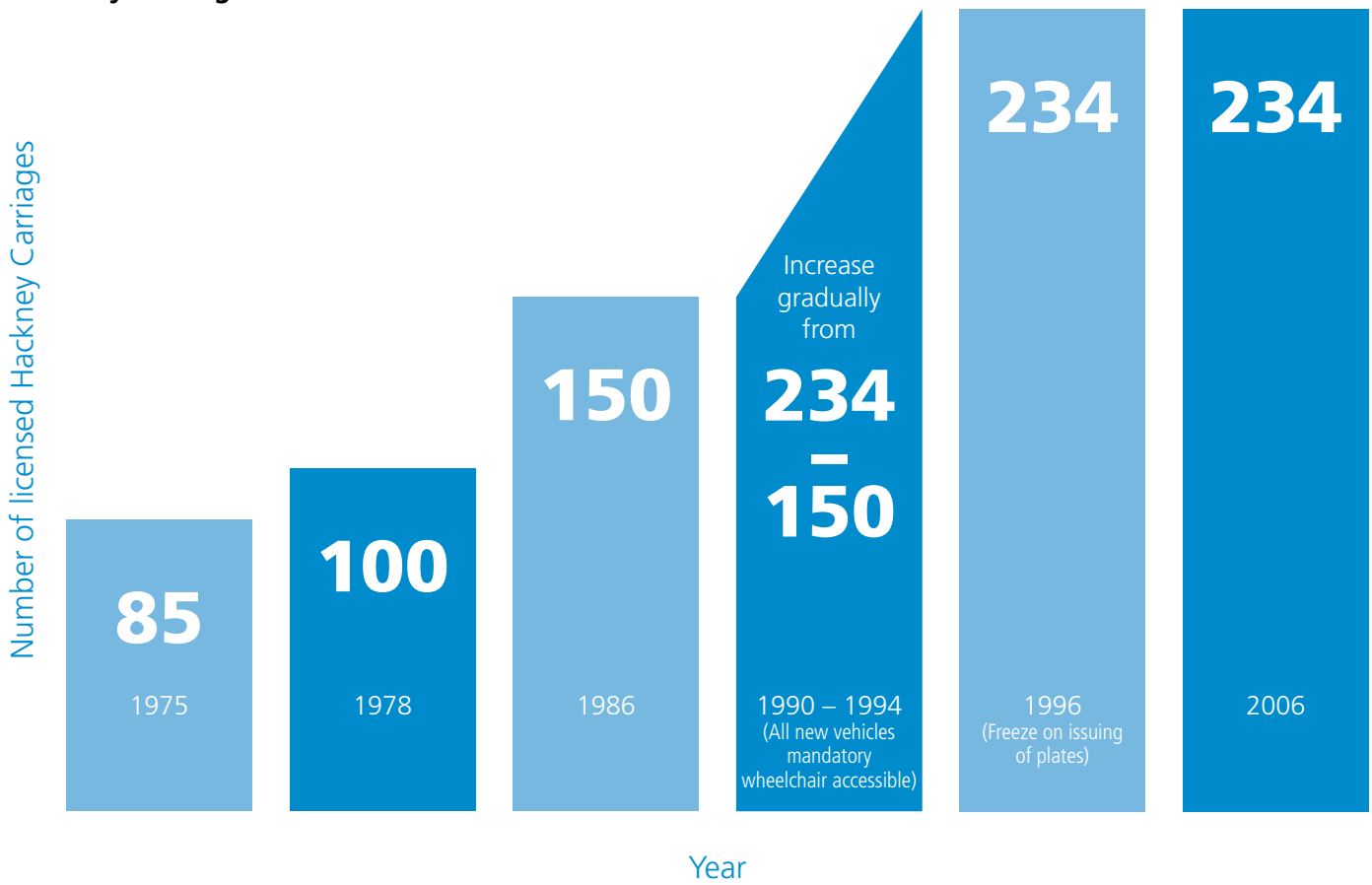
“A local authority does not have to show that demand is satisfied at all times and may, for example, conclude there is no significant unmet demand where there are sufficient taxis – except for periods during which existing drivers are reluctant to work anti-social hours” **R -v- Brighton Borough Council ex parte Bunch 1989.**

1.6 Case law has also established the following general principles on the question of taxi deregulation or otherwise:

- Consultation should and must take place
- If unmet demand exists then licences, on application, must be granted
- Commercial considerations are not, in themselves and in isolation, relevant grounds
- If unmet demand is met licences can still be issued subject to any decision(s) being reasonable
- Additional licences could be issued in batches and subject to such local criteria as determined (points system, lottery etc).

2.0 Portsmouth Policy on Hackney Carriage Vehicle Numbers and Key Dates

Hackney Carriage numbers in Portsmouth



Date	Number of Taxi Plates & Comments
Prior to 1975	85
1975–1978	100 (increase in 15 plates over the 3 year period 1975 to 1978)
1986	Further 50 hackney carriage plates issued to bring the number up to 150
April/May 1987	Survey of unmet demand carried out by Lewis Corner of Sussex University known as the “Corner” survey. Concluded that there was no evidence of significant unmet demand but also recommended issue of new licences based on “quality control”. 150 vehicle licence limit however, still maintained.
October 1988	Portsmouth City Council -v- Brown. Crown Court appeal against decision to refuse to grant hackney carriage vehicle licence. Court ruled that “services of hackney carriages” meant only the distinct services that a hackney carriage could provide i.e. standing and plying for hire. Evidence, in this case, that the use of a London style cab (wheelchair accessible) to facilitate “contract” bookings for persons with mobility problems was NOT deemed relevant for the distinct and unique service of a hackney carriage plying for trade from the street. Appeal dismissed and 150 vehicle limit still maintained.
January 1990	150 vehicle licence limit removed completely by the committee. “Quality control” policies introduced to permit the grant of new taxi licences to vehicles meeting the then Metropolitan Police Public Carriage Office specification. Vehicles to be wheelchair accessible and not over 4 years old on first licensing. Previous policy of “one person one plate” rescinded. Committee also clearly recognised that a “mixed fleet” of saloon style cars and purpose built wheelchair accessible vehicles was desired and would offer the public a wide and varied choice of vehicle types. Vehicle fleet gradually increases from 150 to 234 vehicles.
June 1996	Committee resolves to defer issue of new hackney carriage vehicle licences after considering representations from interested parties (Minutes 36 and 47 of 1996 refer) and further resolved to commission a survey.
October 1997	Committee consider survey report from MCL consultants. Survey proper carried out in May/June 1997. Agree to refuse the grant of further hackney carriage licences (Minute 32/97 refers).
August 2001	“Options for Change” review of the hackney carriage and private hire undertaking. The committee agree to retain the 234 numerical limit subject to further review in 2002 (minute 37/2001 refers).
November 2003	Office of Fair Trading report published – recommends quantity regulation should be removed.
June 2004	Department of Transport write to all local authorities with restricted number policies asking for a review of policy and to publish review outcome by 31 March 2005.
January 2005	Application for grant of a hackney carriage licence by Mr H deferred by the Licensing Committee pending consideration of a further survey. Minute 8/2005 refers.
March 2005	Committee resolve to commission a survey into the demand for the services of hackney carriages and to increase the hackney carriage fees accordingly to pay for the survey. Minute 15/2005 refers.
August 2006	Transport Planning International Ltd conduct unmet demand survey in Portsmouth.
October 2006	Licensing Committee receive report of TPI Ltd who concluded that there is no significant unmet demand for hackney carriages in Portsmouth at this time. Consultant’s also say the committee has discretion to keep the limit at 234 vehicles, issue a limited further number as though fit or to remove the numeric limit. Committee resolve to retain the existing numeric limit of 234 vehicles. Minute 23/2006 refers.

3.0 Best Practice Guidance

- 3.1 The best practice guidance on quantity restriction for taxi licences is shown in paragraphs 3.2–3.8 below²⁵:
- 3.2 *The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis ‘if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet’.*
- 3.3 *Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.*
- 3.4 *Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public – that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?*
- 3.5 *In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.*
- 3.6 *If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.*
- 3.7 *As to the conduct of the survey, the Department’s letter of 16 June 2004 set out a range of considerations. But key points are:*
- the length of time that would-be customers have to wait at ranks.** *However, this alone is an inadequate indicator of demand; also taken into account should be...*
- waiting times for street hailings and for telephone bookings.** *But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...*
- latent demand,** *for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.*
- peaked demand.** *It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not ‘significant’ for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.*

consultation. *As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);*

publication. *All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.*

financing of surveys. *It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.*

3.8 *Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)*

4.0 The Department of Transport letter dated 16 June 2004 requested that councils review local policy to restrict hackney carriage vehicle licences and to make that review public. The letter stated:

- In the Government Action Plan for Taxis and Private Hire Vehicles, restrictions should only be retained where there is shown to be a clear benefit for the consumer;
- Councils should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached; and
- That unless a specific case can be made, it is not in the interests of consumers for market entry to be refused to those who meet the application criteria.
- However, local authorities remain best placed to determine local transport needs and to make the decisions about them in the light of local circumstances.
- If Councils retain quantity restrictions then a review should be undertaken of such policies on a triennial basis.



5.0 The Way Ahead

5.1 If the committee are of a view, after consultation with the trade and all interested parties, that they DO NOT wish to retain the fixed limit on the number of hackney carriages plying for hire within the city – then members can make this decision immediately and without the need for further survey(s).

There would be an absolute need however to impose QUALITY restrictions on the grant of any new hackney carriage licences together with a demonstrable need for any applicant to produce evidence of a vehicle to be licensed.²⁶

5.2 The recommended quality control measures are likely to be similar to those previously imposed after the previous de-regulation in 1990 and include:

- The provision of a suitably constructed or adapted fully wheelchair accessible vehicle having a minimum nearside loading access for wheelchair users and to meet the EC whole vehicle type approval standards for vehicles in the M1 category or to be VCA compliant and approved
- The proprietor (or company) making the application to either live within Portsmouth or within 5 miles of the boundary or have their office within Portsmouth
- The vehicle to meet with any local technical specifications and/or vehicle conditions of licence for the time being in force

5.3 The introduction of further hackney carriage licences based on the above criteria would NOT see an immediate and dramatic increase in vehicle numbers. It is likely that some private hire proprietors would apply for a hackney carriage licence and thus reduce the existing private hire fleet.

Nevertheless, it is accepted that the taxi fleet would increase. The comparative increase in vehicle numbers between 1990 and 1996 represented 14 per year until the limit was “capped” again in 1996.

5.4 The advantages of removing numeric restrictions would allow the market to operate freely with no barriers and promotes:

- Benefits to customers
- Reducing waiting times
- Creating more consumer choice
- Stops a culture of creating a premium for taxi licences with a resultant “buying and selling” scenario

5.5 The disadvantages are that the existing trade may suffer from a gradual over supply with a consequence of taxis “chasing fewer and fewer jobs” leading to friction and disputes at the ranks.

5.6 There would be a need to justify any locally set quantity control policies by the commission of independent surveys say every 3 years (recommended best practice) and at an on-going cost to the existing taxi trade. The survey fees should not be met by the tax payer and best guess estimates for a new survey is a fee of between £25000 and £35000 triennially.

5.7 The question of restricting (or otherwise) the number of hackney carriages in the city is likely to promote passionate and compelling arguments for and against.

The existing hackney carriage trade say that the work has “dried up” and there has been no fare rise application for 5 years. They also say that persons have not come forward to apply for a hackney carriage licence since 2005. This could however be because person(s) are aware that the committee is not issuing hackney carriage vehicle licences and have been reluctant to come forward accordingly.

5.8 Some drivers have asked about the issue of further plates and suggested that market forces should prevail with a corresponding culture of expansion of the taxi fleet subject to strict quality controls. Other persons have reported to the committee that the “buying and selling of plates” is wrong and should be tackled.²⁷ This is the shared view of your reporting staff.

The committee is in breach of the recommended good practice guidance and cannot, at this time, just rely on the anecdotal say so of the taxi trade about demand or otherwise without commissioning a further survey on demand.

This would have an immediate impact on the licensing fees levied against hackney carriage proprietors who would need to pay, on average, an extra £128 each to finance a survey coming in at a mean average cost of £30000.

6.0 Conclusion

6.1 The committee cannot continue in supporting a restricted numbers policy without making some fundamental decisions.

There are no formal recommendations put forward as this is a matter for determination after having considered all the available local evidence and after taking legal advice.

The committee had previously noted the views expressed at paragraph 5.8. The committee were mindful of considering the deregulation of the Hackney carriage fleet and invited the trade representatives and any other interested parties to give reasons why the status quo should remain.

After careful consideration, the committee resolved:

1. a) To retain the existing numeric limit (234 vehicles) on the number of hackney carriages licensed to ply for hire within the City of Portsmouth and to instruct the head of service to identify a suitably qualified independent transport consultant to carry out a survey on the demand or otherwise for the services of hackney carriages within Portsmouth;
- b) That such fees and costs (including staff costs) arising from the survey to be determined by the committee and paid for by the hackney carriage trade by way of “one off” increase in the vehicle (proprietor) fees;
- c) That the consultant to report back to the committee with recommended options

Chapter 5: Hackney carriage stands

Objective

“To review the provision of hackney carriage stands and to bring any future proposals to the attention of the highway authority and appropriate cabinet member as quickly as possible”

1.0 The Legal Provisions

- 1.1 Section 63 of the 1976 act permits the council to appoint, vary or to revoke hackney carriage stands situated either on the public highway or, with the consent and permission of the landowner, on private land – including railway premises.
- 1.2 Stands may be appointed for all or part of the day and the number of carriages permitted may vary from stand to stand.
- 1.3 Before appointing a stand formal notice must be given to the Chief Officer of Police together with a public notice giving persons 28 days to make representations.
- 1.4 A stand cannot be appointed so as to prevent access to public service vehicle pick up points, to impede access to a station or depot or without the consent of the highway authority.
- 1.5 The power to “appoint” stands also includes the power to vary and/or revoke a stand.



2.0 Overview

- 2.1 The Licensing Committee is not empowered to appoint, vary or to revoke hackney carriage stands and cannot make binding decisions without referral to the appropriate cabinet member for final determination. This is because the appointment of stands is an executive, not a council function.

The chapter on “scheme of delegation and associated responsibilities” provides more information on the delegated powers and responsibilities.

- 2.2 The appointment (or otherwise) of taxi stands has historically been after receipt of a trade request and following the emergence of an area that has contributed to the late night economy or where a large commercial pub/club has become popular.

It will not be possible to appoint a stand in every requested area or location and experience has shown that areas of popularity within the city do change with a resultant loss of business at an appointed stand – which falls into subsequent disuse.

- 2.3 Conversely, there are other areas where the provision of taxi stand space is limited due to other road traffic usage (like Albert Road by the Kings Theatre) and evidence of “over ranking” in this very busy area takes place.

“Unofficial” stands are also used – Goldsmith Avenue on football match days and Park Road at night to service the Gunwharf Quays stand. Licensing staff do, on occasion, enforce the byelaws and the Police have issued fixed penalty tickets to drivers for obstruction offences. It is difficult however to provide staff resources to constantly tackle evidence of over ranking which is not seen as a high priority enforcement issue.

- 3.0 The council has arranged, via partnership procedures with Colas, for the trade representatives to receive immediate notification of any planned/ scheduled road works that might impact on the ability to use a designated taxi stand.
- 3.1 The information on the currently appointed stands is shown via the link at the end of this paragraph but is not up to date. The changes resulting from the Ferry Port, Palmerston Road and Hard Interchange improvements have yet to

be incorporated and some other stands have now been revoked due to historical non-use.

www.portsmouth.gov.uk/ext/business/licensing/taxi-licensing-general-information-and-fees.aspx

4.0 The conduct of drivers whilst waiting at stands is regulated by the byelaws. In particular drivers must face their vehicles in the same direction, move the vehicle forward when other vehicles move and stay with the vehicle when “first turn”.

There is nothing at law to prevent potential passengers from negotiating with drivers “down the line” to seek the best fare but practice and etiquette generally recommends that drivers refer passengers to the first available vehicle for hire.

4.1 It is an offence for a person to cause or permit any other vehicle to wait on any stand. In practice, the council’s civil enforcement officers are the first line of defence in ensuring that persons comply although licensing staff do react to trade complaints as and when – particularly when “works” or other utility vehicles are blocking access to a stand.

5.0 The use of “temporary” stands is not legally recognised in the 1847 or 1976 acts. A stand is either appointed and in use or is not.

5.1 However, this is of some concern to the taxi trade representatives who say that they are left in a weak bargaining position and not often given early notice or consulted when major city events are being planned or taking place. They point to the America’s Cup and Victorious events together with smaller (but still high profile) events such as the Southsea Food Festival.

Likewise, the redevelopment of Palmerston Road, The Ferry Port and The Hard Interchange has led to apparent trade frustration that their needs were not considered at an early stage. This concern also echoes the private hire trade who have a legitimate and rightful expectation to have designated “pick up and drop off points” for pre-booked customers attending and leaving large scale events.

5.2 There is some merit in the respective trade concerns and, as a result, the cabinet member for Traffic and Transportation has introduced the Transport Liaison Group with attendees drawn from the hackney carriage and private hire trades.

5.3 The trade say that the process of appointing stands can be very slow and cite the possibility of relocating the Liquid & Envy stand from its present position in Stanhope Road with the matter still outstanding after 2 years.

It will not be possible for the council to accede to every trade request relating to taxi stand provision within the city but the adoption of the following good practice administrative principles will assist in the consideration of all future taxi stand matters:

- The trade representatives to continue to receive updates from Colas about road works and closures affecting taxi stands in the city
- The City Centre Management and Events teams as appropriate shall liaise with appointed hackney carriage and private hire trade representatives prior to any events taking place and shall positively consider the use of temporary taxi stands (with dolly stops) together with private hire drop off/pick up points
- The trade representatives to be on the circulation list for any SAG meetings and so far as this relates to the planning of major events such as Mutiny in the Park, Victorious and the America’s Cup
- Any formal trade request for a new or varied taxi stand to be submitted, in writing, in the first instance to the Licensing Manager who shall discuss the matter with the highway authority and report back to the trade within 14 working days with an initial determination
- If refused, the trade to receive a written response, with reasons, from the Licensing Manager on behalf of the council
- If agreed in principle, the Licensing Manager and officers of the highway authority to prepare a report and recommendation to the appropriate cabinet member within 28 working days of the initial agreement
- Once the matter has been referred to (and approved by) the appropriate cabinet member – the Licensing Manager and/or highway authority to give formal public notice with an intention, subject to no objections being received, to have the stand in operation or varied within 4 months

Chapter 6: Trade representatives and consultation

1.0 Introduction

- 1.1 Any person, partnership, trade association or company involved in the hackney carriage or private hire business will have a legitimate expectation of being consulted about matters of policy, conditions of licence and other administrative or supervisory functions that may or will have a future impact on their working environment.
- 1.2 This does not mean that the committee must condescend into giving notice about every change or proposal but, in the interests of good administrative law²⁸ and the rules of natural justice, the committee will invite and hear the representations of those affected by proposal(s) before making any final decision(s).
- 1.3 Where the law requires the committee (or officers) to formally consult and to give proper public notice – this will be done together with notices displayed in the Licensing Service public area and given to recognised trade representatives for distribution.

2.0 The Consultative Group

- 2.0 The committee has recognised the need to consult with trade representatives and, as a result, formally approved the introduction of a consultative group in 1987 – minute 10/1987 refers.

In particular, the committee, at that time, instructed officers to request the following information from those persons apparently representing the respective trades:

- Does the organisation have a formal constitution governing such matters as the election of a committee and can you provide a copy?
 - What arrangements are made to inform members of current items of interest and to obtain their views?
 - Who does your organisation represent and can you supply a list of members?
- 2.1 As a result, the following trade representatives were appointed:
 - Mr A Brodie and E Baldwin representing the Portsmouth Hackney Carriage Owners Association
 - Mr C Dixon representing Citywide Taxis
 - Mr C Holman representing Streamline Taxis Ltd
 - Mr B Tondeur representing the Independent Hackney Carriage Proprietors
 - Mr W Brown and Mr R Tanner representing the Portsmouth Private Hire Association
 - Mr L Firth representing other private hire operators



- 2.2 The committee resolved to recognise the above trade representatives (2 persons on behalf of each organisation to attend meetings) and to meet twice a year to discuss items of interest.
- 2.3 The committee retained a final veto power on the appointment and recognition of either organisations or persons representing the respective trades.

3.0 The Present Situation

- 3.1 The use of the Consultative Group has waned over the last 10 years. The officers representing the respective hackney carriage and private hire trades have also changed.

The current trade representatives are:

- Aqua Cars Ltd
- Chris Dixon and Viv Young representing the hackney carriage trade
- Forhad Mahmud and Shahed Uddin also representing the hackney carriage trade
- Citywide Taxis

- 3.2 In practice, established trade representatives are immediately alerted by licensing staff about any proposals affecting the trade and use modern means of communication to disseminate this information quickly to members.

Trade representatives are given every opportunity to attend and speak at committee hearings and regularly do so.

Trade members can (and do) make immediate contact with either Licensing Committee members or ward councillors by way of email to raise or request the resolution of matters of concern.

- 3.3 Trade representatives and operators meet with the Licensing Manager on matters of shared interest – for example preliminary meetings to discuss the annual licensing budget and any proposals relating to fees.

For matters concerning the use and management of the highway – the cabinet member for Traffic & Transportation has taken the lead with the establishment of the Transport Liaison Group (TLG) to discuss matters affecting all those in the local passenger transport environment including taxi, private hire, bus and cycle user groups.

Equally, licensing staff have arranged, via Colas, for notified road works/closures and other safety alerts to be automatically sent to the trade representatives as a matter of norm.

- 4.0 All this points towards an acceptance that the need for the Consultative Group to meet by way of formal 6 monthly meetings has now diminished (for the reasons set out above) but that the committee should retain the power to call the group together once a year if required.

Resolved

1. That Licensing Sub Committee minute 10/1987 be noted and amended.
2. That the terms of reference, as previously approved by the committee, be varied so that reference to “meetings to be held six monthly” be substituted with “a meeting will be held once a year”.
3. That the Licensing Manager be authorised to appoint and remove trade representatives and that the scheme of delegation be amended accordingly.

Chapter 7: Duration of licences

Objective

“To recognise the defined licensing periods for drivers, vehicles and operators and to consequently review administrative procedures associated with the grant or renewal of such licences”

1.0 Introduction

- 1.1 Generally speaking, licences, permits, registrations and other statutory permissions for persons usually have a renewal or end date and do not last indefinitely.²⁹
- 1.2 Things change. Personal and business decisions can influence and have an impact on future plans. People holding a licence may subsequently be convicted of a criminal offence that will have an impact on the ability to continue to hold that licence. As persons get older they may experience medical or other general health and well-being problems. They may also just move away from the area.

Licensed and recognised business premises may move location and either expand or down size – recognised personnel at a business may also change.

All these matters can have an influence on the duration of a licensing period.
- 1.3 People do not always tell the council immediately about changes in their personal circumstances that might have a significant impact on any subsequent licensing renewal process.
- 1.4 The renewal process for licences (particularly driver licences) is, unfortunately, a guaranteed “vetting” method in finding out and updating all those things that have changed in the previous 12 months.

Anecdotally, over 30% of the information provided by licence holders at renewal is different to that held on current records. This can relate to changes in address, telephone or other contact details, name changes, new convictions, endorsements or cautions and finally to the current disclosure of a previously underlying medical condition.

The council still needs to establish, at renewal, that there are no germane or valid reasons to suggest that a person is not still deemed to be “fit and proper” to hold a respective hackney carriage or private hire driver licence.

- 1.5 For all the above reasons, the council, as the local licensing authority, has historically exercised an extremely cautious view of “extending” licensing periods over and above a period of 1 year at a time for both drivers and operators.

However, the council recognises that the law has changed and that longer licensing periods for certain licensing functions are now the norm.

2.0 The Legal Provisions

- 2.1 Section 43 of the 1847 act provides that a hackney carriage vehicle licence shall be in force “for one year only from the day of the date of such licence”.
- 2.2 Section 48 of the 1976 act equally provides that a licence for a private hire vehicle “shall remain in force for such period not being longer than one year”.

For the purposes of “temporary use” vehicle licences (which are used as a substitute when the main vehicle is off the road due to accident or mechanical repair) – the respective acts are silent on their use but, as a matter of local policy, the committee would expect to issue a temporary vehicle licence for usually no more than 31 days.

This provision should be seen as an emergency exemption and to arbitrarily extend the temporary use period indefinitely would negate the whole purpose of the temporary permission and therefore extensions beyond 31 days are unlikely to receive approval unless in exceptional circumstances.
- 2.3 The 1976 act permits for vehicle inspections and testing to take place up to 3 times in any one period of 12 months.
- 2.4 The 1976 act also permits driver licences for both private hire and hackney carriage to remain in force for up to 3 years (or for such lesser period) as the committee may be specified.

- 2.5 For the reasons expressed in 1.1–1.5 above, it has been the longstanding policy of the council to grant driver licences for a period of 1 year only.
- 2.6 Private hire operator licences could, by law, remain in force for up to 5 years (or for such lesser period) as the council specified. Again, the local Portsmouth policy for operator licences has been to grant licences for periods of 1 year at a time.
- 2.7 Informal discussions with operators and trade representatives (as part of the previous transformation programme) in the last year or so had led to an initial officer view that operator licences could be granted and renewed for a period of up to 3 years and this was to be put before the Licensing Committee for consideration.
- 2.8 A word of caution should be exercised in relation to the “renewal” of respective driver, vehicle and operator licences. Sections 60, 61 and 62 of the 1976 act envisage a “renewal” or the “grant afresh” of a licence that is coming to an end.

There has been a historical informal practice to recognise, and to renew, “late renewals” – particularly for driver licences and sometimes for vehicle licences. This cannot be regarded as satisfactory as the individual driver circumstances may have changed significantly.

The “renewal” process is designed to minimise the need for persons to comply again with the original requirements used to determine the overall fitness of an applicant. This includes the knowledge test, medical and DBS requirements. To permit “late renewals” without consideration of the overall general licensing requirements would effectively nullify the power of the committee to require persons to provide information in support of their continued fitness to drive.

For these reasons, and due to case law³⁰, the council will only accept and process any renewal application received on or just before a current licence is due to expire or, in exceptional cases, within 2 days after the expiry of the respective licence.

3.0 Best Practice Guidance

- 3.1 The Department for Transport guidance³¹ does not support the view of annual driver licences and states *“it is not necessarily good practice to require licences to be renewed annually”*
- 3.2 Conversely, the guidance accepts that an annual licence may be more attractive due to the lower fee and if a person is likely to move away or get another job.
- 3.3 For operator licences, the guidance is clear that 5 year licences – *“may well be appropriate in the average case”*
- 3.4 It is agreed that operator licences should be granted or renewed for a longer licensing period than 1 year.
- 3.5 There are local reservations however about the concept and practical implications of driver licences lasting for a statutory minimum period of 3 years – but the council accepts that, with proper due diligence procedures in place, we should be able to manage any changes to licence periods without any detrimental impact on the control and supervision of licensed drivers.

4.0 Deregulation Act 2015

4.1 The 2015 act has significantly changed, by statutory instruction, the licensing periods for both drivers and operators.

4.2 The changes are:

- **For hackney carriage and private hire drivers – now a prescribed 3 year licence period**
- **For private hire operators – now a prescribed 5 year licence period**

4.3 The changes come into force on 1 October 2015.³²

4.4 The relevant explanatory note to this part of the 2015 act states:

“Subsection 2 changes the law in such a way as to establish a standard duration of 3 years for taxi and private hire vehicle driver licences. The section specifies that a licence may be granted for a period of less than 3 years but only in the circumstances of an individual case, not because of a blanket policy.”

4.5 Vehicle licences (hackney carriage and private hire) are NOT affected by the changes and will remain licensed for periods of up to 1 year.

5.0 Exceptions to the 3 year rule

5.0 Whilst the default position is for the grant or renewal of 3 yearly driver licences – there may be justifiable reasons to grant (or renew) individual driver licences for shorter periods due to:

- Medical conditions (such as diabetes) which require the production of a yearly consultant’s report on continued fitness to drive to the group 2 vocational standard
- Persons granted a licence (or having a licence renewed) “on probation and/or warning” by the Licensing Sub Committee and subject to strict criteria such as completing a driving assessment or providing monthly reports and monitoring for good behaviour for a shorter period of time
- Those persons with say a limited permission to stay or work in the UK
- Those applicants or drivers requesting a shorter duration licence for personal reasons – (see paragraph 1.2)
- Any other reasonable and individual circumstances

5.1 It is recommended that the head of service be given delegated authority to grant and renew driver licences for a period of less than 3 years but only after having regard to the circumstances of any one individual case.

Good and proper reasons, consistent with 5.0 previous for restricting any licence duration should be recorded.

6.0 Impact on Current Working Procedures

6.1 For many years the Licensing Service has operated a “fixed year” renewal cycle for operators, vehicles and drivers. This practice has long been accepted by the trade and whilst it has caused “pressure points” for the Licensing Service at various times of the year – the system has worked reasonably well.

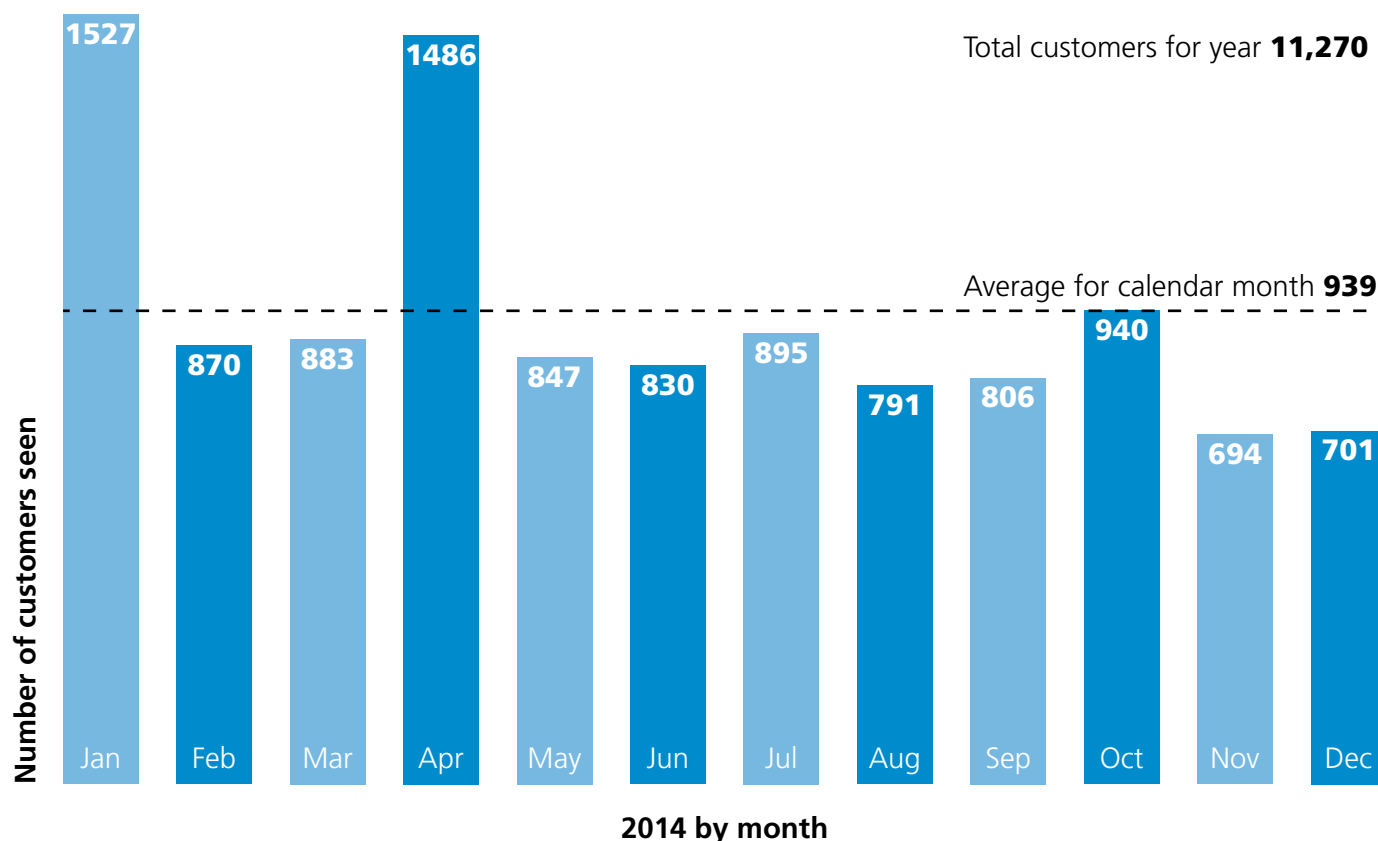
6.2 All hackney carriage licences expire on 30 April annually.

All private hire licences expire on 31 January annually.

6.3 There is however, pressure on staff to “turn around” renewal applications almost on demand. Staff goodwill is pushed to the limit and the public areas in licensing can become very busy at these peak periods. Other licensing matters are dealt with “as and when” during the peak demand periods for drivers, vehicles and operators.

An analysis of the 2014 Q Flow figures for the Licensing Service is shown opposite. These are the **total** figures and therefore including Licensing Act 2003 enquiries as well. However, the majority of enquiries are taxi and private hire related.

Q flow for licensing service



6.4 There will always be a demand for both new (and renewal applications) to be dealt with in person as original documents including some of a highly sensitive nature (criminal record checks, driving licences, medicals, vehicle registration documents and insurances etc) are required to be produced in support of applications.

Applicants are NOT encouraged to send such documents through the post nor should licensing staff be required to keep or retain these documents pending consideration of any one application type.

6.5 Equally, new drivers are required to undertake a supervised in house knowledge test and will also be subject to drug screening and interview by licensing staff.

New vehicles must be inspected (and photographed) by licensing staff prior to first licensing and plating.

The service is dominated by a demand and need to have "face to face" personal contact with applicants and licence holders alike.

6.6 However, it is recognised that the use of say an automated "on line" renewal system for future years could be beneficial and should be explored. Equally, the use of "on line" diaries and automated booking facilities for driver knowledge tests, drug screens and vehicle inspections should also be explored.

This would all be subject to IT provision, audit compliance and general security requirements being put into place.

There may be cost implications in updating computer software to facilitate any secure on line renewal application process and this would also need to fit with corporate priorities.

The concept of on line renewals (and payments) should however be positively considered and for this reason it is contained as a statement of intent in this policy review.

It is likely, in any event, that the traditional procedure of "sending out renewal papers" to licensed drivers, vehicle proprietors and operators will cease as part of a drive to cut down on administrative processes, paperwork and ultimately to save costs to the licensing undertaking.

7.0

7.0 From October 2015 any new driver and operator licences will normally be granted for their respective longer licensing periods and therefore will expire on a “rolling” basis rather than all on a fixed end date.

On next renewal, existing driver licences will normally be “extended” for 3 year periods in line with the Deregulation Act 2015.

It is likely that DBS checks will be “moved” administratively to coincide with the next renewal date for any individual 3 year driver licence.

7.1 For vehicles however, the concept of a yearly licence with publicly displayed and “colour coded” windscreen licence discs is more appropriate and thus the fixed expiry dates of 31 January and 30 April for the respective private hire and hackney carriage fleets should be retained for the time being. The need to retain the vehicle licence expiry date on the plate may be discontinued.

8.0

8.0 Of paramount importance (and with the introduction of longer licensing periods) is the requirement for drivers to REPORT IMMEDIATELY any changes whatsoever in their circumstances that might affect their continued “fit and properness” to continue to hold a licence.

8.1 The council cannot rely on section 57 of the 1976 act as this requires **applicants** to provide information to determine whether a licence should be granted or renewed and does not compel those persons already licensed to provide information to the committee mid-term during a licensing period.

Accordingly, the conditions of licence for private hire drivers will be amended to require:

1. The driver shall notify the council within 24 hours of any changes to:
 - Their name, address, telephone or email contact details
 - Any medical condition that might affect an ability to drive professionally to the group 2 vocational standard
 - Their driving licence so far as this relates to the imposition of penalty points, any other endorsements, fines or disqualifications
 - Their Disclosure & Barring Service enhanced check certificate so far as this relates to the imposition of any convictions, cautions, reprimands or warnings
 - Their right to work or reside in the UK.
2. The driver shall notify the council within 24 hours of any arrest, detention or charges being preferred against them.

Similar conditions will apply to operators and vehicle proprietors.

8.2 The committee and/or officers will put into place formal mandates and procedures to ensure, either by way of electronic check or by way of a formal declaration, the production of driver licence and other relevant information and will use appropriate checking services for this purpose.

9.0

9.0 A zero tolerance view will be taken towards licensed drivers failing to notify the council at any time of:

- **Any change in an existing medical condition (or new condition) that might interfere with an ability to drive professionally to the group II vocational standard**
- **The imposition of any new driving endorsement, fine, penalty points, short “totting up” ban or other driving sanction prescribed by law**
- **Any new conviction, caution, reprimand or warning received**

And there will be a presumption in favour of a hearing before the Licensing Sub Committee to determine whether the driver is still deemed to be a fit and proper person and any consequential action against the respective hackney carriage or private hire driver licence.

Resolved

1. That the changes to the duration of driver and operator licences contained in the Deregulation Act 2015 be noted.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals; in particular to provide for:
 - The introduction of a “rolling 3 year licence period” for hackney carriage and private hire drivers
 - The introduction of a “rolling 5 year licence period” for private hire operators
 - The introduction of DBS checks to coincide with the renewal dates for both driver and operator licences
3. That the head of service be given delegated authority to grant and renew driver licences (hackney carriage or private hire) for a period of less than 3 years but only after having regard to the circumstances of any one individual case and consistent with 5.0 above.
4. That the head of service bring forward proposals to amend/vary fees for driver, vehicle and operator licences commensurate with these proposals.

Chapter 8: The test of 'fit and proper'

Objective:

"To protect the welfare, safety and interests of both the travelling public and all other road users by ensuring that licences are only granted or renewed to persons who are judged to be fit and proper."

1.0 The Legal Provisions

- 1.1 The 1847 act is silent on the need to examine or indeed to have regard to the "fitness" of those proprietors and drivers of licensed hackney carriages plying and standing for hire within the city.

Revocation or suspension of the respective hackney carriage licences is still permissible under section 50 of the 1847 act for persons convicted of two offences contrary to the act or byelaws; but, generally speaking, the question of determining whether a person or operator is judged to be "fit and proper" is a concept found only in the 1976 act.

- 1.2 Sections 51 and 59 of the 1976 act prescribe that the council shall NOT grant a private hire or hackney carriage driver licence unless satisfied that the applicant is a "fit and proper" person.

The same test is found at section 55 and in respect of private hire operators.

- 1.3 For vehicle proprietors, the council may grant or renew licences having regard to the fitness of the vehicle and after taking into consideration any locally approved policy guidance on vehicle specification, vehicle age limits and such like.

However, the question of the "fitness" of the individual vehicle proprietor(s) should not, in the committee's view, be overlooked or minimised. Just because vehicle owners may not have direct day to day contact with the public and are not subject to routine vetting by way of criminal background checks – does not mean that they play a lesser or insignificant part in the overall licensing process.

- 1.4 Vehicle proprietors (both hackney carriage and private hire) have a lawful duty to ensure that drivers are both properly licensed and insured to drive their vehicles. The vehicle itself must be licensed, maintained properly (and to a standard that meets the expectations of the committee by way of any prescribed testing criteria) and the proprietor must ensure that all documents are kept and made readily available for inspection.

All this points towards a positive presumption that vehicle proprietors must also be seen to be "fit persons" and that any evidence of general criminality or non-compliance with either the 1847 or 1976 acts will be considered seriously.³³

- 1.5 There is no exact definition of "fit and proper" and each case stands to be considered on individual merit with the public protection and welfare at the heart of any deliberations.

The law was summarised by the then Lord Chief Justice in the following way:

"The objectives of the licensing regime are plainly intended, among other things, to ensure so far as possible, that those licensed to drive private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, honest, and not persons who would take advantage of their employment to abuse or assault passengers".³⁴



1.6 Case law³⁵ has also established the following general principles to assist and determine the overall test of “fit and proper”:

- **The burden is on the applicant or licence holder to establish that they are fit and proper**
- **The Licensing Committee and/or officers will seek to establish the facts and merits of any particular case on the civil burden of the “balance of probabilities” and thus can consider evidence notwithstanding any acquittal or not guilty verdicts reached from any previous criminal proceedings**
- **The determination of “fit and proper” is not akin to criminal proceedings and the use of hearsay is admissible (although the legal advisor will caution the committee as to the weight of evidence to be attached to such background third party evidence) as appropriate to the case in question**
- **Private hire and hackney carriage drivers are part of the “exempted” professions so far as the Rehabilitation of Offenders Act 1974 (as amended) is concerned and the committee may consider evidence of**

spent convictions, cautions or reprimands etc and where it is in the interests of justice to do so

- **The committee does not have to conclude that there is a reasonable chance of a conviction when considering evidence of misconduct against an applicant or licence holder who has, or is, the subject of pending criminal matters**
- **Personal circumstances are not relevant considerations**
- **The committee cannot go behind (or review the merits of) previous criminal convictions**

2.0

2.0 Should the committee refuse to grant, suspend, revoke or refuse to renew a driver licence there is a right of appeal to the Magistrates’ Court.

Any “notice of decision” following a committee hearing will clearly advise persons of the reasons for any decision(s) taken together with their respective appeal rights.

3.0 Best Practice Guidance³⁶

It is not surprising that the best practice guidance provides much information about the licensing of drivers as shown in paragraphs 3.1–3.10:

3.1 **Acceptance of Driving Licences from other EU Member States**

“Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted stated that an applicant for a taxi or private hire vehicle (PHV) driver’s licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or PHV driver’s licence. This requirement has subsequently been amended since the 1976 Act was passed.

The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification requirements for the grant of taxi and PHV driver’s licences.

Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department takes the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver’s licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State (see section 99A(i) of the Road Traffic Act 1988). To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act (see section 109(i) of the Road Traffic Act 1988, as amended).

3.2 **Criminal Record Checks**

A criminal record check is an important safety measure particularly for those working closely with children and the vulnerable. Taxi and PHV drivers can be subject to a Standard Disclosure (and for those working in “Regulated Activity” to an Enhanced Disclosure) through the Criminal Records Bureau. Both levels of Disclosure include details of spent and unspent convictions, cautions reprimands and final warnings. An Enhanced Disclosure may also include any other information held in police records that is considered relevant by the police, for example, details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations. An Enhanced Disclosure is for those working in Regulated Activity and the Government has produced guidance in relation to this and the new “Vetting and Barring Scheme”.

In considering an individual’s criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

Local licensing authorities will also want to have a policy on background checks for applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website gives information about obtaining certificates of good conduct, or similar documents, from a number of countries.

It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.

3.3 **Notifiable Occupations Scheme**

Under this Scheme, when an individual comes to the notice of the police and identifies their occupation as a taxi or PHV driver, the police are requested to notify the appropriate local licensing authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted however, if there is a sufficient risk, the police will notify the authority immediately.

In the absence of a national licensing body for taxi and PHV drivers, notifications are made to the local licensing authority identified on the licence or following interview. However, it is expected that all licensing authorities work together should they ascertain that an individual is operating under a different authority or with a fraudulent licence.

The police may occasionally notify licensing authorities of offences committed abroad by an individual however it may not be possible to provide full information.

3.4 **Immigration Checks**

The Department considers it appropriate for licensing authorities to check on an applicant's right to work before granting a taxi or PHV driver's licence. It is important to note that a Criminal Records Bureau check is not a Right to Work check and any enquires about the immigration status of an individual should be addressed to the Border and Immigration Agency. Further information can be found at www.bia.homeoffice.gov.uk/employingmigrants

More generally, the Border and Immigration Agency's Employers' Helpline (0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases.

The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).

3.5 **Medical Fitness**

It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because:

they carry members of the general public who have expectations of a safe journey; they are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage.

It is common for licensing authorities to apply the "Group 2" medical standards – applied by DVLA to the licensing of lorry and bus drivers – to taxi and PHV drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (ie 3500–7500 kgs lorries); the position is summarised at Annex C to the Guidance. It is suggested that the best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.

3.6 **Age Limits**

It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.

3.7 **Driving Proficiency**

Many local authorities rely on the standard car driving licence as evidence of driving proficiency. Others require some further driving test to be taken. Local authorities will want to consider carefully whether this produces benefits which are commensurate with the costs involved for would-be drivers, the costs being in terms of both money and broader obstacles to entry to the trade. However, they will note that the Driving Standards Agency provides a driving assessment specifically designed for taxis.

3.8 Language Proficiency

Authorities may also wish to consider whether an applicant would have any problems in communicating with customers because of language difficulties.

3.9 Other Training

Whilst the Department has no plans to make training courses or qualifications mandatory, there may well be advantage in encouraging drivers to obtain one of the nationally-recognised vocational qualifications for the taxi and PHV trades. These will cover customer care, including how best to meet the needs of people with disabilities. More information about these qualifications can be obtained from GoSkills, the Sector Skills Council for Passenger Transport. GoSkills is working on a project funded by the Department to raise standards in the industry and GoSkills whilst not a direct training provider, can guide and support licensing authorities through its regional network of Regional Managers.

Some licensing authorities have already established training initiatives and others are being developed; it is seen as important to do this in consultation with the local taxi and PHV trades. Training can cover customer care, including how best to meet the needs of people with disabilities and other sections of the community, and also topics such as the relevant legislation, road safety, the use of maps and GPS, the handling of emergencies, and how to defuse difficult situations and manage conflict. Training may also be considered for applicants to enable them to reach an appropriate standard of comprehension, literacy and numeracy. Authorities may wish to note that nationally recognised qualifications and training programmes sometimes have advantages over purely local arrangements (for example, in that the qualification will be more widely recognised).

Contact details are:

GoSkills, Concorde House, Trinity Park, Solihull, Birmingham, B37 7UQ.

Tel: 0121-635-5520

Fax: 0121-635-5521

Website: www.goskills.org

Email: info@goskills.org

3.10 Topographical Knowledge

Taxi drivers need a good working knowledge of the area for which they are licensed, because taxis can be hired immediately, directly with the driver, at ranks or on the street. So most licensing authorities require would-be taxi-drivers to pass a test of local topographical knowledge as a pre-requisite to the first grant of a licence (though the stringency of the test should reflect the complexity or otherwise of the local geography, in accordance with the principle of ensuring that barriers to entry are not unnecessarily high).

However, PHVs are not legally available for immediate hiring in the same way as taxis. To hire a PHV the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. So it may be unnecessarily burdensome to require a would-be PHV driver to pass the same 'knowledge' test as a taxi driver, though it may be thought appropriate to test candidates' ability to read a map and their knowledge of key places such as main roads and railway stations. The Department is aware of circumstances where, as a result of the repeal of the PHV contract exemption, some people who drive children on school contracts are being deterred from continuing to do so on account of overly burdensome topographical tests. Local authorities should bear this in mind when assessing applicants' suitability for PHV licences."

4.0

4.0 The committee generally agrees with the best practice guidance.

5.0 Policy on the Consideration and Relevance of Convictions

5.1 The council both as an employer, and as the local licensing authority responsible for taxi and private hire matters, is a registered body and receives information about convictions and cautions etc recorded against persons from the Disclosure & Barring Service.

As such, the council has adopted a policy statement on the recruitment of ex- offenders.

The committee, as the local licensing authority, has also adopted a policy statement for the purposes of the hackney carriage and private hire undertaking.

It should be noted that the function and purpose however of the Licensing Committee is not to “recruit” persons but rather to ensure that those person(s) with previous convictions and seeking “to apply for and/or to retain a licence” are considered to be “fit and proper”.

5.2 The policy statement is shown below:

The city council, as the local licensing authority will make all efforts to prevent discrimination against any applicant or licence holder or users of the licensing service, regardless of race, gender, religion, sexual orientation, age, disability or offending background.

The licensing authority complies fully with the Disclosure and Barring Service Code of Practice which is available to view at the link shown below:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/143662/cop.pdf

The licensing authority will receive appropriate guidance in the relevant legislation, e.g. the Rehabilitation of Offenders Act 1974 as amended. The use of “spent” convictions, cautions or other sanctions may be considered as appropriate and subject to legal advice.

Having a conviction, community or other order or caution resulting from a custodial or non-custodial sentence need not necessarily bar persons from obtaining or continuing to hold a licence.

The committee will consider the seriousness of the offence(s), whether isolated or not, the age of the offender and the sentence imposed by the convicting court.

Each case will be considered on merit but the overriding consideration will be the protection and welfare of the public. The licensing authority will have regard to the overall convictions policy shown in this document and will hear the representations of those persons affected before making any final decisions.

The licensing authority however expects all persons to make a full and honest disclosure of all previous convictions together with any outstanding arrest or charges being brought against them. A serious view will be taken for non-disclosure.

Should any convictions be revealed following a DBS check, the person concerned will be asked to attend for interview with an authorised officer and, if necessary, the sub-committee will be asked to consider any contested matter or application.

The licensing authority will not disclose the results of any DBS checks to third parties and will use the information solely to determine the fit and properness of the person concerned. In this respect, the information will be retained for as long as that person remains licensed by the council and destroyed thereafter.

- 5.3 The current Portsmouth policy on the relevance of convictions³⁷ stems from joint guidance published in March 1992 by the Department for Transport and the Home Office.³⁸

This followed the introduction of the then Road Traffic Act 1991 which, by virtue of section 47, created a new power for the council to send details of driver applications to the Police and to seek the Police views accordingly.³⁹

- 5.4 The policy is now over 20 years old and in need of review. The LGA "Taxi and private Hire Councillors' Handbook" supports this view.⁴⁰

Accordingly, the Licensing Committee has adopted the following guidelines on criminal convictions, cautions etc together with guidelines on the evidence of non-criminal behaviour amounting to inappropriate conduct by an applicant or licensed professional driver. The guidelines are produced opposite.

- 5.5 Each case will be determined on merit.

The committee will expect persons and/or their representatives to have read and had regard to the requirements shown in **1.5**, **1.6** and **5.2** above.

- 5.6 The committee will not, as a matter of norm, consider "spent" matters except in those circumstances shown in the chapter "Rehabilitation of Offenders" and at paragraph **4.2**.

Guidelines on the relevance of convictions and behaviour

Type of Conviction ⁴¹	Guideline	Comments
Any violence offence(s) to include threatening behaviour, domestic abuse, harassment and stalking matters, possession of offensive weapons, more serious public order matters, resisting arrest, criminal damage, arson etc	Normally a minimum 5 (and up to 10) year ban from obtaining or holding a licence. For convictions of GBH (or with intent), wounding, manslaughter, murder or any terrorism linked offences the committee are unlikely to support an application	A particularly serious view will be taken in relation to offences against Police or other public servants or against children
Any sexual offence(s) to include sexual assault, indecency, indecent assault, gross indecency grooming, sexual trafficking offences, having or downloading obscene material, possession of indecent images, rape	Normally a minimum 10 year ban from obtaining or holding a licence. For convictions of grooming, sexual assault, rape and/or offences against children or vulnerable adults or for persons on the sex offenders register the committee are unlikely to support an application	Drivers may, by nature of their duties, convey vulnerable single females late at night. Drivers convey vulnerable adults and children on school and other special needs contracts on a daily basis – sometimes supervised and sometimes alone.
Any dishonesty offence(s) to include theft, shop lifting, handling, fraud, burglary, making false statements, perjury etc	Normally a minimum 5 (and up to 10) year ban from obtaining or holding a licence.	Drivers are in an absolute position of trust with access to lost property left in vehicles, knowledge of empty properties when persons are away on holiday and dealing with customers/tourists that might not be familiar with the locally prescribed fares
Any offence(s) against the 1847 or 1976 acts to include the byelaws and a breach of conditions constituting an offence at law	Normally a 1 year ban from obtaining or holding a licence after date of conviction	A person who offends against the licensing code shows a propensity towards non-compliance with the law
Any substance abuse offence(s) and to include evidence of illicit drug use either by way of medical examination or drug test failure.	Normally a 3 year ban ⁴² from obtaining or holding a licence and any future application to include appropriate and supporting medical reports if necessary	To include, drink, drugs or use of legal highs

Type of Conviction ⁴¹	Guideline	Comments
<p>Motoring offence(s) to include endorsements, short disqualifications, totting up disqualifications, drink drive, no insurance, driving without due care, reckless or dangerous driving, failure to control a motor vehicle by using a mobile phone or other device, failure to comply with prescribed road traffic signs, failure to stop or to report an accident, defective vehicle and illegal parking etc</p>	<p>Normally a verbal warning for endorsements and less than 8 penalty points.</p> <p>If more than 8 current penalty points endorsed on a driving licence then refer to Licensing Sub Committee for determination on merit.</p> <p>For “one off” short disqualifications licence may be restored at end of disqualification by officers subject to a written warning and compliance with any directives to attend and pass approved driving competency tests.</p> <p>For no insurance, drink driving, careless driving, failing to stop or report an accident etc normally a 3 year ban from obtaining or holding a licence.</p> <p>For offences of causing death by reckless or dangerous driving, repeated drink drive convictions the committee are unlikely to support an application</p>	<p>A driver is considered to be a “professional” driver and offences contrary to the road traffic acts and regulations will be treated seriously</p> <p>The committee have previously received evidence of road traffic incidents involving licensed drivers in Portsmouth – particularly towards cyclists and other road users and a serious view will be taken accordingly⁴³.</p>
<p>General Inappropriate Conduct to include that of a sexual nature, persistent and justified complaints (service requests) against an individual driver OR due to any other matters not specifically mentioned above and/or where the reporting officer is not prepared to support an application or continued licensing</p>	<p>Normally a 5 year ban from obtaining or holding a licence⁴⁴</p>	<p>The committee has previously considered and adjudicated on complaints about drivers “chatting up” or having consensual sex with passengers after “stopping work”.⁴⁵</p> <p>In such cases, and despite no evidenced criminality or Police investigation leading to charges, the committee’s view is that such behaviour is not becoming of a professional driver and, upon complaint or referral from another agency, is likely to result in the revocation of a driver licence.</p> <p>This includes drivers asking for personal details from passenger(s), inappropriate sexual banter (to include the sending and receiving of texts or other social media) and/or comments made of an offensive or discriminatory nature whether verbally, by text or by way of social media to which there is public access.</p> <p>For drivers receiving multiple complaints from the public, other road users or the trade (and in any one licensing period) the committee will take a serious view accordingly.</p>

6.0 Other Considerations

6.1 The overall concept of what constitutes a “fit and proper” person cannot be drawn from just the consideration of an antecedent criminal history alone.

For example, a person may be free from conviction but have a medical condition (such as obstructive sleep apnoea) that would prevent them from holding a driver licence notwithstanding that they could drive their own motor vehicle and also hold a DVLA driver licence.

They could have a poor understanding of the geography of the city or be unable to communicate in English to a satisfactory standard thus being unable to read or comprehend road signs and the like.

They could be a poor driver with evidence of complaints, previous endorsements and a failure to pass any prescribed driving or other practical tests.

All these factors are, in themselves, matters that go to the heart of determining whether, and in the round, a person is fit and proper.

7.0 Driving Licence Requirements

Sections 51 and 59 of the 1976 act prescribe that a person applying for either a hackney carriage or private hire driver licence must have held a full driving licence for a period of 12 months and be the holder of a licence “at the date of application”.⁴⁶

This does not mean that they must have held a driver licence for a continuous period of 12 months prior to submitting an application.

Driver licences from EU and EEA member states are compatible with the requirements of the 1976 act – see the Best Practice guidance at 3.1 previously.

There is no immediate need, at law, for the holder of an EU licence to exchange their driving licence to one issued by DVLA but some drivers choose to do so.

7.1 The minimum legal requirement is for a person to have held a full driving licence for 12 months. It is doubtful that persons are deemed “good and experienced drivers” by virtue of recently passing their test as driving skills will develop with age, experience and on-going training.

It is all too easy for drivers to slip into bad and predictable habits.

This is recognised by the Road Traffic (New Drivers) Act 1995. New drivers are subject to more robust regulation with the revocation of driver licences by DVLA if 6 or more penalty points are imposed within the first “two year probationary period”.

Following revocation, the driver would need to obtain a provisional licence and pass both the theory and practical tests again.

7.2 The Licensing Committee supports the view that driving experience is relative to the length of time a person has been lawfully permitted to drive and therefore would expect applicants for either a hackney carriage or private hire driver licence to have held a full driving licence for a minimum period of 2 years.⁴⁷

7.3 The council notes the abolition of the “counterpart” driving licence with effect from June 2015 and further notes that the head of service will introduce such administrative procedures (including driver mandates) to enable appropriate DLC checks to be carried out on both applicants and licence holders alike.

8.0 Criminal Record Checks

- 8.1 The council notes the advice contained in the best practice guidance at 3.2 previously and will ensure compliance with the following administrative requirements:
- All driver DBS checks will be to an enhanced level with a formal request for drivers to be checked, as a matter of local policy, against the position of “child and adult workforce”⁴⁸
 - Any person who has lived overseas for any period of time⁴⁹ since the age of 10 will be required to provide proof of fitness by way of a “certificate of good conduct” obtained via an embassy or other recognised government agency and to be authorised by an accredited notary. The certificate must be provided for both criminal AND motoring matters and be translated into English. ONLY ORIGINAL DOCUMENTS WILL BE ACCEPTED*
 - DBS checks will be carried out on initial application and every 3 years to coincide with the general renewal dates for driver licences
 - Basic DBS checks will be required for private hire operators, upon subsequent renewal, and may be required for vehicle proprietors (if deemed necessary)
 - Any DBS check or certificate of good conduct will be rejected if over 3 months old
 - There will be a DBS portability presumption at the discretion of the head of service for any enhanced check up to 3 months old
 - There will be a presumption in favour of the refusal to grant, suspension or non-renewal of a driver licence (as the case may be) if a driver has failed to comply with the requirements to produce a DBS enhanced check or certificate of good conduct

* further information on criminal record checks for overseas applicants can be found via the following link:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

9.0 Medical Fitness to Drive

- 9.1 The council notes the best practice guidance at 3.5 above and considers that the current policy of requiring applicants and drivers to comply with the group 2 vocational standards has stood the test of time and offers satisfactory public protection.
- The revisions to the conditions of licence to now require the formal reporting of any medical condition will be of assistance.
- The “At a Glance” guide to medical standards provided by the DVLA Drivers Medical Group provides regular updates for medical practitioners and is available via the following link:
- <https://www.gov.uk/government/publications/at-a-glance> ⁵⁰
- The policy in Portsmouth about the general requirements for medicals is as follows:
- The medical MUST be completed by the person’s own GP and/or at the practice having immediate access to that person’s medical records
 - The medical must be completed on first application, then at 45 and every 5 years⁵¹ until 65 and then annually but with a presumption of drug testing every 3 years
 - A driver must declare any medical condition that might affect his/her ability to drive
 - The committee and officers will use the appointed Medical Referee for the time being in force to act as a final arbiter in any cases of concern⁵²
- 9.2 Of some concern is that evidence of illicit drug use by a small minority of drivers is still apparent. For example, the last 23 spot checks undertaken on drivers by enforcement staff revealed 4 failures. 3 for cannabis use and 1 for cocaine use.
- The use of drugs whether prescribed or not is **simply not compatible with professional driving** and is likely to lead to either the immediate suspension or revocation of a respective driver licence.
- 9.3 Enforcement staff will remain proactive and carry out random drug screens on drivers, vehicle proprietors and operators as appropriate.

There will be a presumption in favour of mandatory drug screening for all drivers every 3 years.

The DVLA 'At a glance' medical standards of fitness to drive recommend the refusal to grant, renew or to revoke a vocational licence where persistent use or dependency on illicit drugs is noted and evidenced.

However, for evidence of any illicit drug use (or misuse of prescribed drugs) the council will normally suspend or refuse a driver licence for a minimum period of 6 months and/or up to a maximum period of 3 years and will only consider the reinstatement of a driver licence subject to the receipt of negative drug screens at the expense of the driver.

10.0 The Age of Drivers

- 10.1 Apart from the requirement for a person to have held a full driving licence for 12 months there are no other requirements in either the 1847 or 1976 acts to regulate the age of drivers.

This does not mean that it is unlawful to impose an age limit guideline provided the rationale is sound and non-discriminatory. Some councils impose "entry age limits" and some do not.⁵³

- 10.2 In practice however, new drivers are subject to "vetting" via insurance brokers and their underwriters and local research⁵⁴ shows that persons under the age of 25 are extremely unlikely to receive acceptance to drive licensed vehicles for insurance purposes.

Coupled with the noted requirement for a person to have held a full driving licence for 2 years – (see 7.2 above), this would indicate that an appropriate minimum age limit for both hackney carriage and private hire drivers should be 21.

Analysis of computer records for 'new driver' applications in 2014-2015 show 311 applications being received. Of these, 9 drivers were under 25. It seems that a certain amount of 'self-regulation' is in place but a policy guideline would re-inforce this position

The committee does not consider that an "upper" age limit for drivers should apply provided continued medical fitness to drive is maintained.

11.0 Immigration Checks

- 11.1 A person who has no right to reside or work in the UK will not be entitled to make application for a driver, vehicle or operator licence. Close links are maintained with the local visa and immigration staff from the Portsmouth office and regular and routine liaison between licensing and immigration staff is encouraged and maintained.

Copies of documents provided by applicants in support of any licensing application may be given to Home Office and/or immigration staff upon formal request.

It is likely that in the future, formal enquiries about "the right to work in the UK" will be made on respective driver and operator applicants having regard to clauses in the current Immigration Bill which is before parliament.

12.0 Language Proficiency

- 12.1 The ability to both speak and write in clear English is essential. Drivers are the first and only point of contact for passengers who might have little geographic knowledge of the city and thus are totally reliant on a driver understanding their journey and onward travel requirements – this is particularly so for hackney carriage drivers. The ability to read and understand road and other traffic direction signs is essential.

Drivers must be able to write a receipt for business travellers upon request.

The prescribed knowledge test contains a number of modules and an understanding of English is required to both attempt and to pass the individual modules.

Face to face contact with initial applicants can alert licensing staff to refer any applicant with apparent communication difficulties to the senior staff for interview.

Should staff be satisfied that an application cannot be supported for language proficiency reasons – the applicant will be advised to seek and obtain further communication skills by way of education and training and the application will be refused under delegated power to the head of service.

13.0 Knowledge Test

13.1 The ability to convey persons both around the city and to further afield destinations (such as airports and international ports) is essential. The best practice guidance at 3.10 indicates that hackney carriage drivers are more likely to require “local knowledge” than a private hire driver who will have advance notification of a booking.

This does not mean however that a test of local knowledge is NOT required for both hackney and private hire drivers and the committee considers that both sides of the trade should be subject to local knowledge testing by way of formal examination. This will include adhoc verbal examination by licensing staff including undertaking routes within the city.

The previously permitted “exemption” from the knowledge test for airport drivers will be removed due to evidenced mis-use and ALL drivers will therefore need to demonstrate competency in the prescribed modules.

There are 6 prescribed local modules comprising:

- General knowledge and basic law on hackney carriage and private hire matters
- Driving theory and highway code
- Building locations, local landmarks and shortest routes
- Basic numeracy
- Out of town locations
- Complaints and general rules
- NOTE –the test will be kept under review and modified as required.

The large private hire operators (Aqua Cars and Citywide) also undertake knowledge testing as part of their local compliance criteria.

Drivers have a lawful duty not to prolong, in time or distance, any journey booked.⁵⁵

14.0 Other Locally Prescribed Training

14.1 The best practice guidance at 3.9 is positive about the advantages of *“encouraging drivers to obtain one of the nationally recognised vocational qualifications”*.

14.2 In Portsmouth, there has not been a historic practice to require either applicants or existing drivers to obtain formal training and this does need to be addressed.

Members have expressed a collective desire to see the introduction of “customer care” training. The committee’s equalities advisor has also advised that there is a real need to establish wheelchair accessibility training – particularly for those drivers of wheelchair accessible vehicles.⁵⁶

Although previous council initiatives such as the “Pride in Pompey” campaign positively encouraged drivers to participate in “local” schemes – the take up, without being mandatory in nature, was disappointing.

The ability to require applicants and drivers alike to both participate in, and produce evidence of, acquired training skills has found judicial favour as section 57 of the 1976 act permits the council to ask persons to submit such information as may be considered reasonably necessary... to determine whether a licence should be granted.⁵⁷



THE BLUE LAMP TRUST

DRIVER TRAINING FOR BUSINESS



AN INTRODUCTION TO THE BLUE LAMP TRUST

A Charity set up in Hampshire by the Fire and Rescue Service & Police to promote safety in our community. We are a **not-for profit** organisation and any profit generated from our business activities is re-invested into running the Bobby Scheme and providing grants to local communities.

As an employer you are required to implement safe working practices for all aspects of your business. This includes employees who drive for work whether they use company vehicles or their own. As a Director, if you fail to meet those obligations, you could be exposing yourself to imprisonment (14 years) if found guilty of Gross Negligence Manslaughter or large fines (up to 10% of turnover) if the company is convicted of corporate Manslaughter.

For more information on our training please see our website at:
www.bluelamptrust.org.uk - call us now on
0300 777 0157
 or email us at info@bluelamptrust.org.uk



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 VAT No: 259 111 224

Resolved

1. That the contents be noted and endorsed.
2. That the Licensing Committee approve the:
 - I. The policy statement and guidelines on the relevance of convictions at paragraphs **5.2** and **5.4** respectively
 - II. The requirement for applicants for both hackney carriage and private hire drivers to have held a full driving licence for 2 years at paragraph **7.2**
 - III. The change to the "age related" drug testing requirements at paragraph **9.1** and **9.3**
 - IV. The requirement to adopt a minimum entry age limit to the trade of 21 at paragraph **10.2**
 - V. The need to establish mandatory NEW driver training (for both hackney carriage and private hire drivers) to comprise of:

- English language competency and proficiency testing at the discretion of the head of service who will arrange such local training provision to commence by **1 July 2016**
- Disability and wheelchair awareness training - mandatory
- Driving assessment training - mandatory to include eco driving assessment

14.3 The committee and officers have instructed individual drivers in the past to attend and pass driver training and awareness courses by way of improving and dealing with evidence of previous poor driving skills; and local providers such as the Blue Lamp Trust⁵⁸ have found favour in providing a quick and reliable service.

The Blue Lamp Trust is used as the council's preferred assessor for staff driver competency training.

Some of the big fleet private hire vehicle providers have requested that new drivers from Eastern Europe attend and pass driver awareness courses prior to making driver licence applications.

14.4 Finally, the evidence given to the Licensing Committee in November 2014 about road traffic accidents in the city and involving Portsmouth hackney carriages and private hire vehicles would suggest that the time is right to specify, by local policy directive, that all new drivers (and, in due course, existing drivers) attend and complete approved and prescribed driver training courses.

The trade representatives have already indicated a complete support for any road safety and disability awareness training initiatives.

3. a) That the head of service be authorised to finalise, appoint and to provide details of course(s) and appropriate training providers with a view to commencing mandatory training for new drivers by no later than **1 July 2016**
- b) That the head of service be authorised to formally request and require existing hackney carriage and private hire drivers to complete such disability and wheelchair awareness training together with driving assessment training (as the case may be) following receipt of a complaint or by way of refresher training as appropriate

(NOTE – all such training to be paid for direct to the service provider by the applicant or licence holder)

4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 9: Rehabilitation of Offenders Act 1974

Objectives

1. “To provide applicants and licence holders alike with information about the rehabilitation periods for custodial and non-custodial sentences
2. To recognise that licensed drivers are a regulated occupation for the purposes of the exceptions order AND
3. To recognise that the council is a judicial body for the purposes of the act and thus may take into consideration ‘spent’ convictions or cautions”

1.0 Introduction & Legal Provisions

- 1.1 Prior to the introduction of the Rehabilitation of Offenders Act 1974 there were no protections in place to prevent potential employers from making negative decisions about a person’s suitability based on evidenced criminality (even if a one off offence) that occurred many, many years previously.

The “checks and balances” were not in favour of recognising that persons could become “rehabilitated”.

- 1.2 The then Local Authorities Conditions of Service Advisory Board wrote to all local authorities following the introduction of the act and stated:

“The main purpose of this short but complex piece of legislation is to ensure that a person who has been convicted of a criminal offence in his past and who has since lived on the right side of the law for a specified period of time is, so far as possible, freed from the stigma of that conviction and is treated as if the conviction had never occurred.”

- 1.3 The act introduced the concept of defined rehabilitation periods with the “slate being wiped clean” with most previous convictions being deemed “spent” after a period of time.

There were caveats however in respect of persons convicted for subsequent “either way” or indictable offences (following an earlier conviction) which resulted in both the previous and new conviction being deemed not spent until the end of the rehabilitation period for both offences.

- 2.0 The act prescribed for a table of rehabilitation periods to apply in respect of the sentences imposed (not the offence type) and also, by statutory order, prescribed certain regulated occupations where persons would have to declare convictions and cautions even if considered spent.
- 3.0 There has not always been an automatic right to enquire about, and receive details of, an applicant’s previous criminal history and up until 1992 the council relied completely on the individual declarations made by applicants and drivers.
 - 3.1 Evidence of previous convictions not being declared was sometimes apparent and, following extensive lobbying and the introduction of the Road Traffic Act 1991, – local authorities received access to police records from April 1992. The function was then administered by the Chief Officer of Police.
 - 3.2 From 2002, subsequent criminal record enquiries became a responsibility of the former Criminal records Bureau (CRB) until the formation of the Disclosure & Barring Service (DBS) in 2012.

The council is a registered body for the purposes of receiving information from the DBS. Licensing staff are all registered “counter signatories” for the purposes of both processing, receiving and considering evidence of previous convictions via enhanced DBS checks. The Licensing Manager retains the “lead counter signatory” role and is responsible, on behalf of the service, for compliance with the DBS codes of practice for registered bodies.



- 4.0 Hackney Carriage and Private Hire drivers are a regulated occupation and have been so since 2002.⁵⁹ Equally, the council is a “judicial authority” for the purposes of the act and thus can ask for, and consider evidence of, spent convictions where justice cannot otherwise be done.⁶⁰
- 4.1 Accordingly, evidence of previous convictions (including the consideration of spent convictions on individual merit) may be used to assess whether an applicant or driver is considered to be a fit and proper person for the purposes of holding (or continuing to hold) a licence. This test will also be used, as appropriate, for the consideration of vehicle and operator matters.

- 4.2 **However, the council will ONLY receive evidence of, and thus take into consideration, spent convictions when satisfied that:**
- **The overall circumstances of the application and/or matter under consideration outweighs the right not to consider spent convictions**
 - **Any current convictions taken together with any spent convictions reveal a pattern of previous repeat offending**
 - **OR with evidence of conviction(s) spent or otherwise, there has been the release of further information from the Disclosure & Barring Service in relation to:**
 - The children’s barred information list or**
 - The adult’s barred information list or**
 - Other relevant information disclosed by the Chief Officer of Police**
 - **AND the applicant or licence holder has been invited to address the committee as to why, in general terms, any spent matters should not be considered**

5.0 In 2014 the government announced significant reforms to the rehabilitation periods for both custodial and non-custodial sentences and these new changes came into effect in March 2014.⁶¹

5.1 The old (red) and new (green) rehabilitation periods are shown below:

For custodial sentences

Sentence Length	Former Rehabilitation Period	New Rehabilitation Period (Period of sentence PLUS the buffer period below which applies from the end of the sentence)
0 – 6 months	7 years	2 years
6 – 30 months	10 years	4 years
30 months – 4 years	Never spent	7 years
Over 4 years	Never spent	Never spent

For non-custodial sentences

Sentence	Former Rehabilitation Period	New Rehabilitation Buffer period (Applies from the end of sentence)
Community order and Youth Rehabilitation Order	5 years	1 year
Fine	5 years	1 year from date of conviction
Absolute discharge	6 months	None
Conditional discharge, referral order, reparation order, action plan order, supervision order, bind over order, hospital order	Various – mostly between 1 year and length of the order	Period of order

5.2 The link to the gov.uk web advice is shown below:

<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

5.3 From December 2008, simple cautions, reprimands and warnings are considered spent with immediate effect.

6.0 **Finally, it should be emphasised that the effect of the 1974 act is to consider the impact and relevance of any previous convictions against the need to establish whether an applicant, driver or other licence holder is a fit and proper and suitable person to drive the public on a professional basis OR to provide a vehicle OR to accept bookings from the general public. The protection of the public is the committee’s prime consideration.**

6.1 **The committee is not seeking to punish a person twice on the basis of “he’s done the crime and done his time” – but are carrying out an important statutory function where the evidence of previous wrong doing must be balanced against the need to protect the travelling public.**

The committee and officers alike will also have regard to the adopted policy guidelines on the relevance of criminal convictions as shown elsewhere in the policy document.

Chapter 10: Vehicle specification requirements

Objective:

“To provide the travelling public with access to a wide range of spacious, safe and comfortable vehicles”

1.0 Introduction & Legal Provisions

1.1 A hackney carriage is defined as a wheeled carriage, whatever its form or construction, used in standing or plying for hire in any street within the prescribed distance.

The carriage must seat fewer than 9 passengers and is normally recognised as being a motorised vehicle but equally could be a horse drawn or other form of non-motorised transport such as a rickshaw or pedicab.⁶²

Only a hackney carriage can stand or ply for hire from a street in Portsmouth. Hackney carriages can also wait at appointed taxi stands, cruise for work and be hailed in the street.

The driver must be licensed.

Hackney carriages can also accept private hire “pre-booked” work (without needing an operator licence) and it is not unusual to see hackney carriages affiliated to established private hire operator radio circuits.

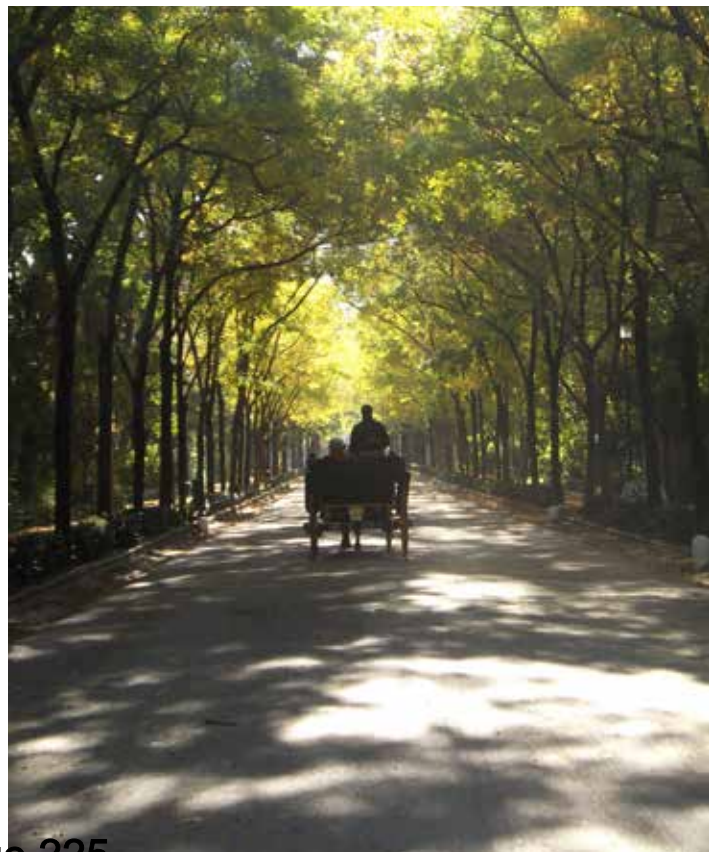
1.2 A private hire vehicle is a motor vehicle constructed or adapted to seat fewer than 9 passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purposes of carrying passengers.

All work given to the driver of a licensed private hire vehicle must be via a licensed private hire operator.

- 1.3 Section 47 of the 1976 act permits the council to require a hackney carriage to be of such design or appearance or bear such distinguishing marks as shall clearly identify it as a hackney carriage.
- 1.4 Section 48 of the 1976 act permits the council to be satisfied that a private hire vehicle is suitable in type, size and design.

A hackney carriage or private hire vehicle could theoretically, by law, be licensed to accommodate 1 passenger – i.e. a pillion on a licensed motorbike but normally vehicles accommodating a minimum of 4 passengers have been recognised at a local level.

The safety concerns and suitability relating to the use of a motorcycle as a licensed private hire vehicle could be a valid consideration notwithstanding that the machine has been constructed by the manufacturer to a very high and safe standard.⁶³



1.5 Over the years the council has considered applications (or given suitable advice) for the consideration of hackney carriage and private hire vehicle licences in respect of:

- Horse drawn Jersey carriages
- Ford Lincoln Town Cars (stretched limousines)
- Hummers
- Converted JCB digger machine
- Converted Volvo fire appliance
- Converted ambulance
- Piaggio Ape Calessino and Bajaj motorised 3 wheeler tricycles
- Pedicabs and rickshaws⁶⁴

1.6 Vehicles used for hire or reward at separate fares and with a seating capacity of 9 or more passengers are recognised as PSV's and regulated by the Traffic Commissioners.

1.7 It is permissible (particularly so for the licensing of hackney carriages) to approach a local vehicle specification policy in a "partial and progressive way" by implementing policy that affects part of the licensed fleet only.⁶⁵

Equally, the use of all wheelchair accessible vehicles meeting the former Metropolitan Police Public Carriage Office specification (now Transport for London) has found favour in some local authority areas, but not all.

"Split" fleets with a mixture of saloon style and wheelchair adapted vehicles are popular and this is the case in Portsmouth.

1.8 The current hackney carriage fleet comprises 150 saloon, estate, MPV style vehicles and a further 84 fully wheelchair accessible vehicles. The committee has shown little inclination previously to enforce and promote a uniform standard wheel chair accessible fleet and have recognised that persons travelling short distances may not wish to do so in a large "people mover" type or London style vehicle whilst on their own.

The current make-up of the "mixed" vehicle fleet offers various choices to the travelling public.

There are therefore no proposals to insist on a fully wheelchair accessible fleet of hackney carriages in Portsmouth.

The private hire fleet comprises 1034 vehicles⁶⁶ with about 30 wheelchair accessible vehicles being licensed.

The majority of the private hire fleet comprise of models from the Skoda and Hyundai ranges together with a number of larger 6–8 seater models including the Vauxhall Zafira and Ford Tourneo.

A number of "executive" and airport cars are used by both the established larger operators and the smaller specialist niche market operators.

1.9 It is generally accepted that most persons with a disability or restricted movement will phone in advance for a suitable vehicle. This does not mean however that there should not be recognition towards the provision of wheelchair accessible vehicles nor should their use be discouraged by way of policy guideline or condition.

Currently Aqua Cars Ltd have over 30 dedicated wheelchair accessible vehicles operating on their circuit.



2.0 Best Practice Guidance

- 2.1 The Department for Transport best practice guidance offers advice to local authorities as follows⁶⁷:

“The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as taxis or PHVs. Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority licence a range of vehicles.

Normally, the best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicle as possible. Indeed, local authorities might usefully set down a range of general criteria, leaving it open to the taxi and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way there can be flexibility for new vehicle types to be readily taken into account.

It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But of course the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi- Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

The owners and drivers of vehicles may want to make appropriate adaptations to their vehicles to help improve the personal security of the drivers. Licensing authorities should look favourably on such adaptations, but, as mentioned in paragraph 35 below, they may wish to ensure that modifications are present when the vehicle is tested and not made after the testing stage.”

- 3.0 The committee agrees with the general views expressed in the best practice guidance and, in particular, with the sentiments shown in bold.



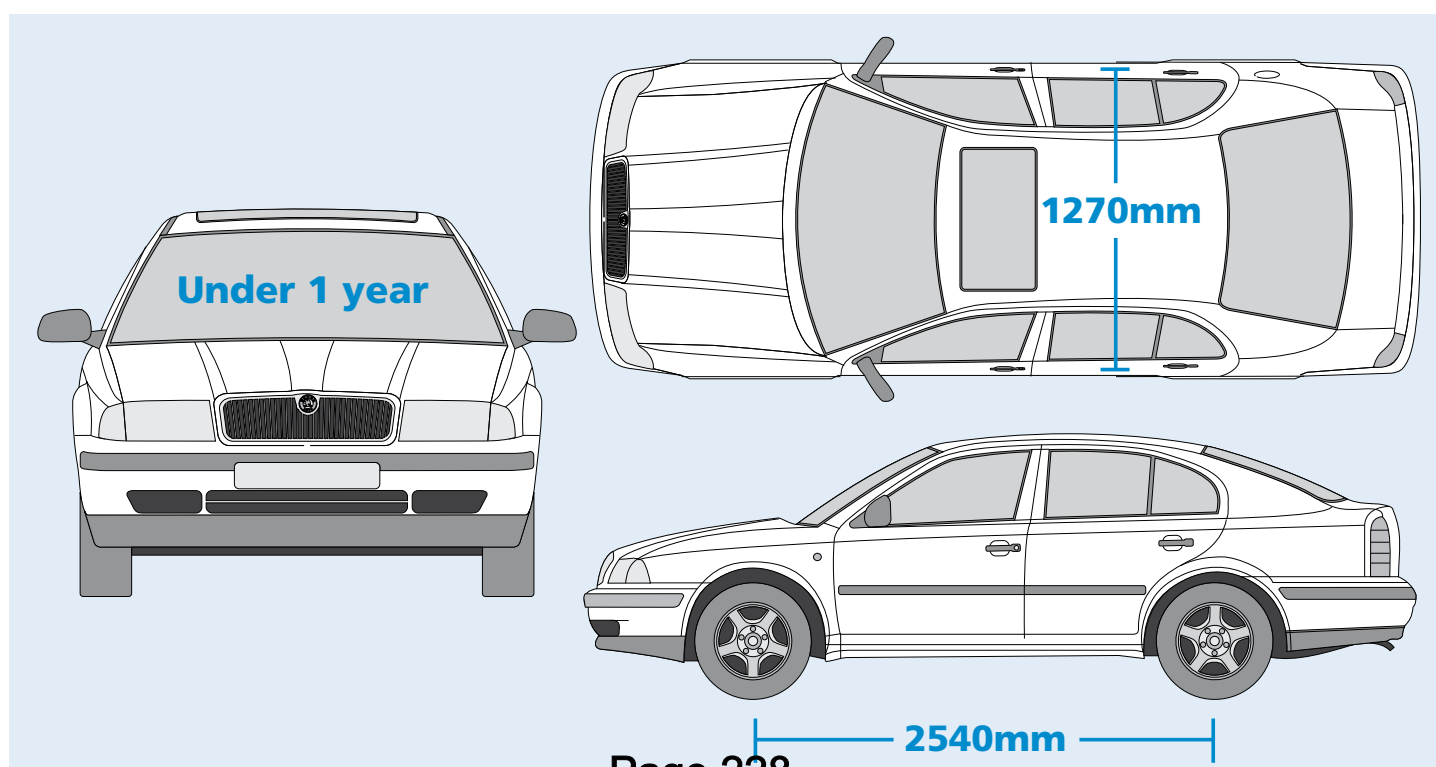
4.0 Proposed Vehicle Specifications for Portsmouth

- 4.1 The current Portsmouth vehicle specifications have been in place, with minimal modifications, since 1978. They relate generally to the age of vehicles, minimum seating capacity, a requirement for a minimum of 4 doors, wheelbase and interior seating dimensions together with ease of access, comfort considerations and colour.
- They are in need of review and clarification.
- 4.2 Local vehicle specifications may not always be reflected in any corresponding vehicle conditions as they are matters that form part of the initial application and guidance process to potential vehicle proprietors. That said, any requirements should be formulated with due care and the consideration of such discretionary powers should have regard to the underlying statutory provision which, in this case, is the **design, appearance, fitness and comfort** of the vehicle to be licensed.
- 4.3 The committee would expect any vehicle to comply with the general specifications together with any age limit policy, mechanical inspection and testing regime and subsequent conditions of vehicle licence. The hackney carriage byelaws also offer some guidance as to the vehicle fittings and fixtures.

As a prerequisite, the council would expect that the proprietor of any hackney carriage should either reside in Portsmouth or within five miles of the boundary or, if a company, have an operating base or registered office within Portsmouth. A proprietor may only hold an interest in one saloon at any one time.

4.4 The standard vehicle specification for both hackney carriage and private hire vehicles will normally be as follows:

1. **The vehicle should meet the EC whole vehicle type approval standards for vehicles in the M1 category or be VCA compliant and approved – Private hire or hackney carriage wheelchair accessible vehicles licensed prior to 1 April 2016 may remain in use with a minimum nearside loading provision BUT any newly licensed fully wheelchair accessible private hire or hackney carriage after this date may be licensed with either rear, side loading or both.**
2. **If a hackney carriage, the vehicle shall be a uniform silver in colour**
3. **If a private hire vehicle, the vehicle shall be any colour other than silver**
4. **The vehicle shall normally be right hand drive**
5. **There should be sufficient doors of sufficient size to aid entrance and exit from the vehicle in comfort⁶⁸**
6. **The vehicle shall have a wheelbase of at least 2540mm**
7. **The back seat shall be at least 1270mm wide**
8. **Any individual seats should be at least 400mm wide⁶⁹**
9. **The vehicle shall comply with any age limit guidelines**
10. **The vehicle proprietor shall comply with any approved local livery requirements for both hackney carriage and private hire vehicles and so far as this relates to roof signs for hackney carriages and all exterior and interior signage⁷⁰**
11. **If the currently licensed hackney carriage is on a designated and recognised wheelchair accessible plate – it may only be replaced by a wheelchair accessible vehicle and complying with the requirements of 1 above.**
12. **The vehicle must not have been “written off” for the purposes of the industry recognised categories A, B, C and D.**



- 4.5 The council may change, substitute or vary vehicle specification guidelines at any time and proprietors should make contact with the Licensing Service if in any doubt about the suitability of an individual vehicle.
- 4.6 A person may still however ask the committee to consider an application for a vehicle that does not meet the general specifications and have that matter considered on merit – for example the previous licensing of left hand drive imported stretch limousines.
- 4.7 Locally, there has been concern expressed in the past about licensing smaller MPV type vehicles (such as the Vauxhall Zafira) for 6 persons as the rear most seats are not easily accessible and are smaller than the “standard seating” configuration. The best practice guidance however warns against licensing such vehicles for fewer passengers than their deemed seating capacity (see 2.1 above) and provided any individual seat is 400mm wide; there should be a presumption in favour of recognising the manufacturer’s recommended seating capacity.
- 5.0 However, any concern about the general level of comfort and safety associated with a vehicle could lead to the matter being referred direct to the committee for consideration and determination on merit.

Resolved

1. a) That the general vehicle specifications shown in paragraph **4.4** on page 60 be approved and adopted.
- b) That the previous exemption from the standard vehicle specifications for “stretch limousines” be retained and that the head of service be authorised to consider such vehicle applications on individual merit and provided evidence of vehicle type approval is received.
2. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.
3. That the head of service be authorised, if required, to finalise a revised corporate livery and specification for both hackney carriages and private hire vehicles.



Chapter 11: Vehicle testing requirements

Objective:

“To ensure that licensed hackney carriages and private hire vehicles are maintained to the highest standards and that the public have access to safe, clean, environmentally friendly and comfortable vehicles.”

1.0 The Legal Provisions

- 1.1 Apart from those statutory requirements for vehicle fitness prescribed under the Road Traffic Acts and road traffic regulations – there are no definitive national standards to determine the overall inspection and fitness regime for both hackney carriage and private hire vehicles. In this respect, local variances to both the standard (and frequency of vehicle testing) will inevitably be found.
- 1.2 National MOT standards are prescribed by law and updated on a regular basis by DVSA. The current MOT inspection standards are contained within the publication “MOT Inspection Manual – car and light commercial” – ISBN 978-0-9549352-5-2
<https://www.gov.uk/topic/mot/manuals>
- 1.3 All vehicles must have an MOT after 3 years of age although hackney carriages require an MOT (or an equivalent test) after 1 year.⁷¹
- 1.4 It is an offence, under the road traffic regulations, to use a vehicle that is not roadworthy or fit for use on the public highway. The Police and partner agencies such as DVSA are responsible for general enforcement of road traffic laws but the council, as the local licensing authority, is ultimately responsible for setting the local testing criteria and specifications to regulate the Portsmouth hackney carriage and private hire fleets.
- 1.5 The 1847 act is silent on the testing and fitness of hackney carriages. This is not surprising as, at that time, carriages, growlers or hansom cabs (in their various working guises as fast or ponderous forms of public conveyance) were horse drawn and proprietors were perhaps more concerned with the fitness and stabling arrangements of the animals and their livery/welfare after a day's work. The internal car combustion engine had yet to be invented.
- 1.6 However, the subsequent byelaws (for both hackney carriages and their drivers) made pursuant to section 68⁷² of the 1847 act prescribe, amongst other matters, for hackney carriages that:
 - “The fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service”and
 - “Every proprietor of a hackney carriage vehicle shall present his vehicle for annual inspection at the council's nominated garage”.
- 1.7 Failure to comply with the byelaws is an offence at law.
- 1.8 The 1976 act⁷³ is more prescriptive in respect of the inspection and testing arrangements for private hire vehicles and prohibits, by statutory order, the grant of a private hire vehicle licence unless the council is satisfied that the vehicle is:
 - in a suitable mechanical condition, safe and comfortable.
- 1.9 Further, section 50 of the 1976 act provides for the mandatory inspection and testing (within the area of the council) of both hackney carriages and private hire vehicles by way of up to 3 inspections⁷⁴ in any one period of 12 months BUT does not specify the testing criteria. Parliament appears to have given local authorities the discretion to determine local testing and inspection standards.
- 1.10 A vehicle licence (hackney carriage and private hire) may be suspended, revoked or not renewed if “unfit for use”.

2.0 Best Practice Guidance

2.1 The current Department for Transport guidance⁷⁵ recognises variations between local authorities for both vehicle testing and vehicle age limits. Annual testing (as a minimum standard) is recommended together with more frequent tests for older vehicles together with an emphasis on emissions testing.

The council agrees with this view.

2.2 The council also agrees that due regard should be given to both the MOT test requirements and the PATN guidance – see paragraphs 4.5 and 4.6 post.

2.3 The council does not agree that more than one testing station is required. Portsmouth is a compact area and the Adams Morey garage facility is geographically centrally located within the city. 9 vehicle inspections per day (together with ad hoc spot check and emergency appointments) can be accommodated with little delay apparent.

Proprietors can licence a new vehicle normally within 24 hours of making application to the Licensing Service.

2.4 It is accepted that older vehicles can be in “good condition” but that this is not a reason to reject the consideration or setting of a local age limit policy. Even younger and “doubled manned” fleet vehicles that are subject to constant 24 hour public use (with a resulting higher wear/tear and mileage) can be replaced or found to be mechanically defective at a relatively early age.

2.5 The average mileage for private hire vehicles recorded on the computer database is 136,091 with a highest recorded individual mileage of 390,305 miles.

2.6 The average mileage for hackney carriages recorded on the computer database is 112,209 with a highest recorded mileage of 423,549 miles.



TSB/07/21/01/54

CERTIFICATE OF EXEMPTION

ISSUED UNDER REGULATIONS 6(4) OF
THE MOTOR VEHICLES (TESTS) REGULATIONS 1981

TO: PORTSMOUTH CITY COUNCIL

I am directed by the Secretary of State for Transport to inform you that he is satisfied that the granting of a licence in respect of hackney carriages and private hire cars by your authority, in accordance with the procedures summarised in your communication dated 17TH July 1997 is conditional upon the passing by the vehicle of annual test, within the meaning of the above Regulations, required by your authority.

This Certificate will cease to have validity if there is a change in procedures mentioned above and the issue of this certificate is conditional upon the Secretary of state being notified, without delay, should such a change in procedures be made.

DATE: 21 July 1997

SIGNED:
CGENCO
A Higher Professional and Technology
Officer in the Department of Transport

3.0 The council has received, as the local licensing authority, a “Certificate of Exemption” issued by the Secretary of State for Transport pursuant to the Motor Vehicle (Tests) Regulations 1981.

The effect of this is that proprietors of licensed hackney carriages and private hire vehicles are EXEMPTED from the requirement to obtain a separate MOT for their vehicle each year. This is because the local taxi and private hire testing standards are more prescriptive than those minimum standards for an MOT. The certificate of exemption is shown above.

3.1 As a consequence, there is an on-going annual saving to proprietors of the cost of an annual MOT test fee.



- 4.0 Historically (from 1978), the then Central Depot located on the Eastern Road was responsible as the “in house” vehicle testing station for both hackney carriage and private hire vehicles.
- 4.1 Following re-organisation, the testing facilities were outsourced to Amey Facilities Management Ltd T/A AFM Southern who continued to trade from the Central Depot.
- 4.2 AFM Contract Services continued as the fleet management facilitators for all PCC vehicles (and taxis) until a seamless transition and transfer of the taxi testing undertaking to Adams Morey, Burrfields Road, Portsmouth in January of 2002.
- 4.3 Adams Morey have continued to be the council’s preferred “one stop shop” facilitator for hackney carriage and private hire vehicle testing and, following a comprehensive tender consultation, were formally approved to carry out the inspection and testing regime for hackney carriages and private hire vehicles (including taxi meters) in August 2013.
- 4.4 A dedicated new hackney carriage and private hire testing and inspection bay received DVSA approval and came into operation in July 2014. This includes a larger “pit” bay to inspect stretch limousines, fire engines and other such vehicles of an unusual size and weight configuration.
- 4.5 During (and following) the conclusion of the tender consultation process extensive negotiations took place with staff from Adams Morey to determine the locally prescribed inspection and testing criteria for vehicles
- 4.6 having regard to the latest MOT updates, the Department for Transport best practice guidance and the resultant “PATN” (Public Authority Transport Network) best practice guidance. The PATN guidance has been recognised, on an ad hoc basis, by both your reporting officers and Adams Morey staff and all operators and trade representatives were advised of the guidance in February 2012.
- 4.6 It is recommended to formally adopt the PATN guidance (in line with the best practice guidance) and with immediate effect.
- The PATN guidance is also available via the following link: http://www.fta.co.uk/export/sites/fta/_galleries/downloads/vehicle_testing/Hackney_Carriage_document_0812.pdf
- 4.7 The current vehicle inspection and testing report is shown on page 65.
- 4.8 The “traffic light” system was introduced to enable licensing staff to monitor quickly and easily evidence of a vehicle showing signs of deterioration or distress whether mechanically or cosmetically.
- Licensing staff are not qualified mechanics and rely, as do the committee members, on the technical advice and expertise offered by Adams Morey. This traffic light system enables more spot checks (if necessary) to be undertaken on vehicles to ensure vehicle fitness standards are maintained.

Vehicle inspection and testing report

P = PASS A = ADVISORY F = FAIL



Testable item	P	A	F	Reason for failure or advisory*	
1 Lighting equipment	Front / rear lamps	Green	Red		
	Headlamps and aim	Green	Red		
	Stop lamps / fog lamps / reflectors	Green	Red		
	Direction indicators/hazard lamps	Green	Red		
	Registration plate lamps	Green	Red		
2 Steering & suspension	Steering controls / mechanism	Green	Red		
	Power steering	Green	Red		
	Transmission shafts	Green	Red		
	Stub axle assemblies	Green	Red		
	Wheel bearings	Green	Red		
3 Brakes	Front / rear suspension & shock absorbers	Green	Red		
	ESC system condition	Green	Red		
	ABS warning system/controls	Green	Red		
	Service brake condition	Green	Red		
	Parking brake condition	Green	Red		
	Service brake performance	Green	Red		
4 Tyres & wheels (including spare)	Parking brake performance	Green	Red		
	Service brake balance	Green	Red		
	Tyre type/size	Green	Red		
5 Seat belts	Tyre condition	Green	Red		
	Roadwheels	Green	Red		
	Notes: 1. Vehicles presented with 'space saver' spare tyres fitted to one of the 4 road wheels will not be tested. 2. Vehicles with no spare wheel must have an approved emergency tyre repair kit immediately available. 3. For stretch limousines/novelty vehicles the tyre rating and load index must be compatible for the vehicle size, weight and design.				
	Security of mountings	Green	Red		
	Condition	Green	Red		
	Operation	Green	Red		
	SRS malfunction lamp illuminated	Green	Red		
	Airbag present & operational	Green	Red		
	6 Vehicle body & structure	Body condition exterior generally	Green	Red	
		Body condition interior generally	Green	Red	
Seats/upholstery/carpets/cleanliness/odour		Green	Red		
Interior lights/motion door locks/warning lights (inc. all passenger controls/switches & grab handles)		Green	Red		
Boot for cleanliness, security, water leaks etc		Green	Red		
Doors & designated exits		Green	Red		
Registration plates, licence plate & VIN number		Green	Red		
Towbar condition		Green	Red		
7 Exhaust, fuel & emissions		Exhaust system	Green	Red	
		Exhaust emissions	Green	Red	
	Fuel system & security	Green	Red		
	Engine noise	Green	Red		
8 Driver's view of the road	Mirrors	Green	Red		
	Wipers & washers	Green	Red		
	Windscreen	Green	Red		
	Glazing generally / tinting	Green	Red		
	Driver's view of road generally	Green	Red		
	All driving controls and horn	Green	Red		
	Speedometer	Green	Red		
9 General	Under bonnet generally	Green	Red		
	Oil & water leaks	Green	Red		
	Battery / electrical wiring	Green	Red		
	Engine & transmission including mounts	Green	Red		
	Luggage space	Green	Red		
	TAXI roof sign security, illumination & decals	Green	Red		
	Livery fitted & in good visual condition	Green	Red		
	Fire extinguisher present and serviceable	Green	Red		
	Wheel trims fitted	Green	Red		
	Fare chart displayed	Green	Red		
	'No smoking' stickers evident	Green	Red		
	Windscreen and interior licence number displayed	Green	Red		
	Byelaws available (HCV only)	Green	Red		
Meter installed - test and seal	Green	Red			
10 Wheelchair accessible vehicles	Wheelchair restraints, operation & security	Green	Red		
	Wheelchair ramp availability, storage & accessibility	Green	Red		
	Wheelchair logo affixed to rear licence plate	Green	Red		

Vehicle details

Make

Model

Reg mark

Colour

VIN

CC

Mileage reading

HCV/PHV plate number

Test type

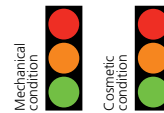
New Spot check

Annual/month Retest

Traffic lights

Tick as appropriate

- = Poor (unsuitable)
- + = Average
- = Satisfactory
- = Excellent (like new)



Inspection result

PASS – Stamp white book

FAIL – See reasons for failure.

Note: vehicle must not be used until all failures have been satisfactorily repaired.

FUTURE TESTING – I recommend that this vehicle is tested every:

12 6 4 months

Authentication stamp

Signed

(vehicle examiner)

Date of pass

***Licensed vehicles are subject to higher mileage and general wear and tear associated with hire and reward use. Accordingly, in assessing the overall mechanical condition, any advisory item which would normally pass an MOT could result in a test failure and refusal to issue a compliance certificate.**

White copy to PCC Licensing Service Pink copy to vehicle proprietor Blue copy to garage
RETESTS MUST BE BOOKED WITHIN 10 DAYS VIA ADAMS MOREY, CALL 023 9269 1122

January 2013

www.portsmouth.gov.uk

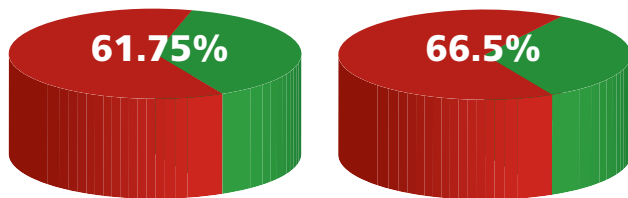
5.0 Licensed vehicles are subject to more wear and tear associated with constant public use. As a consequence, mileages are much higher and the need to maintain a prescribed servicing schedule in line with the manufacturer's recommended guidelines is of paramount importance.

5.1 It is pleasing to note that the established "fleet" operators annexed to Aqua Cars Ltd and Citywide Taxis generally speaking have their own dedicated garage and body shop facilities together with mechanical and administrative staff – including "night time" managers.

6.0 For the first time ever there has been a systematic and thorough analysis of the vehicle testing results for the whole of 2014 in order to identify trends associated with mechanical inspections for both hackney carriage and private hire vehicles.

Quarterly meetings between Licensing and Adams Morey staff have taken place to ensure both compliance with the tender “Key Performance Indicators” and to “drill down” the test results with a view to using the empirical data available to recommend and/or to identify possible future initiatives and policy changes for consideration.

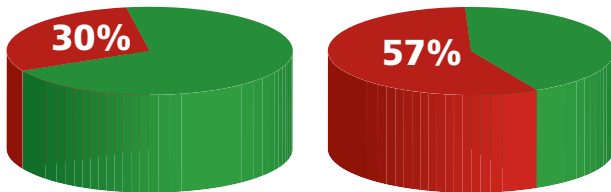
6.1 The test results for the calendar year 2014 are as follows:



1142 private hire vehicle inspections with a 61.75% failure rate

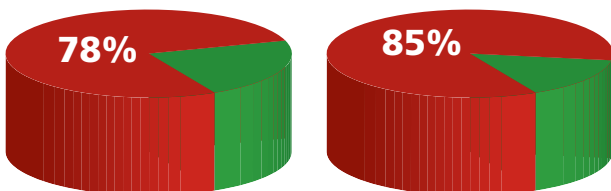
298 hackney carriage inspections with a 66.5% failure rate

By vehicle age, the results were:



Failure rate of vehicles between 0-3 years of age

Failure rate of vehicles between 3-6 years of age



Failure rate of vehicles between 6-9 years of age

Failure rate of vehicles over 9 years of age

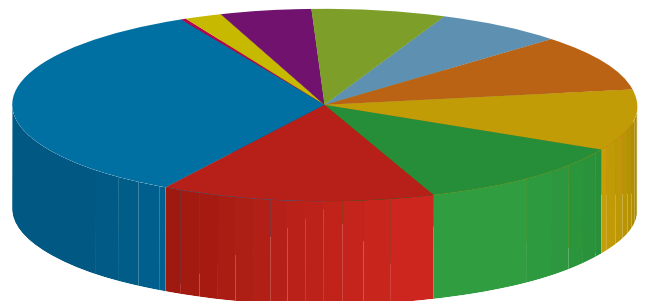
Recent analysis of the received 2015 test results show an overall failure rate for both hackney carriage and private hire vehicles of 64% for the year.

The failure rates, by vehicle age, have increased year on year as follows.

0–3 years	46%
3–6 years	72%
6–9 years	74%
9+ years	87%

6.2 The generic vehicle inspection and testing report (at 4.7) has 62 prescribed testable items grouped into 10 core areas. Each testable item is denoted with a “pass, advisory or fail”.

6.3 An in depth analysis⁷⁶ of the vehicle inspection records for each month during 2014 provided the following recorded failure results:



- Lighting equipment 55%
- Exhaust, Fuel & Emissions 23%
- Vehicle body & structure 19%
- Steering & Suspension 17%
- General items 15%
- Driver’s view of the road 11%
- Brakes 11%
- Tyres & Wheels 8%
- Seat belts 3%
- Wheelchair accessible vehicles 0.25%

6.4 It is disappointing to note that 55% of the recorded failures were for lighting matters. All proprietors are aware (apart from spot check inspections) of their annual vehicle test dates and any lighting related failures should be the exception and not the norm.

Equally, the emission failures (23%) are of concern.



6.5 All new cars must comply with EU vehicle emission standards which have been in place since 1994. The 2015 requirements⁷⁷ are that new cars registered in the EU should not emit more than an average of 130 grams of CO₂ per kilometre (g CO₂/km).

6.6 As a consequence, and also to support the council's Air Quality Action Plan together with recent campaigns against idling engines, there is a demonstrable need to review both the vehicle inspection and testing arrangements AND to consider this in relation to the adoption of locally prescribed vehicle "age limits".

6.7 The best practice guidance states: *"Local Licensing authorities, in discussion with those responsible for environmental health issues, will wish to consider how far their vehicle licensing policies can and should support any local environmental policies that the local authority may have adopted. This will be of particular importance in designated Air Quality Management Areas (AQMAs)".*

6.8 The council's Transport Fleet Manager has been asked to contribute to the policy review with particular regard to vehicle testing and emissions. He is in favour of retaining vehicle age limits but IS NOT in favour of vehicle age limits being dictated and linked directly by CO₂ emissions and comments:

"The Licensing Committee should not consider imposing an upper limit based on a vehicle's publicised CO₂ emissions. Since 2002 manufactures have been required to publicise CO₂ data on each model it produces and it is that data, measured in the amount of CO₂ (Carbon Dioxide) produced (in grams) per Kilometre travelled, which is then used to determine the vehicle excise duty (tax) rate.

This data is produced under strictly controlled laboratory like conditions and bears little relation to a vehicles negative impact on the environment whilst in service. In addition these tests are not the same as the emissions tests which are carried out as a part of the MOT test. While it is certainly generally true that newer cars will be more fuel efficient and have less harmful effects on the environment the publicised CO₂ emissions figure when that vehicle has been in service for 5 years, particularly as a taxi will not reflect that vehicles negative effect on the environment.

There are many other harmful products of the internal combustion engine that affect the environment which the CO2 'when new' figures do not reflect when in service. Diesel engines on the whole produce less CO2 emissions than their petrol counterparts, however due to the higher temperatures they operate at diesels produce a greater amount of NOx (Nitrous Dioxides) which is more harmful to local air quality.

To choose or be forced to choosing a vehicle for life as a taxi based purely on its publicised CO2 output is therefore to the detriment of several other important factors.

Maintaining a vehicle is of great importance. A well maintained older vehicle will undoubtedly be less harmful to the environment than a badly maintained newer vehicle, particularly in high mileage/inner city journey cycles.

In addition the way a vehicle is driven is of paramount importance. Again badly driven newer vehicles (with lower publicised CO2 emissions) will be more harmful to the environment than a well driven older car. We have recently undertaken an extensive training scheme training for over 350 drivers in 'eco' driving techniques and overall drivers under monitored assessment were able to produce a drive which was on average 17.5% more efficient than before they undertook training. It goes without saying that a more efficient driver will also be a safer driver.

Similarly consideration should be given to efficient vehicle routing and despatch processes in order to cut down any wasted journeys. It doesn't matter how environmentally friendly a vehicle is if the journey is unnecessary or the wrong route is chosen then that is more harmful to the environment than an older vehicle not making that journey at all!

Finally, we have to consider alternative fuels. It is unlikely that we in our career lifetime will ever see a fully electrically powered vehicle suitable for a taxi application. However it is likely that hybrids will begin to play a part. No matter what the arguments

around the 'whole life' sustainability of hybrid (as in diesel/petrol – electric) vehicles are it is indisputable that their 'tailpipe' emissions are lower and their use should be encouraged.

Consequently, my advice to the committee would be:

1. Vehicle maintenance – proof of regular periodic servicing and a preventative maintenance programme including an established vehicle checking regime. This could be backed up by increased roadside testing or twice annual emissions testing to MOT standards
2. Driver training – proof of driver training including 'eco' driving techniques. Refresher training periods should also be considered
3. Vehicle routing and despatch – sat nav systems for cars and route planning and despatch software for operators
4. Alternative fuels – may be to offer some kind of financial incentive for hybrid or alternative fuelled vehicles?
5. Vehicle age – generally the newer the vehicle the more efficient it will be
6. CO2 emissions – as described probably bears little relevance to a vehicle in a real life application particularly high mileage/inner city
7. Engine size – probably the least relevant, particularly in modern cars where larger engines can be very efficient"

6.9 These views are endorsed by the council's Environmental Health Manager. In particular, the introduction of a 1 year "entry" age limit for vehicles will compliment the Euro 6 diesel standard. There is also a supportive view to encourage and licence, for the future, "near zero" emitting vehicles and the Environmental Health Manager will be encouraged to bring forward proposals and recommendations for future changes to the vehicle specifications in order to support any local air quality measures and initiatives.

Resolved

1. That the PATN (Public Authority Transport Network – Technical Officer Group) best practice guidance for the inspection of hackney carriage and private hire vehicles **and reproduced as an appendix** be approved and adopted by the Licensing Committee for the purposes of complimenting and guiding the local vehicle testing and inspection criteria.
2. That the vehicle inspection and testing report shown at paragraph **4.7** be approved and adopted and the head of service (in consultation with the council’s approved vehicle inspectors) be authorised to amend, vary, add or substitute to such local testing criteria as considered appropriate in the future.
3. That all vehicles presented for initial licensing (with the exception of temporary use vehicles which must provide a current MOT) be subject to inspection and test at Adams Morey, Burrfields Road, Portsmouth.
4. i) **That all licensed vehicles over 3 years old be subject to a minimum of 2 vehicle inspections** at Adams Morey per licensing year – the second test to be about 6 months after the first test and to comprise a “mini” test for the following:
 - Lighting equipment
 - Exhaust, Fuel & Emissions
 - Vehicle body & structure
- ii) Should the vehicle fail ANY of the mini test criteria – a full inspection and test will be subsequently booked and completed and at the expense of the vehicle proprietor.
5. That all licensed vehicles **over 5 years old** be subject to a minimum of **2 full vehicle inspections** at Adams Morey Portsmouth per licensing year.
6. Should the subsequent full test for any vehicle contain at least 3 failures and/or the imposition of a red traffic light marker – the vehicle proprietor will be reported to the committee for consideration of the suspension or revocation of the respective vehicle licence.⁷⁸
7. That the requirement for proprietors to make application to “extend a vehicle licence” after 6 years of age be abolished and that committee minute 37/1991 be rescinded accordingly.
8. That the head of service be authorised to amend such vehicle conditions so far as this relates to:
 - The need to carry a serviceable fire extinguisher (not recommended as a mandatory requirement)⁷⁹
9. That the head of service bring forward proposals in relation to any variations to the fees and charges associated with the vehicle inspection and testing regime and commensurate with these proposals.
10. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 11: Appendix

Hackney Carriage and Private Hire Vehicles National inspection standards



Best Practice Guide

August 2012

Produced by Hackney Carriage and Private Hire Inspection Technical Officer Group
Public Authority Transport Network (PATN)

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FTA best practice guide to inspection of Hackney Carriage and Private Hire Vehicles

August 2012

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This best practice guide sets out the procedures and standards for those who carry out inspections of hackney carriage and private hire vehicles. It is recommended that the guide is also made freely available to owners, proprietors, operators and drivers of hackney carriage and private hire vehicles, who may find it useful as it details the standards that vehicles are subjected to. The guide also explains the reasons why, a vehicle presented for inspection has not been issued with a pass certificate.

This guidance deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing issued by VOSA. This best practice guide provides additional testing requirements to those in the MOT Inspection Manual. It is advised that local licensing authorities use the best practice guide in conjunction with the VOSA MOT Inspection Manual as an advocate to public safety.

This best practice guide has been developed to provide all local licensing authorities with a benchmark with regard to vehicle inspections and safety.

For details of how to join FTA contact the Member Service Centre on 08717 11 22 22*

*Calls may be recorded for training purposes

Contents

	Page
Foreword	3
Part 1: Introduction	4
1.1 Best practice guide	4
1.2 Application to devolved administrators	4
1.3 Technical safety issues	4
1.4 Scope of the guidance	4
1.5 Specification of vehicle types that may be licensed	4
1.6 Accessibility	5
1.7 Type approval	5
1.8 Vehicle testing	5
2 Novelty vehicles (stretched limousines)	6
3 General information	6
Part 2: Procedures and standards of inspection	8
Section 1 Lamps, reflectors and electrical equipment	8
Section 2 Steering and suspension	9
Section 3 Brakes	10
Section 4 Tyres and road wheels	10
Section 5 Seat belts and supplementary restraint systems	11
Section 6 Body, structure and general items	11
Section 7 Exhaust, fuel and emissions	15
Section 8 Driver's view of the road	14
Section 9 Tricycles and quadricycles	16
Section 10 Additional requirements	16
Section 11 Ancillary equipment	17
Section 12 Novelty vehicles	19
Appendices	
A Trailer inspection form	20
B Definition of motor vehicles	21
C Inspection form	22

Foreword

The Vehicle and Operator Services Agency (VOSA) is committed to saving lives, making roads safer, cutting crime and protecting the environment.

As responsibility for the maintaining of vehicle safety standards of hackney carriage and private hire vehicles falls to various local authorities, VOSA, in the pursuit of its objectives, fully supports the Public Authority Transport Network (PATN) in its promotion of common standards and best practice within industry.

VOSA recommends that local authorities consider this guide when setting technical standards and take the opportunity to become involved in its continued development such that we all contribute to a safer environment.

Nigel R Maden

*Process Manager Light Vehicles and Vehicle Approval
Vehicle & Operator Services Agency*



Revision record

Section number	Section title	Description of change	Revision date	Revision number
	2009 version	VOSA foreword	November 2009	1
	2012 update	Revised due to changes to MOT scheme from 2012	August 2012	2

Part I: Introduction

1.1 Best practice guide

This best practice guide has been prepared by the Technical Officer Group (TOG) to assist Hackney Carriage proprietors (HC) and Private Hire Vehicle (PHV) drivers/owners and operators. It is intended for use by local licensing authorities, vehicle inspectors and local authority authorised officers.

It is intended that this best practice guide will endorse a *minimum* national vehicle inspection standard. It will be appreciated that it is for individual local licensing authorities to reach their own decisions, both on overall policies and on individual inspection standards, in the light of their own operational needs and geographical circumstances.

Various interested parties, including the Department for Transport (DfT), Vehicle & Operator Services Agency (VOSA), Disabled Persons Transport Advisory Committee (DPTAC) and the Institute of Licensing, have been consulted on this best practice guide.

The Technical Officer Group commends the DfT for the production of the Taxi and Private Hire Vehicle Licensing: Best Practice Guidance. Vehicle operators, local licensing authorities and vehicle inspectors are strongly advised to refer to the DfT guide in conjunction with this best practice guide. More information can be obtained on the DfT website at www.dft.gov.uk

1.2 Application to devolved administrations

The Department for Transport (DfT) has responsibility for HC and PHV legislation in England and Wales and, accordingly, the guidance that has been published will be directed at local authorities in England and Wales. Responsibility for HC and PHV licensing in Scotland and Northern Ireland is devolved, but the respective administrations have been involved in the preparation



of the licensing guidance and will decide for themselves the extent to which they wish to make use of or adapt to suit their own purposes.

1.3 Technical safety issues

The aim of a local licensing authority is to protect the public. Local licensing authorities will be aware that the public should have reasonable access to safe and well maintained HC and PHVs. For example, it is clearly important that somebody using a HC or PHV should be confident that the vehicle is safe.

To this end, this best practice guide will detail specific vehicle safety issues based on expert technical knowledge and experience of the Technical Officer Group (TOG). This guide will focus therefore on technical safety issues and make recommendations towards safe working practices. For example, the TOG supports the DfT recommendation that there is no upper age limit for HC and PHVs provided there is documentary evidence to support a routine maintenance regime.

Local licensing authorities will want to ensure that each of their various licensing requirements is properly justified by the risk it aims to address. This is not to propose that a detailed, over-zealous inspection regime creates difficulties for the HC and PHV trades but primarily to promote vehicle safety for the protection of passengers and not for the benefit of operators.

1.4 Scope of the guidance

This guidance deliberately seeks to embrace safety aspects of vehicle inspections using, as a basic inspection standard, those laid down in the *MOT Inspection Manual – Private Passenger & Light Commercial Vehicle Testing* issued by VOSA. This best practice guide provides additional testing requirements to those in the MOT Inspection Manual. It is advised that local licensing authorities use the best practice guide in conjunction with the VOSA MOT Inspection Manual as an advocate to public safety.

This best practice guide has been developed to provide all local licensing authorities with a benchmark with regard to vehicle inspections and safety.

1.5 Specification of vehicle types that may be licensed

The legislation gives local authorities a wide range of discretion over the types of vehicle that they can license as HC or PHVs.

Some authorities specify conditions that in practice can only be met by purpose-built vehicles but the majority license a range of vehicles.

Normally, best practice is for local licensing authorities to adopt the principle of specifying as many different types of vehicles as possible. Indeed, local licensing authorities might usefully specify only general criteria, leaving it open to the HC and PHV trades to put forward vehicles of their own choice which can be shown to meet those criteria. In that way, there can be flexibility for new vehicle types to be readily taken into account.

It is suggested that local licensing authorities should give very careful consideration to a policy which automatically rules out particular types of vehicle or prescribes only one type or a small number of types of vehicle. For example, the Department believes authorities should be particularly cautious about specifying only purpose-built taxis, with the strict constraint on supply that that implies. But, of course, the purpose-built vehicles are amongst those which a local authority could be expected to license. Similarly, it may be too restrictive to automatically rule out considering Multi-Purpose Vehicles, or to license them for fewer passengers than their seating capacity (provided of course that the capacity of the vehicle is not more than eight passengers).

1.6 Accessibility



In addition to their general conditions, local licensing authorities will want to consider the accessibility for disabled people (including – but not only – people who need to travel in a wheelchair) of the vehicles they license as Hackney Carriage or Private Hire vehicles.

Licensing authorities will be aware that it remains the Department

for Transport's intention to make accessibility regulations for Hackney Carriage vehicles subject to a Law Commission review. In the meantime, licensing authorities are encouraged to introduce HC accessibility policies for their areas.

1.7 Type approval

It may be that from time to time a local licensing authority will be asked to license, as a HC or PHV, a vehicle that has been imported independently (that is, by somebody other than the manufacturer). Such a vehicle might meet the local licensing authority's criteria for licensing, but may nonetheless be uncertain about the wider rules for foreign vehicles being used in the UK. Such vehicles will be subject to the 'type approval' rules. For passenger cars up to 10 years old at the time of first GB registration, this means meeting the technical standards of either:

- European Community Whole Vehicle Type Approval (ECWVTA)
- National Small Series Type Approval (NSSTA) or
- Individual Vehicle Approval (IVA)

Most registration certificates issued since late 1998 should indicate the approval status of the vehicle. Further information about these requirements and the procedures for licensing and registering imported vehicles can be seen at www.businesslink.gov.uk

It is important for local licensing authorities to insist that **at least one** of the above 'type approvals' is produced prior to any **imported vehicle** being licensed as a Hackney Carriage or Private Hire Vehicle. Local authorities are advised to verify the validity of an IVA certificate by contacting the VOSA helpline number 0300 123 9000.

Voluntary inspections

Vehicles that are already registered for use in the UK are not eligible for a statutory approval, however there are situations where evidence of compliance with the approval standard would be beneficial or be a requirement. An example would be a local licensing authority that may require evidence of compliance for a vehicle that has been modified since original registration, or where evidence of compliance is being used as part of a contractual agreement on a modified vehicle. To facilitate this requirement, a non-statutory voluntary IVA test is available, and it would be appropriate for local authorities to accept a 'basic' IVA certification as a minimum requirement. The test criteria applied will be dependent on the vehicle category/class nominated on the application form VIVA 1. The fees are the same as those appropriate to the particular class of vehicle/test required, other than VAT is payable. If the vehicle is found to meet the requirements, a letter of compliance with the technical standards will be issued and not an Individual Approval certificate. The letter of compliance is not acceptable for first licensing/registration purposes.

1.8 Vehicle testing

There is considerable variation between local licensing authorities on vehicle testing. This best practice guide provides local licensing authorities with a **minimum** standard for vehicle inspections. All HC and PHV must be maintained to no less than the standards set out in the VOSA publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2.

As the term implies, hackney carriage and private hire vehicles are vehicles used for hire and reward purposes and as such are subject to much higher annual mileages and more arduous driving than normal private vehicles. Therefore, in the interests of passenger and other road user's safety, a more stringent maintenance and testing regime is required.

The purpose of the HC and PHV test is to confirm vehicles meet these more stringent standards. Vehicles must be submitted fully prepared for the test. **It is not intended that the test be used in lieu of a regular preventative maintenance programme.** If, in the opinion of the vehicle examiner, the vehicle has not been fully prepared, the test will be terminated and a further full test shall be required. It is an offence under the road traffic regulations to use an unroadworthy vehicle on the public highway.

HC proprietors and PHV drivers/owners and operators failing to maintain their vehicles in a safe and roadworthy condition may have their vehicle licence suspended, revoked or their licensing application refused by the local licensing authority. In addition, licence holders risk the suspension or revocation of their driver or operator licences by the local licensing authority.

This best practice guide should be read in conjunction with Vehicle & Operator Services Agency (VOSA) publication 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2. This best practice guide provides a working document for those who inspect, maintain and prepare vehicles for inspection prior to being issued with a hackney carriage or private hire licence. Although detailed in its content the best practice guide is not exhaustive.

However, in assessing the mechanical condition of a vehicle, it is more likely an item which would ordinarily pass an MOT test with an advisory note, could fail the HC and PHV test.

2 Novelty vehicles (stretched limousines)

This section of the best practice guide offers advice to local licensing authorities on the requirements for licensing novelty vehicles. The standard of the test for novelty vehicles will be at the same standard as for other private hire vehicles. That is, as a basic inspection standard, those laid down in the 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing' issued by VOSA and this best practice guide. (For the purpose of clarity, novelty vehicles in this guide will refer to stretch limousines only until such times as further guidance is obtained on any other such vehicle, ie fire tenders etc.)



A novelty vehicle shall only be registered as a private hire vehicle if it complies with the following conditions.

- Vehicles with no more than eight passenger seats as indicated on the V5C. The V5C will state the number of seats and **must be produced to the local licensing authority prior to the vehicle being licensed or inspected.** If the number of seats differs to what is indicated on the V5C, then contact VOSA and your local area DVLA office immediately. Failure to produce a valid and current V5C for the vehicle to be tested could result in refusal to inspect the vehicle
- Evidence of either European Community Whole Vehicle Type Approval (ECWVTA) or Individual Vehicle Approval (IVA) being presented for inspection
- Local licensing authorities may consider, as novelty vehicles are not factory produced, that a recommended vehicle maintenance inspection be applied every 10 weeks. The frequency of maintenance inspections is recommended by Traffic Commissioners, VOSA and the National Limousine and Chauffeur Association (NLCA)
- The inspection standards to be applied to novelty vehicles are the same standards as those applied to other hackney carriage and private hire vehicles with the following additions:
 - Any additional item previously mentioned in this paragraph with regard to seating capacity, the production of the relevant documents and frequency of vehicle inspections
 - See part 2, section 4 – Tyres and road wheels. Reference in this section is made to tyre rating to be applied to novelty vehicles
 - See part 2, section 12 – Vehicle Identification Number (VIN) markings should be checked to ensure compliance, seating capacities and undue stresses

Local licensing authorities are strongly advised to obtain a declaration, from the operator of a licensed novelty vehicle, that the side facing seats will never be used to carry passengers under 16 years of age, **regardless of whether the vehicle is fitted with or without seat belts.**

It is strongly advised that notices forbidding children to be carried in side facing seats are displayed in prominent positions, ie on entry to the passenger compartment and on either side of the passenger compartment. Local licensing authorities may also require additional outward facing signs adjacent to all entrance/exit doors to the passenger compartment.

3 General information

Only vehicles complying with the following conditions will generally be considered for licensing as private hire vehicles.

-
- Cars fitted with at least four doors and four wheels
 - Right-hand drive vehicles – with the exception of stretch limousines (where applicable)
 - Vehicles with adequate space for luggage
 - Vehicles must be capable of carrying at least four and not more than eight passengers in addition to the driver
 - With the exception of stretch limousines, vehicles will not be accepted with blacked out windows. Passengers being carried in the vehicle must be visible from the outside. In **exceptional circumstances**, tinted windows may be acceptable
 - To allow a thorough examination of a vehicle or any part thereof, it must be presented for test in a clean condition. The vehicle presented will fail the test if, in the opinion of the vehicle examiner, the vehicle is so dirty that it would be unreasonable for the test to be carried out
 - A test will not be carried out unless the licence fee/ examination fee has been paid in advance

Statement of undertakings and declaration

In the interests of road and passenger safety, the licensed driver/ owner or operator undertakes to make proper arrangements so that licensed vehicles are kept in a roadworthy condition at all times.



Part 2: Procedures and standards of inspection

This best practice guide sets out the procedures and standards for those who carry out inspections of hackney carriage and private hire vehicles.

It is recommended that the guide is also made freely available to owners, proprietors, operators and drivers of hackney carriage and private hire vehicles, who may find it useful as it details the standards that vehicles are subjected to. The guide also explains the reasons why a vehicle presented for inspection, has not been issued with a pass certificate.

Contents

	Page		Page
Section 1 Lamps, reflectors and electrical equipment	8	Section 8 Driver's view of the road	15
1.9 Electrical wiring and equipment		8.1 Mirrors and view to the rear	
1.9 Additional lamps		8.3 Windscreen – view to the front	
Section 2 Steering and suspension	9	8.5 Window glass or other transparent material	
2.1 Steering control – steering wheel		Section 9 Tricycles and quadricycles	16
2.1 Steering control – steering column		Section 10 Additional requirements	16
2.4 Suspension spring units and linkage		10.1 Transmission	
Section 3 Brakes	10	10.2 Oil and water leaks	
Section 4 Tyres and road wheels	10	10.3 Luggage/load space	
4.1 Tyres – condition		10.4 Trailers and towbars	
Section 5 Seat belts and supplementary restraint systems	11	Section 11 Ancillary equipment	17
Section 6 Body, structure and general items	11	11.1 Wheelchair restraint and access equipment	
6.1 Vehicle body and condition (exterior)		11.2 Fire extinguisher	
6.1 Vehicle body, security and condition (interior)		11.3 First aid kit	
6.1 Bumper bars		Section 12 Novelty vehicles	19
6.2 Doors and seats		12.1 Seating capacity	
Section 7 Exhaust, fuel and emissions	14	12.2 Undue stresses	
7.1 Exhaust system		12.3 Passenger notices	
7.2 Fuel system – pipes and tanks			

Section 1

Lamps, reflectors and electrical equipment

1.9 Electrical wiring and equipment

Method of inspection	Reason for rejection
<i>This examination is limited to that part of the electrical system that can be readily seen without dismantling any part of the vehicle.</i>	
a Check all electrical wiring for: <ul style="list-style-type: none"> • condition • security • position • signs of overheating • heavy oil contamination 	a Wiring <ul style="list-style-type: none"> • positioned so that it is chafing or clipped to a fuel line or likely to be damaged by heat so that insulation will become ineffective • with clear evidence of overheating • heavily contaminated with oil
b Check all switches controlling all obligatory lights	b Switches <ul style="list-style-type: none"> • Insecurity or malfunction of a switch controlling an obligatory light

1.9 Additional lamps

Method of inspection	Reason for rejection
<i>With the ignition switched on check the following.</i>	
Reversing lamps a The reversing lamps emit a diffused white light when reverse gear is selected b The lamps extinguish when neutral gear is selected c The lamps are in good working order and are secure d The lamps do not flicker when lightly tapped by hand	Reversing lamps a Fails to operate or does not emit a white diffused light b Fails to extinguish when neutral or forward gear is selected c Are not in good working order or insecure d Flickers when tapped lightly by hand
Front fog/driving lamps e A single front fog lamp emitting a white or yellow diffused light illuminates only when dipped beam is selected f A pair of matched fog lamps both emitting a white or yellow diffused light should illuminate together g A pair of matched, long-range driving lamps, both emitting a white diffused light, should illuminate together	Front fog/driving lamps e Lamp inoperative or operates other than in dipped beam mode f Operate incorrectly g Operate incorrectly
'For Hire' and roof signs a Correct style and type of sign fitted b Ensure the sign is securely fastened to the vehicle	'For Hire' and roof signs a Incorrect colour or details shown on sign, ie registration number, vehicle number etc b Insecure sign
c Condition and security of wiring d Functional test of signs for illumination	c Wiring is not in good condition or is loose or chaffed d Illumination not consistent across the sign, ie all light bulb(s) LED(s) illuminated when switched on

Section 2

Steering and suspension

2.1 Steering control – steering wheel

Method of inspection	Reason for rejection
<i>With both hands rock the steering wheel from side to side at right angles to steering column and apply slight downward and upward pressure to the steering wheel rim (in line with column). Note the following.</i>	
a Fractures in steering wheel hub b Fractures in steering wheel rim c Steering wheel spokes loose or fractured d Jagged edges on steering wheel rim e. If possible, check the retaining device on steering wheel is fitted	a Steering wheel hub fractured b Steering wheel rim fractured c A steering wheel spoke loose or fractured d Jagged edges on steering wheel rim likely to injure the driver e. A steering wheel hub-retaining device not fitted

2.1 Steering control – steering column

Method of inspection	Reason for rejection
a Try to lift the steering in line with the steering column and note the movement at centre of steering wheel	a Excessive movement at centre of steering wheel in line with steering column (end float) <i>Note: Certain types of steering column might show some movement not due to excessive wear, eg those fitted with universal joints or flexible couplings</i>
b While steering wheel is rotated, check for deterioration in any flexible coupling or universal joint of steering column	b A flexible coupling or universal joint deteriorated, worn or insecure
c Where practical, check any clamp bolts for presence and security of locking devices. (These may be located in the engine compartment or under chassis)	c A coupling clamp bolt or locking device loose or missing

2.4 Suspension spring units and linkages

Method of inspection	Reason for rejection
Coil springs	Coil springs
a Welding repairs	a Repaired by welding

Section 3

Brakes

No additional inspection requirements

Section 4

Tyres and road wheels

4.1 Tyres – condition

Method of inspection	Reason for rejection
On all the tyres, including spare wheel where fitted , examine each tyre meets all the requirements laid down in the 'MOT Inspection Manual – Private Passenger and Light Commercial', ISBN 978-0-9549352-5-2 <i>Note: Where a doughnut tank is fitted in the boot for LPG, the spare wheel if still carried in the boot must be properly secured. Alternatively, a spare wheel cage installed to manufacturer's and British Standards may be fitted to the underside of the vehicle</i>	In accordance with the 'MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing', ISBN 978-0-9549352-5-2 <i>Note: Space saver tyres should only be approved with the support of a method statement highlighting driver responsibilities with regard to the maximum permitted speed and that space savers are a temporary 'get-you-home tyre'</i>

Method of inspection	Reason for rejection
<p>Important note: stretched limousines</p> <p>In the case of American imported stretched limousines, vehicle inspectors will need to be vigilant when inspecting tyres for suitability, and an assessment should be made with the information detailed on the convertor plate. Most converted stretched limousines are converted from Ford Lincoln Town Cars with a number of Cadillac variants also.</p> <p>In approved 'stretch' limousine conversions, the maximum weight can be in excess of 7,100lbs (3.2 tonnes) and care should be exercised when determining suitable tyre ratings. Generally speaking a Ford Lincoln or Cadillac would require a tyre rating index of at least 107T, which gives a load rating of 2,149lbs (975kgs) with a maximum speed of 118 miles per hour.</p>	<p>Stretched limousines</p> <p>More information and guidance can be obtained from: National Limousine & Chauffeur Association on: www.nlca.co.uk</p>

Section 5

Seat belts and supplementary restraint systems

No additional inspection requirements

Section 6

Body, structure and general items

6.1 Vehicle body and condition (exterior)

Method of inspection	Reason for rejection
<p>Examine the body thoroughly for security, corrosion, damage, poor repair/paint match or sharp edges that are likely to cause injury</p>	<ul style="list-style-type: none"> a An insecure or missing body panel, trim, step or accessory b Any sharp edge whatsoever which may cause injury c Heavy scuffing, abrasions or deformation to front and rear bumper d More than 8 stone chips visible on a bonnet/grill that has not penetrated to the metal or more than 4 stone chips that have penetrated to the metal e More than 8 stone chips on any panel including door edges, provided the base coat has not been penetrated f More than 4 stone chips on any panel where the base coat has been penetrated to the metal and is untreated g A single dent of more than 80mm, or more than 3 dents of not more than 20mm in any one panel h More than 4 scratches and or abrasions of more than 50mm in length in any one panel provided that the base coat has not been penetrated i Dull, faded paintwork which has lost its gloss finish or paint miss-match to a panel(s) to such an extent that it detracts from the overall appearance of the vehicle

Method of inspection	Reason for rejection
	<p>j Evidence of poor repairs and or paint finish to a repaired panel(s) including runs and overspray to adjoining panels/trim that detracts from the overall appearance of the vehicle</p> <p>k Obvious signs of rust/corrosion of any size particularly those that are covered by advertising signs</p> <p>l Lack of clearly displayed or omission of 'No Smoking' signs</p>

6.1 Vehicle body, security and condition (interior)

Method of inspection	Reason for rejection
a Examine thoroughly the interior for damaged, insecure or loose fixtures, fittings or accessories	a Insecure and loose fixtures, fittings or accessories
b Dirty, missing and worn trim, carpets, seat belts, mats, headlining, boot area and inclusion of prescribed items. Remove mats to inspect carpets underneath for cleanliness and wear	b Missing, dirty, soiled, stained worn or insecure trim, carpets, headlining, and mats in such a condition that they are likely to soil or damage passengers' clothing or luggage
c Examine interior lights, motion door locks and warning lights	c An inoperative interior light (all lights must illuminate if they are part of the manufacturer's standard equipment). Missing or defective motion switch/lock or warning lamp not illuminated
d Examine heating, demisting and air condition systems for correct operation, including passenger compartment controls where fitted (includes electric front and rear screen demisters)	d A system(s) which does not function correctly, or any part is missing including vents, controls and switches
e Examine all windows ensuring they allow lowering and rising easily	e An opening window that is inoperative or difficult to open and or close mechanism broken/missing
f Examine interior door locks, grab handles/rails safety covers	f Missing, defective or loose door locks, child locks, protective covers grab handles and rails. Grab handles/rails, which are rigid to aid the blind and partially sighted, and are worn to excess
g Examine grills/partitions for security and condition	g A grill/partition which is insecure or has sharp edge which may cause injury to passengers or driver
h Examine electrical wiring for condition, security, including intercom systems	h Frayed, chaffing wiring, non-shielded terminals and cables so routed that they cause a trip hazard, cables that can be easily disconnected. Intercom system defective, warning light inoperative and signs illegible/missing
i Examine the boot for access, contents, cleanliness and water ingress	i Unable to open, close and or lock boot lid, failure of boot lid support mechanism, defective seals/evidence of water ingress, dirty boot and/or carpets, loose items stored in boot (ie spare wheel tools and equipment etc)
Additional items to be inspected in limousines and novelty vehicles.	
j All fixtures and fittings, ie mirror balls, drinks cabinets, televisions etc must be stored securely and not hinder the ingress or egress from the passenger compartment	j Any fixture or fitting that is loose or insecure or where walkways are blocked that prevent ease of ingress or egress from the passenger compartment

Method of inspection	Reason for rejection
<p>k A notice identifying the maximum seating capacity to be displayed in the passenger compartment and clearly visible to all passengers. It may be necessary to display more than one sign indicating the maximum seating capacity</p> <p><i>Note: Any vehicle presented in a dirty, untidy condition will not be tested</i></p>	<p>k No maximum seating capacity sign or signs displayed. A sign or signs not clearly visible to all passengers</p>
<p>Mandatory 'No Smoking' sign</p> <p>l Check for presence and display of No Smoking sign</p>	<p>l No Smoking sign missing/not adequately displayed</p>

6.1 Bumper bars

Method of inspection	Reason for rejection
<p>Examine the bumper bars and check the following.</p>	
<p>a They are secure to their mountings</p> <p>b The mountings are secure to the vehicle</p> <p>c There is no evidence of damage</p>	<p>a A loose bumper bar or mounting. A weakened bumper bar and/or mounting is insecure because of poor repairs</p> <p>b A fractured mounting bracket. Mounting bolts so worn or elongated that the bumper bar is likely to detach partially or completely from the vehicle when in use. A bumper bar secured by wire or other temporary means is regarded as insecure and must be rejected</p> <p>c Bumper bars which have jagged edges, cracks, splits or projections, which may cause injury to persons near the vehicle. Paint miss-match or fading which is significantly different to that of the rest of the paintwork</p>

6.2 Doors and seats

Method of inspection	Reason for rejection
<p>Doors and emergency exits</p> <p>Examine the condition of all doors and emergency exits. Check door locks, striker plates, handles and hinges for security, wear and missing and damaged trim/cover plates</p> <p>Check the presence, condition and correct functioning of all door stay catches and devices (including sliding doors)</p> <p>Check markings describing the presence and method of opening emergency exit(s) are readily visible on or adjacent to the exit and are legible</p> <p>Check that seats are secure, clean and not unduly worn</p>	<p>Doors and emergency exits</p> <p>a A door or emergency exit does not latch securely in the closed position</p> <p>b A door or emergency exit cannot be opened from both the inside and outside the vehicle from the relevant control in each case</p> <p>c Missing, loose or worn handles, lock or striker plate</p> <p>d Markings describing the presence and method of opening an emergency exit missing, illegible or incorrect</p> <p>e Missing, loose or damaged trim/cover plate</p> <p>f Seat cushion(s) stained, torn, holed, worn or insecure. A seat that does not provide adequate support at base or backrest. Torn, slashed or badly stained seats are not acceptable</p> <p>g A door stay catch or device missing, excessively worn or not fulfilling its function</p>

Method of inspection	Reason for rejection
<p>Important note</p> <p>With the exception of 'novelty vehicles' only vehicles with forward and rear facing seats will be accepted.</p> <p>For more information on seating for novelty vehicles see section 12.1</p>	
<p>Accessibility: wheelchair vehicles</p> <p>Door configurations for wheelchair accessible vehicles</p> <p>a Single rear door – must open to a minimum of 90 degrees and be capable of locking in place</p> <p>b Twin rear doors – both must open to a minimum of 180 degrees and be capable of being locked in place. This is to enable an attendant (driver or guide) to assist the wheelchair passenger if required</p>	<p>Accessibility: wheelchair vehicles</p> <p>a Door does not open to a full 90 degrees and cannot be secured in the open position</p> <p>b Twin doors do not open to a full 180 degrees and cannot be secured in the open position</p>

Section 7

Exhaust, fuel and emissions

7.1 Exhaust system

Method of inspection	Reason for rejection
Where applicable, check for presence, security and adequacy of grease shields to hot exhausts	A heat shield missing, insecure or inadequate

7.2 Fuel system – pipes and tanks

Method of inspection	Reason for rejection
<p>a Check that fuel tank filler caps are:</p> <ul style="list-style-type: none"> • present • of the correct type • secure and seated properly to ensure correct function of sealing <p>b Examine pipes to see they are securely clipped to prevent damage by chafing and cracking, and are not in a position where they will be fouled by moving parts</p> <p>c Check that no fuel pipe runs immediately adjacent to or in direct contact with electrical wiring or the exhaust system</p>	<p>a A filler cap missing or unsuitable or in such condition that it would not prevent fuel leaking or spilling</p> <p>b Damaged, chafed, insecure pipes or pipes so positioned that there is a danger of them fouling moving parts</p> <p>c A fuel pipe immediately adjacent to or in direct contact with electrical wiring or exhaust system</p> <p>d Temporary/emergency fuel cap fitted</p>

Section 8

Driver's view of the road

8.1 Mirrors and view to rear

Method of inspection	Reason for rejection
<i>The number and position of all obligatory mirrors must be checked.</i>	
Check the condition of each mirror reflecting surface	A mirror reflecting surface deteriorated or broken. <i>Note: A defective additional external mirror is not a reason for rejection</i>

8.3 Windscreen – view to the front

Method of inspection	Reason for rejection
<i>Sit in the driver's seat and check that there is reasonable view of the road ahead, bearing in mind the original design of the vehicle.</i>	The position or size of any object restricts the driver's view of the road ahead, bearing in mind the original design of the vehicle
For all air operated wipers examine: <ul style="list-style-type: none"> the condition of any visible piping the function of the operating mechanism the function of necessary valves to protect the braking system <p><i>Note: Equipment or objects not originally fitted to the vehicle as part of the original design must not obstruct the designed forward view of the driver. In particular, objects such as (but not limited to) pennants, cab decorations and external stone guards/visors should not interrupt the view through the swept area by the windscreen wipers</i></p>	Air operated wipers: <ul style="list-style-type: none"> pipes inadequately clipped or supported incorrect function of the wipers or leaking components incorrect operation of protection valves

8.5 Window glass or other transparent material

Method of inspection	Reason for rejection
a Visually check the condition of all windscreens, internal screens, partitions, side, rear, roof and door windows for cracks, surface damage and discolouration	a A crack, surface damage or discoloration in glass or other transparent material that: <ul style="list-style-type: none"> impairs the driver's front, side, or rear view of the road presents a danger to any person in the vehicle
b Check presence and security of all windscreens, side, roof, or rear windows, or internal screens or partitions	b A windscreen or any other outside window missing, or any windscreen, window, internal screen or partition insecure
c Check for evidence of obvious leaks from all windscreens and side, rear, roof or door windows	c Any external window or windscreen is obviously leaking
d Check for presence, security and condition of guard rails or barriers at windows, internal screens or partitions	d A guard-rail or barrier at a window, internal screen or partition missing, insecure or damaged
e For all vehicles first used before 1 January 1959. As far as is practicable, check that glass fitted to windscreens and outside windows facing to the front is safety glass, except glass fitted to the upper deck of a double deck bus	e The windscreen and/or any outside window facing to the front of a vehicle obviously not safety glass fitted to a vehicle first used before 1 January 1959
f For all vehicles used on or after 1 January 1959, as far as is practicable, check that glass used for windscreens and all outside windows is safety glass, or safety glazing	f Glass used for a windscreen or an outside window is obviously not safety glass

Method of inspection	Reason for rejection
<p>g Vehicles first used on or after 1 June 1978, check that windscreens and other windows, wholly or partly, on either side of the drivers' seat are made from safety glass displaying an acceptable safety mark</p> <p><i>Note: Marking is not required for safety glass on vehicles first used before 1 June 1978</i></p>	<p>g For vehicles first used on or after 1 June 1978, that windscreens and/or other windows wholly or partly on either side of the drivers seat that are not made from safety glass display an acceptable safety mark</p>

Section 9

Tricycles and quadricycles

No additional inspection requirements

Section 10

Additional requirements

10.1 Transmission

Method of inspection	Reason for rejection
Examine transmission, check for the following.	
a Missing or loose flange bolts	a A loose or missing flange bolt(s)
b Cracked or insecure flanges	b A flange cracked, or loose on the transmission shaft
c Wear in shaft and/or wheel bearings	c Excessive wear in shaft bearing
d Security of bearing housings	d A bearing housing insecure to its fixing
e Cracks or fractures in bearing housings	e A cracked or fractured bearing housing
f Wear in universal joints	f Excessive wear in a universal joint
g Deterioration of flexible couplings	g Deterioration of a transmission shaft flexible coupling
h Distorted, damaged shafts	h A damaged, cracked or bent shaft
i Deterioration of bearing housing flexible mountings	i Deterioration of a flexible mounting of a bearing housing
j Clearance between transmission shafts and adjacent components	j Evidence of fouling between any transmission shaft and an adjacent component

10.2 Oil and water leaks

Method of inspection	Reason for rejection
a Check vehicle for oil and water leaks from any assembly or component to the ground	a An oil or water leak, from any assembly, which deposits fluids underneath the vehicle whilst stationary
b And/or which could be deposited on surrounding bodywork or onto the exhaust system.	b Leaks which, when the vehicle is moving, could be deposited upon the surrounding bodywork, exhaust and brake system so that it would: <ul style="list-style-type: none"> contaminate areas could potentially cause a health, safety or fire risk
<i>Note: If necessary, the engine can be run at idle speed to confirm the existence of an oil leak</i>	

10.3 Luggage/load space

Method of inspection	Reason for rejection
Physical separation is not so much an issue as is the safety of passengers in the event of an accident. The luggage should therefore be secure and prevented from becoming dislodged in an accident in such a manner as may cause injury. Such security can be by means of a sheet or net, which could be anchored to the floor of the luggage area. Clearly if the luggage compartment is not physically separated from the passenger compartment then care will need to be taken so as not to carry any hazardous items such as fuel cans, detergents or other loose items that could leak if they become damaged	<p>Load restraint system, if required, not present at time of test</p> <p>Load restraint system faulty or unserviceable</p>

10.4 Trailers and towbars

Method of inspection	Reason for rejection
<p>Trailers</p> <p>Where a local licensing authority permits the use of trailers for the carriage of luggage, then the trailer needs to be presented for test along with the vehicle that will be authorised to tow it. The trailer will also need to display the appropriate registration plate and a licence plate</p> <p><i>Note: Trailers presented for inspection should be built by an approved or recognised trailer manufacturer</i></p> <p><i>An example of a typical trailer inspection sheet can be found at Appendix A</i></p>	<p>Trailers</p> <p>Rejections as indicated on the trailer inspection sheet shown at Appendix A</p>
<p>Towbars</p> <p>Where tow bars are fitted checks must be made on the condition and security to the towing vehicle</p>	<p>Towbars</p> <p>Rejections as indicated on the trailer inspection sheet shown at Appendix A</p>

Section 11

Ancillary equipment

11.1 Wheelchair restraint and access equipment

Method of inspection	Reason for rejection
<p>Wheelchair restraint</p> <p>a Where applicable check condition and operation of wheelchair restraint</p> <p>b A system for the effective anchoring of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces</p>	<p>Wheelchair restraint</p> <p>a A wheelchair restraint is defective, worn or missing.</p> <p>b Wheelchair anchorage systems and devices do not conform to European Directive 76/115 EEC (as amended)</p>
<p>Wheelchair access and equipment</p> <p>A vehicle shall be fitted with either of the following forms of wheelchair access equipment:</p>	

Method of inspection	Reason for rejection
<p><i>Ramps</i></p> <p>c Check that appropriate ramps fitted are securely installed in the designated storage area. Examine for damage, deformity, sharp edges etc. and provision of anti-slip covering</p> <p><i>Wheelchair lift</i></p> <p>d A purpose designed wheelchair lift shall conform to the LOLER 98 Regulations. A report, confirming that the lifting equipment is safe to use, shall be presented at the time of the vehicle inspection. Vehicles presented for inspection with a wheel chair lift will require a LOLER certificate that is valid for a period of six months from the date of issue</p> <p><i>Note: Passenger lifting equipment will need to be thoroughly examined by a competent person, in use, at least once every six months</i></p> <p>e Any purpose designed wheelchair access ramp that is carried must be lightweight and easy to deploy. The installed ramp shall have visible reference to safe working load of 250kgs and certified to BS 6109</p> <p>f Wheelchair access equipment shall be fitted either into the rear or side access door of the vehicle. Where it is fitted to a side door this shall be the door situated on the nearside of the vehicle, ie kerbside when stopped in a normal road</p> <p>g The aperture of the door into which the access equipment is fitted shall have minimum clear headroom in its central third of 48 inches (1,220mm). The measurement shall be taken from the upper centre of the aperture to a point directly below on either the upper face of the fully raised lift platform or the upper face of the ramp fully deployed on level ground</p> <p>h A locking mechanism shall be fitted that holds the access door in the open position whilst in use</p> <p>i All wheelchair tracking must be fit for purpose and structurally sound</p>	<p>c Ramps missing, insecurely stored, damaged/deformed, anti-slip covering in poor condition or missing</p> <p>d Vehicle not presented with a valid or current LOLER certificate</p> <p>e The installed ramp does not have any visible reference to a maximum safe working load or certification to BS 6109</p> <p>f Wheelchair access equipment is fitted to the offside access door of the vehicle</p> <p>g There is not clear headroom in the aperture within the central third of 48 inches (1,220mm)</p> <p>h No evidence of a suitable locking mechanism to hold the door open</p> <p>i Damaged or insecure tracking or detritus deposits within the tracking rails</p>

11.2 Fire extinguisher

Method of inspection	Reason for rejection
<p>a Check the fire extinguisher for presence:</p> <ul style="list-style-type: none"> • the expiry date • seal • type – water or foam • approved mark – BS5423 or EN3 <p>b The fire extinguisher must be kept in an accessible position inside the vehicle. The extinguisher may be carried out of view, ie in a fastened glove compartment provided there is a clear sign on the dashboard, stating the location</p>	<p>a A fire extinguisher is missing or:</p> <ul style="list-style-type: none"> • out of date • broken or missing seal • no approved marking visible or other non-approved marking shown • incorrect type • in an obviously poor condition or discharged state <p>b Not fitted in an accessible position or its position is not clearly marked</p>

11.3 First aid kit

Method of inspection	Reason for rejection
a Check the first aid kit for presence, the expiry date and the seal is intact. There is no requirement to inspect the contents of the first aid kit	a A first aid kit is missing, out of date, in a poor or contaminated condition or the seal has been broken
b The first aid kit must be kept in an accessible position inside the vehicle. The first aid kit may be carried out of view, ie in a fastened glove compartment provided there is a clear sign on the dashboard, stating the location	b The first aid kit is not fitted in an accessible position or its position is not clearly marked

Section 12

Novelty vehicles (stretch limousines)

12.1 Seating capacity

Method of inspection	Reason for rejection
It is strongly recommended that prior to the inspection of a novelty vehicle the inspector checks the seating capacity on the V5C to ensure it does not exceed 8 passenger seats	If the V5C states more than 8 passengers, then this vehicle MUST NOT be tested or licensed as a Private Hire Vehicle. The vehicle should be referred to VOSA for licensing as a passenger carrying vehicle (PCV)

12.2 Undue stresses

Method of inspection	Reason for rejection
Vehicle inspectors should be aware of undue stresses caused to the steering, brakes and tyres due to the additional weight imposed on the vehicle at the modification process	Tolerances and wear should be as defined in the VOSA MOT Inspection Manual – Private Passenger and Light Commercial Vehicle Testing as follows: <ul style="list-style-type: none">• steering – section 2• brakes – section 3• tyres – section 4

12.3 Passenger notices

Driver declaration

Local licensing authorities are strongly advised to obtain a declaration, from the operator of a licensed novelty vehicle, that side facing seats will never be used to carry passengers under 16 years of age, **regardless of whether the vehicle is fitted with or without seat belts**

Passenger notices

- In addition, notices forbidding children to be carried in side facing seats must be displayed in prominent positions, ie on entry to the passenger compartment and on the inside of the vehicle on either side of the passenger compartment. In addition, local licensing authorities may require outward facing signs adjacent to all entrance/exit doors to the passenger compartment
- Further notices should be displayed inside the vehicle, where all passenger can clearly read the notice, advising passengers of the maximum carrying capacity of the vehicle and a warning to passengers that should the capacity be exceeded then the vehicle will not be insured

Appendices

Appendix A

Hackney Carriage and Private Hire – Trailer inspection form

Hackney Carriage and Private Hire Trailer inspection sheet

Space for
local authority logo




Plate number of towing vehicle _____

Registration number of towing vehicle _____

Registered owner of vehicle _____

Manufacturer's plate showing chassis number _____

Manufacturer's plate showing maximum weight _____

Inspection area	Description	Pass (✓)	Fail (X)
Licence plate	Contains details and complies with local licensing authorities' format		
Licence plate	Clearly displayed, legible and securely fixed		
Licence plate	Serviceable – not damaged or defaced		
Trailer couplings	Check condition and operation and presence of a safety breakaway cable		
Tow bar mounting brackets	Check condition and security		
Trailer body	Check condition of side and rear tailboards		
Trailer chassis	Check condition		
Suspension	Check condition and operation		
Wheel bearings	Check for excessive free play or roughness in bearings		
Tonneau cover and fittings	Check for condition		
Wheels and tyres	Check security, condition and wear		
Braking system	Operates satisfactorily		
Lighting	All obligatory lights work		
Indicators	All indicators work		
Reflective triangle	Check presence and condition		
Numberplate	Check condition, security of fitting and displayed clearly		
Speed restriction notice	Check condition and displayed clearly		

I hereby certify that the above trailer has been inspected and has/has not* been found to be roadworthy and suitable to be used as a hackney carriage/private hire* trailer at the time of inspection.

Examined by (name) _____

Signature _____ Date _____

*Delete as appropriate

Appendix B

Definition of motor vehicles

Category	Definition
M	A motor vehicle with at least four wheels designed and constructed for the carriage of passengers
M1	Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat
M2	Vehicles designed and constructed for the carriage of passengers and comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding five tonnes
M3	Vehicles designed and constructed for the carriage of passengers and comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding five tonnes

Hackney Carriage and Private Hire – Inspection sheet (back)

If your vehicle has failed the test please read the following notes

- 1 Your vehicle does not meet the legal requirements. You should have it repaired without delay and you are not to use the vehicle for hire and reward until such repairs are carried out.
- 2 It is an offence to use on a public road a vehicle of testable age that does not have a current certificate of compliance, except when:
 - bringing it away from a testing station after it has failed the test
 - taking it to or bringing it away from a place where by PREVIOUS ARRANGEMENT repairs are to be or have been made to remedy the defects for which the vehicle was failed
 - taking it to the testing station for a test booked in advance

Even in the above circumstances you may still be prosecuted for driving an unroadworthy vehicle if it does not comply with the various regulations affecting its construction and use.

Additionally the insurance may not be operative.

- 3 A FULL FEE IS PAYABLE IF:
 - a the vehicle is submitted for retest at the testing station more than seven days after being failed
 - b having been presented for a retest, fails any subsequent test

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Chapter 12: Vehicle age limits

Objective:

“To prescribe vehicle age limits based on local empirical evidence and in order to promote public safety and confidence in the licensed hackney carriage and private hire fleet.”

1.0 The Legal Provisions

- 1.1 The 1847 act is silent on age limits for hackney carriages. Likewise, the 1976 act makes no specific reference to age limits for vehicles but permits for the imposition of conditions on both hackney carriage and private hire vehicle licences.
- 1.2 The “fitness” of a licensed vehicle is of paramount consideration and licences may be suspended, revoked or not renewed if the committee is satisfied that a licensed vehicle is “unfit for use”.

2.0 Current Policy on Age Limits

- 2.1 Some council’s impose age limits on vehicles and some do not.

Vehicle age limits have been applied in Portsmouth for many, many years. This has been by way of a local policy directive and as a “pre-application” requirement for both proprietors of hackney carriages and private hire vehicles.

Historically, there was an old “split rule” for “normal” saloon vehicles to remain licensed until 8 years of age (with an entry age of 5 years or under) and London approved FX type vehicles being licensed for up to 12 years.⁸⁰

- 2.2 Corresponding vehicle licence conditions have been imposed to reflect on the vehicle age limits approved by the committee.
- 2.3 Proprietors have a right of appeal to the Magistrates’ against conditions imposed on respective hackney carriage and private hire vehicle licences.

- 3.0 The current vehicle age limits approved are as follows:
 - For all hackney carriage and private hire saloons, hatchbacks, estates and multi people vehicles (MPV’s) - the vehicle must be **under 6 years of age on first licensing and can remain licensed until 8 years of age;**
 - For suitable adapted fully wheelchair accessible hackney carriages (including those meeting the Transport for London and old PCO specifications) and having a minimum nearside loading for wheelchair users – the vehicle must be **under 4 years of age on first licensing and can remain licensed until 12 years of age – (minute 23/2006 refers).**⁸¹

The local vehicle age limit policy directives/ conditions have stood the test of time and have not been subject to judicial challenge.

However vehicle proprietors have approached the Licensing Committee direct to seek a further vehicle licensing period on individual merit. In some cases the committee have agreed to extend a vehicle licence – in others, they have not. The overall mechanical fitness and comfort of the vehicle (together with the individual vehicle servicing and maintenance history) have been of paramount importance to the committee.⁸²

Equally, the committee has chosen, in the past, to waive the current “entry” 6 year age limit policy for unique vehicles such as older Lincoln Town cars (stretched limousines) and converted Volvo fire appliance vehicles used as “novelty fun vehicles”. Again, an emphasis of individual consideration, on merit, has applied.

- 3.1 There is nothing wrong in having clear local guidelines on vehicle age limits (to aid both proprietors, officers and members alike) and accordingly the committee has robustly defended the use of a local vehicle age limit policy on the grounds of public safety but have not “closed their eyes and ears” to hearing a case on merit.⁸³

However, the committee would expect a proprietor to bring evidence of an exemplary mechanical and cosmetic history to support any extension of a vehicle licence.

3.2 Comparative vehicle age limits from other local authorities in Hampshire is shown below:

Authority	Vehicle age at first licensing	Maximum vehicle age	Notes
Portsmouth – saloon style	under 6 years	8 years	
Portsmouth – wheelchair accessible	under 4 years	12 years	
Southampton – saloon style	nil	9 years	(under review)
Southampton – wheelchair accessible	nil	12 years	(under review)
East Hants	under 5 years	no upper age limit	
Fareham	under 2 years	no upper age limit	officer discretion
Test Valley	under 5 years	13 years*	*reducing to 10 years
Basingstoke	under 3 years	8 years*	*may cease earlier depending on test results
New Forest	nil	nil	officer discretion
Rushmoor	based on EU emission standards		
Havant	under 5 years	no upper age limit	
Winchester	under 3 years	6 years	officer discretion
Gosport	under 3 years	8 years	officer discretion
Hart	under 3 years	7 years	6 month licence issued
Eastleigh	under 15 years		
Isle of Wight	under 3 years	no upper age limit	



4.0 Best Practice Guidance⁸⁴

4.1 The Department for Transport guidance states...
.....*"It is perfectly possible for an older vehicle to be in a good condition. So the setting of an age limit beyond which a local authority will not licence vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be more appropriate for older vehicles – for example, twice yearly tests for vehicles more than 5 years old"*.

4.2 The council notes but does not entirely agree with the guidance. In an ideal world, vehicle proprietors should not have to face barriers to "renew" existing vehicle licences year after year; BUT the empirical evidence gleaned from the analysis of the 2014 vehicle test results shows that older vehicles have a higher failure rate than those younger and newer vehicles.

The results of the 2014 vehicle testing data analysis showed a test failure rate of 85% for vehicles aged 9 years and over. Equally, the noted failure rate for vehicles aged between 6 – 9 years of 78% is also of concern.

5.0 The current age limit policy favours a longer life for wheelchair accessible hackney carriage vehicles (up to 12 years) but corresponding wheelchair accessible private hire vehicles are only permitted to remain licensed until 8 years.

5.1 This anomaly reflected a previous desire to "recognise" the virtues of the then approved "Public Carriage Office purpose built taxis"⁸⁵ which were built for the specific demands of public conveyance and had a purpose built chassis and running gear. The universally recognised vehicles were the iconic "London cab" Fairway and FX range (now the LTI TX range) and the Metrocab. Other vehicles such as the Eurotaxi are now PCO (as was) compliant.

However, the current 12 year age limit for all locally approved wheelchair accessible hackney carriages is NOT based on a recognition of all these vehicles being "purpose built" and the differing age limit standard between those wheelchair hackney carriages and wheelchair private hire vehicles should be addressed. This should be to either increase the private hire wheelchair accessible vehicles (WAV) to 12 years (if existing policy were to be maintained) or to reduce both classes of WAV hackney carriage and private hire vehicles to a similar age.

6.0 **There should be a drive towards recognising and licensing a fleet of younger, cleaner and greener vehicles working in Portsmouth. The evidence in the "Vehicle Testing Requirements" chapter supports this stance.**

This view is shared by your reporting staff, the Environmental Health Manager, the Transport Manager and Adams Morey.

Ironically, the evidence suggests that vehicle proprietors are presenting newer vehicles for initial licensing anyway with 40% of new private hire or hackney carriage vehicles licensed in 2014 being brand new or under 1 year old at first licensing. This may be due to competitive finance deals together with a desire to drive a modern and more fuel efficient vehicle.

6.1 As a consequence, it is recommended that vehicle age limits be retained (and modified) subject to an individual proprietor's right to have his/her case heard before the Licensing Committee (or sub - committee) on individual merit.

Resolved

1. That minute 23/2006 be rescinded.
2. That, as a matter of local policy and condition for both hackney carriage and private hire vehicle licences; all private hire and hackney carriage vehicles presented for initial licensing shall be **under 3 years of age** on first licensing and may remain licensed until **8 years of age** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
3. That any vehicle presented for a **temporary use** licence shall be **under 1 year old** and provided the vehicle is mechanically fit and supported by an evidenced service history in line with the manufacturer's guidelines.
4. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 13: CCTV provision in vehicles

Objective:

“To protect the safety and welfare of drivers, passengers and other road users by requiring the mandatory provision of CCTV digital camera recording equipment in licensed hackney carriage and private hire vehicles”

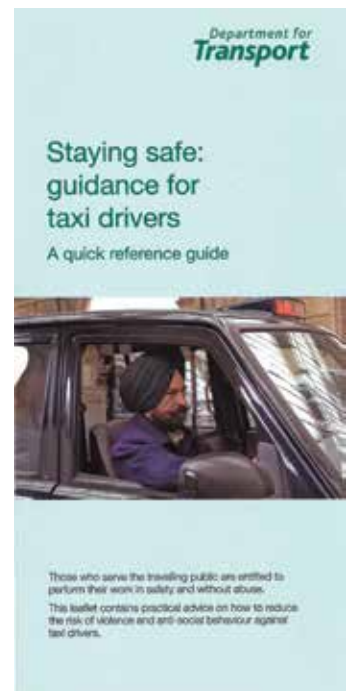
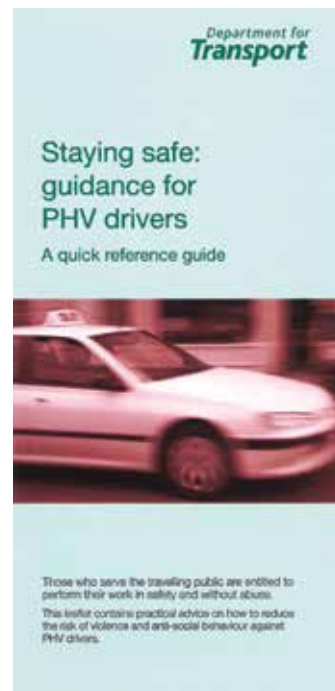
1.0 The Legal Provisions

- 1.1 The use of modern digital visual and/or audio camera recording equipment post-dates the 1976 act and, not surprisingly, there is nothing in the taxi or private hire legislation that reflects on this important and now common aspect of public and personal protection.
- 1.2 CCTV surveillance camera devices which process personal data/information must comply with the principles of the Data Protection Act 1988. Operators of surveillance cameras must register with the Information Commissioner and have due regard to the current best practice guidance issued by the Information Commissioner’s Office.⁸⁶
- 1.3 Underpinning the 1988 act are the “data protection principles”
Equally, regard should also be given to the code – “Surveillance Camera Code of Practice” and issued by the Secretary of State pursuant to the Protection of Freedoms Act 2012.
All data controllers should follow the code
- 1.4 The use of CCTV in licensed vehicles in Portsmouth is currently voluntary with no conditions of vehicle licence or policy directives in place to permit or control “in car” CCTV systems. The council has hitherto taken a neutral stance on the provision of CCTV in licensed vehicles.

2.0 Best Practice Guidance

- 2.1 The Department for Transport guidance recognises that the personal security of both hackney carriage and private hire drivers is a prime consideration. Councils’ are reminded of the Crime and Disorder Act 1998 which requires the committee to consider crime and disorder reduction measures.

- 2.2 The guidance states “The owners and drivers of vehicles will often want to install security measures to protect the driver. Local licensing authorities may not want to insist on such measures, on the grounds that they are best left to the judgement of the owners and drivers themselves. But it is good practice for licensing authorities to look sympathetically on – or actively to encourage – their installation. They could include a screen between driver and passenger or CCTV”.
- 2.3 The department has previously produced helpful guidance in leaflet format for drivers – “Staying safe – guidance for taxi drivers” and “Staying safe – guidance for private hire drivers”⁸⁷:



The department’s staying safe advice in respect of CCTV was:

“Installing CCTV cameras has been shown to lead to reduced threats and violence against drivers. Signs in the vehicle can highlight the presence of CCTV to passengers. Cameras can be bought or rented and the cost may be offset by reduced insurance premiums. They can be useful when there is a dispute with a passenger – it is not just your words against theirs”.

3.0 The use of CCTV

3.1 The use of any form of surveillance system should be carefully considered and where necessary a “privacy impact assessment” should be conducted by those persons wishing to install such devices. In terms of “in car systems” – It is clear that there are benefits to both the driver (and vehicle owner) as CCTV provides unequivocal evidence.

3.2 Any “blurring or confusion” between the perceived truth and actual events in any one particular matter can be established quickly – this would help not only your reporting staff in dealing with any complaints but will also allow drivers to collate good evidence in respect of assaults, racial (or other abuse) and assist greatly in dealing with persons making off without payment.

This became more apparent in 2013 with the trade expressing concern to both the Police and the council about racially motivated attacks and verbal abuse being directed at both hackney carriage and private hire drivers; and a concern about persons not paying a cab fare at journey’s end.

Meetings were held between the council, taxi trade and the Police to identify the core concerns and questionnaires were distributed amongst the trade. Of the 167 returns received 65% of drivers had experienced a crime against them with over 90% of respondents reporting that making off without payment was the most common crime.⁸⁸

This resulted in the council endorsing the “payment up front” for longer journeys and the “Pay Your Fare” campaign car stickers as shown below:

PLAY FAIR. PAY YOUR FARE.
Payment up front may be requested for some journeys

Portsmouth City Council and Hampshire Constabulary are working in partnership to reduce crimes against licensed drivers.

The Safer Portsmouth Partnership fully supports the rights of all drivers to receive a fare based on time and distance travelled and reminds passengers:

- Help the driver take the best route by stating clearly the destination(s) for your journey.
- Always pay your way – if you don't pay and get caught you could be fined, go to prison and have a criminal record for life*.
- Fares are set by the council or company operating the vehicle. If necessary, please ask the driver for a receipt.
- Remember – someone is always watching, and the car may have CCTV installed.

In an emergency call the police by dialling 999.

*Fraud Act 2006 - Section 11

PAY YOUR FARE

www.portsmouth.gov.uk

3.3 The continued success or otherwise of such partnership working can only be enhanced with the use of robust evidence provided by CCTV images.

The chief officer of Police supports the use of CCTV in licensed vehicles.

Hackney carriage and private hire drivers are vulnerable and one of the few forms of current local public transport provider that are not protected by CCTV. Evidence of criminal behaviour or criminal activity caught on camera would be both a deterrent and subsequent benefit in any criminal proceedings.

3.4 On occasion, the committee has had to deal, by way of disciplinary hearings, with drivers allegedly involved in sexual contact with passengers or instances of passengers making false statements about the conduct or actions of drivers – particularly when a dispute over a fare was at the heart of any issue. Either way, the use of CCTV may help bring clarity to such issues.

3.5 It is accepted that evidence may be used to address concerns about the conduct of an individual driver – particularly when involved in a road traffic incident with another car, cyclist or pedestrian. This may result in disciplinary action by way of suspension, revocation or non-renewal of a driver licence OR the imposition of penalty points and an instruction to undertake further driver awareness training.

The committee is aware of concerns about personal injury collisions involving licensed vehicles and other road users in Portsmouth and members received a report and statistical data on this subject in November 2014. Although further enforcement and/or driver training may help address these concerns – the use of CCTV to identify and provide empirical evidence would be helpful to all agencies including the committee in dealing with the aftermath of road traffic incidents.

3.6 There has been a significant local shift in vehicle owners using in car CCTV surveillance systems to thwart spurious insurance and “cash for crash” claims.

This has led to one well known taxi insurer offering to subsidise both the installation costs and subsequent insurance premiums for Portsmouth fleet owners and individual owner drivers who install a competent CCTV system in their vehicle.

3.7 The initial costs of any CCTV system may be recoverable as an allowable business expense for tax purposes. It is understood that a competent system can be purchased and installed for about £250.

4.0 Locally, the committee and/or officers have benefitted in their decision making by seeing actual CCTV footage of incidents relating to⁸⁹:

- A night driver seen doing u turns, bumping up the kerb and doing “figure of 8” manoeuvres in a licensed vehicle whilst driving in Milton Road in an apparent bizarre attempt to locate the source of an unknown “knocking” noise from the vehicle
- A night driver who pulled the handbrake on whilst travelling at over 70mph on the M275 (with passengers on board) causing an accident and slight injuries to the passengers (see below still image)

- A hackney driver who failed to give way at a side road and proceeded to cross a busy junction hitting an on-coming private hire vehicle travelling along Winter Road (see below still image)



Licensing staff have dealt with (and continue to deal with) many complaints about taxi and private hire drivers where evidence from CCTV footage would have been extremely helpful in determining both the facts and weight of evidence in any one case.

4.1 All this points towards an acceptance that the use (and benefits) of appropriate recording media in licensed vehicles is fair, proportionate and human rights compliant and outweighs any “right to privacy” concerns.

4.2 Although it is pleasing to see a voluntary move by proprietors to installing CCTV (about 150 vehicles so far), your reporting officers recommend the formal introduction of a condition for respective hackney carriage and private hire vehicle licences to require the mandatory use of CCTV in most working vehicles.

Whilst the drivers of independent hackney carriages are the most vulnerable form of transport provider (with no immediate operator radio back up) – all “town” working cars are subject to some degree of risk, no matter how small. Equally, accidents can happen to any driver and vehicle irrespective of work type or mode.





4.3 There will be some exceptions to the rule.

4.4 The risk of violence, threat or intimidation however towards an airport or other business type driver is very small. Accordingly, there should be a presumption in favour of requiring all licensed vehicles to have CCTV with the exception of:

- Airport only vehicles
- Vehicles used mainly for executive account type work

And that the head of service be authorised to grant such dispensations to proprietors from the requirement to have CCTV on individual merit.

4.5 Should the committee endorse the mandatory use of in car CCTV cameras by way of formal condition, there should be a presumption in favour of a “phased in” approach to allow both vehicle proprietors and system installers’ time to comply with any new committee directives.

5.0 The council considers that all proprietors providing in car CCTV camera surveillance SHOULD be registered as a data controller with the Information Commissioner’s Office accordingly.

For this purpose, the “data controller” is deemed to be the company, organisation or individual (including those working in partnership) who have decided to have the CCTV installed in the vehicle. The data controller will be responsible for processing and exercising control over personal information together with how images are stored and how they should be disclosed. Data controllers must ensure that any processing of personal data for which they are responsible complies with the 1988 act. Failure to do so risks enforcement action, even prosecution, and compensation claims from individuals.

5.1 Evidence of initial registration and annual renewal with the ICO may be requested by any authorised officer.

5.2 The specification (or guidelines) for the use of “approved” camera surveillance systems in Portsmouth vehicles should be as wide as possible. There appears to be no need to over subscribe the minutiae of any technical guidelines or specification – particularly as this is a fast moving industry with rapid technological advances and changes.

5.3 Recommended guidelines for the use of CCTV in licensed vehicles (and which appear to be based on industry best practice) are shown below:



General

All equipment must be designed, constructed and installed in such a way and from such materials as to present no danger to the driver or passengers, including any impact against the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

Specifications

- The equipment must be permanently wired to the vehicle power supply
- The equipment to have a clear serial or other unique identification number
- The equipment must not obstruct the driver's view of the road ahead
- The camera(s) must record both forward and rear facing images
- Images to be clear, date and time stamped, in colour and in high definition
- There must be no facility to view recorded images from within the vehicle
- The equipment should be removable from the vehicle when not working and not kept on permanent display
- The equipment must be tamper proof
- The equipment must have a built in battery back up
- There must be a GPS tracking and positioning function together with integration with the vehicle electrics to determine, for example, vehicle speed
- There must be an auto record function whether by ignition switch turn, door opening, person motion sensor or vehicle in motion sensor and NOT just activated by the driver alone.
- The equipment to have a minimum of 31 days image recording and storage capacity
- If an audio function is provided - this must be set in the default OFF position AND ONLY ACTIVATED BY TRIGGER OR PANIC BUTTON FUNCTION⁹⁰
- All equipment shall be installed, maintained and serviced by a competent and/or authorised person
- A simple operator user manual shall be provided on demand
- All stored images to be protected with no unauthorised access and all images shall be encrypted
- Any requested images shall be capable of viewing and play back using industry standard software
- Clear and prominent signs within the vehicle giving details of the organisation/person/purpose and contact details should be provided where possible

- 6.0 The data controller is likely to receive requests from authorised council officers, the Police, insurance companies and possibly members of the public to view any relevant data including visual or audio and will be responsible for responding to such requests. Formal requests in writing or by electronic means and specifying why the disclosure is required will be made.

Data controllers may charge members of the public making a request for the disclosure of any images in line with the ICO current code of practice.

Resolved

1. That the Licensing Committee endorse and approve the mandatory use of in car CCTV camera surveillance in both licensed hackney carriage and private hire vehicles (to include "temporary use" vehicles).
2. That any camera system installed in a licensed vehicle shall comply with the technical specifications referred to in **5.3**.
3. That the committee approve the following new condition for both hackney carriage and private hire vehicle licences:

The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days. The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the committee for the time being in force.

The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.

The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.

The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.

4. That "airport only" vehicles and vehicles used mainly for executive account type work be exempted from the requirement to have CCTV installed and the head of service be given delegated authority to grant such exemptions to vehicle proprietors on individual merit.
5.
 - i) That all existing licensed hackney carriage and private hire vehicles as appropriate be fitted with compliant CCTV cameras by **30 September 2017**.
 - ii) That any newly licensed hackney carriage or private hire vehicle from 1 April 2016 onwards be required to be fitted with compliant CCTV cameras with immediate effect.
6. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate only with these proposals.

Chapter 14: Conditions of licence and byelaws

Objective:

“To promote public safety and to maintain high local standards by the imposition of conditions for the supervision and control of:

- hackney carriages and their proprietors
- private hire vehicles and their proprietors
- private hire operators
- private hire drivers”

1.0 The Legal Provisions

1.1 The 1847 act does not permit the council to impose conditions on the grant (or renewal) of either a hackney carriage licence or a hackney carriage driver licence.

1.2 The 1976 act permits for the imposition of conditions considered “reasonably necessary” to regulate the following licence types:

- Private hire drivers
- Private hire vehicles
- Private hire operators
- Hackney carriages

1.3 Respective licences are considered granted or renewed for each (licensing period) subject to any approved conditions imposed. Proprietors, operators and drivers have a right of appeal direct to the Magistrates’ if aggrieved by the conditions but may only do so within restricted time periods following the grant or renewal of the licence under consideration.

1.4 It is accepted common ground that conditions cannot be imposed on hackney carriage drivers licences and no express power is found in the 1976 act to do so. The council will look to the local byelaws made pursuant to the 1847 act to control hackney carriage drivers.⁹¹

1.5 However, there is nothing to prevent the council from adopting a policy of requiring hackney carriage drivers to provide required information (by way of the renewal process) and to also seek further information at any other reasonable time about medical fitness, convictions etc to determine overall fitness to drive.

2.0 The operator, vehicle and driver conditions currently imposed by the council are based on those standard models recommended by the then Association of District Councils (“ADC”) and originate from guidance published in 1978.



2.1 The conditions are in urgent need of review both to reflect modern working practices in the respective hackney carriage and private hire trades and also to comply with the generally accepted principles of good administrative law in that⁹²:

- The conditions should be precise and enforceable
- The conditions should be clear with an emphasis on “must”, “shall” and “will”
- The conditions should not duplicate other statutory requirements or duties
- The conditions should be proportionate, justifiable and capable of being met
- Standard conditions can be utilised but local circumstances can/will dictate local criteria for the imposition of special conditions

2.2 Conditions should also normally reflect on any local policy and/or other directives (such as vehicle specification and age limits) approved by the committee.

Sometimes there may be local policy matters that are seen as a “pre-requisite” to obtaining a licence (such as a vehicle colour or vehicle age on entry to the trade) and these will be considered as “pre-application” specification requirements and expressed as being conditional once a licence has been granted.

It is important that in formulating policy and conditions (and in exercising any discretionary powers) that they should be capable of withstanding any “*Wednesday unreasonable*” test challenge.⁹³

Conditions should also be reviewed on a regular basis.

2.3 The standard conditions must be approved and adopted by the committee as there is no delegated power to your reporting staff to implement or confirm conditions.

Persons likely to be affected by any conditions should be given advance opportunity to make representation or comment – particularly if there is any apparent concern about the vires of the conditions under consideration.

There may be occasion when your reporting staff would wish to impose “special conditions” on an individual licence for unique and individual circumstances (such as the requirement to carry out medical enquiries) and to subsequently “remove” those special conditions once complied with.

At present, the scheme of delegation does not permit officers to impose such conditions on an individual licence and permission is sought for an appropriate scheme of delegation to be put in place accordingly.

2.4 **The proposed new and revised conditions are attached as appendices A, B, C and D respectively.** They reflect on the good practice guidance mentioned in paragraph 2.1 above. They are guided by the overall concept of “fit and proper” and the desire to promote public safety.

2.5 A “less is more” approach has been adopted in order to minimise confusion and jargon to the trade. Pages and pages of convoluted and heavily scripted conditions are hardly likely to be easily remembered (or recognised) by either the trade or indeed your reporting staff.

3.0 A breach of conditions by a licence holder may not necessarily be an offence at law and may be enforced by the use of verbal or written warnings, points or a referral to the committee for consideration of any disciplinary action. An isolated breach may result in suitable verbal advice being given.

3.1 If the breach (for example an operator failing to keep records of vehicles operated by him) is an offence contrary to the 1976 act – then proceedings may be commenced by the City Solicitor if recommended by your reporting manager and where it is in the public interest to do so.

3.2 **It is imperative, for the purposes of local control and consistency, that drivers, vehicle proprietors and operators understand their respective obligations under the conditions and accept that the council will take strong and firm enforcement action to support compliance with the conditions.**

Byelaws

www.portsmouth.gov.uk

with respect to
Hackney Carriages in
the City of Portsmouth

To be kept in vehicle at all times

4.0 Byelaws

- 4.1 The council has adopted byelaws for the control and supervision of hackney carriages, their proprietors and drivers. The enabling provision is contained within section 68 of the 1847 act. The byelaws were approved by the council in 1970 and subsequently by the Secretary of State in 1971.
- 4.2 The byelaws have been slightly modified to reflect, for example, the need for vehicles to attend the council's nominated garage but overall are based on the "model" byelaws from 1974.
- 4.3 The current byelaws are attached **as an appendix.**
- 4.4 The Department for Transport has issued guidance to local authorities on the making (or amending) of byelaws and expects local authorities to "base their byelaws" on the prescribed national model. It is not an easy process to seek and obtain approval to deviate from the wording of the model byelaws.⁹⁴

- 4.5 The council has used the byelaws to prosecute hackney carriage drivers for offences of failing to remain with a carriage when first turn on a rank, failing to behave in a civil and orderly manner and failing to wear a badge.

Alternatively, however, "byelaw offences" have also attracted the healthy imposition of penalty points to deal with minor and "one off" breaches – particularly say with hackney drivers "over ranking".

- 4.6 Although slightly archaic in wording, the byelaws remain a useful enforcement tool and, as a consequence, there are no proposals to consider any amendments to the current byelaws.

Resolved

1. That the Licensing Committee approve and adopt the revised conditions of licence for hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers and with immediate effect.
2. That the head of service be authorised to impose such further "special conditions" on individual licences, as considered appropriate and proportionate, and in respect of hackney carriage vehicles, private hire operators, private hire vehicles and private hire drivers. But this authority is NOT to be used to amend or vary any of the prescribed standard conditions.
3. That the conditions of licence for hackney carriages, private hire operators, private hire vehicles and private hire drivers be reviewed every 3 years.
4. That the use of the current adopted byelaws be endorsed and noted.



PRIVATE HIRE OPERATOR'S LICENCE **Local Government (Miscellaneous Provisions) Act 1976**

PORTSMOUTH CITY COUNCIL being satisfied that the applicant is a fit and proper person and pursuant to section 55, Local Government (Miscellaneous Provisions) Act 1976 hereby grant a licence to operate private hire vehicles to:

Name of operator(s):
Operator trade name:

Trading address:

Date licence granted:
Date licence expires:

Signed on behalf of the Head of Service
(Authorised Officer)

NOTES

- This licence is issued subject to compliance with the act and any standard/special conditions shown over
- This licence will expire on the date shown unless previously suspended or revoked
- Appeal provisions apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew an operator licence
- An authorised officer may request the production of this licence
- Every contract for the hire of a private hire vehicle is deemed to be made with the operator

CONDITIONS OF LICENCE

1. The licence is not transferable to any another person nor does it authorise the operator to operate from any addresses other than that and/or those specified in the licence.
2. 1) The operator shall notify the council within 24 working hours of any change to the:
 - Trading name of the operator
 - Telephone numbers utilised by the operator
 - The email and world wide web address utilised by the operator
 - The name and contact details of any staff authorised to act on behalf of the operator for the purposes of exercising supervision of vehicles and their drivers

2) The operator shall notify the council within 24 hours of any arrest, detention or charges being preferred against them or the imposition of any conviction, caution, reprimand or warning.
3. 1) The operator shall record and keep the name, address and contact telephone and/or email details of any person(s) making any complaint about a licensed vehicle or driver (whether hackney carriage or private hire) for a period of 6 months after receipt;
- 2) The operator shall, at the request of any authorised officer, forward the complaint details referred to in 3(1) above, together with the details of the relevant vehicle(s) and driver(s) concerned, to the council and within 24 hours of such a request being made;
- (3) The operator **must notify the council immediately** (or on the next available working day if after normal office hours) of any complaint received and recorded against a licensed vehicle or driver that affects either the public safety or fitness of the vehicle or driver. Any voice recording of a complaint shall be retained and forwarded to an authorised officer upon request.
4. The operator shall maintain a current and updated record of all vehicles and drivers (private hire and hackney carriage) affiliated to the operator and shall record as a minimum:
 - The registration number, council plate number and any unique call sign given by the operator to that vehicle
 - The full name, council badge number and any unique call sign given by the operator to that driver

And shall provide such details about vehicles or drivers to an authorised officer of the council within 24 hours upon such a request being made.
5. The operator shall maintain, for a period of 12 months, a record of every booking for a private hire vehicle or hackney carriage vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator (from within the district or elsewhere) and shall produce such records, including transcripts of any phone calls associated with a booking, within 24 working hours on request to any authorised officer of the council or to any Police Officer.

The records shall contain:-

 - (a) The time and date the booking was made;
 - (b) The name and contact telephone details of the hirer;
 - (c) The time and date of the pick-up address
 - (d) The destination(s)
 - (e) The vehicle and driver details allocated to the hiring.
 - (f) If available, and for a period of 6 months, the Global Positioning Signal (GPS) vehicle tracking movements for the booking
 - (g) A unique identifier and reference in respect of all bookings for a private hire vehicle accepted by the operator from another Portsmouth operator OR from a person licensed to operate outside of Portsmouth and bookings passed on to another operator whether within Portsmouth or elsewhere
6. Any proposed company (or other) operator advertisement (whether for display on or from a vehicle or from a building) shall be forwarded to the council and approved by an authorised officer, in writing, at least 7 days prior to such advertisements being displayed.
7. An operator must not refuse the carriage of a passenger in a licensed vehicle by reason of the fact that the passenger is disabled or requires to have with him/her a wheelchair or other facility of reasonable size for the disabled.
8. The operator shall, when operating under the terms of this licence, have regard to the requirements of the Town and Country Planning Act 1990 (as amended).
9. The operator shall provide to the council a table of all current fares and charges associated with the hire of a private hire vehicle and shall further submit any amendment/variations to such table of fares to the Council within 7 days of such changes being made.



10. The operator shall retain any lost property left in a licensed vehicle (and given to him by a driver or owner driver) for a minimum period of 28 days and arrange for the disposal of same as he sees fit should the property not be claimed by the owner.

TO BE READ IN CONJUNCTION WITH OUR LEAFLET “CONDITIONS OF LICENCE AND ENFORCEMENT”

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This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to www.portsmouth.gov.uk and search for 'National Fraud Initiative'.

PORTSMOUTH CITY COUNCIL, Licensing Service,
Civic Offices, Guildhall Square, Portsmouth, PO1 2AL

Telephone (023 9283 4830/023 9268 8519) • Fax (023 9283 4811) • Email: Licensing@portsmouthcc.gov.uk

ADDITIONAL INFORMATION

Please note that this information does not form part of your licence conditions but is provided for information purposes.

SMOKING

Since 2007 provisions contained in the Health Act 2006 prohibits the smoking of tobacco or any other substance by **any person** in a licensed vehicle. The legislation applies at all times whilst the vehicle remains licensed, thus smoking remains prohibited when the vehicle is not hired or not for hire.



Every licensed vehicle is required to carry appropriate signage under the Smoke free (Signs) Regulations 2007.

ASSISTANCE DOGS

The Equality Act 2010 imposes a duty on licensed drivers and operators to convey any guide, hearing or other assistance dog in a licensed vehicle.

Drivers must:

- carry assistance dogs accompanying disabled people;
- allow the dog to remain with the passenger

Operators must:

- accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or other assistance dog;
- accept bookings made by a person who will be accompanied in a PHV by such a disabled person; and
- not make an additional charge for carrying the assistance dog

Exemptions

If a driver has a medical condition, such as severe asthma, which is aggravated by contact with dogs, or is allergic or has an acute phobia to dogs, it may be possible for them to qualify for an exemption. Please discuss this with the Licensing Service in the first instance, to whom application for exemption must be made. The driver will be required to produce conclusive medical evidence in support of any exemption application.

There is a right of appeal to the Magistrates' Court against the refusal to issue an exemption certificate.

Please note that the law does not allow for an exemption to be granted on religious grounds.

An operator cannot claim an exemption from the above requirements.





HACKNEY CARRIAGE LICENCE

Town Police Clauses Act 1847

Public Health Act 1875

Local Government (Miscellaneous Provisions) Act 1976

PORTSMOUTH CITY COUNCIL pursuant to sections 37 and 40 of the Town Police Clauses Act 1847 hereby grant a licence to use the vehicle specified below as a hackney carriage and licensed to stand and ply for hire within the said city

Name and address of proprietor(s):

Make and model:

Registration number:

Licence number:

Licensed to carry:

Date of next mechanical test:

Date licence expires:

Signed on behalf of the Head of Service
(Authorised Officer)

NOTES

- This licence is issued subject to compliance with the said acts, byelaws and any standard/special conditions shown
- This licence is NOT transferable to another vehicle unless a formal application has been submitted and approved
- This licence will expire on the date shown unless previously suspended or revoked
- Appeal provisions generally apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew a vehicle licence
- An authorised officer may request the production of this licence

CONDITIONS OF LICENCE

1. The vehicle must not be over **3 years old** on first licensing and may, at the discretion of the council, remain licensed **until 8 years old** (plus the remainder of the licensing period for that licensing year) subject to satisfactory mechanical inspection and testing.
2. The vehicle must be a uniform silver in colour.
3. The proprietor shall ensure that the vehicle is maintained and serviced in accordance with the manufacturer's guidelines and recommendations and shall keep documentary evidence of such servicing and maintenance records for inspection by an authorised officer upon request.
4. The proprietor(s) shall notify the council within 24 hours of any arrest, detention or charges being preferred against them or the imposition of any conviction, caution, reprimand or warning.
5. The proprietor shall keep the interior and exterior of the licensed vehicle clean and comfortable at all times.
6. The vehicle licence plate shall be securely affixed to the rear of the vehicle and kept in public view at all times. The front windscreen licence disc and interior plate number shall also be on public view. The proprietor shall report any loss in respect of the vehicle licence, windscreen disc, interior plate number or rear licence plate to the council within 24 hours.
7.
 - 1) The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days. The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the council for the time being in force.
 - 2) The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.
 - 3) The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.
 - 4) The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.
8. The vehicle shall exhibit the prescribed local "TAXI" roof sign which shall be illuminated when the vehicle is for hire. The roof sign shall comply with any specifications approved by the council for the time being in force.
9.
 - 1) No interior or exterior signs, adverts, notices or any other wording shall be publicly displayed from a licensed vehicle without the prior written consent of the council. A proprietor shall submit any signage for approval and for display from the front doors only to the council at least 7 days prior to such proposed use and shall NOT display any signage until written approval has been given by an authorised officer.
 - 2) 9(1) above shall not apply to the following:
 - Any prior approved Portsmouth private hire operator windscreen and/or rear window sign stating the trade name and/or telephone number and www address of the licensed Portsmouth operator.
 - Any prior approved Portsmouth private hire operator signage (permanent and not magnetic) or approved proprietor signage displayed from the front doors of the licensed vehicle only.
 - The local mandatory (permanent and not magnetic) display of the council's corporate livery for hackney carriages as may be from time to time prescribed by the council.
 - 3) A proprietor shall only display on or from the vehicle **one set** of approved Portsmouth operator signage as required in 9(2) above at any one time.
10. The vehicle shall be fitted with an accurate clock calendar controlled taximeter incorporating a progressive function. The meter shall be clearly displayed and maintained in accordance with the byelaws.
11. The proprietor shall ensure that the licensing record "white book" prescribed by the council shall be carried in the vehicle at all times and made available for immediate inspection by any authorised officer of the council.



12. The proprietor shall give not less than 7 days prior written notice to the council of the introduction of any further tariff or table of fares for the use of a hackney carriage under a contract or purported contract for private hire or any subsequent amendment thereto.

TO BE READ IN CONJUNCTION WITH OUR LEAFLET "CONDITIONS OF LICENCE AND ENFORCEMENT"

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This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to www.portsmouth.gov.uk and search for 'National Fraud Initiative'.



PRIVATE HIRE DRIVER'S LICENCE

Local Government (Miscellaneous Provisions) Act 1976

PORTSMOUTH CITY COUNCIL pursuant to section 51 Local Government (Miscellaneous Provisions) Act 1976 hereby grant a licence to the person specified below to act as the driver of any private hire vehicle licensed by the said council

Name of licence holder:

Address:

Licence number:

Date licence granted:

Date licence expires:

Signed on behalf of the Head of Service
(Authorised Officer)

NOTES

- This licence is issued subject to compliance with the said act and standard/special conditions shown over
- This licence is NOT transferable and will expire on the date shown unless previously suspended or revoked
- An authorised officer may request the production of this licence within 5 days
- Appeal provisions apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew a driver's licence

CONDITIONS OF LICENCE

1. **A)** The driver shall notify the council within 24 hours of any changes to:

- Their name, address, telephone or email contact details
- Any medical condition that might affect an ability to drive professionally to the group 2 vocational standard
- Their driving licence so far as this relates to the imposition of penalty points, any other endorsements, fines or disqualifications
- Their Disclosure & Barring Service enhanced check certificate so far as this relates to the imposition of any convictions, cautions, reprimands or warnings
- Their right to work or reside in the UK.

B) The driver shall notify the council within 24 hours of any arrest, detention or charges being preferred against them.

2. The driver shall be clean and tidy in appearance and shall at all times be dressed in a manner so as not to cause offence to members of the public. If the operator has provided for drivers to abide by a corporate "company" clothing policy when working - the driver shall wear such branded clothing.

The driver shall wear appropriate foot wear and no flip flops shall be permitted.

3. The driver shall behave in a civil and orderly manner at all times.

4. The driver shall take all reasonable precautions to ensure the safety and comfort of persons travelling in the vehicle and shall give assistance in helping persons in and out of the vehicle when requested. Further, the driver shall give reasonable assistance with loading and unloading of any luggage to and from the entrance of any house or other place where he collects or sets down any passengers.

5. **A)** The driver shall keep the interior and exterior of the licensed vehicle clean and comfortable at all times. The driver shall report immediately to the vehicle proprietor any apparent defect materially affecting the safety, comfort or roadworthiness of the vehicle.

B) The driver shall, unless previously claimed by the owner, hand any property left in the vehicle within 24 hours to the operator who provided the booking for the vehicle.

6. The driver shall not interfere with any installed CCTV media recording device and shall report immediately to the vehicle proprietor any apparent defect to the recording media. The driver shall ensure that the recording media (visual) is switched on at all times when the vehicle is working.

7. The driver shall ensure that the rear licence plate and interior front windscreen licence disc are on public view at all times and shall report immediately any loss to the vehicle proprietor.

8. The driver shall not carry more passengers than the "**licensed to carry**" number prescribed both in the vehicle licence and on the plate.

9. No driver shall refuse to carry a passenger in a licensed vehicle by reason of the fact that that passenger is disabled or requires to have with them a wheelchair or other facility of reasonable size.

TO BE READ IN CONJUNCTION WITH OUR LEAFLET "CONDITIONS OF LICENCE AND ENFORCEMENT"

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This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to www.portsmouth.gov.uk and search for 'National Fraud Initiative'.

ADDITIONAL INFORMATION

Please note that this information does not form part of your licence conditions but is provided for information purposes.

SMOKING

Since 2007 provisions contained in the Health Act 2006 prohibits the smoking of tobacco or any other substance by **any person** in a licensed vehicle. The legislation applies at all times whilst the vehicle remains licensed, thus smoking remains prohibited when the vehicle is not hired or not for hire.

Every licensed vehicle is required to carry appropriate signage under the Smoke free (Signs) Regulations 2007.



ASSISTANCE DOGS

The Equality Act 2010 imposes a duty on licensed drivers and operators to convey any guide, hearing or other assistance dog in a licensed vehicle.

Drivers must:

- carry assistance dogs accompanying disabled people;
- allow the dog to remain with the passenger

Operators must:

- accept bookings made by or on behalf of a disabled person who is accompanied by a guide, hearing or other assistance dog;
- accept bookings made by a person who will be accompanied in a PHV by such a disabled person; and
- not make an additional charge for carrying the assistance dog

Exemptions

If a driver has a medical condition, such as severe asthma, which is aggravated by contact with dogs, or is allergic or has an acute phobia to dogs, it may be possible for them to qualify for an exemption. Please discuss this with the Licensing Service in the first instance, to whom application for exemption must be made. The driver will be required to produce conclusive medical evidence in support of any exemption application.

There is a right of appeal to the Magistrates' Court against the refusal to issue an exemption certificate.

Please note that the law does not allow for an exemption to be granted on





religious grounds.

An operator cannot claim an exemption from the above requirements.





PRIVATE HIRE VEHICLE LICENCE

Local Government (Miscellaneous Provisions) Act 1976

PORTSMOUTH CITY COUNCIL being satisfied that the vehicle specified below is suitable in type, size and design; is mechanically suitable, safe and comfortable hereby grant, pursuant to section 48 Local Government (Miscellaneous Provisions) Act 1976, a licence to use the said vehicle as a private hire vehicle

Name and address of proprietor(s):

Make and model:

Registration number:

Licence number:

Licensed to carry:

Date of next mechanical test:

Date licence expires:

Signed on behalf of the Head of Service
(Authorised Officer)

NOTES

- This licence is issued subject to compliance with the said act and any standard/special conditions shown
- This licence is NOT transferable to another vehicle unless a formal application has been submitted and approved
- This licence will expire on the date shown unless previously suspended or revoked
- Appeal provisions generally apply against any conditions attached to the grant of a licence or to the suspension, revocation or refusal to renew a vehicle licence
- An authorised officer may request the production of this licence

CONDITIONS OF LICENCE

1. The vehicle must not be over **3 years old** on first licensing and may, at the discretion of the council, remain licensed **until 8 years old** (plus the remainder of the licensing period for that licensing year) subject to satisfactory mechanical inspection and testing.
2. No private hire vehicle licence shall be granted to any vehicle deemed to be silver in colour; and any licensed vehicle must be maintained in a colour other than silver.
3. The proprietor shall ensure that the vehicle is maintained and serviced in accordance with the manufacturer's guidelines and recommendations and shall keep documentary evidence of such servicing and maintenance records for inspection by an authorised officer upon request.
4. The proprietor(s) shall notify the council within 24 hours of any arrest, detention or charges being preferred against them or the imposition of any conviction, caution, reprimand or warning.
5. The proprietor shall keep the interior and exterior of the licensed vehicle clean and comfortable at all times.
6. The vehicle licence plate shall be securely affixed to the rear of the vehicle and kept in public view at all times. The front windscreen licence disc and interior plate number shall also be on public view. The proprietor shall report any loss in respect of the vehicle licence, windscreen disc, interior plate number or rear licence plate to the council within 24 hours.
7.
 - 1) The proprietor shall cause the vehicle to be fitted with a working and secure digital CCTV system (to capture both forward and rear facing colour images in high definition) and to retain such data for a period of 31 days. The installed CCTV to comply with any code(s) of practice issued by the Information Commissioner, the requirements of the Data Protection Act 1988 and any technical specifications approved by the council for the time being in force.
 - 2) The proprietor shall, within 7 days, give written notice to the council of the installation of any CCTV system in the vehicle to include the make, model and serial number of the equipment so installed.
 - 3) The proprietor shall check the system for malfunctions at least once a month and, if a repair or download is required, the vehicle may continue to be used provided any malfunction is rectified within 24 hours.
 - 4) The proprietor shall, upon receiving any enquiry or request from an authorised officer or Police officer, provide details of any stored images or audio recordings as the case may be.
8. The proprietor shall not display on or from the vehicle any roof sign, nor any notice or wording with the words "taxi", "cab", "for hire" or any other similar wording to suggest to the public that the vehicle is available for immediate public hire.
9.
 - 1) No interior or exterior signs, adverts, notices or any other wording shall be publicly displayed from a licensed vehicle without the prior written consent of the council. A proprietor shall submit any signage for approval and for display from the front doors only to the council at least 7 days prior to such proposed use and shall NOT display any signage until written approval has been given by an authorised officer.
 - 2) 9(1) above shall not apply to the following:
 - Any prior approved Portsmouth operator windscreen and/or rear window sign stating the trade name and/or telephone number and www address of the licensed Portsmouth operator.
 - Any prior approved Portsmouth operator signage (permanent and not magnetic) or approved proprietor signage displayed from the front doors of the licensed vehicle only.
 - The local mandatory (permanent and not magnetic) display of the council's corporate livery for the rear doors of private hire vehicles - "advanced bookings or pre-booked only" as may be from time to time prescribed by the council and with the exception of airport only vehicles and exceptional prestige vehicles.
 - 3) A proprietor shall only display on or from the vehicle **one set** of approved Portsmouth operator signage as required in 9(2) above at any one time.
10. Licensed 7 or 8 seater mini bus/MPV type vehicles may display "all over" Portsmouth operator signage including the trade name and/or telephone number and www address of the licensed operator together with any wheelchair accessibility provision. This shall NOT include window adverts or general vehicle wraps.

A proprietor shall submit any "all over" signage for approval to the council at least 7 days prior to such proposed use and shall



NOT display any signage until written approval has been given by an authorised officer.

11. The proprietor shall keep a copy of the operator's current fare chart (for private hire bookings) in the vehicle and make this available for public inspection at any time.
12. The proprietor shall ensure that the licensing record "white book" prescribed by the council shall be carried in the vehicle at all times and made available for immediate inspection by any authorised officer of the council.

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Byelaws

www.portsmouth.gov.uk

with respect to
Hackney Carriages in
the City of Portsmouth

To be kept in vehicle at all times

Index (by paragraph number)

1. Interpretation
2. Licence number to be displayed on carriage
3. Keep carriage clean, tidy and carry fire extinguisher
4. Garage testing
5. Taxi meter to be installed in visible position and illuminated at night
6. Use of taxi meter
7. Tampering of taxi meter or seals
8. Drivers proceeding to stand(s) and conduct whilst on a stand
9. Drivers not to tout for business
10. Drivers to behave in a civil and orderly manner and ensure safety of persons
11. Don't be late for a hiring
12. Don't carry more passengers than permitted
13. Wear your badge
14. Convey luggage and assist passengers
15. Produce byelaws on request
16. Exhibit table of fares
17. Check carriage for any property left
18. Take any property to nearest Police Station within 48hrs
19. Provide Police with driver details
20. Penalty for breach of byelaws
21. Repeal of previous byelaws

Proprietors and drivers should note that it is an offence to breach any of these byelaws

Byelaws

Made under Section 68 of the Town Police Clauses Act 1847; Section 171 of the Public Health Act 1875, by the Portsmouth City Council with respect to hackney carriages in the City of Portsmouth.

Interpretation

1. Throughout these byelaws "the Council" means the Portsmouth City Council and "the district" means the City of Portsmouth.

Provisions regulating the manner in which the number of each hackney carriage corresponding with the number of its licence, shall be displayed.

2. (a) The proprietor of a hackney carriage shall cause the number of the licence granted to him in respect of the carriage to be legibly painted or marked on the outside and inside of the carriage, or on plates affixed thereto.
- (b) The proprietor or driver of a hackney carriage shall:-
 - (i) not wilfully or negligently cause or suffer any such number to be concealed from public view while the carriage is standing or plying for hire;
 - (ii) not cause or permit the carriage to stand

1

or ply for hire with any such painting, marking or plate so defaced that any figure or material particular is illegible.

Provisions regulating how hackney carriages are to be furnished or provided.

3. The proprietor of a hackney carriage shall
 - (a) provide sufficient means by which any person in the carriage may communicate with the driver;
 - (b) cause the roof or covering to be kept watertight;
 - (c) provide any necessary windows and a means of opening and closing not less than one window on each side;
 - (d) cause the seats to be properly cushioned or covered;
 - (e) cause the floor to be provided with a proper carpet, mat or other suitable covering;
 - (f) cause the fittings and furniture generally to be kept in a clean condition, well maintained and in every way fit for public service;
 - (g) provide means for securing luggage if the carriage is so constructed as to carry luggage;

2

- (h) provide an efficient fire extinguisher which shall be carried in such a position as to be readily available for use;
 - (i) provide at least two doors for the use of persons conveyed in such carriage and a separate means of ingress and egress for the driver.
4. In order to enforce compliance with byelaws nos 2 and 3 inclusive every proprietor of a hackney carriage shall present his vehicle for annual inspection at the Council's nominated garage and on such other occasions as he may be specifically requested in writing or by request of an authorised officer. If on inspection the Council are satisfied that any hackney carriage fails to comply with the requirements of byelaws 2 and 3 they may suspend the vehicle licence and require the proprietor forthwith to cease using the hackney carriage for public hire until the requirements of the byelaws have been met to the Council's satisfaction and failure to comply with the notice shall be an offence.
5. The proprietor of a hackney carriage shall cause such carriage to be fitted with a taximeter so constructed, attached and maintained as to comply with the following requirements, that is to say,

3

- (a) the taximeter shall be fitted with a key, flag or other device the operation of which will bring the machinery of the taximeter into action and cause the word "HIRED" to appear on the face of the taximeter;
- (b) such key, flag or other device shall be capable of being locked in such a position that the machinery of the taximeter is not in action and that no fare is recorded on the face of the taximeter;
- (c) when the machinery of the taximeter is in action there shall be recorded on the face of the taximeter in clearly legible figures a fare not exceeding the rate or fare which the proprietor or driver is entitled to demand and take for the hire of the carriage by distance and time in pursuance of the tariff fixed by the Council.
- (d) the word "fARE" shall be printed on the face of the taximeter in plain letters so as clearly to apply to the fare recorded thereon;
- (e) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the carriage and for that purpose the letters and figures shall be capable of being suitably

4

illuminated during any period of hiring;

- (f) the taximeter and all the fittings thereof shall be so affixed to the carriage with seals or other appliances that it shall not be practicable for any person to tamper with them except by breaking, damaging or permanently displacing the seals or other appliances.

Provisions regulating the conduct of the proprietors and drivers of hackney carriages plying within the district in their several employments and determining whether such drivers shall wear any and what badges.

6. The driver of a hackney carriage provided with a taximeter shall:-
- (a) when standing or plying for hire, keep the key, flag or other device fitted in pursuance of the byelaw in that behalf locked in the position in which no fare is recorded on the face of the taximeter;
 - (b) before beginning the journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the

5

taximeter in action until the termination of the hiring;

- (c) cause the dial of the taximeter to be kept properly illuminated throughout any part of a hiring which is during the hours of darkness. This being the time between half an hour after sunset to half an hour before sunrise and also at any other time at the request of the hirer.
7. A proprietor or driver of a hackney carriage shall not tamper with or permit any person to tamper with any taximeter with which the carriage is provided, with the fittings thereof, or with the seals affixed thereto.
8. The driver of a hackney carriage shall, when plying for hire in any street and not actually hired:-
- (a) proceed with reasonable speed to one of the stands fixed by the Council;
 - (b) if a stand, at the time of his arrival, is occupied by the full number of carriages authorised to occupy it, proceed to another stand;
 - (c) on arriving at a stand not already occupied by the full number of carriages authorised to occupy it, station the carriage immediately behind the carriage or carriages on the stand and so as to face in the same direction.

6

- (d) being on a stand from time to time when any other carriage immediately in front is driven off, or moved forward, cause his carriage to be moved forward so as to fill the place previously occupied by the carriage driven off or moved forward;
- (e) when his carriage is the first carriage on a stand, remain with the carriage and be ready to be hired at once by any person.

Provided that for the purpose of this byelaw where a driver has reason to believe that there are persons attending a particular function or activity in an area not served or not adequately served by a convenient stand who may wish to hire a hackney carriage or by reasons of inclement weather may wish to do so, he may cruise in that area for a reasonable period and shall not be deemed on that account to be in contravention of sub-sections (a) and (c) of this byelaw. for the purpose of this clause "cruise" shall mean that the vehicle is in motion at all times except for picking up passengers.

- 9. A proprietor or driver of a hackney carriage, when standing or plying for hire, shall not, by calling out or otherwise, importune any person to hire such

7

carriage and shall not make use of the services of any other person for that purpose.

- 10. The driver of a hackney carriage shall behave in a civil and orderly manner and shall take all reasonable precautions to ensure the safety of persons conveyed in or entering or alighting from the vehicle.
- 11. The proprietor or driver of a hackney carriage who has agreed or has been hired to be in attendance with the carriage at an appointed time and place shall, unless delayed or prevented by some sufficient cause, punctually attend with such carriage at such appointed time and place.
- 12. A proprietor or driver of a hackney carriage shall not convey or permit to be conveyed in such carriage any greater number of persons than the number of persons specified on the plate affixed to the outside of the carriage.
- 13. If a badge has been provided by the Council and delivered to the driver of a hackney carriage he shall, when standing or plying for hire, and when hired, wear that badge in such position and manner as to be plainly visible.
- 14. The driver of a hackney carriage so constructed as to carry luggage shall, when requested by any

8

person hiring or seeking to hire the carriage:-

- (a) convey a reasonable quantity of luggage;
 - (b) afford reasonable assistance in loading and unloading;
 - (c) afford reasonable assistance in removing it to or from the entrance of any building, station, or place at which he may take up or set down such person.
- 15. The driver of a hackney carriage shall at all times while standing or plying for hire have a complete copy of these byelaws ready to produce and shall produce the same for perusal and inspection by any person hiring such carriage on request.
 - 16. (a) The proprietor of a hackney carriage shall cause a statement of the fares fixed by the Council to be exhibited inside the carriage, in clearly distinguishable letters and figures.
 - (b) the proprietor or driver of a hackney carriage bearing a statement of fares shall not wilfully or negligently cause or suffer the letters or figures in the statement to be concealed or rendered illegible at any time while the carriage is plying or being used for hire.

9

Provisions securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

- 17. The proprietor or driver of a hackney carriage shall immediately after the termination of any hiring or as soon as practicable thereafter carefully search the carriage for any property which may have been accidentally left therein.
- 18. The proprietor or driver of a hackney carriage shall, if any property accidentally left therein by any person who may have been conveyed in the carriage be found by or handed to him:-
 - (a) carry it as soon as possible and in any event within 48 hours, if not sooner claimed by or on behalf of its owner, to the nearest police station, and leave it in the custody of the officer in charge of such police station on his giving a receipt for it;
 - (b) be entitled to receive from any person to whom the property shall be re-delivered an amount equal to five pence in the pound of its estimated value (or the fare for the distance from the place of finding to the nearest police station, whichever be the greater) but not more than five pounds.

10

Furnishing of information

19. Every proprietor of a hackney carriage shall on request of any police constable furnish the name and place of abode of any person who was authorised to drive such carriage at any specified time within seven days previous to such request being made.

Penalties

20. Every person who shall offend against any of these byelaws shall be liable on summary conviction to a fine not exceeding the statutory amount and in the case of a continuing offence to a further fine not exceeding the statutory amount for each day during which the offence continues after conviction therefor.

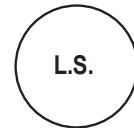
Repeal of Byelaws

21. The byelaws relating to hackney carriages which were made by the Council on the 24th May 1938, 14th June 1966 and 30th July 1968, which were confirmed by the Minister of Health on 25th May 1938 and Secretary of State on 27th October 1966 and 25th September 1968, are hereby repealed.

11

Given under the Common Seal of the Lord Mayor Aldermen and Citizens of the City of Portsmouth this Seventeenth day of November 1970.

**The Common Seal of
The Lord Mayor Aldermen
and Citizens of the
City of Portsmouth**



Was hereunto affixed in pursuance of a resolution of the Council passed at a meeting duly Convened and held.

(Sgd) J F Blair

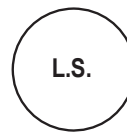
Lord Mayor

(Sgd) J R Haslegrave

Town Clerk and
Chief Executive Officer

The Secretary of State this day confirmed the foregoing byelaws and fixed the date on which they are to come into operation as the 25th day of January 1971.

(Signed) K P Witney
An Assistant Under Secretary of State



Home Office
Whitehall
8 January 1971

12



Licensing Section, Civic Offices,
Guildhall Square, Portsmouth PO1 2AL
email licensing@Portsmouthcc.gov.uk
Telephone (023) 9283 4830 or (023) 9283 4073

www.portsmouth.gov.uk

You can get this
Portsmouth City
Council information
in large print, Braille,
audio or in another
language by calling
9283 4073.



Corporate member of
Plain English Campaign
Committed to clearer communication.

264

Document Ref. LIC_Byelaws19c-4626

Chapter 15: Licensing enforcement

Objectives:

- “1. To ensure that the policies, conditions, byelaws and all other requirements relating to the hackney carriage and private hire undertaking are enforced in a firm, fair, transparent and proportionate way;
2. (a) To target operators, vehicle proprietors and drivers (to include those vehicles and drivers licensed elsewhere and coming into the city) based on the principle of “risk assessment” and with the use of intelligence data recording;
(b) To take strong enforcement action and consider the use of both criminal proceedings AND to seek the suspension or revocation of licences where evidence that the public safety and welfare is/has been put at risk;
3. To work in partnership with other agencies including the Police, Immigration Enforcement Service and DVSA;
4. To offer on-going advice and support to licence holders”

1.0 Introduction

- 1.1 The council, as the local licensing authority, is responsible for the statutory control and supervision of both the hackney carriage and private hire trades.

This supervision is based on the core principle of ensuring the safety of the travelling public and other road users.
- 1.2 Licensed drivers and private hire operators are considered to be professional and responsible persons who have been vetted to a high standard and thus are required to be seen and to act in compliance with any policies, conditions and statutory requirements for the time being in force.
- 1.3 It is often said, but sometimes not remembered, that a licence is a privilege and with that privilege comes accountability and responsibility.
- 1.4 **For operators**, the council expects that those running a business inviting and accepting bookings from the public for the hire of any licensed vehicle will make the provision and booking service quick and easy, provide a clearly defined fare structure, an on time arrival/drop off service, the secure retention of records of bookings and an ability to deal with and react to customer feedback (whether good or bad) in a timely and prompt way. The operator should encourage and demand high standards of customer care from drivers at all times.
- 1.5 **For vehicle proprietors**, the council would expect the vehicle to be kept in a clean and tidy condition, well maintained and serviced in accordance with the manufacturer’s guidelines, tested regularly and for all documentation to be in date and readily available.
- 1.6 **For drivers**, the council would expect a driver to be clean and tidy, polite and courteous to passengers and other road users, to have a good local knowledge and to drive sensibly and with regard to local road conditions, offer assistance where necessary and to ensure that, for example, any property left in a car is returned to the rightful owner.



- 1.7 The council would expect that all licence holders be aware of, and comply with, the licence conditions and/or byelaws appropriate to the particular licence type.
- If things go wrong, officers or the Licensing Committee will take enforcement action commensurate with the risk and to ensure that the public safety is not compromised.
- 1.8 Enforcement cannot ever be seen as a means to an end in itself.
- Enforcement must be part of the overall licensing control exercised by the council and will be secondary to our aim of offering support, advice and assistance to licence holders.
- Equally however, if enforcement is non-existent then lower standards of conduct might occur with a likely increase in public concern and dissatisfaction with the trade. The requirement to abide by the statutory provisions contained in both the 1847 and 1976 acts would be pointless if no enforcement took place.
- Licence holders may feel resentful if they see evidence of non-compliance by other persons within the trade.
- For all these reasons the use of enforcement powers is considered a responsible part of the overall licensing control and will be used to:
- Protect the public interest
 - Respond and deal with public and trade complaints received
 - Deter future non-compliance and to punish offenders
 - Support the policies of the Licensing Committee
 - Support partnerships with other agencies including the Police, Immigration Enforcement Service and HM Revenue & Customs
- 1.9 The licensing staff are appointed as “authorised officers” for the purposes of carrying out their respective functions under the 1847 and 1976 acts. It is an offence to obstruct an officer or to fail to comply with any requirement or request properly made.
- 1.10 Licensing enforcement staff have been trained (and have extensive experience) in complying with the provisions of the Police & Criminal Evidence Act 1984 (PACE) so far as this relates to the investigation of offences and conducting interviews under caution. The PACE codes of practice are available for inspection and digital recording media is utilised.
- Refresher training is available as part of individual personal development.
- 1.11 The officers are compliant with their individual (and joint) responsibilities as both investigating and disclosure officers for the purposes of the Criminal Procedures and Investigations Act 1996 and relevant codes of conduct.
- 1.12 The officers are aware of the council’s RIPA policy and guidelines.

2.0 The Council's Enforcement Concordat

2.1 For many years the council has adopted the principles and had regard to the then Cabinet Office Enforcement Concordat. Whilst this now has been replaced by the Regulators Compliance Code⁹⁵ the principles of the former concordat (together with the "Hampton & Rogers review principles")⁹⁶ have been followed by all council enforcement staff and not just licensing staff.

These are:

- **Proportionality** – any recommended action will relate to the seriousness of the perceived risk
- **Consistency** – officers will try to act in a similar way when faced with similar circumstances
- **Transparency** – we will tell people what the legal requirements are and how to comply – for example to make sure licence conditions are printed on the reverse of respective paper licences and that copies of the byelaws are readily available and on the web. We will give clear advice about any complaints procedure should persons be unhappy with any enforcement action taken
- **Targeting** – we will look at those who have either an adverse or poor history of compliance and target our resources accordingly. Sometimes the overall cost of carrying out targeted enforcement action against, say, drivers is not cost recoverable via the licence fees and the service will therefore have regard to the overall costs involved in the consideration of targeted enforcement

Targeted enforcement may involve the use of police officers or council colleagues working in tandem with licensing staff under strict

rules of engagement. Where necessary, "test purchases" or similar "mystery shopper" exercises will take place – particularly to detect offences of plying or standing for hire"⁹⁷

These actions are not entrapment and officers are clearly briefed not to incite, encourage or to persuade someone to commit an offence. This form of investigation and evidence gathering is essential in providing empirical evidence of any wrong doing

- **Informative** – we will always advise persons WHY we are taking (or considering) any action and will send alerts to the trade representatives⁹⁸ about proposed future enforcement initiatives

A link to the Regulators' Code is shown below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

2.2 In determining what enforcement action to take, each case will be dealt with on merit but the following principles will apply:

- **Minor breaches** – if the officer believes the matter to be minor, of low risk and the offender is prepared to put right any wrong doing immediately – verbal or written advice or warnings may be given
- **Repeated breaches** or evidence of continued wrong doing – would lead to points and/or a final written warning/suspension period being given
- **Serious breaches**⁹⁹ – would lead to points and/or suspension, proposed revocation, consideration of a simple caution and/or criminal proceedings being commenced (if an offence at law).

3.0 Table of Offences

3.1 The various offences found in both the Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976 are reproduced below:

3.2 For the Town Police Clauses Act 1847 – Hackney Carriage Matters

Section	Offence	Who is liable
40	Giving false information on application for a HC proprietors licence	Any person party to the giving (or not giving) of information required
44	Failure to notify change of address or to produce licence for updating	The proprietor concerned
45	Proprietor permitting use of HC without a licence, plying for hire without a licence, failure to display licence number	The proprietor, any person found standing or plying for hire or failing to display the licence number
47	Driving a HC without a driver licence, lending or parting with a driver licence, HC proprietor employing unlicensed driver	Proprietor and driver concerned
48	Failure by HC proprietor to hold HC driver licence, failure by HC proprietor to produce HC drivers licence	Proprietor
52	Failure to display HC plate with "number of persons" denoted, driver refusing to carry full number (or lesser number) of passengers	Proprietor or driver
53	Refusal to take a fare	Driver
54	Charging more than the agreed fare	Proprietor, driver or any other person
55	Obtaining more than the legal fare	Driver or any person
56	Travelling less than the lawful distance for an agreed fare	Proprietor, driver or any person
57	Failing to wait after receipt of deposit	Driver
58	Charging more than the legal fare	Proprietor or driver
59	Carrying persons without consent of hirer	Proprietor or driver
60	Driving a HC without consent of proprietor	Any person
61	Driver of HC drunk, furious driving etc	Driver or any other person
62	Leaving HC unattended	Driver
64	Driver obstructing other drivers	Any driver
68	Byelaw breach	Proprietor or driver ¹⁰⁰

3.3 For Part II, Local Government (Miscellaneous Provisions) Act 1976

3.4 For Hackney Carriage Matters

Section	Offence	Who is liable
49	Failure to notify transfer of HC vehicle licence	Proprietor
50(1)	Failure to present vehicle for inspection	Proprietor
50(2)	Failure to advise where vehicle is stored	Proprietor
50(3)	Failure to report accident damage	Proprietor
50(4)	Failure to produce HC licence and insurance	Proprietor ¹⁰¹
53(3)	Failure to produce HC drivers licence to authorised officer or Police	Driver
57	Making false statement or withholding information	Any person
58(2)	Failure to return plate on revocation, expiry or suspension of HC licence	Proprietor
61(2)	Failure to surrender drivers licence following suspension, revocation or refusal to renew	Driver
64	Permitting any vehicle other than a HC to wait on a HC stand	Any person
66	Charging, without prior agreement, more than permitted fare for journey ending outside the district	Driver
67	Charging more than the meter fare when HC is used as a private hire vehicle	Driver
69	Prolonging a journey by time or distance	Driver
71	Interfering with a taximeter	Any person
73(1) (a–c)	Obstruction, failure to comply with requirement, give false or provide false information	Any person

3.5 For Private Hire Matters

Section	Offence	Who is liable
46(1) (a)	Using an unlicensed PH vehicle	Any person
46(1) (b)	Unlicensed PH driver driving a PH vehicle	Any person
46(1) (c)	Proprietor of PH vehicle using an unlicensed driver	Any person
46(1) (d)	Operating a PH vehicle without an operator's licence	Any person
46(1) (e)	Operating a PH vehicle which is not licensed or a driver is not licensed	Any person
48(6)	Failure to exhibit PH plate	Any person
49	Failure to notify transfer of PH vehicle licence	Proprietor
50(1)	Failure to present vehicle for inspection	Proprietor
50(2)	Failure to advise where vehicle is stored	Proprietor
50(3)	Failure to report accident damage	Proprietor
50(4)	Failure to produce PH vehicle licence and insurance	Proprietor
53(3)	Failure to produce PH drivers licence to authorised officer or Police	Driver
54(2)	Failure to wear PH drivers badge	Driver
56(2)	Failure by operator to keep record of bookings	Any person
56(3)	Failure by operator to keep record of PH vehicles operated by him	Any person
56(4)	Failure to produce operator licence to authorised officer or Police	Any person
57	Making false statement or withholding information	Any person
58(2)	Failure to return plate on revocation, expiry or suspension of PH vehicle licence	Proprietor
61(2)	Failure to surrender drivers licence following suspension, revocation or refusal to renew	Driver
69	Prolonging a journey by time or distance	Driver
71	Interfering with a taximeter	Any person
73(1) (a–c)	Obstruction, failure to comply with requirement, give false or provide false information	Any person



4.0 To Prosecute or Not?

Prosecutions are not, and never will be, a first resort option unless in the most serious of circumstances.

Failure to comply with some of the provisions in both the 1847 and 1976 acts cannot be the subject of criminal sanction – for example a breach of conditions where no corresponding offence is provided.

For those matters that are subject to summary criminal proceedings; licensing staff will have regard to an established “in house” prosecution scoring matrix (and based on the Code for Crown Prosecutors) in order to consider whether a prosecution or simple caution is the most appropriate course of action and will also consider the following:

- Has the person ignored previous advice given to help resolve a problem?
- Has the person blatantly disregarded the law and/or obstructed an authorised officer?
- Is there a serious risk?
- Is it in the public interest?
- Is the offence serious?
- Is there a statutory defence?
- What explanation has been given?
- What is the history of the offender?
- What is the likelihood of a successful prosecution and is the evidence (including witness evidence) of a good standard?

- 4.1 Any prosecution will be managed by both a case officer and supervisor with recourse to Legal Services for advice where necessary. All prosecutions must be authorised by either the Licensing Manager or Principal Officers and on behalf of the head of service before the matter is put to the City Solicitor for consideration.¹⁰²

Any file will be carefully considered in relation to the above guidelines.

- 4.2 It is important to note that the consideration of proceedings and/or a prosecution for offences can include consideration of offences outside the remit of the 1847 and 1976 acts. This is because the council can use those provisions contained within section 222 of the Local Government Act 1972 and section 6 of the Prosecuting of Offences Act 1985.

For example, any investigation into an allegation of a driver standing or plying for hire contrary to section 45 of the 1847 act WILL result in officers making enquiries and seeking evidence from insurance companies and their underwriters as to the vires of the insurance covering the use of the vehicle at the time of the alleged offence(s).

The result is that persons can be (and are) summonsed for no insurance offence(s) contrary to section 143 of the Road Traffic Act 1988. Upon conviction these offences carry potentially both a financial penalty and the mandatory imposition of between 6–8 penalty points on a driving licence.¹⁰³

- 4.3 The Licensing Committee will formally receive, from time to time, a report from their officers on the outcome of any prosecutions. It is for the committee to determine whether they wish a person previously convicted of a licensing or other offence to appear before them to consider whether they remain a “fit and proper” person.
- 4.4 The council may share details of convictions recorded with partner agencies in appropriate circumstances and subject to compliance with the Data Protection Act.

5.0 The use of Simple Cautions

- 5.1 Simple cautions are an effective and alternative means of disposal when dealing with offences and are now the subject of guidance issued by the Ministry of Justice.
- It is recommended that local authorities should have regard to the guidance.¹⁰⁴
- The head of service has delegated authority via the City Solicitor to issue and administer simple cautions.
- 5.2 The basic fundamental principles for the consideration of whether to issue a simple caution are:
- **The person is over 18**
 - **There is sufficient evidence that could have resulted in a prosecution**
 - **The person has admitted their guilt to the offence(s)**
 - **The person consents to accept a simple caution**
- 5.3 A record will be kept of any simple caution and it may influence a decision to institute proceedings against an individual should they break the law in the future.
- 5.4 A simple caution is not a conviction but is an admission of guilt and may be cited in court should a person subsequently be found guilty of an offence by a court of law.
- 5.5 A simple caution is spent immediately but is subject to the Rehabilitation of Offenders (Exceptions) Order 1975. If a person works in a job which is included in a list of notifiable occupations (for example working with children, vulnerable groups and/or in a position of trust) – any current or future employer may be told about the caution.
- 5.6 There is no right of appeal against the acceptance of a simple caution.

6.0 This guidance (on the way the council will deal with prosecutions and simple cautions as shown in 4 and 5 above) will equally apply to any enforcement action taken in respect of the following acts:

- Licensing Act 2003
- Gambling Act 2005
- Local Government (Miscellaneous Provisions) Act 1982
- Equality Act 2010

7.0 The Use of Injunctions

7.1 There may be rare occasions where a person does not comply with a formal request and directive from the council to cease trading or otherwise comply with the law – whether by way of breach of notice, suspension, revocation of a licence or non-compliance with any other statutory permission.

If the council considers that it is expedient (and in the public interest) to obtain injunctive relief to restrain a person from carrying out an activity, it is permissible to seek an injunction from the courts. The City Solicitor would be asked to draft the appropriate summons/order for consideration by the High Court.¹⁰⁵

Whilst driver licences may be lawfully suspended or revoked and the driver cannot drive pending appeal where the “interests of public safety” is concerned – this does not usually apply to suspended vehicle or operator licences.

The use of injunctions is rare but could, on occasion, be a useful enforcement tool.

8.0 Best Practice Guidance¹⁰⁶

The best practice guidance states:

“Well-directed enforcement activity by the local licensing authority benefits not only the public but also the responsible people in the taxi and PHV trades. Indeed, it could be argued that the safety of the public depends upon licensing authorities having an effective enforcement mechanism in place. This includes actively seeking out those operators who are evading the licensing system, not just licensing those who come forward seeking the appropriate licences. The resources devoted by licensing authorities to enforcement will vary according to local circumstances, including for example any difficulties with touting by unlicensed drivers and vehicles (a problem in some urban areas). Local authorities will also wish to liaise closely with the police. Multi-agency enforcement exercises (involving, for example, the Benefits Agency) have proved beneficial in some areas.

Local licensing authorities often use enforcement staff to check a range of licensed activities (such as market traders) as well as the taxi and PHV trades, to make the best use of staff time. But it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise. In formulating policies to deal with taxi touts, local licensing authorities might wish to be aware that the Sentencing Guidelines Council have, for the first time, included guidance about taxi touting in their latest Guidelines for Magistrates. The Guidelines, which came into effect in August 2008, can be accessed through the SGC’s web-site - www.sentencing-guidelines.gov.uk.

Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.

As part of enforcement, local licensing authorities will often make spot checks, which can lead to their suspending or revoking licences. They will wish to consider carefully which power should best be used for this purpose. They will note, among other things, that section 60 of the Local Government (Miscellaneous Provisions) Act 1976 provides a right of appeal for the

licence-holder, whereas section 68, which is also sometimes used, does not; this can complicate any challenge by the licence-holder.

Section 52 of the Road Safety Act 2006 amended the Local Government (Miscellaneous Provisions) Act 1976 such that local authorities can now suspend or revoke a taxi or PHV driver's licence with immediate effect on safety grounds. It should be stressed that this power can only be used where safety is the principal reason for suspending or revoking and where the risk justifies such an approach. It is expected that in the majority of cases drivers will continue to work pending appeal and that this power will be used in one-off cases. But the key point is that the law says that the power must be used in cases which can be justified in terms of safety. The Department is not proposing to issue any specific guidance on this issue, preferring to leave it to the discretion of licensing authorities as to when the power should be used."

8.1 The committee notes and agrees with the best practice guidance.

9.0 The use of Other Enforcement Powers

9.1 Whilst prosecutions and/or the offer of simple cautions can be an effective disciplinary sanction leading to the imposition of a criminal record – they are not the only form of enforcement control available to both the council and officers alike.

The 1976 act permits respective hackney carriage or private hire vehicle, driver and private hire operator licences to be suspended, revoked or not renewed (as the case may be) and after consideration on individual merit.

9.2 Sections 60, 61 and 62 of the 1976 specify the grounds for the consideration of such actions which may be taken following evidenced criminality leading to say a conviction or on the basis of having a "reasonable cause" for a concern and considering any evidence on the balance of probabilities and having regard to hearsay matters if necessary.

9.3 The prescribed considerations for taking action to suspend, revoke or not to renew a licence include:

- A vehicle being unfit
- A proprietor, operator or driver being convicted of an offence contrary to, or has not complied with, the provisions of the 1847 and/or 1976 acts
- A driver being convicted of an offence for dishonesty, indecency or violence
- The conduct of an operator or any material change in the circumstances of an operator
- Any other reasonable cause

The scheme of delegation details the powers available to both the committee and officers which, generally speaking, are subject to appeal provisions to the Magistrates' Court.

9.4 Written or verbal warnings may be given as appropriate together with any other instruction (either by the committee or officers) for licence holders to attend specified training or refresher courses such as driver awareness, customer care or disability awareness courses.

These will normally be at the expense of the licence holder and failure to comply (or to pass any prescribed testing criteria) will lead to consideration of either the subsequent suspension or revocation of a respective licence.

9.5 Suspensions, as a form of short punitive punishment or to prevent a licensee from working whilst non-compliant with a licensing matter (such as an overdue DBS check, overdue medical or a car being damaged and not roadworthy), are used regularly and are a useful enforcement option.

9.6 The consideration however of either the revocation or non-renewal of a licence is generally delegated to the committee for determination.

9.7 And finally, there will always be a place and a time for an officer to use discretion and to have "a quiet word in the ear" just to remind a person to buck up their ideas!!

10.0 The Points System

10.1 Introduced by the committee in 1994 and after extensive consultation with the trade, the “penalty points system” has been used as a “fast track” and parallel disciplinary code for:

- Licence holders breaching conditions
- Non-compliance with the provisions of the 1847 and 1976 acts
- General unsatisfactory conduct
- Sanctions following receipt of complaints from the public, other road users and the trade about the conduct of licence holders

10.2 The weight of evidence is assessed on the “balance of probabilities” and after hearing the explanation or representations of the licence holder. The history of the licence holder will be taken into consideration before determining any final action.

The issue of points is a “formal and stepped” way to deal with enforcement concerns but does not prejudice the right of authorised officers to take other action if deemed necessary. Points may be awarded as a final (and only) sanction or given together with a verbal and written warning. Equally, if the “offence” under investigation is one for which a prosecution could be instigated – that course of action may also be considered as appropriate.

10.3 Portsmouth was one of the first local authorities to introduce this local form of control and the use of a penalty point’s scheme is now a common form of enforcement.¹⁰⁷

10.4 There is no financial penalty associated with the scheme and a licence holder may continue to lawfully work even if points are awarded. There is however a presumption in favour of a hearing before the sub-committee if the number of points accumulated exceeds the following in any one period of time:

- **Hackney carriage driver** **10 points**
- **Private hire driver** **10 points**
- **Hackney carriage vehicle** **10 points**
- **Private hire vehicle** **10 points**
- **Private hire operator** **40 points**

10.5 The sub-committee must consider whether they have "reasonable cause" to determine, on individual merit, if a licence holder is a fit and proper person to continue to hold a respective driver, vehicle or operator licence. The sanctions available, and after hearing all the evidence are wide ranging and could include:

- Verbal warning*
- Written warning*

- Suspension of licence
- Revocation or non-renewal of licence

* If, on the evidence, a person has previously received verbal or written warnings – it is unlikely that the sub-committee would just replicate such previous action taken but they do retain the power to do so.

The current points ticket is shown below:

POINTS SYSTEM

Hackney Carriage/Private Hire

Local Government (Miscellaneous Provisions) Act 1976 & Town Police Clauses Act 1847

Incident Details

Surname Forenames

Badge No. HC/PH Company

Plate No. HC/PH Reg No.

Date Time

Location

Computer Code: for explanation of codes please see overleaf

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	6 <input type="checkbox"/>	7 <input type="checkbox"/>	8 <input type="checkbox"/>
9 <input type="checkbox"/>	10 <input type="checkbox"/>	11 <input type="checkbox"/>	12 <input type="checkbox"/>	13 <input type="checkbox"/>	14 <input type="checkbox"/>	15 <input type="checkbox"/>	16 <input type="checkbox"/>
17 <input type="checkbox"/>	18 <input type="checkbox"/>	19 <input type="checkbox"/>	20 <input type="checkbox"/>	21 <input type="checkbox"/>	22 <input type="checkbox"/>	23 <input type="checkbox"/>	24 <input type="checkbox"/>
25 <input type="checkbox"/>	26 <input type="checkbox"/>	27 <input type="checkbox"/>	28 <input type="checkbox"/>	29 <input type="checkbox"/>	30 <input type="checkbox"/>	31 <input type="checkbox"/>	32 <input type="checkbox"/>
33 <input type="checkbox"/>	34 <input type="checkbox"/>	35 <input type="checkbox"/>	36 <input type="checkbox"/>	37 <input type="checkbox"/>	38 <input type="checkbox"/>	39 <input type="checkbox"/>	

Points Awarded: Driver Proprietor Operator

Document Production: (tick as appropriate)
Please produce within 5 days Driving Licence Insurance
Registration Document MOT/COC

Notice of warning or to complete works or suspend vehicle licence:
(tick as appropriate)
Warning Given 7 day Notice Suspension of Vehicle Licence

If the vehicle licence is suspended it **must not** be used until the suspension notice is lifted. Reasons for any action taken and/or warning given will be shown in the notes below.

NOTES:

Signed Signed
Driver/Proprietor Authorised Officer, Licensing Office,
Portsmouth City Council
Tel: 023 9283 4830 Fax: 023 9283 4811
Email licensing@portsmouthcc.gov.uk

White - Driver/Proprietor, Green - Office Copy HH-40

		10	10	40
		Driver	Vehicle	Operator
General Breaches				
1	Failure to notify change of address within 7 days	2	2	2
2	False declaration on application/renewal of licence	3	1	2
3	Failure to notify motoring or criminal convictions or to produce certificates of conviction/driving licence within 7 days	3	3	3
4	Failure to behave in a civil and orderly manner to customers and other road users	2-6	-	2
5	Failure to display badge or return same at request of authorised officer	4	-	-
6	Dishonoured cheque for payment of licence	1	1	1
7	Overdue medical examination/drug screen	2	-	-
8	Obstruction of authorised officer	3	3	4
Vehicle Breaches				
9	No fire extinguisher	1	3	-
10	Failure to display vehicle licence plate	1	3	1
11	Failure to exchange defaced vehicle licence plate	1	2	-
12	Failure to display vehicle licence disc	-	2	1
13	Failure to return vehicle licence plate at request of authorised officer	-	2	-
14	Failure to report accident damage within 72 hours	-	3	1
15	Failure to produce insurance documents at request of authorised officer within 5 days	-	6	-
16	Permitting no insurance	-	10	-
17	Carrying more passengers than permitted by vehicle licence	2	-	-
18	No vehicle licensing record book ("white book") in vehicle	-	2	-
19	Refusal to carry passengers without reasonable excuse	3	-	-
20	Unauthorised 'company' window stickers and/or failure to display prescribed HCV/PHV vehicle identification livery	-	2	3
21	Failure to notify transfer of vehicle licence interest within 14 days	-	3	-
22	Failure to convey or assist with carrying of luggage	2	-	-
23	Failure to deliver lost property to Police	2	-	-
24	Failure to carry byelaws in vehicle	-	3	-
25	Failure to display tariff of fares or to conceal same	1	3	-
26	Defective taxi meter	-	3	-
27	Defective taxi top light	-	1	-
28	Out of date tax disc	-	3	-
29	Vehicle not clean, well maintained or comfortable	1	4	1
30	Illegal tyres	1	4	-
31	Illegal ranking	2	-	-
32	Unattended hackney carriage vehicle on rank	1	-	-
33	Failure to attend mechanical inspection	-	6	-
34	Late cancellation of mechanical inspection	-	6	-
35	Use of vehicle without current certificate of compliance	-	6	-
36	Standing or plying for hire	3	-	1
37	Overcharging	3	-	-
Operator Breaches				
38	Breach of special condition on licence	-	-	4
39	Failure to keep proper records of bookings	-	-	4



10.6 Feedback from licence holders and licensing staff (particularly from the enforcement staff) has resulted in an agreed consensus to review the “points” attributable for “offences” and to tidy up the scheme generally. It is many years since the scheme has been amended.

For example, the owners (and vehicle proprietors) of the “big fleet” garages argue that it is unfair for them to receive 4 points (as the vehicle proprietor) for illegal tyres and the driver only 1 point.

They have dedicated workshop facilities and drivers are both instructed and encouraged to return and report any apparent defect at any time.

This is accepted and thus more onus should be on the driver to take day to day responsibility for the general roadworthiness of the vehicle and to check things like oil, water, lights and tyres on a regular basis.

The proprietor however maintains overall responsibility for the maintenance of the vehicle.

10.7 Accordingly, committee approval is sought to modify the penalty points system as follows:

- To keep the existing thresholds of 10 points for drivers and vehicle proprietors and 40 points for operators but to calculate the accumulation threshold (with a presumption in favour of a resultant sub-committee hearing) to be within ANY 12 month period of time rather than using the “fixed” licensing periods currently prescribed¹⁰⁸
- To modify the wording of some “breaches” for the purposes of clarity
- To add new offence types
- To remove some existing offence types
- To amend the number of points for particular offence types

The proposed new model is shown on the following pages and has been subject to trade consultation:

Number	Description	Driver 10 Points	Vehicle Proprietor 10 Points	Operator 40 Points
General & driver matters				
1	Failure to notify change of address or other contact details	2	2	2
2	False declaration on application or renewal of licence	4	4	4
3	Failure to notify criminal or motoring charges, convictions or failure to produce documents upon request	4	4	4
4a	Failure to behave in a civil and orderly manner to customers or other road users by reason of abusive/foul language or gestures	6	0	0
4b	Failure to behave in a civil and orderly manner to customers or other road users by reason of threatening behaviour	6	0	0
4c	Failure to behave in a civil and orderly manner to customers or other road users by reason of poor driving	6	0	0
4d	Failure to behave in a civil and orderly manner to customers or other road users by reason of use of violence	10	0	0
5	Failure to display badge or return same at request of authorised officer	4	0	0
6	Overdue medical, DBS, drug screen	2	0	2
7	Driver smoking in vehicle (to include e-cigarettes)	2	0	0
8	Obstruction of authorised officer	4	4	4
9	Failure to abide by company dress code or to be clean and tidy in appearance	4	0	0
10	Refusal to carry passengers without reasonable excuse	4	0	0
11	Refusal to carry passenger(s) with wheelchair or by reason of disability	10	0	10
12	Refusal to carry guide/assistance dog	10	0	10
13	Carrying more passengers than permitted by vehicle licence	6	0	0
14	Overcharging	6	0	0
15	Illegal ranking	4	0	0
16	Standing or plying for hire	4	0	2
17	Unattended hackney carriage on taxi stand	2	0	0
18	Failure to convey or assist with luggage	2	0	0
19	Failure to report lost property	6	0	0

Number	Description	Driver 10 Points	Vehicle Proprietor 10 Points	Operator 40 Points
Vehicle matters				
20	Failure to properly display vehicle licence plate	4	2	0
21	Failure to display vehicle licence windscreen disc	4	2	0
22	Failure to return licence plate at request of authorised officer	0	4	0
23	Failure to report accident damage within 72 hours	0	4	0
24	Failure to produce vehicle documents to include insurance, registration document and/or certificate of compliance	0	6	0
25	Permitting no insurance	0	10	0
26	No "white book" in vehicle	0	2	0
27	Unauthorised notices or company window stickers either inside or outside the vehicle	0	4	4
28	Failure to notify transfer of vehicle licence within 14 days	0	4	0
29	Failure to carry byelaws in vehicle	2	4	0
30	Failure to display tariff of fares or to conceal same	4	2	0
31	Defective and/or unsealed taxi meter	2	4	0
32	Defective TAXI top light	2	2	0
33	Faded TAXI top light or livery	2	2	0
34	Out of date tax	0	6	0
35	Vehicle not clean, well maintained or comfortable	4	2	2
36	Illegal tyres (points for each tyre)	4	1	0
37	Defective CCTV	0	2	0
38	Failure to attend mechanical inspection	0	6	0
39	Late cancellation of mechanical inspection	0	6	0
40	Use of vehicle without a current certificate of compliance	0	10	0
Operator matters				
41	Failure to keep proper records of bookings	0	0	4
42	Unauthorised vehicle livery	0	0	4

11.0 Service Requests & Operation Orders

11.1 The Licensing Service uses a central computer database to record all complaints against licence holders. These are generically known as “Service Requests” and are allocated to the enforcement team to investigate and action.

In 2014 the enforcement team dealt with 411 complaints of which 320 (77%) were in respect of the hackney carriage or private hire trades as shown below:

- Hackney carriage driver 113 complaints
- Hackney carriage vehicle 18 complaints
- Private hire driver 144 complaints
- Private hire vehicle 39 complaints
- Private hire operator 6 complaints

Licensing enforcement staff carry out regular evening work either as part of normal duties, in response to the receipt of specific complaints and/or by way of operation orders in partnership with the Police and other agencies including staff from Adams Morey and Civil Enforcement colleagues responsible for parking matters. These orders have tackled concerns such as plying and standing for hire, the fitness of vehicles, drivers over ranking and breaching the byelaws, drug testing on drivers, prom night limousine checks and the conveyance of assistance and hearing dogs.

The committee receives update reports on action taken as appropriate.

11.2 Of significance is that the management team both receive, and have access to, regular reports on trends associated with the number and type of service requests together with updates on the penalty point’s scheme.

This allows for “markers” to be placed against individual cases which can be seen and viewed by the whole service whether administrative, enforcement or management. There can be no doubt about whether an individual driver, proprietor or operator is cause for concern and remedial action can be flagged immediately.¹⁰⁹

11.3 The enforcement team has regular staff meetings to appraise the managers of current trends associated with complaints. This is particularly important in the area of safeguarding and there is a strong team ethic to ensuring that all parties are alerted to any concerns involving children and vulnerable adults by way of:

- Regular liaison with the Police licensing unit
- Regular liaison with both Aqua Cars Ltd and Citywide so far as the administration of bookings for school and other contract work is concerned and an absolute presumption that any complaint about the actions of a driver involved in contract work is investigated immediately
- Regular liaison with the council’s Passenger Transport Officer and Fleet Transport Manager on safeguarding issues
- An absolute requirement for all DBS checks on drivers to be to an enhanced level and for “child and adult workforce” checks to be the norm
- An understanding that any child protection and safeguarding issues are raised immediately with management and, if necessary, referred to the Multi-Agency Safeguarding Hub (MASH) for consideration



12.0 Complaints Procedure

12.1 Any person aggrieved by the imposition of penalty points or any other disciplinary sanction may, in the first instance, contact one of the principal staff officers to review any particular case.

12.2 The investigation of a person or business by licensing staff into the merit of any complaint is not, in itself, a reason for a licence holder to complain. Staff have a duty to establish the facts in any one particular case. The evidence obtained may lead the officer to conclude that the case against a licence holder is weak or even potentially unfounded or malicious in nature. Equally, the evidence may also point to the need to interview, for example, the licensee under caution.

This is all part of the process of evidence gathering and to ensure a fair and balanced investigation.

12.3 However, if a person is subsequently not happy with any action taken or decision made, the Licensing Manager can be asked to further review the case. If still unhappy, a person can resort to the council's corporate complaints procedure which is shown in the link below:

<https://www.portsmouth.gov.uk/ext/the-council/transparency/comment-compliment-or-complaint.aspx>

A person can also seek independent advice or ask a ward councillor for assistance.

Resolved

1. That the Licensing Committee note and endorse the contents.
2. That the committee approve the changes to the local penalty points system and to come into force with immediate effect.
3. That the head of service be authorised to amend such policy directives, conditions of licence and application procedures commensurate with these proposals.

Chapter 16: Fees and charges

Objectives:

1. "To administer the licensing budget, so far as it relates to the hackney carriage and private hire undertaking, at no cost to the tax payer
2. To review all fees and charges on an annual basis and in an open and transparent way"

1.0 The Legal Provisions

1.1 Although not commonly used, section 46 of the 1847 act permits the council to levy "such fee as may be determined" in respect of a hackney carriage driver licence. The act is silent on what the fee may encompass but nevertheless, a fee charging power is still lawful and permitted under this section.

1.2 However, the main fee charging powers are contained in part II of the 1976 act.

Section 53 permits the council to demand and recover for the grant to any person of a licence to drive a hackney carriage or a private hire vehicle such a fee as considered reasonable with a view to recovering the costs of issue and administration.

Section 70 permits the council to charge such fees for the grant of vehicle and operator licences as may be resolved by them from time to time as may be sufficient in the aggregate to cover in whole or in part:

The reasonable cost of carrying out by or on behalf of the council inspections of hackney carriages and private hire vehicles for the purposes of determining whether any such licence should be granted or renewed;¹¹⁰

- The reasonable cost of providing hackney carriage stands;
- Any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles

Any proposed fees considered under section 70 are subject to public consultation and notice for a period of 28 days.

2.0 Best Practice Guidance

2.1 The Department for Transport guidance is silent and gives no advice about fees and their subsequent application.

This is perhaps not surprising as fees are determined on a local basis and after having regard to the local overall costs for the administrative control and supervision of the respective private hire and hackney carriage trades.

3.0 Policy, Case Law and Other Considerations

3.1 The policy of the Licensing Committee has always been to work towards total cost recovery for the purposes of administering the licensing undertaking.

There are, however, caveats to this principle as the statutory authority (and thus the ability to levy a fee) falls into four distinct groups:

- Those licences and permits where no fee is payable – such as charitable collections and busker registrations
- Fees fixed by statute – such as the Licensing Act 2003 and permits/notifications under the Gambling Act 2005
- Discretionary fees subject to a statutory maximum fee – such as licences under the Gambling Act 2005
- Discretionary fees set by the council as sufficient to cover costs of administration, supervision and, where lawfully possible, enforcement costs for non-compliance - such as hackney carriage and private hire, sex establishments, street trading and scrap metal dealers

3.2 The council, as the local licensing authority, will always want to work with and promote local businesses but, in the context of fair and proportionate financial management; would NOT expect the costs of the licensing undertaking (particularly for those involved in running a business) to fall on, or be subsidised by, the tax payer.

23,522	8,446	8,838	43,887	40,687	30,867
26,603	542	950	2,767	2,645	2,481
1,275	6,559	5,970	39,296	32,899	26,448
26,767	2,055	49,287	70,884	65,286	57,535
19,542	3,783	12,602	27,922	26,323	26,459
11,537	4,410	6,633	14,218	13,909	13,044
3,175	104	85	1,497	1,250	
1,308					
136,341	28,458	86,723	251,522	232,319	194,654
64,558	2,450	2,234	69,242	52,234	48,183
200,899	30,908	88,957	320,764	284,553	242,837
38,706	20,481	32,979	92,166	90,606	74,027
27,832	10,266	19,798	896	45,951	34,555
66,538	30,747	52,777	52	136,557	108,582
267,437	61,655	141,734	4,166	421,110	351,419
			(3,884)	(3,884)	(4,168)
			466,166	417,226	347,251
45,644	24,480	45,116	115,240	748	101,227

3.3 Equally, persons and those in business licensed and regulated by the council (and who are subject to the requirement to pay discretionary fees) should expect the council to charge fees based on clear and transparent evidence and to reasonably justify and identify “on costs” associated with any particular licence regime.

3.4 Evidence that supports either the increase or reduction of fees should be acted upon in a timely manner and all discretionary fees should be reviewed by the committee (not officers) on a regular basis.

Separate accounts for hackney carriage and private hire matters will be maintained and any budgetary surplus or deficit must be acted upon when determining fees. It is not permissible to “cross subsidise” monies from one trading account to another.¹¹¹

3.5 The courts do not support the principle that fees which exceed cost recovery could be used as a general revenue raising scheme for non-licensing matters.¹¹²

4.0 Council licensing budgets around the country have been subject to scrutiny from both taxi and private hire trade representatives – particularly where the underlying rationale for justifying costs has been challenged. This had led, in some cases, to councils refunding monies to aggrieved parties and to ring fencing the licensing revenue for licensing use alone.¹¹³

4.1 The then Audit Commission had also been asked, by way of complaint, to examine council licensing budgets. In a case involving a local council and following a complaint about the taxi and private hire budget, the District Auditor issued a public interest report pursuant to the Audit Commission Act 1998 and commented, amongst other things, that in the case in question:

- **There was no licensing time recording system in place**
- **There was no method to independently verify the accuracy of staff time allocated to certain parts of the licensing undertaking**
- **The council should have kept a better record of costs and fees**
- **Enforcement costs against drivers and operators were not recoverable under the fee raising regime**
- **Any fees should be sufficient to cover costs but not to make a surplus**

- 5.0 Advice to councils has been further provided by the Local Government Association publication "Open for Business – Guidance on locally set fees". ¹¹⁴
- 5.1 Councils are reminded that locally set fees are a vital means of ensuring that costs can be recovered by each and every council, rather than relying on subsidy from the local tax payers.
- 5.2 Although the taxi and private hire sectors are excluded from The Provision of Service Regulations 2009 (which activated the provisions of the EU Services Directive 2006), it is nevertheless considered that compliance with the principles of the EU Directive ¹¹⁵ is of paramount importance particularly in relation to fees being:
- Justified and proportionate
 - Clear and objective
 - Public and transparent
- 5.3 The identified costs of administration and the processing of applications must be established and "rejected" applications should result in refunds where appropriate to the circumstances.
- 5.4 Fees should not be used to make a profit or to act as a deterrent to certain business types. Any surplus should be used to reduce fees for the next year and any deficit can be tackled by cost recovery over a period of time. ¹¹⁶

Module Reference	Category	Sub-Category	Time	Units
U 14/02608/HCV	U - Licensing	HCV - Hackney Carriage Vehicles	00:10	2
U 15/02393/HCV	U - Licensing	HCV - Hackney Carriage Vehicles	00:10	2
U LAPREM/6269	U - Licensing	LAPREM - LA 2003 - Premises	00:05	1
U 14/02059/LAPREM	U - Licensing	LAPREM - LA 2003 - Premises	00:10	2
U	U - Licensing	PHDRIV - Private Hire Drivers	00:20	4
U LAPREM/6271	U - Licensing	LAPREM - LA 2003 - Premises	00:05	1
U 14/04810/PHDRIV	U - Licensing	PHDRIV - Private Hire Drivers	00:25	5
U	U - Licensing	LAPERS - LA 2003 - Personal	00:20	4
U	U - Licensing	LAPERS - LA 2003 - Personal	00:30	6
U	U - Licensing	LCCOM - Licensing Committee/Sub Committee	01:00	12
U 14/02734/HCDRIV	U - Licensing	HCDRIV - Hackney Carriage Drivers	00:10	2
U	U - Licensing	PHDRIV - Private Hire Drivers	00:10	2
Hours Worked			Totals	6:30 78

An aggregate of the licence fee, to reflect the across the board officer time and "on costs" is a much fairer distribution in order to determine the fee payable.*

*See 6.2 overleaf

- 5.5 Fees should be calculated to include all reasonable “on costs” which could include:
- Administration
 - Initial visits
 - Third party costs
 - Liaison with other persons and the public
 - Management costs
 - Local democracy costs
 - Development of policy and web guidance etc
 - General advice and guidance
 - Reviewing fees
 - Additional visits and compliance inspections together with dealing with complaints (subject to the legal principles of cost recovery)
- 6.0 The Licensing Committee have resolved to review fees on an annual basis - minute 15/2008 refers.
- 6.1 As a consequence to a critical examination and analysis of costs associated with each component of the hackney carriage and private hire undertaking (and balanced against officer time recording) a significant deficit in the hackney carriage budget was identified.
- This has been addressed by the committee resolving to increase fees for hackney carriage vehicles, drivers and private hire operators over a 5 year rolling period - minute 3/2015 refers.
- The fees are not reproduced here as they are subject to annual review and possible change. They can be viewed via the PCC web and at the following link:
- <https://www.portsmouth.gov.uk/ext/business/licensing/taxi-licensing-general-information-and-fees.aspx>
- 6.2 The Licensing Service uses a dedicated time recording system to record officer time spent against a licensing matter - whether generically or specifically against one driver, vehicle or operator.¹¹⁷
- The service is getting close to being able to identify potential individual costs against an applicant, driver, vehicle proprietor or operator which could result in future individual billing and subsequent cost recovery.
- This would not, however, be practical or realistic as some cases could result in a legitimate levied fee of hundreds of pounds and others would be significantly less. * See page 143
- 7.0 The trade¹¹⁸ have previously requested a “breakdown” of costs associated with any one particular licence type or application. This is not an unreasonable request as a guide to the administrative practices in place will help to understand the rationale behind such fees and give your reporting staff an opportunity to examine and, where possible, streamline future work processes in order to save costs.
- 7.1 As a note of caution however, the underlying test is to ensure the overall public safety and confidence in the licensing regime and thus any potential cost saving proposals must be balanced against this fundamental rationale.
- 7.2 Whilst it is not possible to give absolute costings, - examples based on the average officer times and on costings for each grant of a licence type are shown opposite:

Licence type	Action	Process	Officer time
Private Hire or Hackney Carriage Driver	Initial enquiry at reception	Give out and explain: <ul style="list-style-type: none"> Application form References DBS Enhanced check form Medical form Drug Screen consent Geography test Check held DVLA licence for one year Discuss importance of declaring criminal/motoring matters Interview with emphasis on good communication skills and look for command of English 	15 minutes
	Applicant returns with completed application	Interview and check: <ul style="list-style-type: none"> Application form for completeness and errors Driving licence and counterpart (subject to review with abolition of counterpart in 2015) Validity of all documents to support DBS check: e.g. passport, driving licence, birth certificate, utility bills Take photograph of applicant Take copies of all documents Validate and countersign DBS check for sending to DBS direct Enter new case on Uniform Scan and image all documents Interview with emphasis on good communication skills and look for command of English 	20 - 30 minutes
	Geography test (could be multiple attempts)	Book test: <ul style="list-style-type: none"> Take payment Monitor progress of test over various modules, check for cheating or odd behaviour If fail, offer and update new test date(s) If pass, ensure certificates are printed and scanned 	2.30 hours (average)
	References	Check for accuracy - contact and discuss application with referees if required - scan and image.	15 minutes
	Medical certificate	Check medical completed to group II standard and certified by GP with practice stamp - scan and image. If concerns refer to senior officer and/or council's appointed Medical Referee.*	10 minutes
	Drug screen Undertaken	Book in and take payment. Carry out drug screen. Send away sample for analysis	20 minutes
	Drug screen returned	Check results and scan and image. If a failure recorded call applicant in for interview and pass to senior officer.*	10 minutes
	DBS check returned	Update case and scan/image. If matters revealed refer to senior officer for interview.*	10 minutes
	Grant of licence	Print badge and give out lanyard, print paper licence, give out or advise re byelaws, give out "conditions of licence and enforcement leaflet". Give overview of legal provisions applicable to licence type. Scan and image licence to case.	15 minutes
	After grant	Update and finalise case together with any scanning/indexing. Ensure update complete to facilitate public register.	10 minutes
		Total average time:	4.45 hours
		Total average cost:	£134.34¹¹⁹

*Senior officer time NOT taken into consideration in this example.

Licence type	Action	Process	Officer time
Private Hire or Hackney Carriage Vehicle	Initial enquiry at reception	Give out and explain: <ul style="list-style-type: none"> • Application form • Explain PCC vehicle technical specifications - colour, wheelbase, seating capacity etc • Discuss importance of proper declarations re proprietor details - particularly for HCV • Ensure that applicant provides all necessary documents on next visit 	15 minutes
	Applicant returns with completed application	Interview and check: <ul style="list-style-type: none"> • Application form for completeness and errors and signed by an operator • Check validity of all documents to include bill of sale, V5, insurance • Take photograph of applicant and ensure photographs of all other proprietors are obtained together with address and other contact details • Take copies of all documents • Enter new case on Uniform • Book mechanical inspection for new vehicle • Scan and image all documents • Take fees • Inspect vehicle prior to mechanical inspection • Give out prescribed livery 	30 minutes
	Mechanical inspection completed	<ul style="list-style-type: none"> • If fail, offer new test date • If pass, update case and arrange for certificate of compliance to be printed and scanned 	10 minutes
	Grant of vehicle licence	<ul style="list-style-type: none"> • Print plate, windscreen licence disc and paper licence • Give out or advise re vehicle conditions and/or byelaws, give out "conditions of licence and enforcement leaflet". • Give overview of legal and appeal provisions applicable to licence type. • Inspect vehicle once plate and livery all fitted and take x 4 photographs of front, rear, nearside and offside • Scan and image licence to case. • Image photographs to case. 	30 minutes
	After grant	Update and finalise case together with any scanning/indexing. Ensure update complete to facilitate public register.	10 minutes
		If necessary, consider livery and/or plate dispensation request - obtain evidence from operator to support request	30 minutes*
	Total average time:		
Total average cost:			£40.75¹²⁰

*Senior officer time NOT taken into consideration in this example.

Licence type	Action	Process	Officer time
Private Hire Operator	Initial enquiry at reception	Give out and explain: <ul style="list-style-type: none"> • Application form • DBS check form • Company/partnership details if application likely to be from a corporate body or persons trading in partnership • Check proposed premises in Portsmouth • Discuss importance of declaring criminal/motoring matters • Discuss any planning issues for proposed premises • Interview with emphasis on good communication skills and look for command of English 	20 minutes
	Applicant returns with completed application	Interview and check: <ul style="list-style-type: none"> • Application form for completeness and errors • Check on company directors and or persons acting in partnership with validity of all documents to support ALL DBS checks - passport, driving licence, birth certificate, utility bills etc • To include overseas criminal record checks if foreign nationals identified in application • Take photographs of applicant(s) • Take copies of all documents • Validate and countersign DBS checks for sending to DBS direct • Check for table of fares • Enter new case on Uniform • Scan and image all documents • Interview with emphasis on good communication skills and look for command of English 	1 hour
	Site visit and interview	Visit proposed business premises <ul style="list-style-type: none"> • Take photographs • Interview applicants and discuss business model • Check for method of establishing and retaining record of bookings received 	2 hours (average)
	References	Take up if necessary and carry out company checks if necessary	30 minutes
	Communication with Police, City Development staff and ward councillors	Give 2 weeks to consult re use of premises and to determine if applicants deemed "fit and proper" <ul style="list-style-type: none"> • Write to Chief Officer of Police • Ward Councillors • City Development staff • Update case as responses subsequently received 	1 hour
	Drug screen Undertaken	If necessary for all applicants	20 minutes
	Drug screen returned	Check results and scan and image. If a failure recorded call applicant in for interview and pass to senior officer*	10 minutes
	DBS check(s) returned	Update case and scan/image. If matters revealed refer to senior officer for interview*	10 minutes
	Grant of licence	Print operator licence and give out "conditions of licence and enforcement leaflet". Give overview of legal provisions applicable to licence type. Scan and image licence to case.	15 minutes

After grant	Update and finalise case together with any scanning/indexing. Ensure update complete to facilitate public register.	10 minutes
Total average time:		5.55 hours
Total average cost:		£327.61¹²¹

*Senior officer time NOT taken into consideration in this example.

8.0 Future Considerations

8.1 The Licensing Service has, in the last year, been able to process debit and credit card payments from the respective taxi and private hire trades.

The resultant shift away from enabling receipt of direct “cash” transactions and payments reflects on one strand of the council’s proposed channel shift working policies.



8.2 The Licensing Service will focus on continuing to provide and/or implementing, where possible, the following “core” objectives:

- To work towards total cost recovery from the hackney carriage and private hire trades with no subsidy from the tax payer (in line with the overall objective)
- To continue to provide the Licensing Committee with reports on the licensing budget and fees
- To continue to ensure that budget headings for the respective hackney carriage and private hire trades are separately maintained and no cross subsidy will take place
- To critically examine existing departmental recharges levied to the licensing budget with a view to their removal or future reduction
- To encourage and recommend to the Licensing Committee that any yearly surplus or deficit be rolled forward year on year
- To encourage and recommend to the Licensing Committee that the Licensing budget be ring fenced
- To recommend increases in fees (with corresponding supporting rationale provided) where appropriate
- To recommend decreases in fees (with corresponding supporting rationale provided) where appropriate
- To consult with respective trade representatives and the trade in general over any proposal affecting licence fees and to comply with any and all statutory publishing requirements
- To consider introducing fees for “pre application” licensing advice - subject to legal opinion
- To consider fees for section 49 transfers and the use of private registration plates
- To constantly review working practices and processes with a view to driving down costs to the trade
- To ALWAYS instruct the City Solicitor to apply for (and to provide a breakdown) to ensure full cost recovery when determining criminal proceedings and/or defending appeals against decisions of the committee in the courts
- To continue to provide empirical time recording evidence from the Licensing Service to support any proposals for fee increases/decreases
- To ensure that any licences previously issued are immediately and considered “null and void” in the event of cheques offered for payment being returned
- To consider the introduction of private hire operator fees based on both a flat fee together with a further fee to reflect the size of the working private hire fleet associated with a particular company (this was the previous policy of the council for many years) as the evidence shows more officer time is spent dealing with the larger operators than the “one man bands”
- To establish an on line secure payment facility for applicants, drivers, vehicle proprietors and operators, 24 hours a day, 365 days a year - subject to IT and audit advice and approval
- To refund, where appropriate plate deposit refunds to respective private hire vehicle proprietors
- To remit such fees and/or changes for operator, vehicle and driver licences as may be appropriate and proportionate in respect of an individual case.
- In those circumstances where a driver holds a respective private hire or hackney carriage driver’s licence and wishes to hold both types of driver licences simultaneously, to introduce a reduced fee.
- Whilst it is considered reasonable and appropriate to reduce the cost of simultaneously holding both types of driver licences, the council does not recognise the concept of a “dual hackney carriage/private hire driver’s licence” as they are granted under different statutory provisions and subject to different enforcement criteria.

Chapter 17: Law commission proposals

1.0 Introduction

1.1 The Law Commission is the statutory independent body created by the Law Commissions Act 1965 whose purpose is to keep the law under review and to recommend reform based on the principles that the law is:

- Fair
- Modern
- Simple
- Effective

1.2 The commission carried out a comprehensive review of the taxi and private hire industry from 2011 with their final report and draft bill being published in 2014. A link to the comprehensive proposals is shown below:

<http://www.lawcom.gov.uk/project/taxi-and-private-hire-services/#taxi-and-private-hire-services-consultation>

1.3 Some of the recommended proposals put forward are already in place (either by way of current statutory requirement or by way of existing local requirement) but there are many new recommendations that reflect on the significant advances in technology and working practices since the inception of the 1847 and 1976 acts.

1.4 The draft bill is not law and thus the council is not bound by the recommendations. It would be sensible however (and for the purposes of this review exercise) for members and officers to have due regard to the depth of thought and knowledge that forms the backbone of the proposals which are summarized in 2.1 - 2.30 opposite.

2.0 The Law Commission Main Proposals

- 2.1 Taxi and private hire licensing to remain a function of the local authority and the “two tier” system to be retained
- 2.2 Hackney carriages to be generally defined by a “there and then” hiring scenario
- 2.3 The taxi and private hire licensing code will apply to services for commercial gain only
- 2.4 The non-professional use of taxis and private hire vehicles to be permitted
- 2.5 Wedding and funeral car hire services to remain exempt from the licensing code
- 2.6 There will be national standards for taxi and private hire vehicles with the local authority to set additional local standards for taxis only
- 2.7 Taxi quantity controls to locally remain and based on a test of “public interest” rather than “unmet demand” and to be reviewed every 3 years
- 2.8 Private hire services to have national applied standards with no power for the local authority to impose local conditions
- 2.9 Stretch limousines and novelty vehicles to include non-motorized pedicabs/rickshaws etc to be brought into the licensing system by mandatory order
- 2.10 Any “standing room” to be assessed to determine vehicle passenger capacity
- 2.11 No general local authority power to impose conditions on taxis and private hire vehicles
- 2.12 Private hire vehicles and drivers to work for any licensed dispatcher
- 2.13 There will be prescribed basic national standards for drivers and dispatchers
- 2.14 Operators will be called dispatchers and will have to be “fit and proper”. They will be deemed as those who send the vehicle and driver and will be able to sub contract bookings to any dispatcher in England and Wales
- 2.15 The Secretary of State will have power to designate specific conditions - with an offence for non-compliance

- 2.16 The Secretary of State to impose requirements to recognise the difference between taxis and private hire vehicles
- 2.17 The Secretary of State to retain the power to set private hire licensing fees
- 2.18 Taxi fares to be regulated by the local authority in the compellable area with drivers charging more for journeys ending outside the licensing area if agreed in advance
- 2.19 Mandatory disability awareness training for both taxi and private hire drivers to a standard set by the Secretary of State
- 2.20 The Secretary of State to prescribe minimum standards re convictions, breaches of licence conditions rendering a person's right to hold a licence incompatible with prescribed standards
- 2.21 A requirement to comply with the relevant provisions of the Equality Act 2010 by condition of licence
- 2.22 A "how to complain" information notice in both vehicles and on the local authority web pages
- 2.23 A touting offence to be broadly retained
- 2.24 Fixed penalties for minor criminal breaches to licence conditions with an ability for officers to stop any licensed vehicle and to impound vehicles used for "touting"
- 2.25 A power to suspend any licence type immediately and on public safety grounds
- 2.26 The local authority to retain the power to revoke licences and may consider evidence or recommendations from other local authority enforcement staff
- 2.27 A secondary right of internal appeal to the Local Authority itself against refusal to grant, suspension, revocation or refusal to renew respective licences
- 2.28 Subsequent appeals to the Magistrates' and to the Crown Court
- 2.29 Policy and conditions to be challengeable in the County Court
- 2.30 The local authority to promote cost recovery from licence fees and to provide for and control:
- Administration costs
 - Inspections and testing costs
 - Fares, ranks and taxi quantity control reviews
 - Enforcement of taxi and private hire services (to include licensed and unlicensed activities)
 - Suspension and revocation proceedings
 - Providing stands for taxis

Chapter 18: Contact information

- 1.0 The Licensing Service is part of the Culture and City Development Directorate. The service reports direct to the Licensing Committee.
- 2.0 Applicants and licence holders can obtain further information including application forms and fees in respect of operators, vehicles and drivers from:

The Licensing Service
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth PO1 2AL

Tel: 023 9283 4073

Fax: 023 9283 4811

Email: licensing@portsmouthcc.gov.uk

Web: www.portsmouth.gov.uk

- 3.0 The Licensing Service is located on the lower ground floor of the Civic Offices. Access to the office is via Charles Dickens Street.

The opening hours are:

Monday to Friday 0900 until 1600

No appointment is generally necessary but please phone in advance if you wish to see and speak to a particular officer.

Limited on-street parking is available and pay and display car parks are situated nearby.

- 4.0 The Licensing Service comprises:

- Nickii Humphreys (Licensing Manager)
- Derek Stone
- Ross Lee
- Jason Ellam
- Kevin Weeks
- Les Matthewson
- Debra Robson
- Karen Bowie
- Hazel Maidment
- Zoe Gofton
- Chris Berry
- Lauren Tyler

Together with seconded temporary and apprentice staff as appropriate

- 4.1 The staff are all duly appointed as “authorised officers” for the purposes of carrying out their respective duties under the 1847 and 1976 acts and so far as this relates to the control and supervision of the hackney carriage and private hire undertaking.



Chapter 19: References

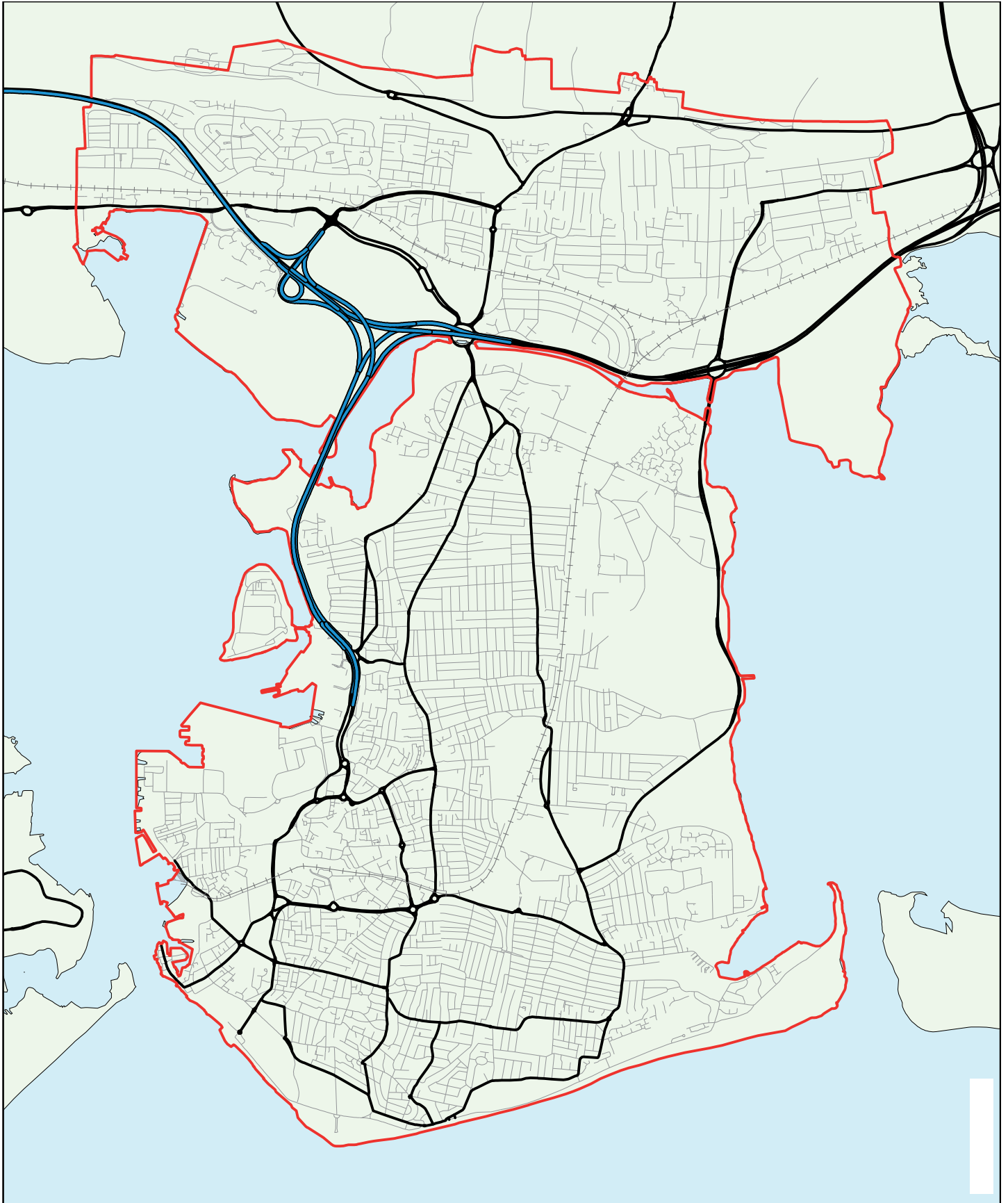
- Audit Commission Act 1998
- “Button on Taxis” - Third Edition
- Criminal Procedures and Investigations Act 1996
- Crime & Disorder Act 1998
- Data Protection Act 1988
- Department for Transport - “Taxi and private Hire Vehicle Licensing” - “Best Practice Guidance” - March 2010 and “Private Hire Vehicle licensing” - “A note for guidance” - August 2011
- Disability Discrimination Act 1995
- Equality Act 2010
- EU Services Directive 2006
- Human Rights Act 1998
- Law Commissions Act 1965
- Legislative and Regulatory Reform Act 2006
- Local Authorities (Functions & Responsibilities) (England) Regulations 2000 as amended
- Local Government Act 1972
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government Act 2000
- “Options for Change” - A PCC review of hackney carriage and private hire policy - August 2001
- Police and Criminal Evidence Act 1984
- Protection of Freedoms Act 2012
- Prosecution of Offences Act 1985
- Public Health Act 1875
- Rehabilitation of Offenders Act 1974
- Road Traffic Act 1988
- Road Traffic Act 1991
- Road Traffic (New Drivers) Act 1995
- Road Safety Act 2006
- The Legal Aid, Sentencing and Punishment Act 2012
- Town Police Clauses Act 1847
- Transport Act 1985

Chapter 20: Glossary of terms

"1847 Act"	means the Town Police Clauses Act 1847 and byelaws made thereunder
"1976 Act"	means part II, Local Government (Miscellaneous Provisions) Act 1976
"Adams Morey"	means the council's prescribed vehicle testing and inspection station and situated at Burrfields Road, Copnor, Portsmouth PO3 5NN
"Alere"	means Alere Toxicology Plc, 92 Park Drive, Milton Park, Abingdon Oxfordshire OX14 4RY
"Authorised Officer"	means any officer of the council authorised in writing and acting on behalf of the appropriate head of service for the time being prescribed and for the purposes of the following principal statutes; together with any other statutes, prescribed regulations or statutory instruments for the time being in force relating to the control and supervision of hackney carriages, their proprietors and drivers and Private hire operators, vehicles and their drivers. <ul style="list-style-type: none"> • The Town Police Clauses Act 1847 ("the 1847 act") • The Local Government (Miscellaneous Provisions) Act 1976, Part II (" the 1976 act")
"Councillors' Handbook"	means the taxi and private hire licensing handbook prepared by the Local Government Association for councillors in England and Wales and dated March 2015.
"Drivers Badge"	means, in relation to the driver of a hackney carriage, any badge issued under byelaws made under section 68 of the 1847 act and, in relation to the driver of a private hire vehicle, any badge issued under section 54 of the 1976 act.
"Drivers Licence"	means, in relation to the driver of a hackney carriage, a licence issued under section 46 of the 1847 act and, in relation to the driver of a private hire vehicle, a licence issued under section 51 of the 1976 act.
"DVLA"	means the Driver & Vehicle Licensing Agency, Swansea SA99 1BU.
"DVSA"	means the Driver & Vehicle Standards Agency who have a local enforcement office at: DVSA Southampton GVTs Bottings Industrial Estate Hillson Road Botley Southampton SO30 2DY
"Hackney Carriage"	means every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance and seating less than 9 passengers.
"Hackney Carriage Byelaws"	means the byelaws made pursuant to section 68 of the 1847 act and for the time being in force in the controlled district of Portsmouth and relating to hackney carriages, their proprietors and drivers.
"Head of Service"	means the recognised chief officer and/or director for the time being responsible for the Licensing Service.

“Licensing Committee or Licensing Sub Committee”	means the committee and sub-committee duly appointed by the Full Council to determine all hackney carriage and private hire matters in accordance with the current scheme of delegation and as prescribed by statute, the Functions and Responsibilities Regulations (as amended) and the council’s adopted constitution.
“Licensing Service”	means the authorised officers of the Licensing Service for the time being of Portsmouth City Council and situated at the Civic Offices, Guildhall Square, Portsmouth PO1 2AL.
“Medical Referee”	means the Occupational Health Department, Queen Alexandra Hospital, Southwick Hill Road, Cosham, Portsmouth PO6 3LY
“Magistrates”	means The Portsmouth Magistrates’, The Law Courts, Winston Churchill Avenue, Portsmouth, Hampshire PO1 2DQ.
“Operate”	means in the course of business to make provision for the invitation or acceptance of bookings for a private hire vehicle.
“Operator licence”	means a licence issued under section 55 of the 1976 act.
“PATN Guidance”	means the best practice guidance for the minimum inspection and testing standards in respect of hackney carriages and private hire vehicles as prepared by the Technical Officers Group of the Public Authority Transport Network.
“Portsmouth City Council”, together with the “prescribed distance”, the “relevant area” and “controlled district”	means the council and the administrative area comprising of the City of Portsmouth as shown in the reproduced map.
“Private Hire Vehicle”	means a motor vehicle constructed or adapted to seat fewer than 9 passengers, other than a hackney carriage or public service vehicle, which is provided for hire with the services of a driver for the purposes of carrying passengers.
“Proprietor”	means those person(s) truly engaged in the keeping, employing or letting to hire of such carriage. “Proprietor” also includes a part-proprietor and, in relation to a vehicle which is the subject of a hiring agreement or hire purchase agreement, means the person in possession of the vehicle under that agreement.
“Taximeter”	means any device for calculating the fare to be charged in respect of any journey in a hackney carriage or private hire vehicle by reference to the distance travelled or time elapsed since the start of the journey, or a combination of both.
“Vehicle Licence”	means in relation to a hackney carriage a licence issued under sections 37 to 45 of the 1847 act and in relation to a private hire vehicle means a licence under section 48 of the 1976 act.

Chapter 21: Map of Portsmouth



Portsmouth
CITY COUNCIL

Title: **PORTSMOUTH CITY COUNCIL
ADMINISTRATIVE AREA**

Drg No:

Prepared for: **LICENSING OFFICE**
Prepared by: **Geographic Information Service**

Scale: **1:54000**

Date: **01/09/2015**



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Footnotes & Commentary

1. The local circumstances of licensing control became a prominent consideration in R (app Newcastle City Council) -v- Berwick upon Tweed Borough Council 2008. The court said "the local authority can issue its own conditions and make its own byelaws. It can make provision for its own inspections of hackney carriages. Thus the licensing regime is local in character. In addition it can be seen that most of the provisions have public safety in mind"
2. Department for Transport - Taxi and Private Hire Vehicle licensing - Best Practice Guidance - March 2010 refers
3. Cherwell District Council -v- Anwar 2011
4. With the exception of wedding, funeral and pet ambulance service type activities
5. Section 60, Local Government (Miscellaneous Provisions) Act 1976 refers in relation to the fitness of the vehicle
6. The adopted byelaws (at number 3) require a hackney carriage to be provided with a fire extinguisher and the council cannot dis-apply the byelaw. However, the Fire Authority does NOT recommend that drivers should tackle vehicle fires and their use should be advisory only.
7. Local Authorities (Functions & Responsibilities) (England) Regulations 2000 as amended
8. The council adopted the provisions of part II of the 1976 act with effect from 01 February 1978 and following a report by the City Secretary & Solicitor to both the Environmental Health Committee and to full Council - block council minutes 21 June 1977 and 26 July 1977 refer
9. Source - Local Authorities (Functions & Responsibilities) (England) Regulations 2000 as amended and as endorsed by "Button on Taxis" and the LGA publication "Taxi & Private Hire Licensing - Councillors' Handbook" - March 2015
10. Licensing Committee minute 33/2003 refers
11. This is never more important and necessary than when determining licensing matters which are more likely to be subject to judicial scrutiny either following an appeal or judicial review
12. There may be limited but good exceptions to this rule - see the "delegation of functions" at 4.0
13. The case of 007 Taxis Stratford Ltd -v- Stratford on Avon District Council 2010 considered the question of policy - in this case the cabinet received a report from the Licensing Committee about taxi policy matters. The council was unsuccessfully challenged over the vires of the decision making process which was deemed lawful
14. By virtue of section 61 2B to the 1976 act (following section 52 of the Road Safety Act 2006). The ability to suspend a current driver licence is conferred by Licensing Committee minute 33/2003. However, the question of revocation ONLY in cases of immediately public safety interests is requested following the judgement in R (app Singh) -v- Cardiff City Council 2012. Endorsed by the LGA publication "Taxi & Private Hire Licensing - Councillors' Handbook" - March 2015
15. For example evidence of epilepsy or the taking of anti-convulsant medication, repeated loss of consciousness or sudden and unexplained disabling giddiness, eyesight and other prescribed visual acuity problems, strokes, drug or alcohol dependency and/or other serious and prescribed medical conditions affecting the ability to drive to the group 2 vocational standard
16. Executive function
17. Executive function
18. If evidence, for example, of any criminal convictions or adverse conduct becomes apparent and/or there is evidence that the representative does not have the support of a membership
19. To include, for example, any "MOT" or other DVSA updates or new conditions/directives imposed by the committee
20. An information report in respect of prosecutions will be referred to the committee for subsequent consideration
21. Section 49, Local Government (Miscellaneous Provisions) Act 1976 and the case of R -v- Weymouth Borough Council ex parte Teletax (Weymouth) Ltd 1947
22. Report and conclusions of Transport Planning International Ltd to the Licensing Committee - October 2006
23. Department For Transport - Taxi and private hire vehicle licensing - best practice guidance - March 2010
24. The regulation of licensed taxi and private hire vehicle services in the UK - November 2003
25. Department For Transport - Taxi and private hire vehicle licensing - best practice guidance - March 2010
26. Keycabs Ltd T/A Taxifast -v- Plymouth City Council 2007
27. Email correspondence by an interested party to the Licensing Service - Ms Katie Mills
28. R -v- Liverpool Corporation ex parte Liverpool Taxi Fleet Operators Association 1975 - Lord Denning commenting "The corporation should be ready to hear persons or bodies whose interests are affected. It is perhaps putting it a little high to say that they are exercising judicial functions. They may be said to be exercising an administrative function but must act fairly"
R -v- North & East Devon Health Authority ex parte Coughlan 2001 - "It has to be remembered that consultation is not litigation: the consulting authority is not required to publicise every submission it receives or (absent some statutory obligation) to disclose all its advice. Its obligation is to let those who have a potential interest in the subject matter know in clear terms what the proposal is and exactly why it is under positive consideration, telling them enough (which may be a good deal) to enable them to make an intelligent response. The obligation, although it may be quite onerous, goes no further than this"
29. That said, and as a recent contra example, from 01 April 2015 personal licences granted under the Licensing Act 2003 now last indefinitely.
30. Exeter City Council -v- Sandle 2011
31. Department for Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance March 2010
32. Statutory Instrument 994/2015 refers - "The Deregulation Act 2015 (Commencement No 1 and Transitional and Saving Provisions) Order 2015".
33. Norwich City Council -v- Thurtle & Watcham 1981
34. Lord Bingham of Cornhill in the case of McCool -v- Rushcliffe Borough Council 1997 and as noted in Leeds City Council -v- Hussain 2002
35. Nottingham City Council -v- Farooq 1998, Leeds City Council -v- Hussain 2002, R -v- Maidstone Crown Court Ex parte Olson 1992, Westminster City Council -v- Zestfair Ltd 1989, Adamson -v- Waveney District Council 1997
36. Department for Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010
37. Licensing Committee minute 41/1994 refers
38. Joint circulars 2/92 and 13/92 refer

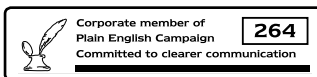
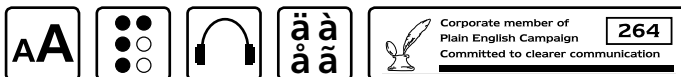
39. Now the function of the Disclosure & Barring Service (DBS) - see chapter on Rehabilitation of Offenders
40. At page 14 of the handbook
41. The conviction guidelines are, by nature, generalised and shown in "categories". It is not possible to list all offence types nor is it possible to list or categorise each and every area of "conduct" that might, or might not, be appropriate
42. As recognised by the DVLA "At a Glance" medical guide on alcohol or illicit drugs
43. Source - Licensing Committee minute 7/2014 refers - Police & Local Authority Road Safety Officer casualty records
44. Not to include matters relating to the "penalty points system" which will be dealt with, on merit, and separately from these guidelines
45. Confidential Licensing Sub Committee reports refer. A licensed vehicle is licensed at all times and thus can only ever be driven by a licensed driver. The fact that the "data box" may be switched off or the driver was/is "on a break and not receiving work" is not a mitigating consideration - see Yates -v- Gates 1970 and Benson -v- Boyce 1997
46. Crawley Borough Council -v Crabb 1996
47. The crash risks are highest for new and younger male drivers aged 17 - 20 - source "Fitness to Drive - a guide for health professionals" - Tim Carter. See also "age limits" at 9.0 below
48. The council is both the local licensing authority and local highway authority responsible for transport provision. All drivers are capable of carrying out sensitive school and other contract work ("a regulated activity under the workforce relevancy tests") on a daily basis. The council's Transport Fleet Manager and passenger transport staff estimate over 200 daily journeys by drivers with children and/or vulnerable adults. For these reasons the child and adult workforce checks are vital
49. Not to include holidays or short trips to visit family but with the final decision on whether to require a certificate of good conduct to rest with the head of service. The age of 10 recognises the age of criminal responsibility in England and Wales.
50. Supplemental reference books are the "Medical Aspects of Fitness to Drive" published by the Medical Commission on Accident Prevention and "Fitness to Drive - A guide for health professionals" by Tim Carter
51. This policy which requires a medical on first application, next at aged 45, then every 5 years until 65, then annually but drug testing should be carried out at more stringent intervals
52. Currently the Occupational Health Service at QA Hospital, Southwick Hill Road, Portsmouth
53. Both Southampton City Council and East Hants District Council require a driver to be 21
54. Informal discussions with Citywide Taxis, Aqua Cars Ltd, Scope Vehicle Leasing, Outlook UK Ltd and Tradex
55. Section 69, Local Government (Miscellaneous Provisions) Act 1976
56. With anecdotal evidence via the Portsmouth Disability Forum of drivers not securing wheelchairs, overcharging and generally being poorly prepared in dealing with persons with either assistance dogs or using a wheelchair. On a positive note - Aqua Cars Ltd both encourages and requires drivers of wheelchair accessible vehicles to undertake local MIDAS training courses.
57. Darlington Borough Council -v- Kaye 2004 - the introduction of the Driver Standard Agency (DSA) testing for drivers was deemed lawful
58. The Blue Lamp trust, c/o Hampshire Fire & Rescue Service, Leigh Road, Eastleigh, S050 9SJ - Telephone 0300 777 0157
59. The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) order 2002
60. Adamson -v- Waveney District Council 1997. The council, via the Licensing Committee will not look at all "spent" matters and then try to ignore those that are not relevant but rather will focus ONLY on those spent convictions (if any) that reflect on the considerations shown in Chapter 9, 4.2
61. The Legal Aid, Sentencing and Punishment Act 2012 refers
62. The definition of a hackney carriage is very wide and could include pedicabs etc. There have been no "licensed" pedicab hackney carriages plying for trade in Portsmouth (as the restricted numbers policy applied to ALL types of hackney carriage whether motorised, horse drawn or people drawn) and thus applications could not be granted under delegated authority and without referral to the committee.
Previous surveys have not indicated any demand for these unique and quirky forms of public conveyance and their brief use in Portsmouth in 2010 was by way of pre bookings only. As they were not a motorised form of transport - the private hire legislation did not apply to their use.
63. Chauffeur Bikes Ltd -v- Leeds City Council 2006 and Department for Transport guidance note July 2012. It is suggested that any application be considered on its individual merit
64. The evidence of previous pedicab use in Portsmouth identified that the construction and safety of the wheeled trikes was poor with mechanical failures evident - particularly to the main front fork assembly. This highlights the need for ANY form of perceived public transport to be tested and inspected prior to use.
65. R -v- Manchester City Council ex p Reid 1989 in which new licences were granted in favour of wheelchair accessible vehicles only.
66. Correct at July 2015 - source licensing computer database
67. Department For Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010
68. The adopted byelaws require the vehicle to have at least 2 doors for passengers - byelaw 3(i) refers. A previous specification requirement for vehicles to seat a minimum of 4 passengers in comfort is considered unreasonable as the Mercedes CLS (for example) can only realistically seat 3 passengers due to the unique rear seat squab design.
69. Historically, seating capacities were determined by the "16 inch" (400mm) rule for individual passengers having regard to the Road Vehicles (Registration & Licensing) Regulations 1971 and used to determine seating capacity for the purposes of duty payable.
70. This should be subject to review. The corporate livery is now 14 years old and is likely to need re-branding to take into account the council's current image for the great waterfront city. The mandatory use of bonnet stickers for hackney carriages also needs further consideration due to both material supply concerns and to previous quality control issues being raised by the trade.
71. Section 47, Road Traffic Act 1988
72. Approved by the Secretary of State for the Home Office for commencement in Portsmouth on 25 January 1971
73. Section 48 of the 1976 act refers

74. The ability however to inspect and test vehicles at "all reasonable times" to ascertain vehicle fitness is permitted under section 68 of the 1976 act and is used as a means of carrying out "spot checks" and other ad hoc immediate enforcement by both authorised officers and police officers.
75. Department for Transport - Taxi & Private Hire Vehicle Licensing - March 2010
76. Source - Adams Morey monthly recorded data for vehicle inspections in 2014
77. Source European Union - Climate Action plan
78. Section 60, Local Government (Miscellaneous Provisions) Act 1976 refers in relation to the fitness of the vehicle
79. The adopted byelaws (at number 3) require a hackney carriage to be provided with a fire extinguisher and the committee cannot dis-apply the byelaw. However, the Fire Authority does NOT recommend that drivers should tackle vehicle fires and their use should be advisory only.
80. Source - "Hackney carriage and private licensing - review of policy" - a report by the City Secretary & Solicitor 30 January 1984 to the Licensing Panel & a further report to the Licensing Sub Committee - minute 11/1986 refers
81. Prior to this, the previous age limit policy (for wheelchair accessible hackney carriages) was to be brand new on first licensing and to stay licensed until 8 years of age - Licensing Committee minute 37(20)(v)/2001 refers.
82. See Licensing Sub Committee minutes 14 and 23 of 2015
83. In the case of R -v- Hyndburn Borough Council ex parte Rauf & Kasim 1992, the court held it was possible to impose a condition about vehicle age limits without being Wednesbury unreasonable and/or fettering their discretion - PROVIDED the local authority would give consideration to any application. The general presumption, as stated earlier in this document, is that policy is to "guide rather than to bind" the decision making process.
84. Department for Transport - Taxi and Private hire Vehicle Licensing - Best Practice Guidance - March 2010
85. Now Transport for London
86. "In the picture - A data protection code of practice for surveillance cameras and personal information" - October 2014
87. Source - Department for Transport guidance - December 2008 - Product codes 08DFT 008/009
88. Source - "Safer Portsmouth Partnership - Crime concerns of taxi drivers in Portsmouth." - May 2013
89. Source - confidential Licensing Sub Committee hearings to determine whether drivers were deemed to be "fit and proper" persons.
90. In the case of Southampton City Council and the Information Commissioner on appeal reference EA/2012/0171 to the First Tier Tribunal (19 February 2013), it was concluded that equipment with continuous blanket audio recording was disproportionate and not justified under article 8(2) of the ECHR (right of privacy) and contravened the data protection first principle.
91. Wathan -v- Neath Port Talbot County Borough Council 2001
92. The revised guidance issued by the Secretary of State and in respect of the Licensing Act 2003 gives clear and useful "principles" about the imposition of conditions - March 2015
93. Associated Provincial Picture Houses Ltd -v- Wednesbury Corporation 1948.
94. Source - Department for Transport Guidance Notes and Model Byelaws, Buses & Taxis Division - July 2005
95. Legislative and Regulatory Reform Act 2006 refers - Department for Business Innovation & Skills, Better Regulation Delivery Office - Regulators' Code - April 2014
96. The Hampton Review - "Effective Inspection & Enforcement" - March 2005 and the Rogers Review - "National Enforcement Priorities" - March 2007
97. Section 45, Town Police Clauses Act 1847 refers
98. It has been the practice of the enforcement team to give general notice to the trade representatives of proposed future ad hoc or co-ordinated enforcement activities together with the use of targeted operation orders as required for such activities including plying for hire, illegal ranking and drug testing.
99. Although not strictly defined "serious" breaches could include any acts of dishonesty, making false statements, failing to comply with officer requests, failing to produce documents upon request, refusal to take passengers, overcharging, plying for hire, having no insurance, permitting the use of unlicensed vehicles or drivers, breach of byelaws etc
A suspension or revocation of a licence could be for evidence of an arrest, charges or a conviction being recorded for offences relating to dishonesty, violence, offences of a sexual nature including abuse and serious road traffic offences including those leading to a disqualification OR evidence of a new or underlying serious medical condition that has worsened - this list is a guide only and not meant to be exhaustive
100. Penalty by virtue of section 183, Public Health Act 1875
101. The penalty for breach of sections 50 (1-4) above is contained within section 50 (5) of the act and whilst it indicates "any person who contravenes", we consider the proprietor has lead responsibility for compliance with the general provisions of section 50 to the 1976 act.
102. In this respect, the licensing management team can consider the overall quality of any file and offer guidance and, on occasion, recommend that the offender be given a lesser sanction such as a final written warning or simple caution.
103. Middlesbrough Council -v- Safer 2001 refers
104. Ministry of Justice guidance - "Simple Cautions for Adult offenders" - 08 April 2013. Replaced Home Office guidance 016/2008.
105. In the matter of Portsmouth City Council and Mitchell (1990) - the council obtained an injunction to prevent a former hackney carriage driver from driving who had previously been declared medically unfit to drive.
106. Department for Transport - Taxi and Private Hire Vehicle Licensing - Best Practice Guidance - March 2010

107. The use of a penalty points scheme has been subject to judicial consideration - in the case of R (app Singh) -v- Cardiff City Council 2012 - Mr Justice Singh commented "in my view there is nothing wrong in principle... with the adopting of such a policy which seeks, both in fairness to the driver potentially affected and also to protect the public interest, to have, as it were, a staged process by which the cumulative effect of incidents of misconduct may well lead ultimately to the conclusion that in the judgment of the local authority, a person is not a proper person to continue to enjoy the relevant licence"
108. The use of a "rolling" 12 month period will mean that any points outside of the 12 month period will be considered void and spent
109. In contrast with the "Casey report" in respect of Rotherham MBC's hackney carriage and private hire undertaking which revealed concerns about the lack of recording and use of data associated with complaints against drivers - February 2015
110. Kelly -v- Liverpool City Council 2003 - the court concluded that different charges could be applied for different vehicle test criteria notwithstanding that a licence was not granted. The court also stated that "the fees charged for the grant of licences are not to be used as a revenue raising measure".
111. R -v- Cardiff City Council ex parte Cummings 2014
112. R -v- Manchester City Council ex p King 1991 and R -v- GLC ex p Rank Organisation 1982
113. Source - Birmingham, Sefton MB and Bolton council's and the LGA "Taxi and private Hire Councillors' handbook" at page 8
114. Source - LGA Corporate guidance - "Locally Set Fees" 2014
115. EU Services Directive 2006/123/EC
116. Hemming -v- Westminster City Council 2013/2015
117. Source - Licensing Uniform database
118. Mr Bruce Hall, general manager and on behalf of Aqua Cars Ltd
119. This is based on an average officer hourly rate "on-cost" of £30.19* and does not presume a first time pass at the geography test, any concerns with the DBS Enhanced check, medical or drug screening concerns and no apparent motoring or criminal convictions requiring further investigation or interview. This costing does not take into account any stationery, specialist badge printing, computer software and maintenance charges, web advice and updates or if further officer advice and interview is needed with a view to referral to the Licensing Sub Committee.
- Should a senior officer be involved in interviewing, reporting and attending a committee the average "on cost" hourly rate of £69.30** would apply with an average overall case time of 3 hours to include all phone calls, correspondence, interviews and compilation of committee report together with notices of hearing and notices of decision and to include appeal rights. The cost would therefore increase by a further £207.90 giving a total of £342.24. This figure equally does not include professional legal and democratic input and advice together with the cost of any committee hearing to establish the fit and properness of a driver.
- *Average of the divided hourly rate "on costs" for 4 licensing assistant posts.
- ** Average of the divided hourly rate "on costs" for the licensing manager, principal and senior officers.
120. This is based on an average officer hourly rate "on-cost" of £30.19 and represents only the officer administration cost but does not include the costs associated with computer hardware and software for the purposes of the plate and licence disc production, plate bracket, disc holders and other sundries, livery costs together with the costs of the council's nominated garage for inspecting and testing vehicles.
- This fee does not include the on-going administrative support in arranging annual plate tests, sending out reminders, checking on insurance and V5 documentation, dealing with year on year enforcement operation orders to check on vehicle fitness, dealing with vehicle suspensions due to accident damage or mechanical defects, recovering plates following suspension or non-renewal of same, processing personalised/cherished plate transfers, inspecting and giving approval for vehicle commercial advertising, updating the public registers, etc.
- Again, this fee does NOT include any contested matters referred to committee for final determination due to age limit challenge or other reason(s) affecting the material safety of the vehicle under consideration. The same principles highlighted previously for driver costs should be applied.
121. An average officer time cost of £59.03 (equating to the average hourly costs split between the principal and senior staff) has been used to determine the general costs associated with operator applications. Given that operator applications are all uniquely different (ranging from "one man bands" to international organisations such as Uber which took over 37 officer hours to determine and thus would have cost £2184.11) - the costings as shown above are a generic guide only to the amount of officer time devoted to each operator application.

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264

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Agenda Item 13



Portsmouth CITY COUNCIL

COUNCIL MEETING

QUESTIONS FOR THE CABINET OR CHAIR UNDER STANDING ORDER NO 17

CITY COUNCIL MEETING – 22 March 2016

QUESTION NO 1

FROM: COUNCILLOR JOHN FERRETT

TO REPLY: CABINET MEMBER FOR HOUSING
COUNCILLOR STEVE WEMYSS

Wilmcote House, north Somerstown

Can the Cabinet Member for Housing assure members that the Council is robustly managing its contract with Keepmoat, and their subcontractors, and confirm the revised date of completion, so that residents can be kept abreast of this scheme that is impacting greatly on their lives?

QUESTION NO 2

FROM: COUNCILLOR MATTHEW WINNINGTON

TO REPLY: CABINET MEMBER FOR HOUSING
COUNCILLOR STEVE WEMYSS

Would the Cabinet Member please list the HRA capital projects that have had to be shelved in 2016-17 due to the effects of government housing policy changes since May 2015.

QUESTION NO 3

FROM: COUNCILLOR RYAN BRENT

**TO REPLY: CABINET MEMBER FOR CHILDREN &
EDUCATION
COUNCILLOR NEILL YOUNG**

The current administration has made education a main priority. What has been done to support schools to improve the quality of education in the city?