

BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Meeting, Thursday 13th October, 2016
at 2.00 p.m. (Drawing Room)

A G E N D A

PART ONE

1. To note any items which the Chairman considers to be of an urgent nature.
2. To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.

3. Admission of Public and Press

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.

4. Declarations of Interest.

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

5. Apologies for Absence/Attendance of Substitute Members.
6. To confirm the Minutes of the meeting held on 1st September, 2016 (copy attached).

FOR DECISION

- (D) 7. Executive Hire Exemption Guidelines for Private Hire Vehicles.
- (D) 8. Application for Street Trading Consent – Taylors Amusements.

- (D) 9. Policy Relating to the Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences.
- (D) 10. Zoo Licensing Act 1981 (as amended)
Zoo Licence for South Lakes Safari Zoo Ltd –
Compliance with Conditions and Direction Orders.

PART TWO

- (D) 11. Application for a Hackney Carriage Drivers Licence.

**NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPH OF PART
ONE OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972
AND ACCESS TO INFORMATION (VARIATION) ORDER 2006**

**NOTE (D) - Delegated
(R) - For Referral to Council**

Membership of Committee

Councillors Callister (Chairman)
Seward (Vice-Chairman)
Biggins
Cassells
Derbyshire
Gill
Heath
W. McClure
Maddox
Proffitt
Wall
One Vacancy

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BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Meeting: Thursday 1st September, 2016
at 2.00 p.m. (Drawing Room)

PRESENT:- Councillors Callister (Chairman), Biggins, Derbyshire, Gill and W. McClure.

Officers Present:- Anne Chapman (Environmental Health Manager), Graham Barker (Principal Environmental Protection and Licensing Officer), Jennifer Curtis (Senior Licensing Officer), Jane Holden (Acting Principal Legal Officer) and Jon Huck (Democratic Services Manager).

Legal Representative:- Paul O'Donnell (Local Authority Retained Solicitor).

40 – Apologies for Absence/Attendance of Substitutes

Apologies for absence were received from Councillors Cassells and Maddox.

41 – Minutes

The Minutes of the meeting held on 21st July, 2016 were taken as read and confirmed.

The Minutes of the Licensing Sub-Committee held on 21st July, 2016 were noted.

42 – Application for Removal of a Condition on a Street Trading Consent

The Principal Environmental and Licensing Officer reported that the Licensing Authority had received an application for a Street Trading consent from Mr Joseph Elliot.

Mr Elliot's application was for a stationary catering van to be sited at Unit 17, Meeting Industrial Estate, Park Road, Barrow. It was his intention to sell hot food, hot drinks, cold drinks and snacks, Monday to Friday, 8am-2.30pm and Saturdays 10.00am to 2.00pm.

Such stationary trading contravened a condition attached to street trading consents; therefore the removal of this condition was required if Members decided to grant the consent.

A map showing the area in which Mr Elliot had applied to trade was attached as an appendix to the Officer's report.

Consents were issued subject to a set of standard conditions and could be granted for a period not exceeding 12 months. Mr Elliot had applied for a 12 month Street Trading Consent.

Condition number 12 stated that:

“The Trader must operate his/her business on a mobile basis and can therefore stop for only 10 minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day.”

As part of the application procedure the Licensing Authority had consulted with the Planning Department, Trading Standards, Cumbria Constabulary and Cumbria Highways.

At the time of writing the report no representations had been received from consultees.

Mr Elliot attended the Licensing Regulatory Committee and made representation in support of his application.

RESOLVED:- That the Street Trading Consent be granted for a period of 12 months (subject to restriction) and the removal of conditions number 12 be approved.

Restriction

1. That advertising boards on the highway be prohibited.

43 – Environmental Health Manager – Request to Change Delegations

The Environmental Health Manager reported that a review had been taken of the Environmental Health Manager’s delegations in the Council’s Constitution recently. Her report requested that Members consider adding a delegation which would allow her to suspend Private Hire and Hackney Carriage Vehicle licences under certain circumstances. This would allow suspensions to be made promptly and aid the effective and efficient running of the taxi licensing function.

The report also sought a further delegation to be added relating to the return of vehicle identification plates or discs in certain circumstances.

The current Constitution of the Council stated that the Environmental Health Manager had a delegation in respect of taxi licensing functions as follows:

‘To suspend private hire and hackney carriage drivers and operators who contravene the conditions of a licence or other relevant legislation.’

Adding further delegations to the Environmental Health Manager’s role would be beneficial to allow action to be taken promptly if required to protect public safety. The suggested additional delegations related to:-

- i) The suspension of private hire and hackney carriage vehicle licences; and

- ii) The ability to give notice requiring the proprietor of a hackney carriage or private hire vehicle to return identification plates or discs to the Council within seven days in the circumstances set out in the legislation below.

Relevant Legislation

Section 50 (1) of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act), required that vehicle proprietors shall present their hackney carriage or private hire vehicles for inspection and testing by or on behalf of the Council within such period and at such place as they may by notice reasonably require. This section also stated that testing shall not take place on more than three separate occasions in 12 months.

Section 50 (5) stated that failure to comply with the provisions in this section was an offence.

Section 60 (1) of the 1976 Act, provided that a District Council may suspend or revoke, or refuse to renew a vehicle licence on any of the following grounds:—

- (a) that the hackney carriage or private hire vehicle is unfit for use as a hackney carriage or private hire vehicle;
- (b) any offence under, or non-compliance with, the provisions of the Act of 1847 or of this Part of this Act by the operator or driver; or
- (c) any other reasonable cause.

Section 60 (2) of the 1976 Act stated that a District Council shall give to the proprietor of the vehicle, notice of the grounds on which the licence had been suspended or revoked or on which they had refused to renew the licence within fourteen days of such suspension, revocation or refusal.

Section 60 (3) stated any proprietor aggrieved by a decision of a District Council under this section may appeal to the Magistrates' Court.

Section 58 (1) of the 1976 Act states that on-

- a) the revocation or expiry of a vehicle licence in relation to a hackney carriage or private hire vehicle; or
- b) the suspension of a licence under Section 68 of this Act;

a District Council may by notice require the proprietor of that vehicle to return to them the vehicle identification plate or disc which was attached to the vehicle (hackney carriage) or had been issued for the vehicle (private hire).

Section 58 (2) stated that if a proprietor failed without reasonable excuse to comply with the terms of a notice under subsection 1 of this section-

- a) He shall be guilty of an offence and liable on summary conviction to a fine and also a daily fine; and
- b) Any authorised Council Officer or Constable shall be entitled to remove and retain the plate or disc from the vehicle.

Vehicle Testing

The Environmental Health Manager reported that the Council's current requirement for vehicle testing depended upon the age of the vehicle. Vehicles were tested at one of the Council approved testing stations 2 or 3 times a year.

Vehicle proprietors were reminded to submit their vehicles for testing (this was the notice required by Section 50 set out above) by letter at least 30 days before their mid-term or renewal tests were due. If the vehicle proprietor failed to submit the vehicle for testing, the licence should then be suspended using Section 60 of the Local Government (Miscellaneous Provisions) Act 1976, until such time as a valid test certificate was obtained.

The Environmental Health Manager could re-instate the vehicle licence if a valid test certificate was obtained, using delegated powers.

RESOLVED:- That the following wording be added to the Environmental Health Manager's delegations in the Council's Constitution:-

- a) 'To suspend private hire and hackney carriage vehicle licences on any of the grounds contained in Section 60 Local Government Miscellaneous Provisions Act 1976'; and
- b) 'To give notice requiring the proprietor of a private hire or hackney carriage vehicle, to return vehicle identification plates or discs to the Council within seven days in relation to any of the grounds contained in Section 58 Local Government Miscellaneous Provisions Act 1976'.

REFERRED ITEMS

THE FOLLOWING MATTERS ARE REFERRED TO COUNCIL FOR DECISION

44 – Policy Relating to the Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences

The Principal and Environmental Protection and Licensing Officer reported that following a review of the current Council guidelines on the fitness of applicants for hackney carriage and private hire drivers licences, Officers had developed a new draft policy which was presented to Members at their Committee meeting on 30th June, 2016. At that meeting Members had approved a public consultation of the new draft Policy, including its additional requirement to enable the Licensing Authority to introduce appropriate and necessary training, to continually improve driver standards, knowledge and awareness.

The Council had a duty to ensure that those licensed to drive hackney carriages and private hire vehicles were suitable persons to do so, and would wish to satisfy itself that applicants and licensed drivers were safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not

persons who would take advantage of their employment to abuse or assault passengers.

Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 provided that a District Council shall not grant a Hackney Carriage or Private Hire Driver licence unless they were satisfied that the applicant was a fit and proper person to hold a licence. No definition of 'fit and proper' was offered and the Council's discretion was wide-ranging, therefore the Council had guidelines in place to aid the decision making process.

Following a review of the Council's current guidelines on the fitness of applicants for a drivers licence, Officers developed a new draft Policy. The review was necessary in part, following the findings of the Independent Inquiry into Child Sexual Exploitation in Rotherham.

Following approval a public consultation by the Licensing Regulatory Committee on the 30th June, 2016, the consultation was carried out between 1st and 30th July, 2016, via the Councils website and directly with the current licensed drivers via email, if those details were held. The consultation was also publicised on the Furness Taxi Trade Association Facebook page and in a news article published in the North West Evening Mail on 2nd July, 2016.

A copy of the draft policy was attached as an appendix to the Officer's report which included the amendments made by Members prior to the consultation.

The draft policy would be the basis on which all driver applications were determined, however it was important to note that every application must be treated on its own merits, and where decisions may be made that departed from the Policy, that decision should be accompanied by full reasons.

All decisions to grant or refuse a licence, including any Officer using delegated powers, would do so in accordance with this policy. Every decision would be recorded stating the facts upon which the decision was made and full reasons for the decision. Those making the decision should be aware that departing from the Policy without sufficient reason, or failing to give consideration to such circumstances, may give rise to a judicial review of the decision.

Members noted that Officers had identified that there was a need for appropriate training within the Hackney Carriage and Private Hire licensing trade, in order to continually improve driver standards, knowledge and awareness. The draft policy included a new training requirement, and it was this element that had been the focus of the responses.

The Licensing Authority had received five responses as a result of the public consultation and these were attached in full as an appendix to the Officer's report.

It was clear that those responding to the consultation had focused on the new requirement to undertake training and the potential cost of this. Members noted that with the exception of the Safeguarding Awareness sessions and the Knowledge

Test, the remainder of the draft policy amalgamated the Council's current application criteria and guidance.

The Environmental Protection and Licensing Officer gave clarification on some of the additional points raised as follows:-

- a) Private Hire and Hackney Carriage drivers were exempt from the European working time directive, which would limit them to working a 48-hour week with a 20-minute break every six hours;
- b) All drivers had to undertake a DVLA Group 2 Medical (this was the same level as that required to be a HGV Driver) on application and on their 50th, 56th, 59th, 62nd and 65th Birthdays and each year thereafter; and
- c) Officers were pro-actively enforcing the Smoke free legislation, through issuing Fixed Penalty Notices, to drivers who had been observed smoking in their licenced vehicles.

Having taken the consultation responses into account, it was the Reporting Officer's view that in order to continually improve driver standards, knowledge and awareness, all new and existing drivers should be required to pass the Knowledge Test and take part in the Safeguarding awareness sessions.

The Safeguarding Awareness Sessions would have to be undertaken by all applicants/drivers (new or existing) within 12 months of the introduction of the new policy. Failure to attend may result in suspension/revocation or refusal to renew the relevant drivers licence. The sessions would be free of charge for the first 12 months from the date of the policy. After that a charge for the sessions would be made and this would be recovered through the licence as part of the fee setting process.

The written Knowledge Test would have to be undertaken and passed by all new applicants as part of the application procedure. All existing drivers would also be expected to take and pass the test before the renewal of their drivers licence. Failure to undertake and pass the test may result in refusal to renew the appropriate licence. Officers considered that the cost for the tests would be reasonable and they will be set as part of the annual fee setting process later this year.

For new applicants, the cost was likely to be approximately £12. This was based on the likelihood of tests being taken on a one-to-one basis with Officers due to the relatively low number of new applications. For existing drivers making a renewal application, the cost was likely to be around £0.50 per licence. This was based on the likelihood of tests being undertaken in group sessions.

RECOMMENDED:- That it be noted that the Draft Fitness of Applicants for Hackney Carriage Driver's Licences Policy and the results from the consultation be reported to the Executive Committee on 7th September, 2016 for consideration before being forwarded to Full Council, with any proposals, for adoption.

The meeting closed at 2.30 p.m.

LICENSING REGULATORY COMMITTEE	(D) Agenda Item 7
Date of Meeting: 13th October, 2016	
Reporting Officer: Senior Licensing Officer	
<p>Title: Executive Hire Exemption Guidelines for Private Hire Vehicles</p> <p>Report Summary: The report asks Members to:-</p> <ol style="list-style-type: none"> 1. Approve guidelines to be used for assessing whether a licensed private hire vehicle is eligible for an executive hire exemption notice permitted under s.75(3) Local Government (Misc. Provisions) Act 1976, and 2. Give delegated authority to the Environmental Health Manager to approve future applications. 	

1. Background

The Council has received a request from Mr Roy Worthington for an executive hire exemption notice relating to a Mercedes C200, registration number T400 WED, first registered on 10/08/2005.

Mr Worthington intends to use the vehicle for weddings, proms and for transporting executive clients.

The Council's Licensing Section has inspected the vehicle and believes it to be of an exceptional standard. [Mr Worthington has been advised to make the vehicle available for inspection by the Committee at the time of the hearing].

An exemption notice would allow Mr Worthington, on occasions specified within that notice, to remove the private hire licence plates from his licensed private hire vehicle, in addition the requirement for the driver of the vehicle to wear their private hire drivers badge would also be removed.

Photographs of Mr Worthington and his vehicle are attached at **Appendix 1**.

Currently the Council has no guidelines for assessing whether a vehicle is eligible for the exemption. The Committee is therefore requested to approve the guidelines which have been produced for this purpose and determine whether to grant the application to Mr Worthington. In addition the Committee is asked to delegate future decisions to the Council's Environmental Health Manager.

2. Relevant Legislation

Local Government Miscellaneous Provisions Act 1976

Under section 75(3) of the above Act, a local authority may, by way of a notice to the proprietor of a private hire vehicle, exempt such a vehicle from the requirement to display plates as required by section 48(6) of the act and also from the requirement for drivers of such vehicles to wear their private hire drivers badge as required under section 54(2) of the same Act.

3. Guidelines

Barrow Borough Council acknowledges that there is a demand for businesses offering a `higher end` private hire service for corporate and other customers desiring a higher specification of vehicle without signage and licence plates on display.

Guidelines attached at **Appendix 2** serve to ensure the corporate/chauffeur market are fully licensed and safe whilst meeting customer demand.

Applicants/licence holders will be advised that any contravention of the permission granted with an exemption will lead to the removal of the exemption and a requirement for all plates and signage to be restored at all times during the period of the licence.

Mr Worthington has been invited to attend today's committee meeting to explain his business model.

4. Options

The options available to Members are;

- a) Approve guidelines to assess whether a private hire vehicle is classed as executive and approve Mr Worthington's request;
- b) Approve guidelines to assess whether a private hire vehicle is classed as executive and reject Mr Worthington's request;
- c) Amend guidelines to assess whether a private hire vehicle is classed as executive and approve Mr Worthington's request;
- d) Amend guidelines to assess whether a private hire vehicle is classed as executive and reject Mr Worthington's request.
- e) Delegate future decisions to approve s.75(3) exemption notices for Private Hire Vehicles to the Council's Environmental Health Manager.
- f) Require all applicants for s.75(3) exemption notice for Private Hire Vehicles to seek approval from Licensing Regulatory Committee

6. Recommendation

I recommend that Members:-

1. Approve guidelines to assess whether a private hire vehicle is classed as executive, approve Mr Worthington's request, and;
2. Delegate future decisions to approve s.75(3) exemption notices for Private Hire Vehicles to the Council's Environmental Health Manager.

7. Reasons for Recommendation

- a) Section 75(3) of Local Government Miscellaneous Provisions Act 1976 states that a local authority may, by way of a notice to the proprietor of a private hire vehicle, exempt such a vehicle from the requirement to display plates as required by section 48(6) of the act and also from the requirement for drivers of such vehicles to wear their private hire drivers badge as required under section 54(2) of the same Act.
- b) Guidelines are required for the assessment of the vehicle and the application.
- c) Applicants require clear guidelines in order to make valid requests for an executive hire exemption notice.
- d) Mr Worthington's vehicle meets the specification guidelines.
- e) The proposed amendments to the Environmental Health Managers delegations will allow the Council to act promptly and aid the efficient and effective running of the taxi licensing function.

8. Considerations

(i) Legal Implications

Section 75(3) of Local Government Miscellaneous Provisions Act 1976 states that:

"Where a licence under section 48 of this Act is in force for a vehicle, the council which issued the licence may, by a notice in writing given to the proprietor of the vehicle, provide that paragraph (a) of subsection (6) of that section shall not apply to the vehicle on any occasion specified in the notice or shall not so apply while the notice is carried in the vehicle; and on any occasion on which by virtue of this subsection that paragraph does not apply to a vehicle section 54(2)(a) of this Act shall not apply to the driver of the vehicle."

Section 48 (6) (a) Local Government Miscellaneous Provisions Act 1976 states that:

“Subject to the provisions of this Part of this Act, no person shall use or permit to be used in a controlled district as a private hire vehicle in respect of which a licence has been granted under this section unless the plate or disc issued in accordance with subsection (5) of this section is exhibited on the vehicle in such manner as the district council shall prescribe by condition attached to the grant of the licence.”

Section 54 (2) (a) Local Government Miscellaneous Provisions Act 1976 states that:

“A driver shall at all times when acting in accordance with the driver’s licence granted to him wear such badge in such position and manner as to be plainly and distinctly visible.”

(ii) Risk Assessment

There are public safety issues to consider e.g. public getting into un-plated and potentially unlicensed vehicles.

The applicant has a right of appeal to the Magistrates’ Court.

(iii) Financial Implications

Not applicable.

(iv) Key Priorities or Corporate Aims

Not applicable.

(v) Equality and Diversity

There are no issues relating to equality or diversity.

(vi) Other Human Rights

Any action undertaken by the Council, that could have an effect upon another person’s human rights, must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole.

Any action taken by the Council which affect another’s’ rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of those obligations.

(vii) Health and Well-being Implications

None.

Background Papers

Nil

LICENSING REGULATORY COMMITTEE	(D) Agenda Item 8
Date of Meeting: 13th October, 2016	
Reporting Officer: Senior Licensing Officer	
<p>Title: Application for Street Trading Consent – Taylors Amusements</p> <p>Summary: An application has been made to the Licensing Authority for a Street Trading Consent from Taylor’s amusements for 1 day of trading on Saturday 26th November 2016.</p> <p>Members’ approval is required for the removal of a condition which restricts the time in which traders can remain in a particular area.</p>	

1. Report

The Council is in receipt of an application from Mr Taylor of Taylors (Cumbria) amusements for a street trading consent for 1 day, Saturday 26th November 2016. Taylor’s amusements would like consent to trade on the approved Portland Walk/Dalton Road site, see attached plan (**Appendix 3**)

The application is to site the following attractions;

1 x Kiosk, `fun sweets`, selling novelty sweets, candy floss, hot and cold drinks.

2 x Kiddies carousel, 20` diameter.

1 x Side stall, fairground prize game.

Condition 12 of the Street Trading Consent standard conditions states:-

“The Trader must operate his/her business on a mobile basis and can therefore stop for only 10 minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day.”

The Environmental Health Manager has delegated powers to approve applications however this delegation does not include the removal of any of the standard conditions. Members’ approval is therefore required to remove condition number 12.

2. Representation

The Licensing Authority consults on all street trading applications with Cumbria Highways and Cumbria Constabulary.

At the time of writing this report, there have been no representations from consultees.

3. Relevant Legislation and Council Procedure

Licensing authorities have the power to control street trading (such as market stalls, craft fairs, burger vans and ice-cream vans) within their area. Licensing Authorities can resolve to designate streets under schedule 4 to the Local Government (miscellaneous Provisions) Act 1982 as;

- A licence street – for formalised street markets, with established stalls on a regular basis.
- A consent street – for occasional street trading
- A prohibited street – where no trading may take place
- An undesignated street – street trading may take place without any controls in place.

The streets relevant to this application are Portland Walk and Dalton Road. They are designated as consent streets.

Street trading is the offering, exposing or selling of goods for sale (including living things). This means that the remit covers the advertising and offering of items for sale although it is restricted only to goods and not to services.

As a result the kiosk selling hot and cold drinks, sweets and novelty food items is the only item in the application that requires consent under the above mentioned legislation. No licence or consent is required for the provision of the carousels or the fairground prize game.

4. Options

Options available to members are;

- a) Approve the application for a street trading consent and remove condition 12 from the street trading consent;
- b) Reject the application

5. Recommendation

I recommend that Members:-

- a) Approve the application for a street trading consent and remove condition 12.

6. Reasons for Recommendation

- The application is for Portland walk/Dalton road, which is a designated consent street.

- Paragraph 7 of Schedule 4 of the Local Government Miscellaneous Provisions) Act 1982 allows the Council to grant consent if it sees fit to do so. The Council may impose conditions upon the consent.
- No representations have been received from consultees.
- It will attract visitors and families to the town centre for the event.

7. Considerations

(i) Legal Implications

The street in question has been designated by the Council as a consent street for street trading purposes under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Paragraph 7 of Schedule 4 of the Local Government Miscellaneous Provisions Act 1982 allows the Council to grant consent if it sees fit to do so.

Paragraph 7(4) allows the Council to attach such conditions as they consider reasonably necessary.

Paragraph 7(10) allows the Council to grant a consent for a period not exceeding 12 months.

This application has met the requirements set out in Schedule 4, Local Government (Miscellaneous Provisions) Act 1982.

Other than Judicial Review there is no statutory right of appeal against the Council's decision.

(ii) Risk Assessment

Not applicable

(iii) Financial Implications

The Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 paragraph 9 allows the Local Authority to charge a fee on grant or renewal only.

(iv) Health and Safety Implications

An event risk assessment and public liability insurance is required before the grant of the consent.

(v) Key Priorities and Corporate Aims

Not applicable

(vi) Equality and Diversity

Not applicable

(vii) Health and Well-being Implications

None identified

(viii) Human Rights

None identified

Background Papers

Nil.

LICENSING REGULATORY COMMITTEE	(D) Agenda Item 9
Date of Meeting: 13th October, 2016	
Reporting Officer: Principal Environmental Protection & Licensing Officer	
Title: Policy Relating to the Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences	
Report Summary:	
<p>This report updates Members on an amendment to the draft Policy relating to the Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences, following the withdrawal of the DVSA Driving Test. The draft Policy has been amended to include details of an alternative provider.</p>	
<p>The amendment is not a material change therefore consultation is not required.</p>	
For noting:	
<p>That Members note the following information:</p>	
<p>The amended Draft Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences Policy and the results from the consultation will be reported to Executive Committee on 19th October 2016 for consideration, before being forwarded to Full Council, with any proposals, for adoption.</p>	

1. Background

At its Committee of the 1st September 2016, Members noted that the Draft Fitness of Applicants for Hackney Carriage Driver's Licences Policy and the results from the consultation be reported to the Executive Committee on 7th September, 2016 for consideration before being forwarded to Full Council, with any proposals, for adoption.

On the 6th September 2016 the Council were notified by the DVSA (Driver & Vehicle Standards Agency) that they will be withdrawing the provision of taxi assessments with effect from 31st December 2016. The matter was removed from the agenda of the Executive Committee (7th September 2016) to allow Officers to seek an alternative solution and amend the Policy as necessary.

The Licensing Department have been informed by applicants and the DVSA directly, that new bookings are not being taken or slots been made available; making it impossible for new applicants to undertake a DVSA taxi test and

complete a valid application for a drivers licence. Officers have therefore had to find an alternative. The DVSA advised that local Councils should contact road safety charities or Driver Instructor representative bodies to provide an alternative test.

2. Alternative Provider

The DVSA have published the following list of approved driving instructor (ADI) associations and organisations that represent driving instructors and work with the Driver and Vehicle Standards Agency:

- AA Driving School (www.theaa.com/driving-school)
- Approved Driving Instructors National Joint Council (www.adinjc.org.uk)
- Delivering Information Developing Understanding (DIDU) (www.didu.co.uk)
- Driving Instructors Association (www.driving.org)
- Driving Instructor's Branch of Unite the Union (www.unitetheunion.org.uk)
- Driving Instructors Scottish Council (www.d-i-s-c.org.uk)
- Motor Schools Association (www.msaqb.com)

<https://www.gov.uk/government/publications/driving-instructor-associations-and-organisations/driving-instructor-associations-and-organisations>

The Local Government Association (LGA) and the Institute of Licensing (IoL) are working together to re-establish the DVSA taxi assessments or an alternative national scheme. In the intervening time, Officers have identified, that of the above associations, the Driving Instructors Association (DIA) are able to offer the appropriate assessment through its Group [DIAMOND Advanced Motorists](#) - the leading advanced driver training and qualification for individual motorists, riders and company drivers. Diamond is the UK's only government accredited advanced driver and rider development programme wholly delivered by regulated, professional trainers and examiners. Diamond offer two assessments, one for driving an ordinary car and the other for a wheelchair accessible vehicle.

3. Amended Policy

Point 2.7 of the Draft Fitness of Applicants for Hackney Carriage and Private Hire Drivers' Licences Policy has been amended to include this provision.

2.7 New applicants will be required to pass the DVSA Standard Driving Assessment - Practical Assessment OR an alternative practical driving assessment specifically for hackney carriage/private hire drivers provided by a UK Government accredited organisation.

For further information and to book and pay for your driving test go to:
<https://www.gov.uk/book-driving-test> OR <https://www.advancedmotoring.co.uk>

Driving test certificates will only form part of a valid application if they were carried out within 1 year of the completed application date.

The amended Draft Fitness of Applicants for Hackney Carriage and Private Hire Driver's Licences Policy and the results from the consultation will be reported to Executive Committee on 19th October 2016 for consideration, before being forwarded to Full Council, with any proposals, for adoption.

4. Options

Not applicable to this report.

Report is for information purposes only.

5. Recommendation

Not applicable to this report.

Report is for information purposes only.

6. Reasons for Recommendation

Not applicable to this report.

Report is for information purposes only.

7. Considerations

(i) Legal Implications

Local Government (Miscellaneous Provisions) Act 1976

Section 51 - *Licensing of drivers of private hire vehicles.*

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

Provided that a district council shall not grant a licence—

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence;

Section 59 - *Qualifications for drivers of hackney carriages.*

(1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence;

In respect of Sections 51 and 59, the Local Government (Miscellaneous Provisions) Act 1976 provides that any applicant aggrieved by the refusal of the District Council to grant a driving licence on the ground that the applicant is not a fit and proper person to hold such a licence, may appeal to a magistrates court.

(ii) Risk Assessment

Not applicable.

(iii) Financial Implications

None

(iv) Key Priorities or Corporate Aims

Not applicable.

(v) Equality and Diversity

There are no issues relating to equality or diversity.

(vi) Other Human Rights

Any action undertaken by the Council, that could have an effect upon another person's human rights, must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole.

Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of those obligations.

The recommendations support the protection of the human rights of the public who use hackney carriage and private hire vehicles, particularly children, young people and vulnerable adults. They also aim to ensure the Council is protecting the public.

(vii) Health and Well-being Implications

The purpose of the Private Hire and Hackney Carriage licensing system is to protect the safety and welfare of the public who use this transport.

Background Papers

Nil

LICENSING REGULATORY COMMITTEE	(D) Agenda Item 10
Date of Meeting: 13th October, 2016	
Reporting Officer: Principal Environmental Health Officer (Commercial)	
Title: Zoo Licensing Act 1981 (as amended) Zoo Licence for South Lakes Safari Zoo Ltd – Compliance with Conditions and Direction Orders	
Summary & Purpose of the Report	
<p>Mr David Stanley Gill holds a zoo licence issued on 8th June 2010 to operate a zoo at premises known as South Lakes Safari Zoo Ltd (“the Zoo”), Crossgates, Dalton-in-Furness, Cumbria, LA15 8JR.</p> <p>Following an application from Mr Gill to renew his licence, at a Hearing held on 5th, 6th & 7th July 2016, Members decided not to renew Mr Gill’s licence. The licence conditions remain in force until the licence expires on 7th January 2017 and needs to be reviewed and assessed accordingly.</p> <p>The purpose of this report is to provide Members with an update on compliance with the following conditions:-</p> <ol style="list-style-type: none">1) Condition 17 - Review of Veterinary Programme (Direction Order)2) Condition 18 – Delivery of Veterinary Services (Direction Order)3) Condition 26 – Formal Staff Development Programme4) Condition 33– Review of Animal Bites <p>Conditions 17 & 18 were elevated to Direction Orders by Members at the Committee Hearing on 23rd, 24th February and 2nd March 2016.</p>	

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Appendices

Appendix 4 Inspector's Report

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Agenda Item 7 - Pages 4 to 15

Background Papers

Zoo Licence held by South Lakes Safari Zoo Ltd

Tables of Decision from Licensing Regulatory Committee – 1st July 2014
13th August 2015
15th October 2015
17th December 2015
22nd February 2016
7th July 2016

Background

Mr David Stanley Gill holds a zoo licence issued on 8th June 2010 to operate a zoo at premises known as South Lakes Safari Zoo Ltd, Crossgates, Dalton-in-Furness, Cumbria, LA15 8JR.

At a meeting of this Committee on 23rd, 24th February and 2nd March 2016 Members placed a number of conditions on the premises' Zoo Licence and elevated two existing conditions to Direction Orders.

Special Inspection

A Special Inspection ("the Inspection") took place at the Zoo on 15th August 2016 to assess compliance with the following Conditions and Direction Orders:-

Condition	Detail	Direction Order Y/N	Compliance Date
17	Review of Veterinary Programme	Y	22 nd May 2016
18	Delivery of Veterinary Services	Y	22 nd May 2016
26	Formal Staff Development Programme	N	13 th August 2016
33	Review of Animal Bites	N	-

The Inspection Team consisted of:

- a) Dr Matthew Brash B.Vet.Med Cert Zoo Med MRCVS (the Council's Professional Veterinary Advisor); and
- b) Richard Garnett MCIEH (Principal Environmental Health Officer - Commercial).

Graham Barker (Principal Environmental Protection and Licensing Officer) also attended as an observer.

Special Inspection Report

A Special Inspection Report ("the Inspection Report"), which is attached as **Appendix 4**, was produced and sent to the Zoo on 26th August 2016. The Zoo was given 28 days to make any representations. Representations were received from the Zoo on 26th September 2016 and are attached as **Appendix 5**.

Assessment of compliance

Compliance with the above mentioned Conditions and Direction Orders are outlined in more detail in the proceedings pages.

For clarity the statements from the Inspectors are coloured in red and the representations from the Zoo are coloured blue.

Delays in assessing compliance - Conditions 17 & 18 (Direction Orders)

Members will note that the compliance date for Conditions 17 & 18 was 22nd May 2016. At the Hearing held on 5th to 7th July 2016 reports were submitted for informational purposes only for the following reason:

On the 31st March 2016 the Zoo appealed against both Direction Orders to the Magistrates Court. An appeal hearing was listed for 28th July 2016 in Barrow Magistrates' Court. Until the appeal was either determined or withdrawn any actions in relation to the Direction Orders were prohibited.

On 27th July 2016 the Council's Legal Team were notified of the withdrawal of the appeals. Both appeals were formally withdrawn at Magistrates' Court on 28th July 2016.

Compliance was reassessed during the Inspection and the matter can now be brought before the Committee for a decision.

For Members' information the Council's Legal Team recovered all prosecution costs in relation to this appeal and an Order was made by the Magistrate's Court on 28th July 2016. Full payment of £1,548.60 has been received from the Zoo.

2. Compliance with Conditions 17 & 18 (Direction Orders)

(i) Detail of Conditions & Direction Order Requirements

Condition	Detail	Requirements of Direction Order	Compliance Date
17 – Review of Veterinary programme	A review of the Veterinary programme must be undertaken in conjunction with the consulting veterinarian and a resulting written programme of care (to include parasite control, vaccination, p.m. routine etc.) be agreed, recorded and maintained accordingly.	<ol style="list-style-type: none"> 1. A review of the Veterinary programme must be undertaken in conjunction with the consulting veterinarian 2. A resulting written programme of care (to include parasite control, vaccination, p.m. routine etc.) be agreed, recorded and maintained accordingly. 	22nd MAY 2016
18 – Delivery of Veterinary Services	The delivery of veterinary services to and in the zoo is still unclear and in some areas appears uncoordinated. The operator must, in conjunction with the Zoo’s veterinary advisor and/or other such professional advice as deemed necessary, develop to the modern standards of good zoo	<ol style="list-style-type: none"> 1. The operator must, in conjunction with the Zoo’s veterinary advisor and/or other such professional advice as deemed necessary, develop to the modern standards of good zoo practice and implement, an improved and clearly defined programme, for the delivery of veterinary services to the collection. (This must include the additional and extended collection). 	22nd MAY 2016

Condition	Detail	Requirements of Direction Order	Compliance Date
	<p>practice and implement, an improved and clearly defined programme, for the delivery of veterinary services to the collection. (This must include the additional and extended collection). This programme must detail: the frequency of routine visits, duties expected of the Vet, routine prophylaxis (vaccination etc.), agreed surveillance policy – to include screening, post mortem protocols, transmission & recording of p.m. records & pathological results. All relevant information must be integrated into the animal records system, such that, information on any individual animal is quickly and easily retrieved. Agreed protocols for relevant veterinary cover when the principal vet is unavailable, must be clear. A written copy of the final procedures must be lodged with the licensing authority within 3 months & clear evidence of implementation provided within 6 months.</p>	<p>2. This programme must detail: the frequency of routine visits, duties expected of the Vet, routine prophylaxis (vaccination etc.), agreed surveillance policy – to include screening, post mortem protocols, transmission & recording of p.m. records & pathological results.</p> <p>3. All relevant information must be integrated into the animal records system, such that, information on any individual animal is quickly and easily retrieved</p> <p>4. Agreed protocols for relevant veterinary cover when the principal vet is unavailable, must be clear.</p> <p>5. A written copy of the final procedures must be lodged with the licensing authority and clear evidence of implementation provided.</p>	<p>22nd MAY 2016</p>

2.(ii) Background to Conditions 17 & 18

Condition 17 refers to the Internal Policy and Procedures that are required to provide an effective Veterinary Service within the Zoo. **Condition 18** relates to the Practices determined by those Policies. The two conditions are intrinsically linked and have been reported on together by the Inspector and, in response, by the Zoo.

History of Concerns

Concern has been raised about the level of veterinary care over a number of years.

It was raised at the following inspections:-

- Periodical Inspection on **9th November 2009**,
- Periodical Inspection on **20th May 2013**,
- Special Inspection on **28th and 29th January 2014**; and
- Special Inspection on **17th and 18th November 2015**.

Condition 17

Condition 17 was first attached to the zoo licence on **8th June 2010** (previously condition 24) and elevated to a **Direction Order** on **4th March 2016**.

Condition 18

Condition 18 was attached to the licence on **5th September 2013** (previously condition 25) and first elevated to a **Direction Order** on **1st July 2014**.

On **13th August 2015** it was reported to Members that the Direction Order had been complied with. The condition was retained on the licence.

Chronology of Inspections, Committee Hearings & Decisions –

November 2015 to date

Following a Special Inspection on 17th and 18th November 2015 it was reported to Members, at the hearing held on 23rd, 24th February and 2nd March 2016, that the Inspectors had described the veterinary programme as *“inadequate”* and *“needs to be radically revised”* to bring it in line with the requirements of the Secretary of State’s Standards of Modern Zoo Practice (“SSSMZP”).

Members also heard that the Inspectors also expressed their dissatisfaction with the current arrangements of veterinary services, in particular the lack of routine attendance.

Members resolved that the whole system, from the keepers identifying a sick or injured animal, the treatment of the animals, and gross post mortem needed to be reviewed to ensure compliance with the requirements of the SSSMZP and the Veterinary Surgeons Act 1996(as amended).

Members elevated both Condition 17 and Condition 18 to Direction Orders with a compliance date of 22nd May 2016.

A copy of each Direction Order is attached at **Appendix 6**.

Compliance with both Direction Orders was initially assessed during the Special Inspection which took place between 23rd and 25th May 2016 and commented upon in detail.

A report was prepared for the meeting of this Committee in July 2016 however as stated earlier, Members could not consider compliance at this time due to the Direction Orders being appealed. Their findings have not been reproduced as part of this report as a further inspection to assess compliance was undertaken on 15th August 2016 and the information superseded. A copy of Pages 4-15 of the July 2016 Committee report Agenda Item 7 entitled Compliance Report Regarding Current Licence Conditions is attached at **Appendix 7** for Members' information.

Special Inspection 15th August 2016

Compliance was assessed again during this Inspection.

The Inspection Report (**Appendix 4**) entitled "Report on Special Inspection at South Lakes Safari Zoo" and dated 15th August 2016 was produced by the Council's Retained Veterinary Advisor, Dr Matthew Brash.

The Inspector's comments relating to these conditions are set out below for Member's information along with the representations submitted by the Zoo.

(iii) The Inspector's Findings

The Inspector's findings are as follows: -

"Whilst compliance is evident, and the direction orders can be discharged, the inspector was disappointed to note;

- 1. The records of the veterinary visits are still poor.*
- 2. Out of date drugs were still present in the veterinary treatment room*
- 3. Frieda Schreiber is leaving the zoo, and at some point in the near future will need to be replaced. The zoo informed the inspectors that they are interviewing a*

veterinary nurse to take her place, and this person would take over the role of liaising with vets, and filling in the records”.

The Inspector added as a recommendation that:

“The zoo has complied with the direction orders, however the standard of record keeping is still poor, and there are concerns about how the gap left by FS departure will be filled. This area will need to be closely scrutinised to ensure that the SSSMZP are still being met, in the near future”.

The statements contained in the Inspector’s findings and recommendations are conflicting and Council Officers requested clarification from Dr Brash.

In an explanatory email [dated 16th September 2016] the Inspector wrote:-

“the veterinary direction order has been complied with, and although it could be much better, it was still complied. Whilst I am aware that there are still many issues to be resolved, the feeling is that this will be resolved either through a failure to comply with condition 34 [Robust management to be put in place], or through new license holders being accepted. In either case we expect the veterinary care to improve markedly. Meanwhile I know that Dr Jonathan Cracknell BVMS CertVA CertZooMed MRCVS [Conservation Medicine Services], is now involved, on top of Andrew Greenwood and Rick Brown, and there is also a full time vet nurse on site.

The feeling [of the Inspection Team from May 2016] is that we must wait until the special inspection to revisit the ongoing compliance.

I am happy to make a statement to the licensing committee, to this effect in October if required”

(iv) The Zoo’s Comments

In their report (**Appendix 5**) which was received on 26th September 2016 the Zoo have commented as follows: -

“The inspection findings noted that the Direction Order had been complied with and can be discharged, however it was noted that several areas were of concern, namely:

1. The records of the veterinary visits are still poor

Response – this was agreed with by the zoo and immediately following the inspection a review and implementation of the animal and veterinary records keeping system was undertaken. This included the health care records, an example of which

is included, to demonstrate the use of a new veterinary diary and record, the improved role of the veterinary coordinator and the use of both ZIMS and now ZIMS medical. It is noted that this is a huge cultural shift for both the veterinary team and the animal keeping staff and is a progressive, ongoing effort to ensure accurate and reflective animal records are maintained on site.

This evolution of the existing system was demonstrated to the local authority representatives Mr Barker and Mr O'Hara on their visit of the 21st September using the example that they had to come to review (a complaint with regards to a vicuna made by a member of the public, an animal that was under veterinary care and no concerns of the management of the animal noted on the site visit). In this example the vet diary logs were clear, detailed and correlated with the information submitted and inputted on ZIMS.

Other examples were shown to demonstrate the improvements made in this area in the short time since the special inspection.

The huge improvement noted is primarily down to the hard work of the veterinary coordinator REDACTED, a registered veterinary nurse that has been in post for the last two weeks at the time of writing. As part of her role she is tasked with ensuring appropriate documentation of health assessments that are undertaken and that this data is transferred on to the electronic record.

In addition, launched this week was the Animal Record Keeping Policy which outlines the expectation for animal records, medical records, escapes and drug therapy monitoring. Again this will take time to become fully operational but we would expect a clear demonstration that this system is being implemented across the zoo by the time of the next formal inspection.

See Appendix 1 – example animal record

See Appendix 2 – Animal Record Keeping Policy

2. Out of date drugs were still present in the veterinary treatment room

Response – expired drugs and drugs that have passed their broach by date have been disposed of. A complete review of clinical waste management is being undertaken including the use of DOOP bins on site for pharmaceutical management, the appropriate use and disposal of syringes and needles with cessation of the recycling and re-sterilisation of disposable needles and syringes, and the introduction of appropriate drug storage including temperature monitoring. This has been tasked to the newly appointed Veterinary Coordinator and this has been complied with already with the addition of the use of a data logger in the veterinary drug cupboard to ensure appropriate temperature management is maintained for the in date drugs as per best practice for veterinary pharmaceutical management.

3. Frieda Schreiber is leaving the zoo (as veterinary coordinator), and at some point in the near future will need to be replaced. The zoo informed the inspectors that they are interviewing a veterinary nurse to take her place, and this person would take over the role of liaising with vets and filling in the records.

Response - REDACTED, Registered Veterinary Nurse, joined the team at Safari Zoo on the 5th September. Her role is to act as veterinary Coordinator, overseeing the preventative and curative health care at Safari Zoo, liaising with the veterinary team and ensuring records are maintained. In addition, REDACTED role is to ensure the veterinary facilities meet best practice for a modern zoological collection as well as providing multiple other roles and responsibilities within the health care programme.

This is to be a permanent role with REDACTED on board until the zoo licence is formally reinstated and the role will then become a permanent position, either for REDACTED or another similarly qualified individual.

The delivery of the preventative health care programme, its components and the responsible parties are outlined in the Appendices.”

(v) Keeper Diaries

For Members' information, the diaries which are kept by keepers and detail daily issues/problems were an important source of information for the Inspectors during the Special Inspection in November 2015. It is a real concern therefore that when Officers returned to the Zoo at a later date to collect the diaries for further investigation, they were advised that they had been sent to the Zoo's Solicitor. However they did not arrive at the Solicitor's office, with the Zoo concluding they must have been lost in the post. This is particularly important issue given that paragraph 3.3 of section 3 SSSMZP states:

'3.3 A daily record must be kept by the person(s) in direct charge of the animals, indicating changes to the prescribed diet, health checks carried out, any unusual behaviour or activity or other problems, and remedial actions taken.'

During recent informal inspections Officers have noted that comprehensive daily diaries are being kept by the Zoo. Members should be aware that this practice only started mid-September. Prior to this it appeared to be Zoo policy to restrict the daily record to just 1 line. This was very disappointing given the importance of these records to the inspection process and not least the requirement of 3.3 SSSZMP. It appears the Zoo have conceded how critical these records are which is pleasing, however a period of sustained compliance needs to be demonstrated.

(vi) Guidance - SSSMZP

“Section 3 Veterinary care

- 3.7 *A comprehensive programme of care must be established and maintained under the supervision of a veterinary surgeon who is familiar with current practice in the care of zoo animals, particularly in the types maintained in the collection. He or she must make arrangements to meet the ethical responsibilities of veterinary cover, set out in the Guide to Professional Conduct of the Royal College of Veterinary Surgeons.*
- 3.9 *The veterinary surgeon should be responsible for, or actively involved in, the following:*
- a) routine inspections of the collection;*
 - b) directing or carrying out treatment of all sick animals;*
 - c) administration of vaccines, worming and other aspects of preventive medicine;*
 - d) health monitoring of animals including submission of blood and other samples for laboratory examination;*
 - e) safe and proper collection, preparation and dispatch of diagnostic and other samples. (Where these tasks are to be carried out by someone other than the veterinary surgeon, a suitably qualified or appropriately trained member of zoo staff should be nominated to carry out the task e.g. a laboratory technician or veterinary nurse);*
 - f) training of zoo personnel in health and hygiene;*
 - g) ensuring that post-mortem examinations of animals are carried out where necessary;*
 - h) supervision of quarantine premises and other such tasks required by law or as part of good zoo veterinary practice;*
 - i) the nutrition and the design of diets;*
 - j) planning and exhibit design;*
 - k) the establishment of written procedures to be followed in the event of the accidental use of dangerous drugs.*
- 3.10 *The level of veterinary facilities must be consistent with the welfare needs of the animals.*
- 3.11 *Comprehensive records must be kept – where possible on computer – and be made available to inspectors covering the following:*
- a) preventive medicine;*

- b) *clinical medicine and surgery;*
- c) *pathological findings from ante-mortem testing; and*
- d) *results of post-mortem examination and testing.*

3.12 *There must be systems for regular review, by the relevant veterinary and curatorial staff, of clinical, behavioural and pathological records and mortality. Husbandry and preventive medical practices must be reviewed where problems become apparent.”*

(vi) Recommendations

Condition 17

Officer Recommendation

The Zoo has complied with the Direction Order, therefore this should be noted by the Committee and the condition removed from the licence on renewal.

Reason for Recommendation

Condition 17 and the associated Direction Order were drafted to require the Zoo to undertake a review of the veterinary systems in place. This has been completed.

Options Available to Members

- **Accept** the Officer recommendation, and confirm the Direction Order is complied with therefore the condition can be removed from the licence on renewal.
- **Reject** the Officer recommendation and require that the Direction Order remains in place, setting a new compliance date.

Condition 18

Officer Recommendation

To note non-compliance with the Direction Order and that the existing Direction Order should be varied to reflect the work undertaken with compliance period of 10 weeks [till 31st December 2016]

The Direction Order shall relate to the whole Zoo and the steps required to comply with the Direction Order shall be:

- 1) Provide a final written version of the Veterinary Procedures to the Local Authority.
- 2) Provide a copy of the protocols in place for relevant veterinary cover when the principal vet is unavailable to the Local Authority.

- 3) Ensure that all Animal Treatment and other veterinary information is suitably recorded and integrated into the Zoo's Animal Record System so as to be quickly and easily retrieved.
- 4) Provide clear evidence of implementation of points 1 to 3 to the Local Authority by 31st December 2016

Reason for Recommendation

The Direction Order issued on 4th March 2016 detailed 5 steps the Zoo was required to take to achieve compliance with the Condition. The Reporting Officer's comments (in bold print) on the extent of the compliance against each of the 5 steps required by the Direction Order issued on 4th March 2016 are outlined below:-

1. *The operator must, in conjunction with the Zoo's veterinary advisor and/or other such professional advice as deemed necessary, develop to the modern standards of good zoo practice and implement, an improved and clearly defined programme, for the delivery of veterinary services to the collection. (This must include the additional and extended collection).*

The work undertaken by the Zoo and by Jon Cracknell and Andreus Kaufman have, with the addition of a Veterinary Nurse, brought the standards of the Zoo up to the modern standard required by the Inspectors.

2. *This programme must detail: the frequency of routine visits, duties expected of the Vet, routine prophylaxis (vaccination etc.), agreed surveillance policy – to include screening, post mortem protocols, transmission & recording of p.m. records & pathological results.*

It can be seen by the Zoo's submissions that record keeping is improving and that as the record keeping improves so the gaps in knowledge are being identified and filled. However, it is acknowledged that the process can only progress so far before the barrier to further improvement becomes the wider management of the zoo and the ability to make wider changes to systems and protocols. The improvements in record keeping have only been observed over a very short period of time.

3. *All relevant information must be integrated into the animal records system, such that, information on any individual animal is quickly and easily retrieved.*

The animal record keeping is improving and this had been demonstrated to Council Officers. However the changes resulting in the improvements have only been demonstrable since September 2016.

4. *Agreed protocols for relevant veterinary cover when the principal vet is unavailable, must be clear.*

It is unclear what the procedures currently are and how the presence of the new consultants is changing the Veterinary Reporting Chain. The Zoo have failed to supply sufficient information.

5. *A written copy of the final procedures must be lodged with the licensing authority and clear evidence of implementation provided.*

The Zoo has not submitted the final procedures to the Licensing Authority.

Recommendation Summary

The Zoo has not complied with the full requirements of the Direction Order and there has been a limited period during which the improved record keeping has been witnessed.

By their own admittance the Zoo have agreed that the recorded keeping was poor at the time compliance was assessed and that the improvements are a *“huge cultural shift for both the veterinary team and the animal keeping staff and is a progressive, ongoing effort to ensure accurate and reflective animal records are maintained on site”*.

The improvements have only recently been implemented following the appointment of 2 consultants, Jon Cracknell and Andreus Kaufman and the temporary appointment of the Veterinary Co-Ordinator. The Inspector, Dr Brash, clarified that his recommendation and expectation of continued improvement was based on Mr Cracknell and Mr Kaufman leading the change and Veterinary Co-Ordinator now being in place. Both Mr Cracknell and Mr Kaufman are contracted on a limited time basis. The Veterinary Co-ordinator has only been in place for a few weeks and the role will only become permanent position if and when a fresh licence is granted.

The Zoo must demonstrate continued compliance for a longer period and post Mr Cracknell and Mr Kaufman's time at the Zoo.

Options Available to Members

- **Accept** the Officer recommendation, note the Direction Order as not complied with, and that it be varied with a compliance date of 31st December 2016.
- **Accept** the Officer recommendation and note the Direction Order as not complied with, but set an alternative compliance date.
- **Reject** the Officer recommendation and determine that the Direction Order has been complied with and that the condition be removed from the licence upon renewal.
- **Reject** the Officer recommendation and determine that the Direction Order has been complied with and retain the condition on the licence.
- **Reject** the Officer recommendation and issue a zoo closure direction in relation to the whole Zoo for non-compliance with a Direction Order.

3. Compliance with Condition 26

Condition 26 - Formal staff development programme

In compliance with 10.4, 10.5 and Appendix 9 of the SSSMZP a formal staff development programme which defines the qualifications, experience and training required to progress from apprentice keeper, to qualified keeper to senior keeper to animal manager must be provided. In order to implement the programme must utilize a combination of in-house and external training and development opportunities relating to safe working practices, animal management and welfare and other related needs defined by the operator. An annual development record for each member of animal department staff to show progress in relation to training given must be provided on request by inspectors.

Compliance Date: 13th August 2016

(i) Background

There is history going back to 2009 raising questions about staff training, an apparent lack of experience, and a need to revisit the management structure for periods when David Gill is out of the country. Information was made available to the Council that suggested that keepers went from “apprentice” to “qualified” very quickly causing concern about the depth of training given. As a result Members added this condition to the licence at a meeting of this Committee in July 2014.

At a further meeting on 13th August 2015, Members heard that:

- a) The Zoo had in place a job description for the role of keeper and senior keeper and this detailed the key tasks that should be demonstrable by any one holding that role. In addition proficiency in each task was signed off by a senior keeper.
- b) The progress from apprentice to qualified keeper was achieved by having the job description signed off. The progress to senior keeper was not automatic and would depend upon a position being available, at which stage the relevant training will be undertaken and selection would be based on the keeper demonstrating some competency in the relevant areas.
- c) Training records and staff progress were now fed into the annual appraisal of the zoo's staff.
- d) In addition to in-house training the Zoo was providing external training to certain staff and two apprentices were working through a programme overseen by Myerscough College. Training records were included in the Committee report as an example.

At this meeting it was agreed by Members that the condition should remain on the licence with the Zoo required to demonstrate development of the programme over the next 12 months. Thus the compliance date was changed to 13th August 2016.

NB This condition was not assessed during the May 2016 Special Inspection therefore the only Inspector's comments relate to the Special Inspection which took place on 15th August 2016.

(ii) Special Inspection 15th August 2016

The Inspector's Comments

- 1. "There is a record of training for all members of staff. Two examples were provided, one of which was randomly picked by one of the inspectors. These are accurate and up to date. It is noted that two members of staff have now been signed up to the Diploma of Zoo Management.*
- 2. There is a log of all ongoing training being undertaken by staff at the zoo.*
- 3. Andreas Kaufman has been hired as consultant to oversee a training staff program. He has recently started, (August 2016) and the zoo informed the inspection team that he has agreed to undertake ten more weeks of training during the rest of 2016.*
- 4. Jon Cracknel, a veterinary consultant has also been hired to assist the zoo in developing policies and to move forwards towards meeting the SSSMZP".*

(iii) Zoo's Comments

"Condition 26: Formal staff development programme

A foundation level staff training programme was in place and reviewed during the Special Inspection. This was inspected as part of the inspection and was found to be satisfactory and compliant with the basic requirements of the SSSMZP and therefore satisfying the Direction Order.

However, since the inspection this programme has been built upon and steps taken to provide a formal system of training and internal workshops to ensure that a broad variety of training topics are introduced and implemented across the animal department. Elements of this will be introduced across the wider zoo team to ensure that all staff are aware of important animal and staff safety requirements that impact their responsibilities of the operation.

This programme has already been started with the initial training focusing on nutrition, food delivery and presentation. Other topics are to be introduced in October and ongoing into 2017.

See Appendix 3 – formal staff training programme – draft version"

(iv) Guidance

Sections 10.4 and 10.5 of the SSSMZP state:

“10.4 All animal staff must be competent for their individual responsibilities and given the opportunity to undergo formal training to achieve appropriate qualifications.

10.5 Continuous in-house staff training must be a regular aspect of the zoo.”

Appendix 9 - Staff & staff training

Training

9. *Continuous in-house staff training and development (eg Investors in People) should be a standard feature of the zoo. Typical topics include:*

- *animal husbandry;*
- *animal welfare;*
- *health and safety and first aid;*
- *action in emergencies, escape, illness;*
- *safety procedures;*
- *emergency euthanasia;*
- *basic sampling for health monitoring and diagnosis;*
- *food hygiene;*
- *diseases especially emerging ones such as Bovine Spongiform Encephalopathy (BSE), Salmonella Enteritidis, Escherichia coli 157, Hantaan virus;*
- *management of species used in animal-contact areas;*
- *in-situ and ex-situ conservation;*
- *educational techniques*

Staff

9.2 *The zoo operator must make every effort to ensure that their staff do not have any convictions under the Zoo Licensing Act 1981 or a background of the ill-treatment of animals under any animal welfare or conservation legislation.”*

(v) Recommendation

The Zoo has complied with the condition therefore it should be removed from the licence upon renewal.

Reason for Recommendation

In 2015 Officers noted that a new system was in use at the Zoo. The Zoo was given 12 months to demonstrate continued operation and development of the programme. During the August 2016 Inspection the Inspectors found that a formal staff development programme had been fully implemented and was on-going.

Options Available to Members

- **Accept** the Officer recommendation that the condition has been complied with and remove it from the licence on renewal.
- **Reject** the Officer recommendation and require that the condition remain on the licence with a new compliance date, and that Officers continue to monitor the situation.
- **Reject** the Officer recommendation, state that the Condition has not been complied and therefore elevate it to a direction order with a suitable compliance period.

Condition 33 Review of Animal Bites

In accordance with Appendix 6 paragraph 6.14 of the SSSMZP, a suitable and effective action plan to eliminate bites and injuries must be put in place, and a copy of this plan forwarded to the Licensing Authority. The action plan must then be implemented fully and its effectiveness monitored.

In accordance with 8.14 of the SSSMZP, all contact injuries to visitors from animals must be reported to the Local Authority within 14 days.

(i) Background & History

The Zoo offers an immersive experience with the ability to walk through aviaries filled with free flying birds and areas where there are free roaming primates and other animals. Visitors can also feed certain animals at supervised sessions but there are also opportunities to feed animals unsupervised.

Special Inspection November 2015

During the Special Inspection which took place on 17th and 18th November 2015, the Inspectors expressed concern about the number of bites and injuries to the public which were recorded in the accident book. The Inspectors recommended that a condition be placed on the licence.

At a meeting of this Committee on 23rd, 24th February and 2nd March 2016, Members added this condition to the Zoo's licence.

Special Inspection May 2016

A review of bite injuries was undertaken and an action plan was produced by the Zoo and was reviewed during the Special Inspection of May 2016. However only the bites that had been noted by the Inspectors at their inspection in November 2015 were covered in the review and it stated that there had been no further bites reported.

During this Inspection the Inspectors also noted interference from primates with visitors during their visit, for example a Tamarin was seen trying to remove popcorn from a child in a pram, and a ring tailed lemur trying to steal food from a family eating at an outdoor table.

The Inspectors concluded that the review was *"inadequate and does not address the underlying issues"* and rejected it. They were also of the opinion that it was likely that

bites and other injuries caused by animals were *“still likely to be occurring but were not being reported and/or recorded”*.

The Zoo had technically complied with the condition in that they had produced a written review and action plan however, the Inspectors deemed the resulting report and action plan inadequate.

Following the Officer’s recommendation to the Committee on 5th to 7th July 2016, the wording of the condition was amended and remained on the licence. A compliance date was not attached.

(ii) Special Inspection 15th August 2016

The Inspector’s Comments

“The inspection

During the inspection, the zoo informed the inspectors that since the special inspection in May

- 1. The zoo have recorded three episodes of members of the public being injured by animals, all within the Illescas walk through aviary.*
- 2. The zoo now permanently man the Illescas aviary with a member of staff, and have put in place a system that when the aviary is full of visitors, that a second person can be called upon to assist. The WWS is also permanently manned, albeit with only one person. The zoo are considering permanently manning the penguin area [Informal Inspection Undertaken on 30th September. During an Informal Inspection of the Zoo on 30th September the Officers were informed that the Zoo had ceased to man the Illescas Aviary on a permanent basis. Their decision was based on the low visitor numbers following the schools returning. The Aviary will be manned again during the October half term holidays.]*
- 3. The zoo has placed more signage and created verbal recorded warnings about the need to avoid contact with animals, and the risks of bites.*
- 4. A new picnic area has been created for people to eat food they have brought with them. This is adjacent to the zoo entrance. Although Primates and other animals do not come down into this area, there is no fencing to stop them doing so, should their behaviour change. A number of chickens were noted around the picnic tables, and members of the public were observed feeding them*
- 5. A new outdoor eating zone has been created, the Boma Area. This is immediately adjacent to the restaurant in the middle of the zoo. It is ‘Lemur proof’, with a tall fence topped with electric wires. This provides a safe area for people to eat food that they have bought from the restaurant.*

6. *Consultants have been taken on, Andreas Kaufman and Jon Cracknel, to assist in compliance with this and other conditions. However they have only recently started and so this has yet to be undertaken, and a new review and report has not yet been compiled.*
7. *Risk assessments for staff have been reviewed, and all have been signed off by the staff.*
8. *The zoo are interviewing for new staff, to assist with the manning of the walk through areas*

Findings

1. *The zoo informed the inspectors that they estimate that there are potentially over one hundred free ranging primates. However primates tend to be territorial, and approximately seventy of these tend to stay within the World Wildlife Safari Walkthrough area (WWS).*
2. *The primates, potentially free ranging include Ring tailed lemurs, Black and white lemurs, belted lemurs, and Brown lemurs. Tamarins (4), Squirrel Monkeys (approximately 17).*
3. *The Bulk of these primates do reside within the WWS, however they can, and do, escape from this area mainly via the roof of the veterinary building, and passed the large pond.*
4. *Although there has been a considerable attempts to decrease the availability of human food in areas where there are primates, there are still food outlets outside of the contained eating areas; notably two pop-corn outlets, and three ice-cream outlets. These continue to sell food, and people eating were observed by the inspector at a large number of places throughout the zoo.*

Conclusion

This condition has still not been complied with, and it is therefore necessary to reissue it, albeit with more precise wording so that the zoo is clear on what is required. A more precise timeline must be added to the condition.

Whilst the zoo continues to have food outlets in areas where free ranging primates have access, then there is a high likelihood that bites or other injuries to the public will occur.

The inspector also noted, but did not observe, that the lemur feeding experience has not been altered, and feels that this is also an area where there is insufficient control over primate/ visitor contact.”

(iii) Zoo’s Comments

“Condition 38: Review of animal bites

The inspectors found that this Direction had not been complied with and that previous reports had been rejected on the grounds of the lack of suitability and the lack of the assessments being representative of what was noted during this and previous inspections. As such the following recommendation, which Safari Zoo agrees to comply with, was:

“In accordance with paragraph 6.14 of Appendix 6 of the SSSMZP a full written review of the risk of bites or injury to members of the public caused by animals must be carried out. This document must include a detailed account of all the recorded or reported historical occurrences since January 2015; the areas within the zoo where bites or injuries tend to occur: progress the zoo has made to date to minimise the risk of bites or injuries by animals to the public and any other information the zoo feels necessary to add into the report to ensure that it is as accurate and complete as possible. This written review must be completed and submitted to the local authority within two weeks of the implementation of this condition”.

“Secondly, a costed and timed, written action plan, detailing all further changes that will be put in place to eliminate the risks of bites or injuries by animals to members of the public, must be written and a copy of this plan submitted to the Local Authority. The plan must ensure that there are no food outlets, and no public eating anywhere within the park where animals have access. The plan must also demonstrate how contact between visitors and animals is to be controlled during feeding encounters and specific written risk assessments must be formulated for each kind of encounter taking account of species, site, number of animals, number of visitors, etc.

The timing for completion of the formulation of this action plan and its submission to the LA should be no more than two further weeks after the initial review has been completed and sent to the Local Authority. A start to implementation of this action plan must be made immediately following its approval by the Local Authority and demonstrably active progress should be visible by 1st November 2016”.

“Full completion of implementation of the action plan must be achieved within six months’.

Safari Zoo has undertaken this report which consists of the following, in accordance with the recommendation:

- 1. A full written review of the risk of bites or injury to members of the public caused by animals, to include:
 - a) Detailed account of all of the recorded or reported historical occurrences since January 2015*
 - b) The areas in the zoo where bites or animal related injuries tend to occur*
 - c) Progress the zoo has made to date to minimise the risk of bites or injuries by animals to the public*
 - d) Any other information the zoo feels necessary to add into the report to ensure that it is accurate and complete as possible.**

2. *A costed and timed written action plan, detailing all further changes that will be put in place to eliminate the risks of bites or injuries by animals to members of the public, to include:*
- a) *Plan that no food outlets and no public eating anywhere within the park where animals have access*
 - b) *Demonstration how contact between visitors and animals is to be controlled during feeding encounters, including specific written risk assessments for each kind of encounter (including details of species, location, number of animals, number of visitors, etc.)*

Response – in response to the above recommendations to the local authority we have undertaken a complete review of the bite situation and expanded it to include all animal-guest interaction injuries as well as review the potential risk of zoonotic disease presence within the collection. There are limitations in the analysis of the documents and to improve the accuracy of the overall picture this was expanded to include Accident Records, TripAdvisor reports of bites or similar, staff interviews, clinicopathological testing reviews as well as post mortem data. A complete 43 page review is included in the attached documentation.

See Appendix 4 – Animal – Guest Interaction Audit”

(iv) Unreported Bites

The second part of this condition requires that all contact injuries must be reported to the Local Authority within 14 days. The bites noted by the Inspectors during the August 2016 were not reported within the required period.

On 31st August and 15th September 2016 Officers wrote to the Zoo requesting copies of the incidents reports for each of these injuries. There was no response to these requests. On 21st September 2016 an informal inspection took place (relating to a separate matter). In advance of this meeting the Zoo were asked again for the records and that they be made available during the information inspection. The records were provided on this date.

The details of the contact injuries are as follows:-

DATE	AREA OF ZOO	SPECIES INVOLVED	DETAILS OF INJURY
25/07/2016	Illescas aviary	Vulture	Vulture inquisitive to walk stick, pecked jacket and lower arm breaking the skin.

26/07/2016	Illescas aviary	Vulture	Vulture inquisitive to bag and coat. Graze to right leg, bottom broken skin.
28/07/2016	Illescas aviary	Vulture	Vulture went for visitor's bag and top. Scratch on arm.

Members will note that this information is included in the document submitted by the Zoo entitled "Animal – Guest Interaction Audit". Members may wish to note that there are a number of inconsistencies in the number of Incidents recorded in this report, when compared to the figures given by the Zoo to this Committee in July 2016.

(v) Guidance

The SSSMZP states:-

"Appendix 6 - 6.14 In walk-through exhibits with exotic herbivores/primates, the following points should be noted:

- *appropriate risk assessments, particularly regarding zoonotic diseases and direct or indirect contact with animals, should be undertaken and reviewed regularly by a suitably qualified person (this would usually be a veterinary surgeon). These will be dependent on animal species and exhibit design and should cover risks to both public and animal safety;*
- *numbers of people allowed in the exhibit at any time, and allowable visitor behaviour and activities, should be consistent with the animals' welfare;*
- *appropriate staffing must be available, and protocols in place for staff to intervene in defence of either the visitor or animal if any conflict arises;*
- *staff and/or visitors should have a clearly indicated means of contacting assistance if required, including that of trained first-aiders;*
- *feeding of animals should only take place under supervision by staff*

8.14 The visiting public must not be allowed to enter any buildings or other areas of the zoo premises which could present an unreasonable risk to their health and safety.

1.10 Uncontrolled feeding of animals by visitors must not be permitted. Where controlled feeding occurs, it should be on a selective basis only, with suitable food sold, provided or approved by the operator. The quantity supplied per day must be managed to avoid over-feeding."

Recommendation

That Members note non-compliance with condition 33 and that it should be escalated to a Direction Order with compliance deadlines as detailed below.

The Direction Order shall relate to the whole Zoo and the steps required to comply with the Direction Order shall be:

- 1) In accordance with paragraph 6.14 of Appendix 6 and paragraph 1.10 of the SSSMZP an appropriate and comprehensive written review of the risk of bites or injury to members of the public caused by animals must be carried out and submitted to the LA.
Compliance timescale 2 weeks.
- 2) An appropriate written action plan, implementation times and all further changes that will be put in place to eliminate the risks of bites or injuries by animals to members of the public, must be submitted to the LA.
Compliance timescale 2 weeks after (1)
- 3) Implementation of this action plan must be made immediately following its submission to the LA and demonstrably active progress should be visible by 4th November 2016.
- 4) Full completion of implementation of the action plan must be achieved within six months.

This Direction Order will take effect 28 days after it is issued as the works specified are not normally carried out by the zoo.

Reason for Recommendation

The Zoo has failed to comply with the condition and whilst they have produced a review of bites/injuries to members of the public they have failed to eliminate such injuries. Indeed the latest evidence reveals that injuries due to animal contact continue. In addition the August 2016 inspection revealed details of three animal contact injuries that had not be reported to the Council within the 14 days specified in the condition.

Options For Members

- **Accept** the Officer recommendation and elevate Condition 33 to Direction Order with the previously stated compliance deadlines
- **Accept** the Officer recommendation and elevate Condition 33 to Direction Order with a different compliance date
- **Reject** the Officer Recommendation and decide that the condition has been met and should therefore be removed from the licence upon renewal
- **Reject** the Officer Recommendation, retain the condition on the licence and extend the compliance period

Considerations

(i) Legal Implications

The Zoo requires a licence to be able to open to the public and the Zoo Licensing Act 1981 makes the local authority responsible for administering the Licence. Anyone running a Zoo without a licence is guilty of an offence.

The Local Authority's power to alter a licence is contained within Section 16 of the same Act

(1) At any time after the grant of a licence under this Act, it may be altered by the local authority if in their opinion it is necessary or desirable to do so for ensuring the proper conduct of the zoo during the period of the licence (whether their opinion arises from an inspectors' report or an alteration of standards specified under section 9 or otherwise).

Section 18(9) states

A direction to which this subsection applies shall not have effect—

(a) during the period within which the holder is entitled to appeal against it;

Subsection (9) applies to the following directions—

(a) a direction under section 16A(2)(d) which requires the zoo or a section of it to be closed to the public;

(b) a direction under section 13(8)(c), 16A(2) or 16E(6) which imposes a requirement on the operator of the zoo to carry out works he would not otherwise be required to carry out; and

There is a right of appeal under Section 18 to the Magistrate's Court if the holder of the licence wishes to challenge the decisions of the Committee.

The Council have the power to prosecute for a failure to meet a licence condition under Section 19 of the Act

Section 16A of ZLA states:

(1) Subsection (2) applies where the local authority, after giving the licence holder an opportunity to be heard, are not satisfied that a condition attached to a licence granted by them under this Act is met in relation to the zoo or a section of it.

(2) Unless subsection (3) applies, the authority shall make a direction specifying—

(a) the licence condition which they are not satisfied is met;

(b) whether they are not satisfied that that condition is met in relation to—

- (i) the zoo; or
- (ii) a section of the zoo, and if so, which section;

(a) steps to be taken by the licence holder to ensure that that condition is met in relation to the zoo (or, if a section of the zoo is specified under paragraph (b)(ii), in relation to that section) within a period specified in the direction, which may not exceed two years from the date of the direction; and

(b) whether the zoo or a section of it is required to be closed to the public during that period or any part of it specified in the direction.

Section 16A(4) allows the Local Authority to vary a direction under subsection (2) after giving the licence holder the opportunity to be heard. S.16A(6) allows the Local Authority to increase the period specified in a direction under subsection (4) but that period may not exceed 2 years beginning the date of the direction made under subsection (2).

Section 16(4) allows the licence to be altered by varying, cancelling or attaching a condition to the licence (or a combination of any of those methods).

(ii) Risk Assessment

Not Applicable

(iii) Financial Implications

The Council may be subject to an appeal against the Committee's decision in the Magistrates' Court under Sections 18(b), (c), (e) or (f) of the Zoo Licensing Act 1981.

(iv) Key Priorities or Corporate Aims

None identified

(v) Equality and Diversity

Not applicable

(vi) Other Human Rights

All licence holders have a right to a fair hearing

Any action taken by the Council must be taken having regard to the principle of proportionality. When determining what action is appropriate the Committee will balance the rights of the licence holder with the rights of the public at large.

(vii) Health and Well-being Implications

One of the purposes of the Zoo Licensing Act 1981 is to protect the safety of the public visiting premises licensed under the Act.

Background Papers

Nil.

