





**Brighton & Hove
City Council**

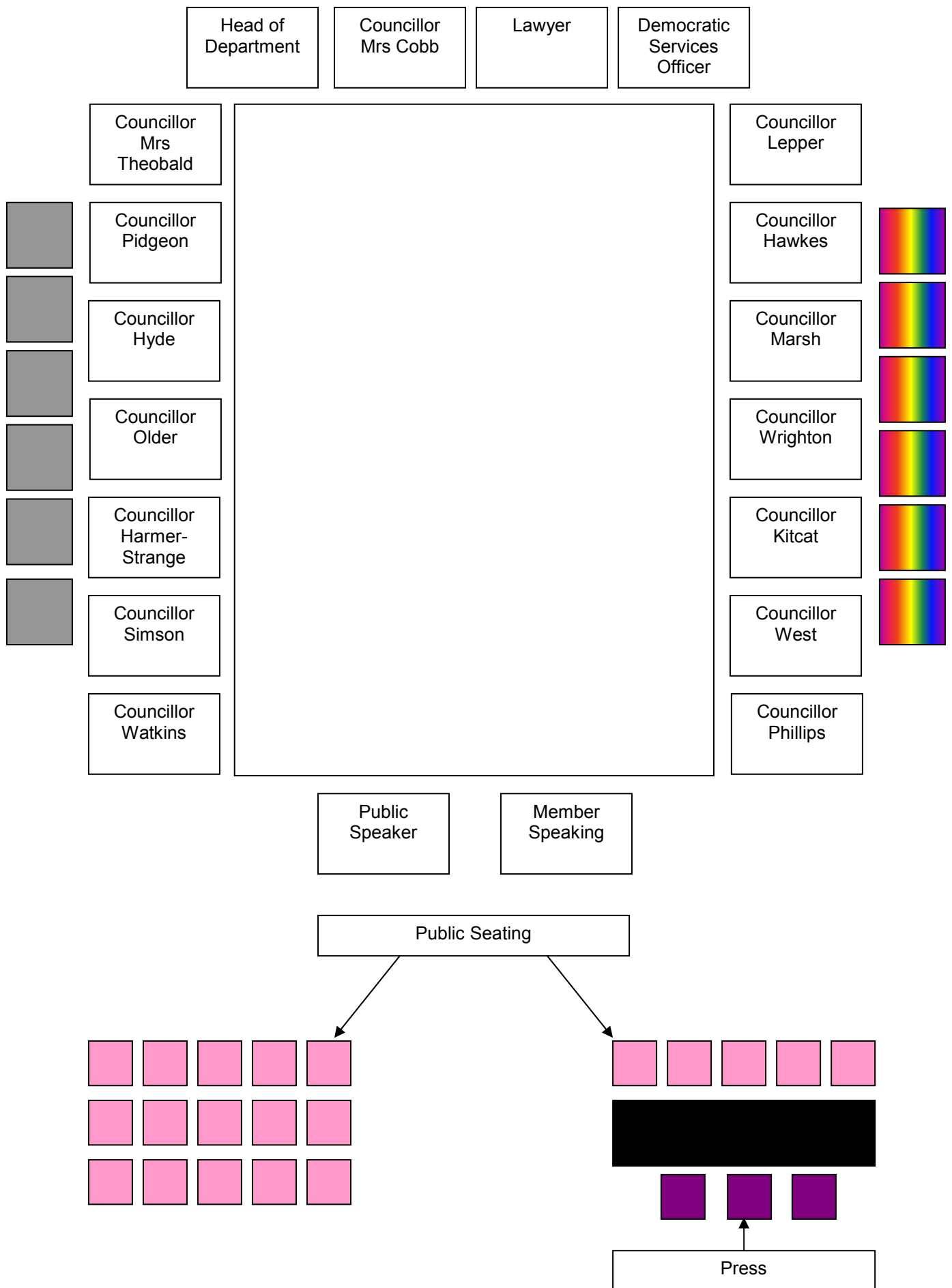
Licensing Committee

(Non-Licensing Act 2003 Functions)

Title:	Licensing Committee (Non Licensing Act 2003 Functions)
Date:	10 February 2011
Time:	3.00pm
Venue	Council Chamber, Hove Town Hall
Members:	Councillors: Cobb (Chairman), Lepper (Deputy Chairman), , Harmer-Strange, Hawkes, Hyde, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, C Theobald, Watkins, West and Wrighton
Contact:	Penny Jennings Democratic Services Officer 01273 291065 penny.jennings@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

23. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

24. MINUTES OF THE PREVIOUS MEETING

1 - 6

Minutes of the meeting held on 18 November 2010 (copy attached)

25. CHAIRMAN'S COMMUNICATIONS

26. CALLOVER

NOTE: Public Questions will be reserved automatically.

27. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 3 February 2011)

No public questions received by date of publication.

28. PETITIONS

7 - 8

To consider the e petition received in relation to enforcement of the legal duty for disabled taxi passengers. Report of the Strategic Director of Resources (copy attached)

Contact Officer: Penny Jennings

Tel: 29-1065

Ward Affected: All Wards

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

- 29. EQUALITY ACT 2010 LIST OF DESIGNATED WHEELCHAIR ACCESSIBLE VEHICLES** **9 - 14**
- Report of the Head of Planning and Public Protection (copy attached)
- Contact Officer: Martin Seymour Tel: 29-6659*
Ward Affected: All Wards
- 30. RESPONSE TO PETITION FROM BUSINESSES ON UPPER NORTH STREET** **15 - 20**
- Report of the Head of City Infrastructure (copy attached)
- Contact Officer: David Fisher Tel: 29-2065*
Ward Affected: St Peter's & North Laine
- 31. SEX ESTABLISHMENT AND SEX ENTERTAINMENT VENUE LICENCE FEES 2011/2012** **21 - 30**
- Report of the Head of Planning and Public Protection (copy attached)
- Contact Officer: Tim Nichols Tel: 29-2163*
Ward Affected: All Wards
- 32. GUIDANCE FOR CCTV MONITORING IN LICENSED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES** **31 - 38**
- Report of the Head of Planning and Public Protection (copy attached)
- Contact Officer: Martin Seymour Tel: 29-6659*
Ward Affected: All Wards
- 33. HACKNEY CARRIAGE/PRIVATE HIRE TRADE ETHNICITY MONITORING** **39 - 62**
- Report of the Head of Planning and Public Protection (copy attached)
- Contact Officer: Martin Seymour Tel: 29-6659*
Ward Affected: All Wards
- 34. INHERITED HACKNEY CARRIAGE PLATES** **63 - 66**
- Report of the Head of Planning and Public and Protection (copy attached)
- Contact Officer: Martin Seymour Tel: 29-6659*
Ward Affected: All Wards
- 35. ITEMS TO GO FORWARD TO COUNCIL**
- To consider items to be submitted to the 23 March 2011 Council meeting for information.
- In accordance with Procedural Rule 24.3a the Committee may determine that any item is to be included in its report to Council. In addition each Minority Group may specify one further item to be included by notifying the Chief Executive by 10.00am on 14 March 2011.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065), email penny.jennings@brighton-hove.gov.uk or email democratic.services@brighton-hove.gov.uk

Date of Publication - Wednesday, 2 February 2011

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 24

Brighton & Hove City Council

BRIGHTON & HOVE CITY COUNCIL

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 18 NOVEMBER 2010

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Cobb (Chairman), Lepper (Deputy Chairman), West, Harmer-Strange, Hawkes, Hyde, Kitcat, Marsh, Older, Phillips, Pidgeon, Simson, Smart and Wrighton

Apologies: Councillor Watkins

Officers : Tim Nichols, Head of Environmental Health and Licensing; Jean Cranford, Licensing Manager; Rebecca Sidell, Lawyer and Penny Jennings, Democratic Services Officer

PART ONE

13. PROCEDURAL BUSINESS

13a Declaration of Substitutes

13.1 Councillor Smart declared that he was substituting for Councillor C Theobald.

13b Declarations of Interest

13.2 There were none.

13c Exclusion of Press and Public

13.3 In accordance with Section 100A of the Local Government Act 1972 ("The Act") the Committee considered whether the press and public should be excluded from the meeting during consideration of any item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in Section 100A(3) of the Act) or exempt information (as defined in Section 100(1) of the Act).

13.4 **RESOLVED** – That the press and public be not excluded.

14. MINUTES OF THE PREVIOUS MEETING

14.1 **RESOLVED** – That the Chairman be authorized to sign the minutes of the previous meeting held on 4 March 2010 as a correct record

15. MINUTES OF SPECIAL MEETING

15.1 The Clerk to the Committee stated that the first piece of text marked by an asterisk following the Resolutions at Paragraph 12.32 should be removed.

15.2 The Chairman, Councillor Cobb stated that the names in Paragraph 2.9 had become transposed. The text should indicate that Councillor West had proposed the amendment and that it had been seconded by Councillor Lepper.

15.3 **RESOLVED** - That subject to the foregoing amendments the Chairman be authorized to sign the minutes of the special meeting held on 10 September 2010.

16. CHAIRMAN'S COMMUNICATIONS

Hackney Carriage and Private Hire Vehicles: Suspensions and Revocations

16.1 The Chairman explained that since the last meeting of the Committee officers in the Hackney Carriage Office had:

Suspended 3 drivers and refused licences to 2 drivers.

In addition to this 6 drivers had been given formal warnings which would remain on their files for 3 years.

16.2 **RESOLVED** - That the position be noted.

17. CALLOVER

17.1 All items on the agenda were reserved for discussion.

18. PETITIONS: SWING SIGNS IN UPPER NORTH STREET

18.1 The Committee considered a report of the Strategic Director of Resources setting out details of a petition received from 6 businesses located in Upper North Street requesting that they be permitted to retain their existing swing signs advertising the location of their businesses.

18.2 Mr. Davis spoke on behalf of the petitioners reiterating the points set out in their petition stressing that any flexibility the Council might be able to exercise in relation to its policies in these difficult financial times would be appreciated.

18.3 The Chairman, Councillor Cobb referred to the existing policy which had been approved by the Committee and implemented on its behalf. This policy had taken

account of the need to avoid unnecessary on-street clutter and obstructions which could prove hazardous to those who had physical and visual impairments.

- 18.4 Councillor Older sought clarification of the location of the premises. Mr Davis confirmed that his business was located at 33 Upper North Street and that the swing sign advertising it was located at the corner of Regent Hill. The street on which his business was located was largely residential with narrow pavements and he needed to advertise where it was. Councillor Simson stated that she was aware that permission to locate signs had been denied where they were situated at some distance from a premises and could not be easily managed by their proprietors.
- 18.5 Councillor Hawkes sought clarification of the existing policy and Mr Fisher, Senior Highways Enforcement Officer explained that A Boards and other free standing signage must be located within 5 metres of the business that it was advertising. The signs referred to by the businesses who had petitioned were unlicensed and unlicensable under the agreed policies.
- 18.6 Councillor Older stated that she believed that exceptions were made in respect of signage placed in twittens and alleyways. Whilst supporting the general principles agreed by the policy Councillor Lepper stated that she considered that it was appropriate to make exceptions or to apply the policy more flexibility in some areas of the City.
- 18.7 Following further discussion it was agreed that it would be appropriate for a report to be brought to the next scheduled meeting of the Committee in order to ascertain whether it might be possible to apply the Council's policies more flexibility in roads away from the city's main thoroughfares.
- 18.8 **RESOLVED** – That the content of the petition be noted and that a report examining this issue further be brought back to the next scheduled meeting of the Committee.

19. PUBLIC QUESTIONS

- 19.1 The Committee considered a report of the Strategic Director of Resources setting out a public question received from the Retail Operations Manager of "Nice n Naughty" in relation to the licensing fees payable for sex establishment licence renewal.
- 19.2 Miss Tweddell reiterated her question as set out in the report stating that the manner in which charges were levied for licensed sex shops in the city seemed disproportionately high. Miss Tweddell then asked a further question seeking clarification regarding how this figure was arrived at. The Chairman, Councillor Cobb stated that the comparison made with the level of charges levied for a bingo hall was misleading and did not compare like with like and referred to the report set out at item 20 on that afternoon's agenda, which set out the policy context for the level of fees charged
- 19.3 **RESOLVED** – That the position be noted.

20. LICENCE FEES

- 20.1 The Committee considered a report of the Director of Place setting out the proposed licence fees and charges for 2011/12 relating to Street Trading, Sex Establishments and Sex Establishment Licences, Gambling premises, taxi licensing and other licensing functions.
- 20.2 The Head of Environment and Licensing explained that in order to ensure that council tax payers were not subsidizing work concerning licensing administration and enforcement, income was raised in order to cover the cost of administration and enforcement of each regime. Whilst licence fees should not be used to raise revenue, income was required in order to process applications and to minimise risk from unlicensed activities.
- 20.3 Councillor Kitcat stated that he was very concerned that the future of the taxi marshal scheme appeared to be doubtful. This was a valuable initiative and measures should be undertaken in order to safeguard its long term future. He enquired whether it would be possible to raise an additional levy to cover these costs.
- 20.4 The Head of Environmental Health and Licensing explained that the way in which fees were set was heavily prescribed by legislation.
- 20.5 Councillor Simson considered that alternative funding streams should be actively sought in order to secure the future of the taxi marshal scheme and that the wording of the resolution should be strengthened in order to reflect that. Other Members of the Committee concurred in that view.
- 20.6 Councillor Kitcat stated that he considered that the fees for sex shops and sex cinemas seemed very high. It seemed very difficult to justify such high levies. The Head of Environmental Health and Licensing re-iterated his remarks about the prescribed nature of licensing legislation and advised that all parties had been advised of the proposed levels of increase at an early stage.
- 20.7 Councillor West stated that whilst the points made regarding the manner in which fees were set were accepted, he considered that it would be appropriate for Members to receive a report to a future meeting detailing how licence fees were arrived at in much greater depth.
- 20.8 Councillor Smart referred to the means by which risk to the licensing authority could be minimized. In responding the Head of Environmental Health and Licensing explained that the police had powers available to them which the licensing authority did not.
- 20.9 Councillor Wrighton referred to the fees levied for lap dancing establishments referring to the vulnerability of young girls involved in the trade. She enquired whether only one visit per year was carried out as appeared to be indicated by the report. The Head of Environmental Health and Licensing stated that a risk rating was applied to premises and the number of visits carried out was dependent on that allocated level of risk.

20.10 Councillor Hawkes asked whether premises received prior notification of visits and it was explained that whether or not prior notification was given was dependent the circumstances of each visit. However, most visits were unannounced.

20.11 **RESOLVED** – (1) That the Committee approves the following variation to licence fees:

- Taxi licence fees: no increase
- Street trading: increase by the corporate rate of inflation 2%
- Sex shops and sex cinemas: increase by corporate rate of inflation 2%
- Other discretionary licence fees: increase by corporate rate of inflation
- Gambling licensing: no increase
- Sex Entertainment Venues: New fee 4,600.

(2) That the funding of taxi marshals from its current source will be phased out over a 6 month period, other funding will be sought.

Note: Following discussion the Committee were in agreement that a further report be submitted (for information) to a future meeting of the Committee setting out in precise detail as to how the fees for sex shops, sex cinemas and Sex Entertainment Venues were calculated

21. SEX ENTERTAINMENT VENUE LICENSING POLICY

21.1 The Committee considered a report of the Director of Place setting out the City' proposed sex establishment licensing policy for approval as set out in Appendix A to the report

21.2 The Licensing Manager, Mrs Cranford explained that on 5 February 2009 and 25 June 2010, the Committee had been apprised of the Policing and Crime Bill relating to sex establishments including lap dancing clubs. was an existing policy on sex establishments, sex shops and sex cinemas which included standard conditions. That policy had been reviewed and extended to cover the new category of sex entertainment venue.

21.3 On 15 July 2010 full Council had passed a resolution specifying that amendments made by Section 27 of the Policing and Crime Act 2009 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should apply to Brighton and Hove with effect from 19 November 2010.

21.4 A vote was taken and Members voted unanimously that the Sex Establishment Licensing Policy be agreed.

21.5 **RESOLVED** – That the Committee adopts the Sex Establishment Licensing Policy set out at Appendix A to the report.

22. ITEMS TO GO FORWARD TO COUNCIL

22.1 There were none.

The meeting concluded at 4.15pm

Signed

Chairman

Dated this

day of

MEETING LICENCING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 28

Brighton & Hove City Council

Subject:	Petition :Enforcement of Legal Duty for Disabled Taxi Passengers		
Date of Meeting:	10 February 2011		
Report of:	Strategic Director, Resources		
Contact Officer:	Name:	Penny Jennings	Tel: 29-1065
	E-mail:	penny.jennings@brighton-hove.gov.uk	
Key Decision:	No		
Wards Affected:	St. Peter's & North Laine		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To receive any petitions presented at Council, any petitions submitted directly to Democratic Services or any e-Petition submitted via the council's website. The following petition to be presented directly to the Licensing Committee (Licensing Act 2003 Functions).

2. RECOMMENDATIONS:

- 2.2 That the Cabinet Member/Committee responds to the e petition and in each case gives consideration to a range of options, including the following:
- taking the action requested in the petition
 - considering the petition at a council meeting
 - holding an inquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - holding a consultation
 - holding a meeting with petitioners
 - referring the petition for consideration by the Council's Overview and Scrutiny Committee*
 - calling a referendum
 - writing to the petition organiser setting out the Council's views about the request in the petition
 - receiving and noting the petition
 - requesting a further report

3. PETITION(S)

- X. (i) To receive the following e. petition (containing 74 signatures) :

"Enforcement of legal duty for disabled taxi passengers:

“We the undersigned call upon the Council’s Licensing Committee to follow the Department of Transport’s Advice for Licensing Authorities (Sept 2010) and compile a list of designated wheelchair accessible taxis and private hire vehicles.

Under the new Equality Act, the drivers of these designated wheelchair accessible vehicles have a legal duty:

- to carry the passenger while in a wheelchair
- not to make any additional charge for doing so
- if the passenger chooses to sit in a passenger seat, to carry the wheelchair
- to take such steps as are necessary to ensure that the passenger is carried safely and in reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

If the Council does not maintain a list they will have no powers in law to enforce these duties which could hugely disadvantage disabled residents.

(74 signatures)

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 29

Brighton & Hove City Council

Subject:	Equality Act 2010 - List of Designated Wheelchair Accessible Vehicles		
Date of Meeting:	10 February 2011		
Report of:	<i>Strategic Director of Place</i>		
Contact Officer:	Name:	<i>Martin Seymour</i>	Tel: 29-6659
	E-mail:	Martin.seymour@brighton-hove.gov.uk	
Wards Affected:	All		

1. SUMMARY AND POLICY CONTEXT:

To seek the Committee's approval that the Council should maintain a list of designated vehicles for the purpose of the Equality Act 2010.

- 1.2 A potential sensitivity is that some hackney carriage proprietors have vehicle licences that have a condition requiring wheelchair accessibility and some have provided wheelchair accessible vehicles by choice. If there are issues with an approach of an inclusive list, officers may need to report back if there are any unforeseen difficulties.

2. RECOMMENDATIONS:

- 2.1 That Committee recommends the introduction of a designated list of wheelchair accessible vehicles.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination - including disability discrimination. The new Act includes many of the taxi and private hire vehicle provisions, which were in the Disability Discrimination Act 1995, but also includes some important changes. Sections 160 to 173 relate specifically to taxis and private hire vehicles. Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and private hire vehicles to assist passengers who use wheelchairs.

The duties which have been contained in the Disability Discrimination Act 1995 have never been brought into force so when the duties are actually brought into force at a later date, it will constitute a substantive change in the law.

- 3.2 Section 167 allows licensing authorities to maintain a list of 'designated vehicles'; this is a list of wheelchair accessible vehicles licensed in their area. The consequence of being on this is that the driver must undertake the following duties as required by section 165:
- To carry the passenger while in a wheelchair
 - Not to make an additional charge for doing so
 - If the passenger chooses to sit in a passenger seat, to carry the wheelchair
 - To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort: and
 - To give the passenger such mobility assistance as is reasonably required
- 3.3 Section 166 allows licensing authorities to exempt drivers from duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical conditions makes it unreasonably difficult for him or her to comply with the duties.
- 3.4 From the 1st October 2010 taxi and private hire vehicle drivers who drive designated wheelchair accessible vehicles are able to apply for exemptions. These exemptions can be on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties. The council has a system for assessing drivers and granting exemption certificates for those drivers considered should be exempt.
- 3.5 The Department for Transport will be making regulations early in 2011 specifying the exact format for the Exemption Notices that licensing authorities will issue and exempt drivers will be required to display in their vehicles. They will also be making regulations concerning the definition of accessibility.
- 3.6 Although the list of designated vehicles will have no actual effect in law until the duties are commenced, licensing authorities are being advised to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates.
- 3.7 Also from October 2010 it has become possible for drivers to appeal against a decision by the licensing authority not to grant an exemption; the appeal will go to the magistrates' court.
- 3.8 When section 167 comes into force, and the list of designated vehicles has a statutory effect, it will be possible for the owner of the vehicle to appeal against a licensing authority's decision to include his/her vehicle on the list. This appeal will also go to magistrates' court. There may be some considerable cost to the council in defending multiple appeals.
- 3.9 Since the Transport Act 1985 it has been possible for licensing authorities in England and Wales (outside London) to refuse a licence application if they

are satisfied that there is no significant unmet demand for taxis in their licensing area.

- 3.10 Section 161 of the Equality Act 2010 qualifies the law in this area, to ensure licensing authorities that have relatively few wheelchair accessible taxis operating in their area, do not refuse licences to such vehicles for the purposes of controlling numbers.
- 3.11 For section 161 to have effect, the Secretary of State must make regulations specifying:
- The proportion of wheelchair accessible taxis that must operate in an area before the respective licensing authority is lawfully able to refuse to license such a vehicle on the grounds of controlling taxi numbers: and
 - The dimension of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within the provision.

This may lead to many more vehicles being licensed as hackney carriage vehicles than currently permitted under the current restricted numbers policy and some existing vehicles no longer being suitable as licensed wheelchair accessible vehicles.

- 3.12 Section 168 to 171 of the Equality Act 2010 deals with the carriage of guide dogs and other assistance dogs in England and Wales.

These sections have simply been lifted from the Disability Discrimination Act 1995 which imposed a duty on taxi and private hire vehicle drivers (and PHV operators) to accept guide dogs and other assistance dogs.

When these sections came into force on the 1st October 2010, the existing sections in the Disability Discrimination Act 1995 were repealed, so the change is largely a technical one rather than one with any practical implications. The existing obligations to carry guide dogs and assistance dogs will carry on but simply under different legislation.

4. CONSULTATION

- 4.1 The subject of designated vehicles has been discussed at the council's hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions.
- 4.2 After extensive consultations (October - December 2009) in relation to the council's Equality Scheme, disabled people identified improved access to taxis/private hire vehicles as a priority. The Get Involved Group based at the Federation of Disabled People have been consulted regularly throughout 2010 and the Federation's Chief Officer has been involved in ongoing conversations around the implications and implementation of the Equality Act.

4.3 It is clear that disabled people, in particular wheelchair users, support the introduction of a list of all designated wheelchair accessible vehicles as a matter of urgency, before the full introduction of the taxi provisions in the new legislation.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 There are no direct financial implications associated with this report.

Finance Officer Consulted: Karen Brookshaw Date: 10/01/2011

5.2 LEGAL

Legal implications are contained within the report.

Lawyer: Liz Woodley Date: 10/01/11

5.3 Equalities Implications:

The council's Equality Scheme 2010/11 (and the previous Disability Equality Scheme) includes a commitment to improve travel options for disabled people, specifically taxis. Having a list of designated wheelchair accessible vehicles means that the Hackney Carriage Office could enforce the new provisions in the Equality Act 2010. This, in turn, should drive up access to taxis/private hire vehicles providing greater certainty for disabled people.

5.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station, approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

5.5 Crime & Disorder Implications:

New duties are imposed on drivers of vehicles on the list.

5.6 Risk and Opportunity Management Implications:

None.

5.7 Corporate / Citywide Implications:

Tourism development requires a flexible transport service and a city that is accessible to disabled visitors.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 30

Brighton & Hove City Council

Subject: *Response to Petition from Businesses on Upper North Street.*

Date of Meeting: 10TH February 2011

Report of: *Gillian Marston, Head of City Infrastructure*

Contact Officer: Name: *David Fisher* Tel: 29-2065
E-mail: David.fisher@brighton-hove.gov.uk

Wards Affected: Regency

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 This report is in response to a petition received by Licensing Committee (Non Licensing Act 2003 Functions) on 18th November 2010. (Appended)

1.2 The petition related to the placing of Advertising boards (swing boards) on Western Road advertising businesses in Upper North Street. This is in direct conflict with the highway licensing policy and the principles of managing street access for all users.

2. RECOMMENDATIONS:

(1) That the committee notes the petition and agrees to up hold the policy

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Pre April 2009, the licensing scheme allowed Advertising boards to be placed away from the businesses to which they belonged. This resulted in a large number of boards left unmonitored and chained to street furniture. It also led to clusters of boards appearing at busy junctions. After consultation with businesses, disabled groups and residents a number of changes were suggested to the highway licensing policy.

3.2 On 24th April 2009, Licensing Committee agreed several changes to the highway licensing policy including "That, except in the case of items

within large, waiter-serviced sitting-out areas, no traders' items shall be permitted to be placed more than 5 meters from the licensed premises. All objects must be within sight from a window or door of said premises or in clear visual range of CCTV camera(s) monitored from within the licensed premises restricting advertising boards to within 5m of the premises." Licensing Committee also recommended that the policy be reviewed by overview and scrutiny committee.

- 3.2 The report was the result of a review incorporating extensive consultation, research and officer experience of managing highway licensing of traders' objects.
- 3.3 The reasons for restricting "remote" A-boards (signs that are placed at a large distance from the premises) are:
 - The A-board cannot be easily looked after by the relevant premises – e.g. if they blow over or are moved - as they are too great a distance to be monitored regularly
 - Allowing A-boards to be placed on adjacent streets to the actual premises resulted in large clusters of boards along a single street. These are usually streets that are already very busy with high numbers of traders' objects as well as high numbers of pedestrians.
 - Remote A-boards often end up at junctions of busy streets, resulting in obstruction for pedestrians trying to cross.
 - Remote A-boards are more likely to be left out overnight chained to street furniture increasing permanent street clutter and any risks to public safety.
- 3.4 In March 2010 report from the Overview and Scrutiny Panel reported on the results of the Street Access panel's findings, which included endorsement of the April 2009 changes to the highway licensing policy.
- 3.5 On 24th June 2010 a report detailing the Street Access Panel's recommendations and officer response to these was agreed at Licensing Committee.
- 3.6 On 26th July 2010 the same report detailing the Street Access Panel's recommendations and officer response to these was agreed at Environment cabinet.
- 3.7 Following the relevant decision-making bodies' agreement, enforcement officers started working to the new policy and approached businesses that were in breach of this policy.
- 3.8 If businesses on Upper North Street were to place their A-boards on Western Road, this would increase the amount of signs placed on one of the busiest pavements in the city and which already has Western Road businesses' A-boards out on street..

4. CONSULTATION

- 4.1 An equalities impact assessment was carried out during the policy review in 2009 which involved consultation with a wide range of relevant groups, traders and local residents.
- 4.2 Full consultation was also carried out by the Overview and Scrutiny Street Access Panel including a public invitation to submit evidence and 3 public meetings where individuals and representatives of various organisations or businesses were invited to give evidence.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1

There are no direct financial implications associated with the response to the petition. The budget for 2010-11 assumes a level of income based on traders' objects on the highway. A boards, tables and chairs and hoardings are expected to yield £116,290 over the year, which will be used to cover the monitoring costs of the Highway Enforcement Team.

Finance Officer Consulted: Karen Brookshaw

Date: 31/1/11

Legal Implications:

5.2 No direct legal Implications

Lawyer Consulted:

Rebecca Sidell

Date: 28/1/11

5.3 Equalities Implications:

The council seeks to ensure that public highways are used in a manner that maximises the benefit to the most number of users. However in the busiest areas of the city competing interests can come into conflict. It is the council's responsibility to manage these interests and to ensure equality of access particularly for those with mobility issues.

Sustainability Implications:

5.4 There are no sustainability issues identified.

Crime & Disorder Implications:

5.5 There are no direct crime and disorder implications arising from this report

Risk and Opportunity Management Implications:

5.6 Potential for the council to be held liable if it allows unmonitored items to be placed on the public highway.

Corporate / Citywide Implications:

5.7 If allowed then other business who have been refused permission to place remote advertising boards would reapply leading to a number of boards being placed citywide, normally in the busiest streets.

SUPPORTING DOCUMENTATION

Appendices:

[If none, state None. Any appendix more than 20 pages long should be listed and placed in the Members' Rooms at Kings House and referenced in the main body of the report]

1. Petition from businesses in Upper North Street.

Documents In Members' Rooms

None

Background Documents

None

MEETING LICENCING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Appendix 1 (Item 30) Agenda Item 18

Brighton & Hove City Council

Subject:	Petition :	
Date of Meeting:	18 November 2010	
Report of:	Strategic Director, Resources	
Contact Officer:	Name: Penny Jennings	Tel: 29-1065
	E-mail: penny.jennings@brighton-hove.gov.uk	
Key Decision:	No	
Wards Affected:	St. Peter's & North Laine	

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To receive any petitions presented at Council, any petitions submitted directly to Democratic Services or any e-Petition submitted via the council's website. The following petition to be presented directly to the Licensing Committee (Licensing Act 2003 Functions).

2. RECOMMENDATIONS:

- 2.2 That the Cabinet Member/Committee responds to the petition and in each case gives consideration to a range of options, including the following:
- taking the action requested in the petition
 - considering the petition at a council meeting
 - holding an inquiry into the matter
 - undertaking research into the matter
 - holding a public meeting
 - holding a consultation
 - holding a meeting with petitioners
 - referring the petition for consideration by the council's Overview and Scrutiny Committee*
 - calling a referendum
 - writing to the petition organiser setting out the council's views about the request in the petition

3. PETITIONS

- X. (i) To receive the following petition (containing 6 signatures) :

A covering letter was received in the following terms:

“On Tuesday August 31, we had a visit from one of your enforcement officers informing us that our (and several other businesses on Upper North Street) swing signs on Western Road were an obstruction to the walkway and were told to remove them. This was done in response to a complaint by a Blind and Disabled Citizen Group.

In response to this decision, we have created a petition for the businesses of Upper North Street, Brighton BN1 3FG, stating that this would have a profound impact on our businesses. For small businesses, such as ours on Upper North Street, any help from the Council to keep our businesses above ground when so many are closing, would be greatly appreciated.

1.2(i) The wording of the petition is as follows:

“From the Traders of Upper North Street:

We have recently been advised that any remote advertising more than 5m from our shop front cannot be displayed. And this is mainly swing signs located on Western Road. The reason behind this new decision was from an Disabled Citizens group, saying that the swing signs were an obstruction for the blind and those in wheelchairs. Most of the signs are located in areas that are not obstructing the path, especially no more than any bike rack, remote vendors, sitting bench, bus stop or any other structures that are on Western Road.

Without such signs letting the public know that our businesses are up the hill from Western Road, this will greatly affect our business and in a time where economic stability is crucial, it is not something that we can afford.

We are asking that you reconsider this decision and think of the impact it would have on our businesses without this advertising for walk in traffic and helping our clients/customers know exactly where our location is.” (6 signatories).

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 31

Brighton & Hove City Council

Subject:	Sex Establishment and Sex Entertainment Venue Licence fees 2011/2012		
Date of Meeting:	10 February 2011		
Report of:	Head of Planning & Public Protection		
Contact Officer:	Name:	Tim Nichols	Tel: 29-2163
	E-mail:	tim.nichols@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report provides further information relating to licence fees and charges for 2011/12 relating to Sex Establishments and Sex Entertainment Venues as requested by committee on 18 November 2010.

2. RECOMMENDATIONS:

- 2.1 That the committee note the contents of this report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 In order to ensure that council tax payers are not subsidising work concerning licensing administration and enforcement, income is raised by licence fees which aim to cover the cost of administration and enforcement of each regime. Licence fees should not be used to raise revenue, however, income is required in order to process applications and minimise risk from unlicensed and unauthorised activities. Unlicensed sex establishments operate without scrutiny and activities present a risk to community and child safety.

Sex shops and sex cinemas

- 3.2 A trading position has been established, taking into account all expenditure that the Council has incurred in administering the service, including both direct and indirect costs. (Indirect costs for example would include an element of management time to oversee the activity, a legitimate expense in administering the licensing function). The results of this review are set out in the table below.

Financial Year	Balance on Sex Shops and Sex Cinemas Fees £000*
2007/08 Actual	(2)
2008/09 Actual	1
2009/10 Actual	(7)
2010/11 Forecast	(12)
Total Deficit	(20)

- A positive figure represents a surplus

Cost projections for 2011/12 show that there is likely to be a deficit. As the council is committed to keeping the cost of administering the service as low as possible, a review of the expenditure will be undertaken over the coming months to find efficiencies, in order to reduce the deficit.

Sex Entertainment Venues

- 3.3 The Policing and Crime Act introduced a new type of venue “Sex Entertainment Venues” (lap dancing clubs). Following the principle of setting a fee to recover the expected cost of providing the service, cost projections show that a licence fee of £4,600 would be appropriate. This will of course continue to be reviewed each year.

4. CONSULTATION

- 4.1 Council’s finance officer and legal services.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 License fees are set annually at a level that it is reasonably believed will cover the costs of providing the service, including enforcement and administration.

Finance Officer Consulted: Karen Brookshaw

Date: 18/01/11

Legal Implications:

- 5.2 Legal constraints on setting fees
Fees must be charged in accordance with the requirements of the legislation under which they are charged. Thus for instance the Licensing Act 2003 gives the Council no discretion as they are set centrally by the relevant government department. Other legislation such as the Local Government (Miscellaneous Provisions) Act 1982 which covers a whole raft of activities and includes street trading and sex establishments simply states that we may charge such fees as we consider reasonable.

The term ‘Reasonable’ however does not imply wide discretion but incorporates important legal principles and constraints. These were highlighted in the case of *R v Manchester City Council ex parte King* concerning street trading. This case held that the fees charged must be

related to the costs incurred in providing the street trading service. They must not be used to raise revenue generally. This principle is key and applies to other licensing regimes such as sex establishments. This means the fees must be set at a level reasonably expected to cover the cost of providing the service.

This principle has been reinforced by the introduction of the European Services Directive which took effect from the end of 2009. It aims to ensure that licence applications and procedures are transparent and burdens on business kept to a minimum. The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. The domestic legislation will require “any charges provided for by a competent authority which the applicant may incur under an authorisation scheme must be reasonable and proportionate to the cost of the authorisation procedures and formalities under the scheme and must not exceed those procedures and formalities”. Any fee charged for establishing a service can only be based on cost recovery and cannot be set at an artificial high level to deter service sectors from an area. Application costs can include administration, initial visits, third party costs (e.g. expert advice like a vet), management costs and local democracy costs. The directive also requires that ongoing enforcement costs should be refundable in the event of an application refusal. Council should schedule regular fee reviews.

Therefore the trading accounts must be carefully looked at in accordance with these principles. There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable level which does not relate to the cost of providing the service.

Lawyer Consulted: Rebecca Sidell

Date:

Equalities Implications:

5.3 There are no direct equalities implications.

Sustainability Implications:

5.4 There are no direct sustainability implications

Crime & Disorder Implications:

5.5 There are no direct crime and disorder implications.

Risk and Opportunity Management Implications:

5.6 None

Corporate / Citywide Implications:

5.7 The city council's ability to raise income impacts on the level of Council Tax and service levels and therefore has citywide implications. A process for a clear, accountable, transparent process for setting fees has been set.

SUPPORTING DOCUMENTATION

Appendices:

Appendix A – list of fees and charges.

Documents In Members' Rooms:

None

Background Documents:

None

Licence fees

	2010/11	2011/12	% increase
Sex Entertainment Venue (lap dancing)	N/A	4,600.00	New fee
Sex establishments			
Grant	11,837.00	12,073.70	2%
Renewal	10,061.45	10,262.70	2%
Occasional	4,044.00	4,124.90	2%

Brighton & Hove City Council

Environmental Health & Licensing

**Licensing - Other: Trading Account - 2011-12
Sex Establishment
Venues**

	£
Employees	
Salaries	9,130
National Insurance	790
Superannuation	1,550
Training	300
	<u>11,770</u>
Transport	
Staff Travel Allowances	80
	<u>80</u>
Supplies & Services	
Office Consumable Costs	50
Legal Fees	500
	<u>550</u>
Support Services	
Departmental Admin Charge	1,400
	<u>1,400</u>
Income	
Licences	-13,800
	<u>-13,800</u>
(Surplus) / Deficit	<u><u>0</u></u>

SEX ENTERTAINMENT VENUES**Annual Calculations****Employee Costs**

Senior Environmental Health Officer	5 complaints @ 7 hours each 3 investigations @ 4 hours each sub committees 4 @ 5 hours 1 court case @ 4 hours	35 hours 12 hours 20 hours 4 hours	
			71 hours
Technical Officer time	15 complaints @ 7 hours 9 investigations @ 4 hours 6 film accreditations @ 3hours sub committees 6 @ 5 hours 1 court case @ 1 hour	105 hours 36 hours 18 hours 30 hours 1 hour	
			190 hours
Technical Support Officer	10 applications @ 1 hour plus 20 minutes for paying by instalments processing receipts	11 hours 40 minutes 2 hours	13.67 hours
Head of Environmental Health & Licensing		5% of time	
Licensing Manager		5% of time	
Staff training costs	2 per annum @ £150		£300.00
Transport Costs			
Staff transport costs	4 staff @£20		£80.00
Supplies & Services			
Barrister for court case			£500.00
Printing/stationery costs	High quality paper plus printing and other stationery		£50.00
Support service costs	EVH034 support service costs are 11.3% of other expenditure	11.30%	£1,400.00
Income			
Licence Fee	Total costs of the service divided by 3 licences		(£4,600.00)

Licensing administration and enforcement is carried out by a team of people, dealing with Sex Establishments, Street Trading and other minor areas. Each area of expenditure is

evenly apportioned between Sex Establishments and Street Trading at 44% each, with the other minor areas accounting for 12% of costs. The following table shows budgets for licensing of Sex Establishments for 2011-12.

**Environmental Health & Licensing
Extract from Licensing - Other: Trading Account -
2011/12 Budget**

	Sex Establishments	
	£	
EXPENDITURE		
Staff Salaries	49,562	44% share
Staff National Insurance	4,532	44% share
Staff Superannuation	8,430	44% share
25% Head of Environmental H & L 30% Licensing Manager 1 x Senior Environmental Health Officer 1 x Senior Technical Support Officer 3 x Technical Officers 3.1 FTE Technical Support Officers		
Staff Training	686	44% share
This covers the cost of providing training for all members of this licensing team		
Staff Transport	75	44% share
11 staff in total at approximately £20 per person plus £30 additional allowance		
Office Consumable Costs	515	44% share
This budget covers the cost of printing, (new booklets, deposit slips, permits), and office stationery including paper.		
Reference Books	18	44% share
This covers the cost of legal books (e.g. Butterworth) which are revised annually.		
Hospitality		
This budget covers the cost of teas and coffees for hearings and other licensing meetings		
	22	44% share
Postages	444	44% share
This budget covers the cost of sending out letters to existing licence holders and to statutory consultees, for renewals, reminders, changes in legislation and distributing new booklets.		
Departmental Administration Charges	7,041	44% share
All indirect costs associated with this team, including apportionment of ICT, Property, Finance, and H.R overheads.		

Licence Fees

There is no apportionment for income, as the income for each service area within Licensing Other is separately recorded

-51,313

Deficit	20,012
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The following table shows how those calculations for Sex Entertainment Venues and Sex Establishments fit into the Trading Account for Licensing-Other.

Brighton & Hove City Council

Environmental Health & Licensing

Licensing - Other: Trading Account - 2011/12 Budget

	EVH034	Street Trading	Sex Establishments	Outside the scope	Sex Entertainment Venues
	£	£	£	£	£
Employees					
Salaries	121,770	49,562	49,562	13,517	9,130
National Insurance	11,090	4,532	4,532	1,236	790
Superannuation	20,710	8,430	8,430	2,299	1,550
Training	1,860	686	686	187	300
	155,430	63,210	63,210	17,239	11,770
Transport					
Staff Travel Allowances	250	75	75	20	80
	250	75	75	20	80
Supplies & Services					
Office Consumable Costs	1,170	515	515	140	
Legal Fees	500	0	0	0	500
Reference Books	90	18	18	5	50
Hospitality	50	22	22	6	
Postages	1,010	444	444	121	
	2,820	999	999	272	550
Support Services					
Departmental Admin Charge	17,401	7,041	7,041	1,920	1,400
	17,401	7,041	7,041	1,920	1,400
Income					
Licence Fees	126,421	-46,767	-51,313	-14,540	-13,800
	-	-	-	-	-
(Surplus) / Deficit	49,480	24,557	20,012	4,911	0

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 32

Brighton & Hove City Council

Subject:	Guidance for CCTV monitoring in Licensed Hackney Carriage and Private Hire Vehicles		
Date of Meeting:	10 February 2011		
Report of:	<i>Head of Planning and Public Protection</i>		
Contact Officer:	Name:	<i>Martin Seymour</i>	Tel: 29-6659
	E-mail:	Martin.seymour@brighton-hove.gov.uk	
Wards Affected:	All		

1. SUMMARY AND POLICY CONTEXT:

To seek the members approval of the guidance regarding the use of CCTV monitoring in licensed Hackney Carriage and Private Hire Vehicles.

2. RECOMMENDATIONS:

That Committee approves the CCTV guidance contained in this report. (Appendix A) or other similar standard as agreed by the Head of Planning and Public Protection

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 On the 10 September 2010 committee agreed that CCTV should become compulsory in all hackney carriage and private hire vehicles licensed by Brighton & Hove City Council from April 2012.
- 3.2 The guidance has been written to ensure that CCTV systems installed are of a minimum standard and are used to prevent and detect crime, reduce the fear of crime and enhance the health and safety of Hackney Carriage and Private Hire Drivers and their passengers and complies with the requirements of the Information Commissioner's CCTV Code of Practice.
- 3.3 The Information Commissioner's CCTV Code of practice advises that in-vehicle CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. However, it is down to the individual Data Controller to decide whether audible recording is necessary but they must make this clear and give reasons for their decision when registering with the Information Commissioner.

sustainable transport providing a seamless connection. It will contribute to three of the government's four shared transport priorities – reducing congestion, improving air quality and accessibility. Use of taxis for school transport, licensed vehicles using bus lanes, locating ranks at railway stations and the city coach station and approved use of liquid petroleum gas all contribute to reducing congestion and moving passengers quickly.

5.5 Crime & Disorder Implications:

Sufficient late night transport to reduce public place violent crime is recognised in the community safety, crime reduction and drugs strategy. The presence of CCTV can be an important means of deterring and detecting crime.

5.6 Risk and Opportunity Management Implications:

The transport industry should be safe, profitable and be a positive experience for residents and visitors.

5.7 Corporate / Citywide Implications:

Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the night time economy.

Appendix A

CCTV MONITORING IN BRIGHTON & HOVE HACKNEY CARRIAGE & PRIVATE HIRE VEHICLES

From April 2012 CCTV installation will become subject to the conditions of vehicle licensing.

The installation and operation of in-vehicle CCTV shall comply with the requirements of the Information Commissioner's CCTV Code of Practice, which is available via –

http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/ico_cctvfinal_2301.pdf

These guidelines set out to ensure that in-vehicle CCTV systems in licensed Brighton & Hove Hackney Carriage and Private Hire Vehicles are used to prevent and detect crime, reduce the fear of crime and enhance the health and safety of Hackney Carriage and Private Hire Drivers and their passengers.

General Requirements

- The equipment shall be installed, operated and maintained in a manner to the satisfaction of the Head of Planning and Public Protection.
- Any material recorded on the equipment shall only be used as evidence in court proceedings or to aid the investigation of crime or to confirm or rebut complaints made against the driver.
- No recording or other material created by the system shall be used or distributed for any purpose other than allowed by above or kept for more than 28 days if not required under above.
- The authorised officer must be able to access recordings in the Brighton & Hove area.
- Any system should have at least 32 Bit Encryption and be password protected.
- All equipment must comply with any legislative requirements in respect of Road Vehicles (Construction and Use) Regulations.
- All equipment must meet all requirements as regards safety, technical acceptability and operational/data integrity.
- All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or driver, including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear.

Automotive Electromagnetic Compatibility Requirements (EMC)

- CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle.

- Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that Directive.
- CCTV equipment should be e-marked or CE-marked and be confirmed by the equipment manufacturer as being suitable for use in motor vehicles.

Installation

- All systems must be installed by a company specialising in vehicle CCTV installation.
- All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions.
- Each in-vehicle CCTV installation will be subject to the conditions of vehicle licensing.
- The installed in-vehicle CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.
- All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction pads will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.
- All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger area or impact on the luggage carrying capacity of the vehicle.
- It is contrary to the Road Vehicles (Construction and Use) Regulations, 1986, for equipment to obscure the view of the road through the windscreen.
- Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems, which may cause degradation in performance, or functionality of such safety systems.
- All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.
- If more than one camera is being installed their location within the vehicle must be specific for purpose i.e. to provide a safer environment for the benefit of the Hackney Carriage / Private Hire Driver and their passengers.
- Equipment installed must be positioned in such a way that the driver and any passengers are easily identifiable while seated in the vehicle.
- All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

- All system components requiring calibration in situ should be easily accessible.
- As an added deterrent to passengers it is strongly recommended that a monitoring screen be installed showing any images that the systems cameras are recording in view of the passengers.

Camera Activation Methods

- Activation of the equipment must be via the vehicle's ignition system. A direct-wired link to the vehicle's taximeter will **not** be acceptable.

Audio Recording

- In-vehicle CCTV systems should not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. If the system comes equipped with sound recording facility then this functionality should be disabled unless audible recording has been justified by the data controller on application to the Information Commissioner.
- There is a limited circumstance in which audio recording may be justified, subject to the sufficient safeguard below:-
- Where recording is triggered due to a specific threat, e.g. a 'panic button' is utilised. Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed. The time period that audio recording may be active should be the minimum possible and should be declared at the time of submission for approval of the equipment.
- Where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

Image Security

- Images captured must remain secure at all times.
- The captured images must be protected using encryption software, which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen. It is recommended by the Information Commissioner's Office (ICO) that "data controllers" ensure any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security.

Retention of CCTV images

- Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle.
- In-vehicle CCTV equipment selected for installation must include an automatic overwriting function, so that images are only retained within the installed system storage device for a maximum period of 31 days from the date of capture.

- Where applicable, these provisions shall also apply to audio recordings.

Notification to the Information Commissioner's Office

The Information Commissioner's Office (ICO) is the official regulator for all matters relating to the use of personal data. The ICO defines a "data controller" as the body which has legal responsibility under the Data Protection Act (DPA) 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of in-vehicle CCTV, **the "data controller" is the specified company, organisation or individual, which has decided to have in-vehicle CCTV installed.** The data controller has the final decision on how the images are stored and used and determines in what circumstances the images should be disclosed.

Notification is the process by which a data controller informs the ICO of certain details about their processing of personal information. These details are used to make an entry in the public register of data controllers.

This means that any specified company, organisation or individual vehicle owner who has a CCTV system installed in a Brighton & Hove licensed vehicle must register with the ICO (Notification) and obtain documented evidence of that registration. This documentary evidence may be required to be presented to an official of the Council at any time during the term of the Brighton & Hove vehicle licence.

The Notification requires renewal on an annual basis, and payment of the appropriate fee.

Using a third party service provider (data processor)

Where a service provider is used for the remote storage of CCTV data they will act as a 'data processor'.

A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor.

There must be a formal written contract between the data controller and data processor (service provider). The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements.

Use of information recorded using in-vehicle CCTV

The data controller is responsible for complying with all relevant data protection legislation. The data controller is legally responsible for the use of all images including breaches of legislation.

Any images and audio recording should only be used for the purposes described earlier in these guidelines

Requests may be made by the Police or other law enforcement agencies, Brighton & Hove City Council, or exceptionally, other appropriate bodies, to the "data controller" to view captured images. The data controller is responsible for responding to these requests.

Police or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternatively a signed statement may be accepted.

All requests should only be accepted where they are in writing, and specify the reasons why disclosure is required.

Under the DPA, members of the public may make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a 'subject access request'. Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm they are in fact the person in the recording). Data Controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the ICO CCTV Code of Practice.

Signage

All Hackney Carriage and Private Hire Vehicles with in-vehicle CCTV must display the appropriate signage. The driver may also verbally bring to the attention of the passengers that in-vehicle CCTV equipment is in operation within the vehicle, if it is felt appropriate.

In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle and must display the name and contact details of the Data Controller.

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 33

Brighton & Hove City Council

Subject: Hackney Carriage / Private Hire Trade Ethnicity Monitoring

Date of Meeting: 10 February 2011

Report of: *Head of Planning and Public Protection*

Contact Officer: Name: *Martin Seymour* Tel: 29-6659
E-mail: hco@brighton-hove.gov.uk

Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT:

To report the results of Ethnicity Monitoring of the Hackney Carriage / Private Hire Trade for 2009/10.

2. RECOMMENDATIONS:

2.1 That Committee note the results of Ethnic Monitoring.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 All applications received by the Hackney Carriage Office for the licensing of vehicles and drivers are monitored for ethnic background. The results of this monitoring are shown in appendix A.

3.2 Ethnic monitoring is undertaken to ensure that the waiting list is maintained and operated in a fair and transparent way as recommended by the Equality and Human Rights Commission.

4. CONSULTATION

4.1 This matter has been discussed at the council's hackney carriage and private hire consultation forum where all members of that forum are free to express their opinions. The forum members have delegated negotiations to selected representatives. Monitoring is carried out at the request of the forum who are satisfied with the results.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Revenue:

The full cost of providing the Ethnicity Monitoring Report is met from within the revenue budget for taxi licensing.

Finance Officer Consulted: Karen Brookshaw

Date: 10/01/2011

5.2 Legal

There are no direct legal implications.

Lawyer: Rebecca Sidell

Date: 28/01/11

5.3 Equalities Implications:

In order to improve services to disabled groups all new drivers are required to attend equalities and disabilities awareness and customer care training. Drivers are also tested to ensure that they meet a basic standard of literacy.

5.4 Sustainability Implications:

The role of the taxi trade is included in the Local Transport Plan, which identifies it as a key element in providing sustainable transport choices. It creates important links in the transport network to other forms of sustainable transport providing a seamless connection. Improving accessibility is one of the government's four shared transport priorities.

5.5 Crime & Disorder Implications:

None

5.6 Risk and Opportunity Management Implications:

The transport industry should be safe, profitable and be a positive experience for residents and visitors.

5.7 Corporate / Citywide Implications:

Tourism needs to provide a warm welcome to visitors and the tourism strategy depends upon effective partnership with transport operators particularly to achieve safe late night dispersal for the nighttime economy.

SUPPORTING DOCUMENTATION

Appendices A:

Ethnic Monitoring Report

Overall total returns from Taxi ethnicity monitoring 2009 - 10

Type of application	Frequency	Percentage
Private hire vehicles	246	12.20%
Hackney carriage drivers	854	42.30%
Hackney carriage vehicles	304	15.10%
First applications	98	4.90%
Private hire drivers	394	19.50%
Waiting list	105	5.20%
Unknown	17	0.80%
Total	2018	100.00%

ETHNICITY	Frequency	Percentage	Census 2001 (age 16-74) across B&H
White British	1308	66.40%	87.00%
White Irish	12	0.60%	1.80%
White Other*	136	6.90%	5.40%
Black or Black British - African	34	1.70%	0.60%
Black or Black British - Caribbean	0	0.00%	0.20%
Black or Black British - Other*	9	0.50%	0.10%
Asian or Asian British - Bangladeshi	100	5.10%	0.30%
Asian or Asian British - Indian	2	0.10%	1.00%
Asian or Asian British - Pakistani	17	0.90%	0.20%
Asian or Asian British - Other*	129	6.50%	0.40%
Mixed - White & Black African	29	1.50%	0.30%
Mixed - White & Asian	10	0.50%	0.30%
Mixed - Other*	24	1.20%	0.50%
Chinese	6	0.30%	0.60%
Other*	76	3.90%	0.80%
Sudanese	78	4.00%	-
Total	1971	100.00%	100%
No response	47	-	100%

Others self classified as: Afghan, African/English, Algerian, American, Anglo-Indian, Arab, Asian, Asian British, Asian/Guyanese, Berber, British Afghan, British Libyan, Coptic Orthodox, Czech, Cypriot/Irish, Cypriot/Turkish, Dutch, Egyptian, Egyptian/Sudanese, English, European, German, Greek, Iranian, Iranian British, Iraqi, Iraqi British, Israeli, Italian, Jewish, Japanese, Kurdish British, Mexican, Middle Eastern, Mauritian, Moroccan, Nepali, North African, Persian, Persian British, Polish, Portuguese, Slovakian, South African, Spanish, Sudanese, Sudanese/British, Sudanese (Coptic Orthodox), Sri Lankan, Swedish, Syrian, Turkish, Ukrainian, Welsh, White, White African, White Sudanese, Yemeni.

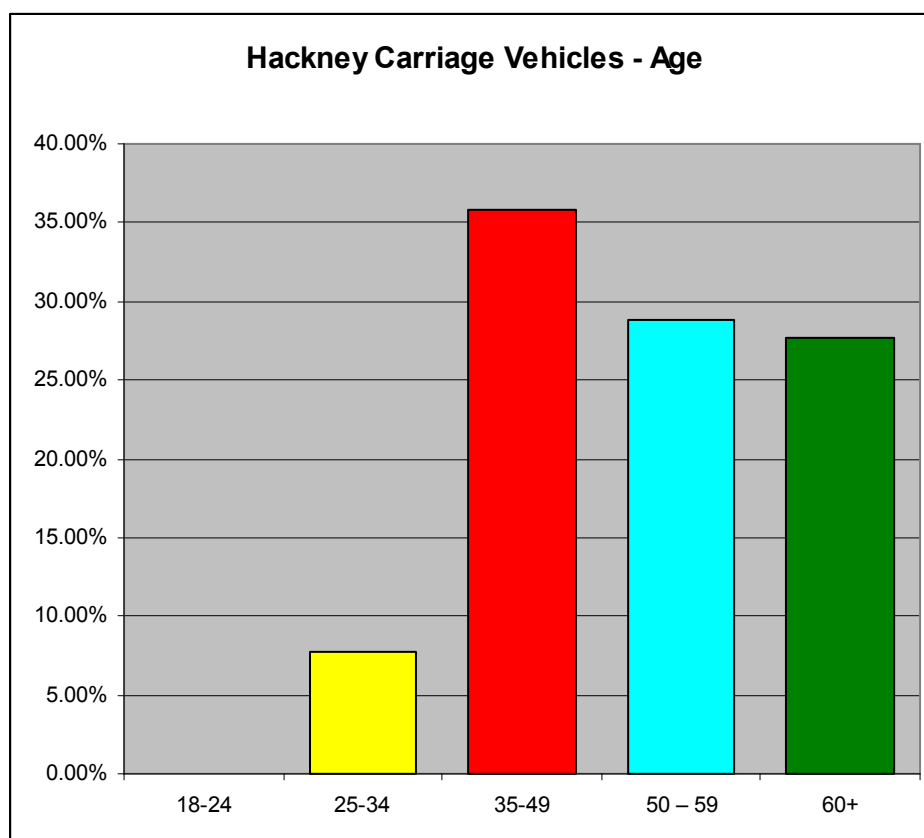
AGE	Frequenc y	Percentag e
18 – 24	23	1.20%
25 – 34	241	12.40%
35 – 49	842	43.30%
50 – 59	476	24.50%
60+	363	18.70%
Total	1945	100.00%
No respons e	73	-

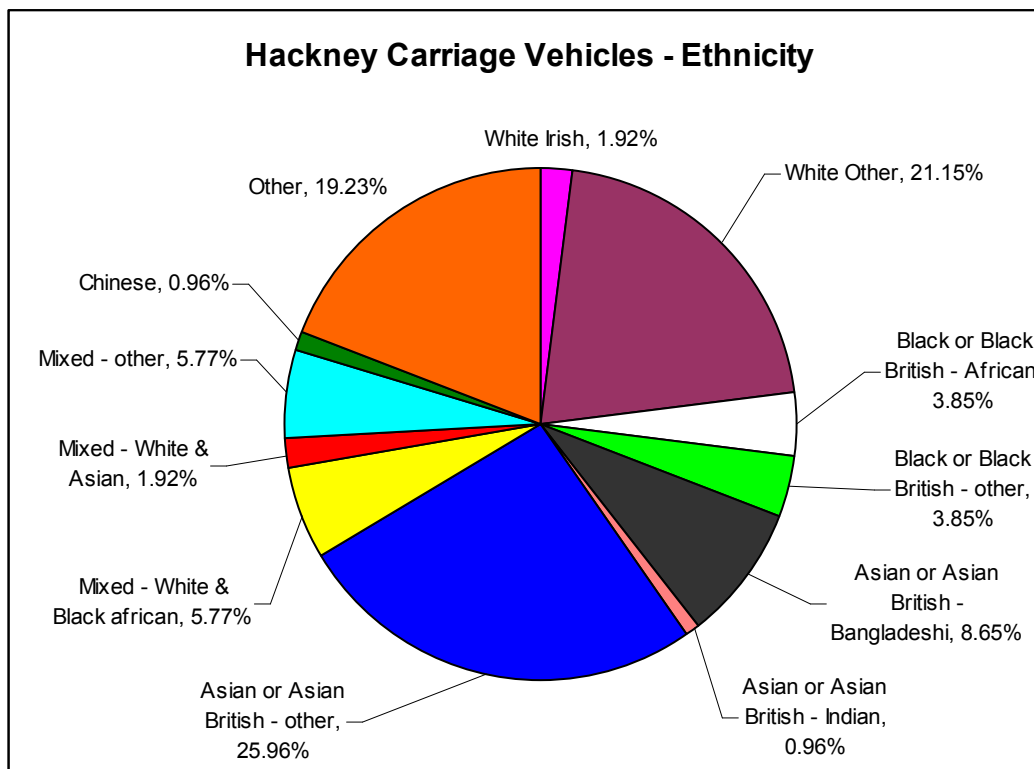
SEX	Frequenc y	Percentag e
Female	109	5.90%
Male	1727	94.10%
Total	1836	100.00%
No response	182	-

Hackney Carriage Vehicles

AGE OF APPLICANT	Frequen cy	Percentag e
18-24	0	0.00%
25-34	22	7.70%
35-49	102	35.80%
50 – 59	82	28.80%
60+	79	27.70%
Total	285	100.00%
No response	19	

SEX OF APPLICANT	Frequen cy	Percentag e
Female	14	5.20%
Male	257	94.80%
Total	271	100.00%
No Response	33	-





White British responses made up 64.38% of the responses for Hacknet Carriage Vehicles responses. These are excluded from the above graph.

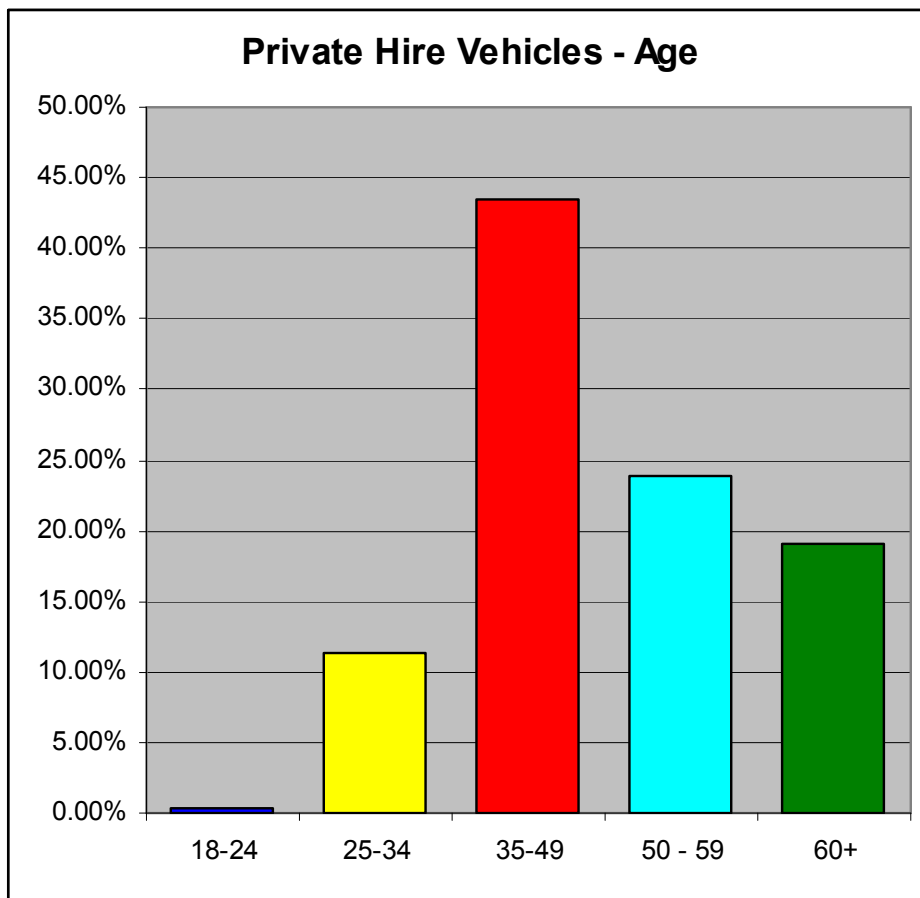
ETHNICITY OF APPLICANT – Hackney Carriage Vehicles	Frequency	Percentage
White British	188	64.38%
White Irish	2	0.68%
White Other	22	7.53%
Black or Black British - African	4	1.37%
Black or Black British - Caribbean	0	0.00%
Black or Black British - Other	4	1.37%
Asian or Asian British - Bangladeshi	9	3.08%
Asian or Asian British - Indian	1	0.34%
Asian or Asian British - Pakistani	0	0.00%
Asian or Asian British - Other	27	9.25%
Mixed – White & Black african	6	2.05%
Mixed – White & Asian	2	0.68%
Mixed – Other	6	2.05%
Sudanese	0	0.00%
Chinese	1	0.34%
Other	20	6.85%
Total	292	100.00%
No response	12	-

Other –

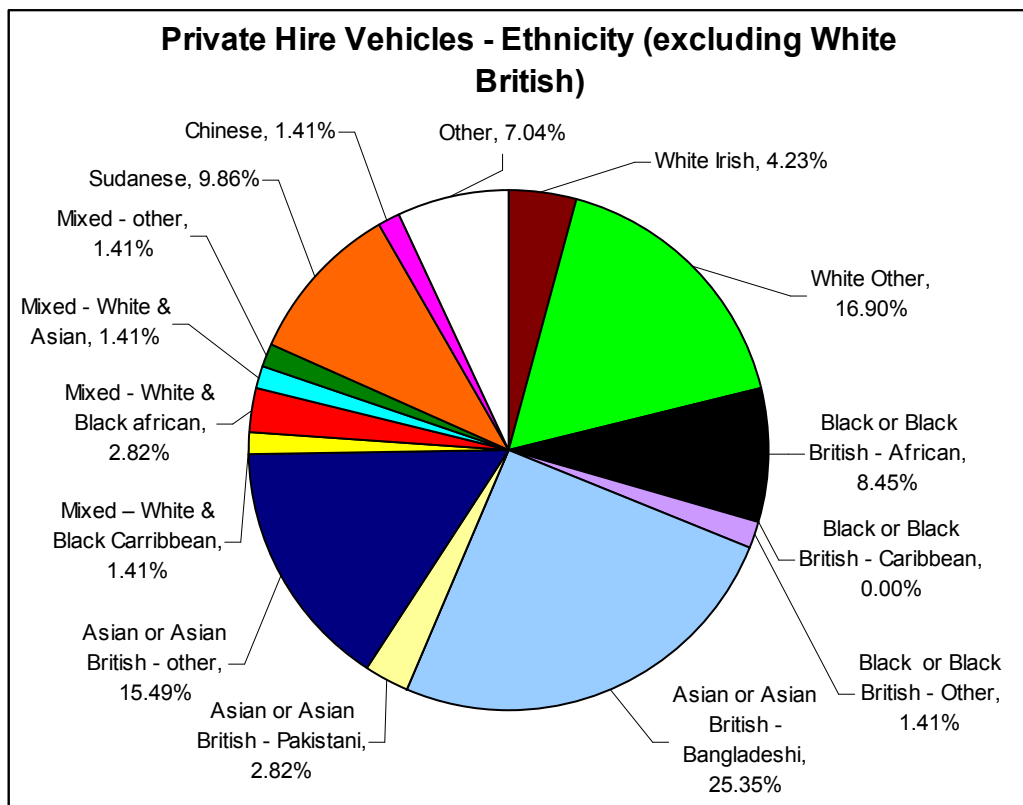
Afghan, Anglo-Indian, Coptic Orthodox, Egyptian, Egyptian/Sudanese, English, Greek, Iranian, Iranian British, Israeli, Italian, Persian, Persian British, Polish, Portuguese, South African, Spanish, Sri Lankan, Sudanese, Sudanese (Coptic Orthodox), White, White African

Private Hire Vehicles

SEX OF APPLICANT	Frequency	Percentage
Female	10	4.50%
Male	213	95.50%
Total	223	100.00%
No Response	23	-



AGE OF APPLICANT	Frequency	Percentage
18-24	1	0.40%
25-34	27	11.30%
35-49	107	43.50%
50 - 59	57	23.80%
60+	47	19.10%
Total	239	100.00%
No response	7	-



White British responses made up 70.70% of the responses for Private Hire Vehicles responses. These are excluded from the above graph.

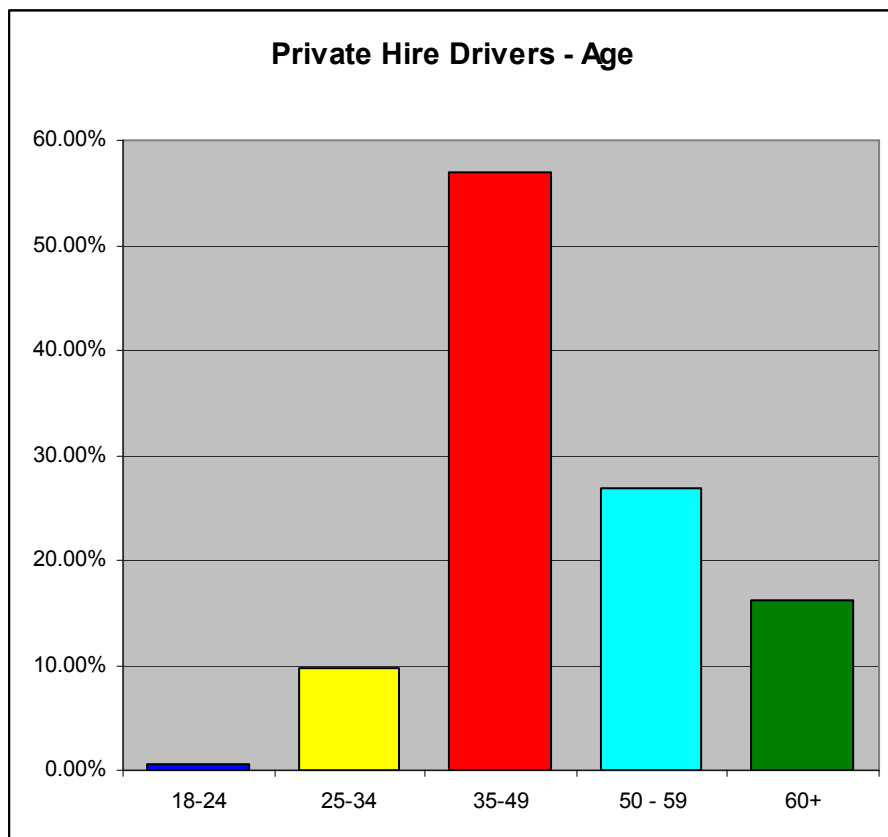
ETHNICITY OF APPLICANT – Private Hire Vehicles	Frequency	Percentage
White British	171	70.70%
White Irish	3	1.20%
White Other	12	5.00%
Black or Black British – African	6	2.50%
Black or Black British – Caribbean	0	0.00%
Black or Black British – Other	1	0.40%
Asian or Asian British – Bangladeshi	18	7.40%
Asian or Asian British – Indian	0	0.00%
Asian or Asian British – Pakistani	2	0.80%
Asian or Asian British – Other	11	4.50%
Mixed – White & Black Carribbean	1	0.40%
Mixed - White & Black African	2	0.80%
Mixed - White & Asian	1	0.40%
Mixed – Other	1	0.40%
Sudanese	7	2.90%
Chinese	1	0.40%
Other	5	2.10%
Total	242	100.00%
No response	4	-

Other –

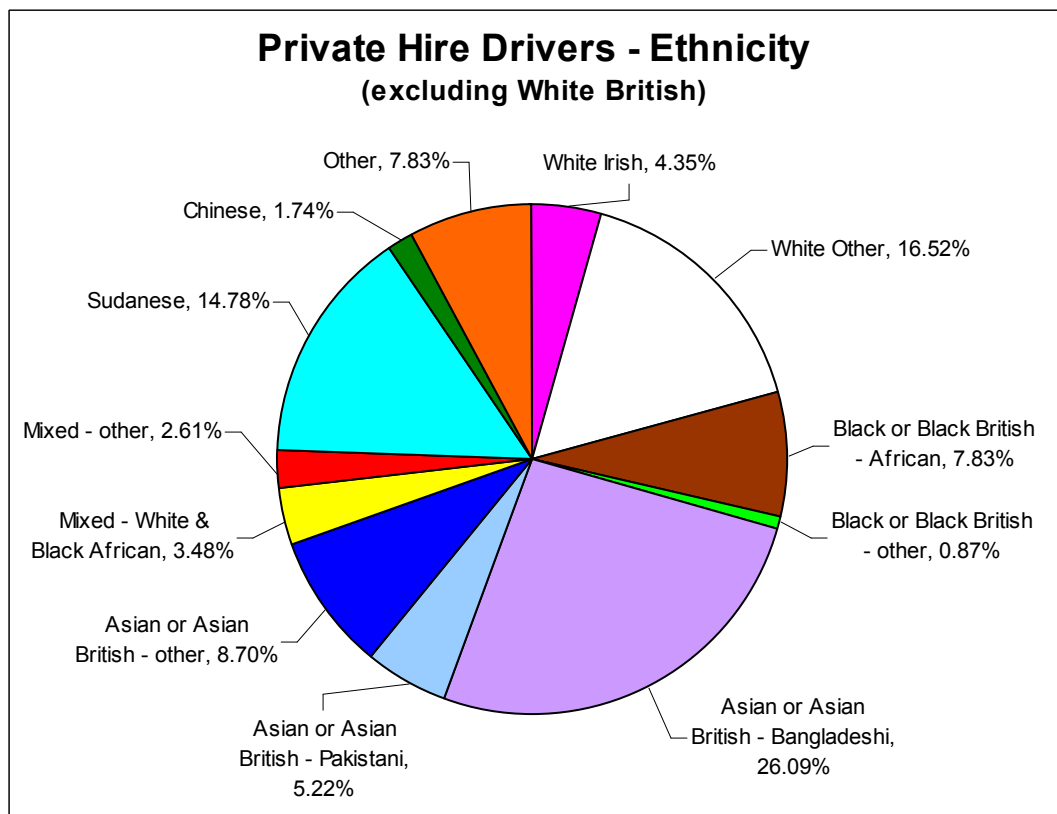
Afghan, American, Arab, Egyptian, English, Iranian, Italian, Jewish, Japanese, Mauritian, Spanish, Sudanese, White African

Private Hire Drivers

SEX OF APPLICANT	Frequency	Percentage
Female	19	5.40%
Male	334	94.60%
Total	353	100.00%
No Response	41	-



AGE OF APPLICANT	Frequency	Percentage
18-24	2	0.50%
25-34	37	9.80%
35-49	177	57.00%
50 - 59	102	26.90%
60+	61	16.10%
Total	379	100.00%
No response	15	



White British responses made up 70.20% of the responses for Private Hire Drivers responses. These are excluded from the above graph.

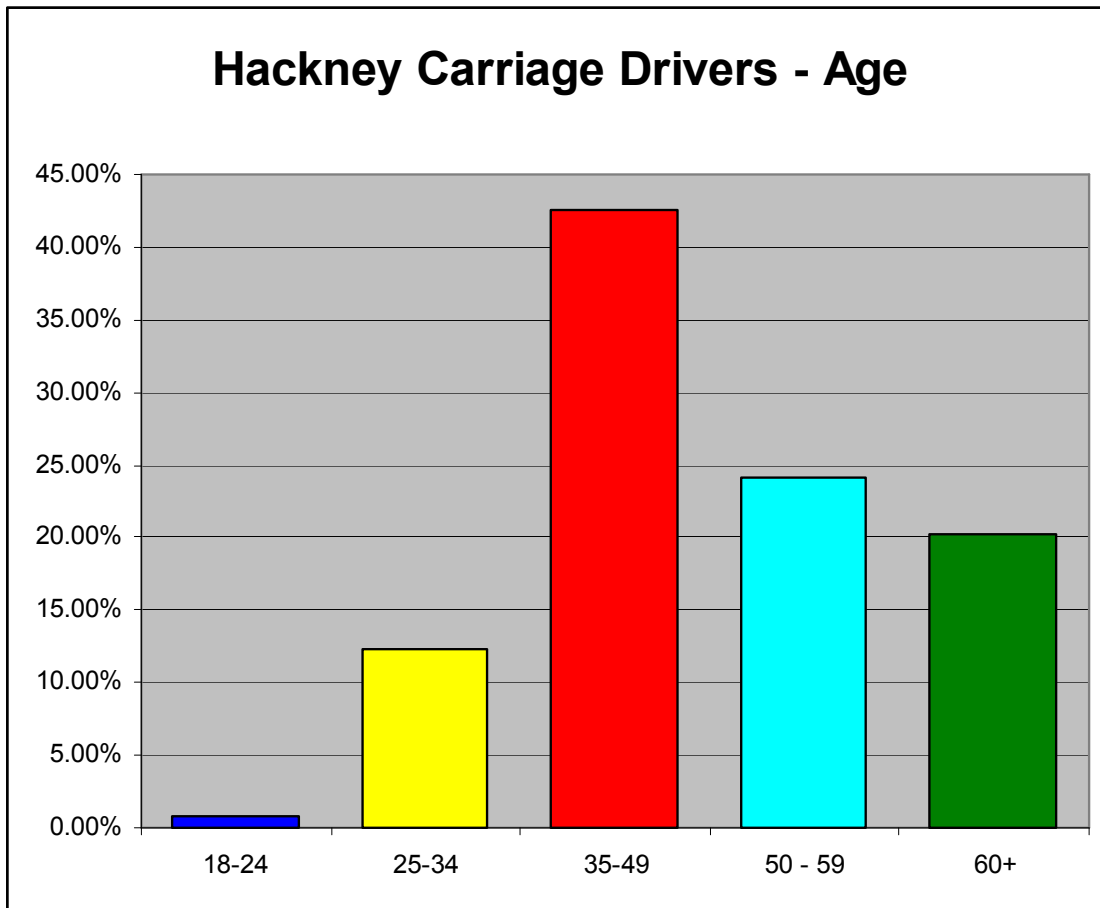
ETHNICITY OF APPLICANT - Private Hire Drivers	Frequency	Percentage
White British	271	70.20%
White Irish	5	1.30%
White Other	19	4.90%
Black or Black British – African	9	2.30%
Black or Black British – Caribbean	0	0.00%
Black or Black British – Other	1	0.30%
Asian or Asian British - Bangladeshi	30	7.80%
Asian or Asian British – Indian	0	0.00%
Asian or Asian British – Pakistani	6	1.60%
Asian or Asian British – Other	10	2.60%
Mixed - White & Black Carribean	0	0.00%
Mixed - White & Black African	4	1.00%
Mixed - White & Asian	0	0.00%
Mixed – other	3	0.80%
Sudanese	17	4.40%
Chinese	2	0.50%
Other	9	2.30%
Total	386	100.00%
No response	8	-

Other –

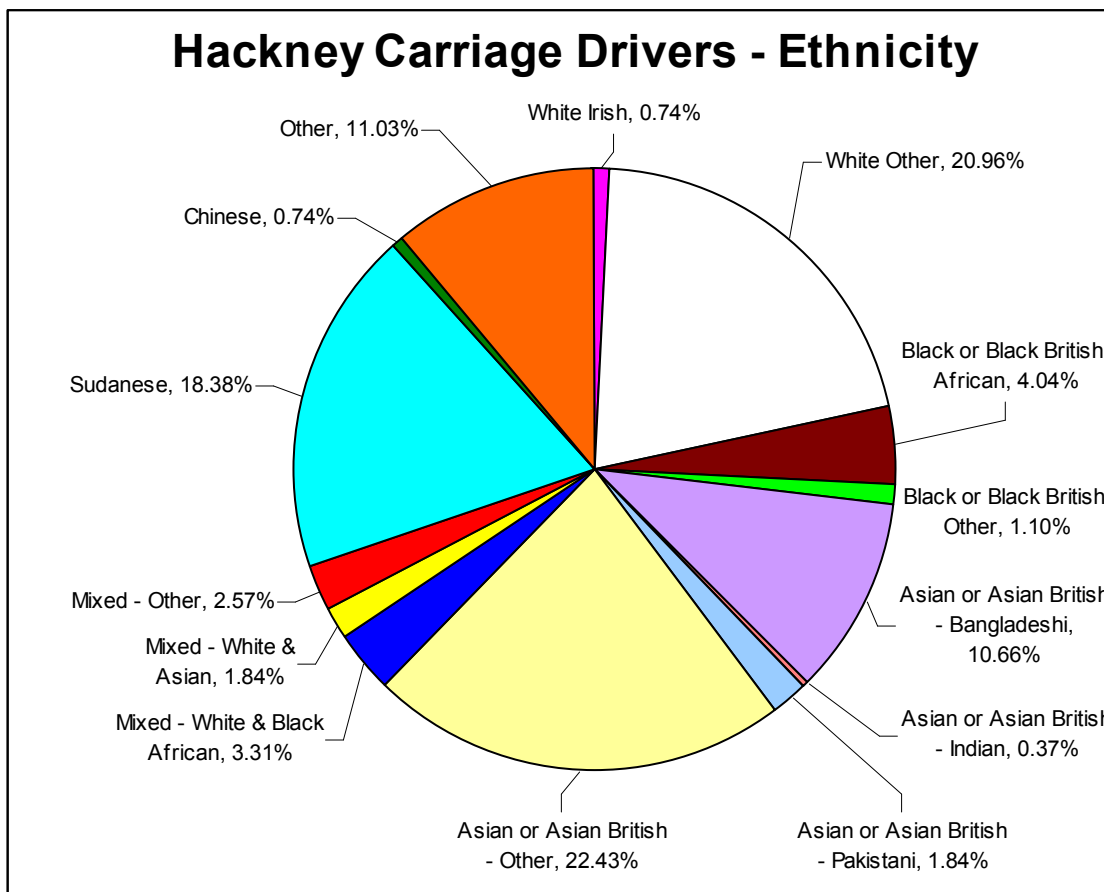
Afghan, American, Arab, Asian British, British Afghan, Coptic Orthodox, Cypriot/Irish, Egyptian, English, German, Iranian, Israeli, Italian, Jewish, Japanese, Mauritian, Moroccan, North African, Polish, Spanish, Sudanese, Sudanese/British, White African

Hackney Carriage Drivers

SEX OF APPLICANT	Frequency	Percentage
Female	55	6.90%
Male	741	93.10%
Total	796	100.00%
No response	58	-



AGE OF APPLICANT	Frequency	Percentage
18-24	7	0.80%
25-34	103	12.30%
35-49	356	42.50%
50 - 59	202	24.10%
60+	169	20.20%
Total	837	100.00%
No response	17	



White British responses made up 67.70% of the responses for Hackney Carriage Drivers responses. These are excluded from the above graph.

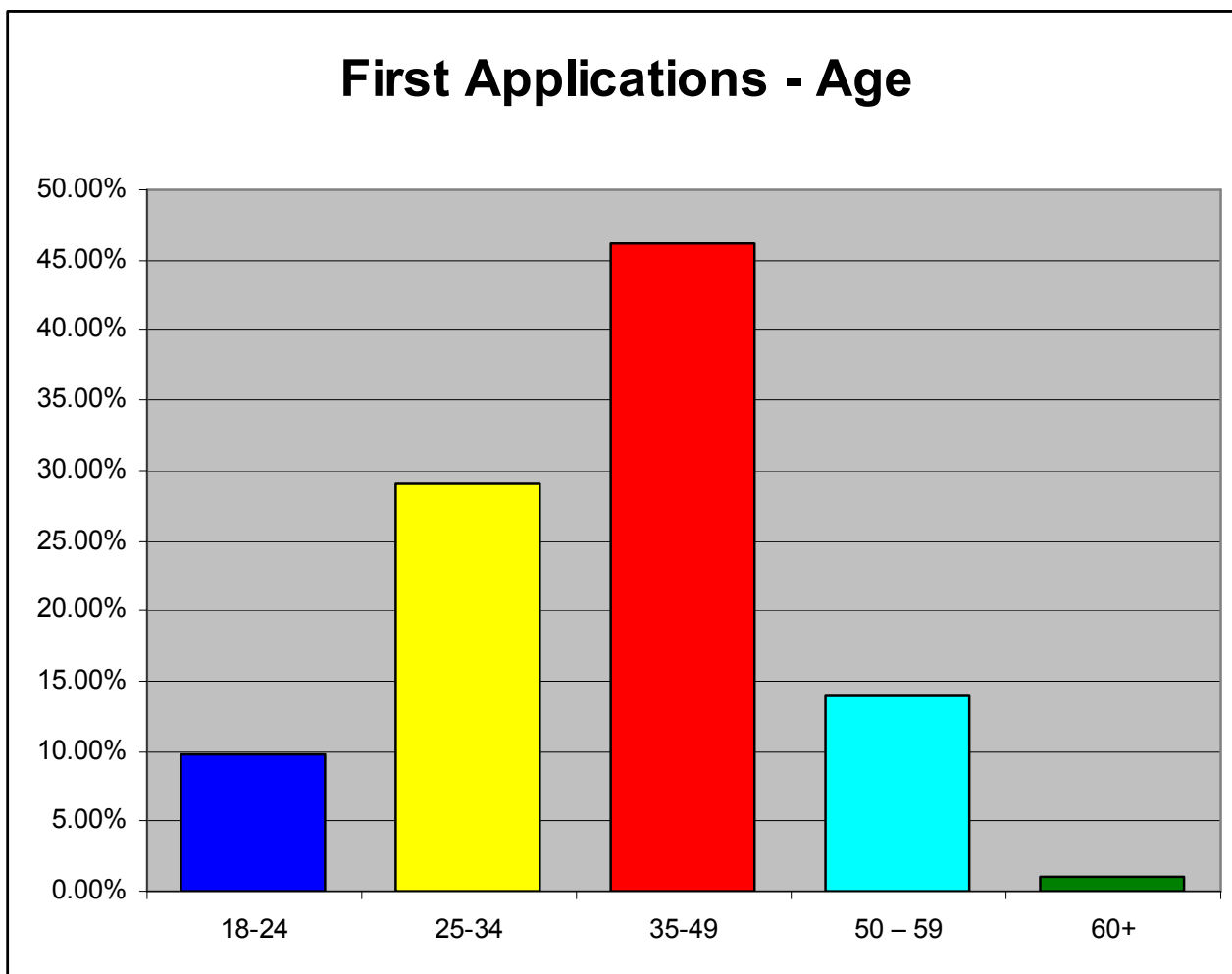
ETHNICITY OF APPLICANT – Hackney Carriage Drivers	Frequency	Percentage
White British	570	67.70%
White Irish	2	0.20%
White Other	57	6.80%
Black or Black British - African	11	1.30%
Black or Black British - Caribbean	0	0.00%
Black or Black British - Other	3	0.40%
Asian or Asian British - Bangladeshi	29	3.40%
Asian or Asian British - Indian	1	0.10%
Asian or Asian British - Pakistani	5	0.60%
Asian or Asian British - Other	61	7.20%
Mixed - White & Black african	9	1.10%
Mixed - White & Asian	5	0.60%
Mixed - other	7	0.80%
Sudanese	50	5.90%
Chinese	2	0.20%
Other	30	3.60%
Total	842	100.00%
No response	12	

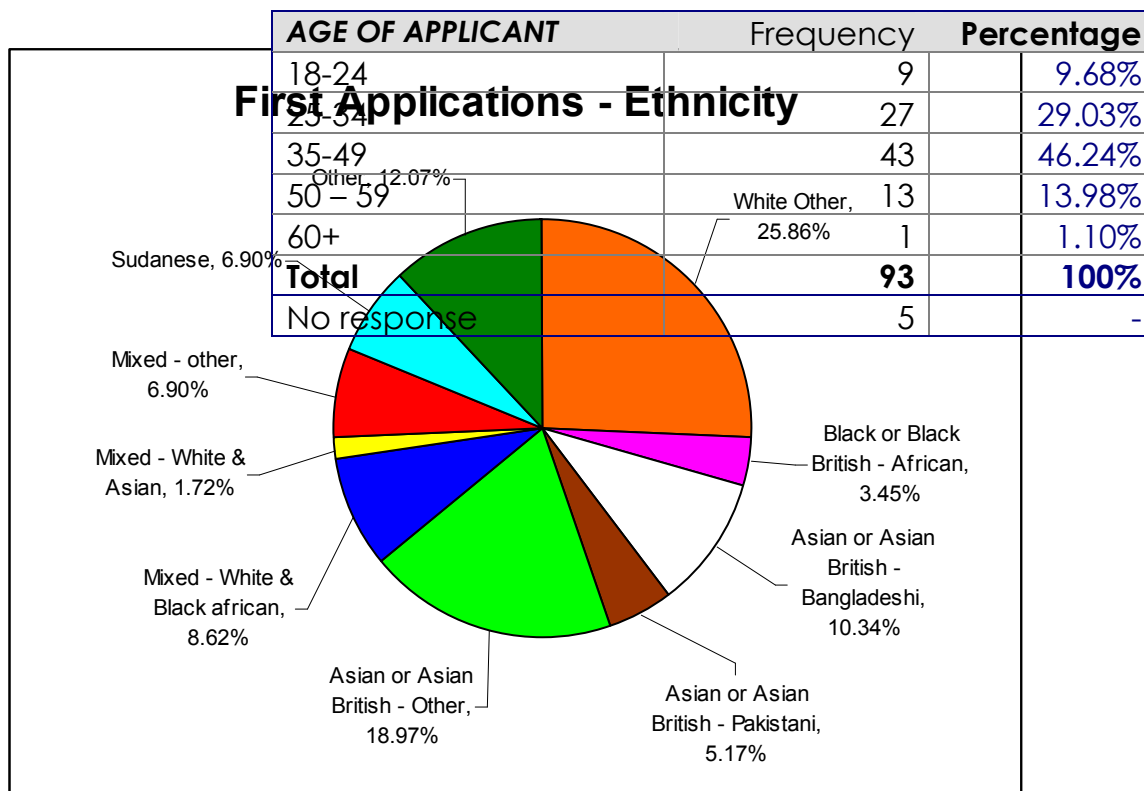
Other –

Afghan, African/English, Algerian, Anglo-Indian, Arab, Asian, Asian British, Asian/Guyanese Berber, British Afghan, British Libyan, Coptic Orthodox, Cypriot/Irish, Czech, Dutch, Egyptian, Egyptian/Sudanese, English, Iranian, Iranian British, Iraqi, Italian, Kurdish British, Mauritian, Mexican, Middle Eastern, North African, Persian, Polish, Portuguese, South African, Sri Lankan, Sudanese, Sudanese (Coptic Orthodox), Syrian, Turkish, Welsh, White, White African, White Sudanese, Yemeni

First Applications

SEX OF APPLICANT	Frequency	Percentage
Female	5	5.50%
Male	86	94.50%
Total	91	100%
No response	7	





White British responses made up 39.60% of the responses for First Applications responses. These are excluded from the above graph.

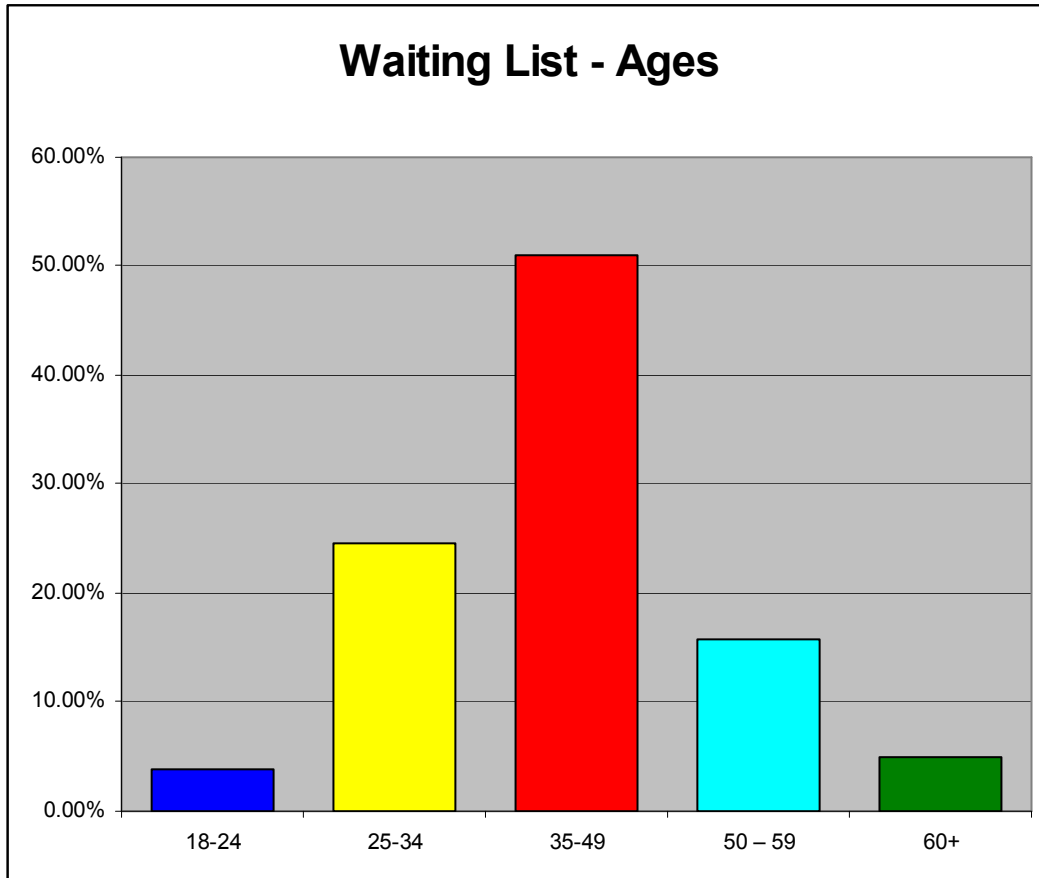
ETHNICITY OF APPLICANT – First Applicants	Frequency	Percentage
White British	38	39.60%
White Irish	0	0.00%
White Other	15	15.60%
Black or Black British - African	2	2.10%
Black or Black British - Caribbean	0	0.00%
Black or Black British - Other	0	0.00%
Asian or Asian British - Bangladeshi	6	6.30%
Asian or Asian British - Indian	0	0.00%
Asian or Asian British - Pakistani	3	3.10%
Asian or Asian British - Other	11	11.50%
Mixed - White & Black african	5	5.20%
Mixed - White & Asian	1	1.00%
Mixed - Other	4	4.20%
Sudanese	4	4.20%
Chinese	0	0.00%
Other	7	7.30%
Total	96	100%
No response	2	

Other –

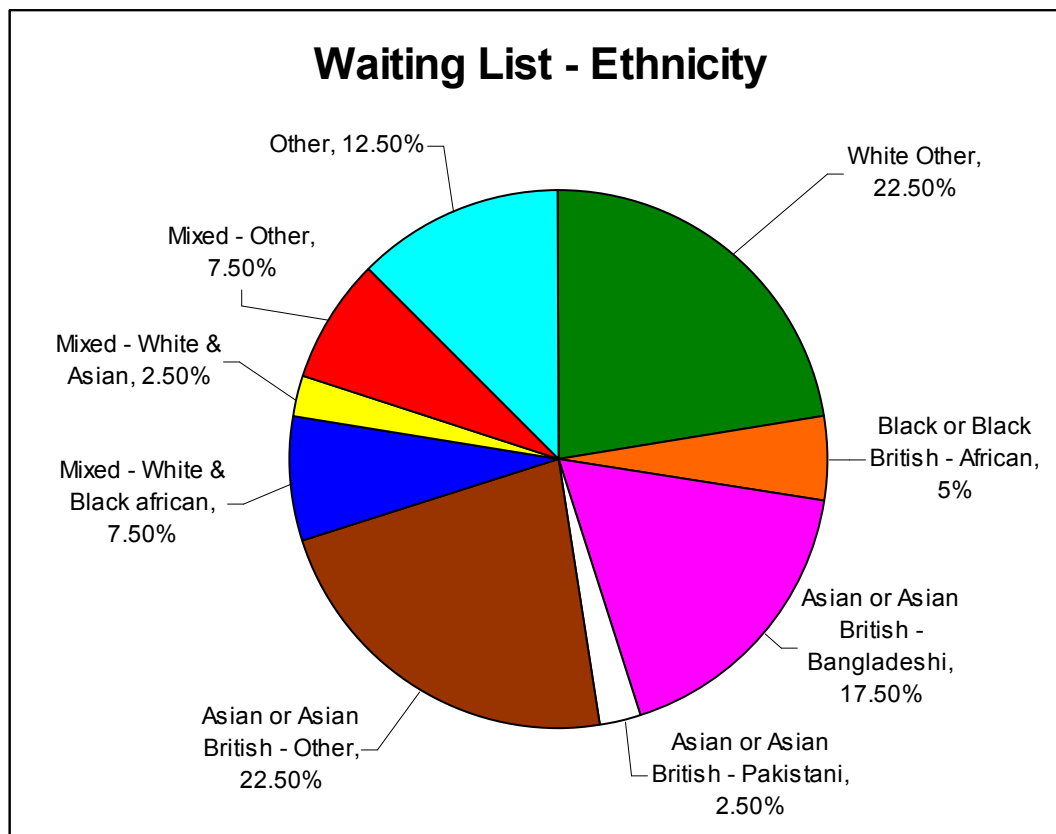
Afghan, Arab, Coptic Orthodox, Cypriot/Turkish, Egyptian, European, Iranian, Iraqi British, Middle Eastern, Nepali, North African, Polish, Sudanese, Swedish, Syrian, White Sudanese.

Waiting List

SEX OF APPLICANT	Frequency	Percentage
Female	6	6.50%
Male	86	93.50%
Total	92	100%
No response	13	-



AGE OF APPLICANT	Frequency	Percentage
18-24	4	3.90%
25-34	25	24.50%
35-49	52	51.00%
50 – 59	16	15.70%
60+	5	4.90%
Total	102	100%
No response	3	-



White British responses made up 60.80% of the responses for Waiting List responses. These are excluded from the above graph.

ETHNICITY OF APPLICANT – Waiting List	Frequency	Percentage
White British	62	60.80%
White Irish	0	0.00%
White Other	9	8.80%
Black or Black British - African	2	2.00%
Black or Black British - Caribbean	0	0.00%
Black or Black British - Other	0	0.00%
Asian or Asian British - Bangladeshi	7	6.90%
Asian or Asian British - Indian	0	0.00%
Asian or Asian British - Pakistani	1	1.00%
Asian or Asian British - Other	9	8.80%
Mixed - White & Black african	3	2.90%
Mixed - White & Asian	1	1.00%
Mixed - Other	3	2.90%
Sudanese	0	0.00%
Chinese	0	0.00%
Other	5	4.90%
Total	102	100%
No response	3	-

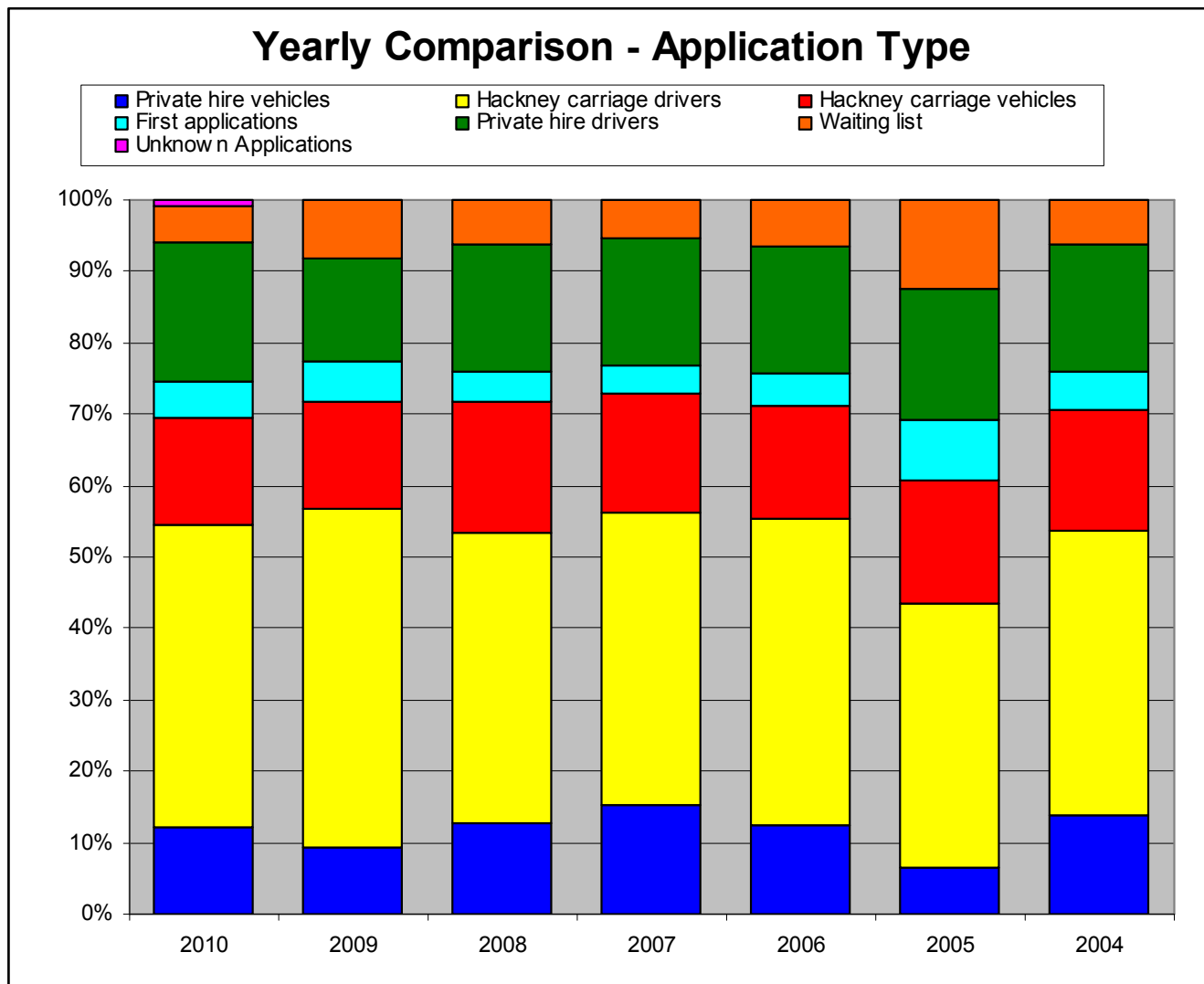
Other –

Afghan, Asian British, Arab, British Libyan, Dutch, Egyptian, English, European, Iranian, Polish, Sudanese, Sudanese/British, Turkish, Ukrainian, White African, Yemeni

In 2010 there were 17 responses of form that were not marked with the application type. 6 of these had no marked responses on the returned survey.

Comparisons across application groups

Respondents by Application 2004 – 2010 (percentage)



Type of Application	2010	2009	2008	2007	2006	2005	2004
Private hire vehicles	12.20%	9.40%	12.70 %	15.20 %	12.30 %	6.60%	13.80 %
Hackney carriage drivers	42.30%	47.40 %	40.80 %	41.00 %	43.00 %	37.00 %	40.00 %
Hackney carriage vehicles	15.10%	15.10 %	18.20 %	16.70 %	15.90 %	17.00 %	16.80 %
First applications	4.90%	5.50%	4.20%	3.90%	4.50%	8.60%	5.30%
Private hire drivers	19.50%	14.60 %	17.80 %	17.90 %	17.90 %	18.40 %	17.90 %

Waiting list	5.20%	8.10%	6.30%	5.30%	6.40%	12.40%	6.20%
Unknown Applications	0.80%	-	-	-	-	-	-
Total	100%	100%	100%	100%	100%	100%	100%
Base	2018	1594	1842	1894	1746	1521	1919

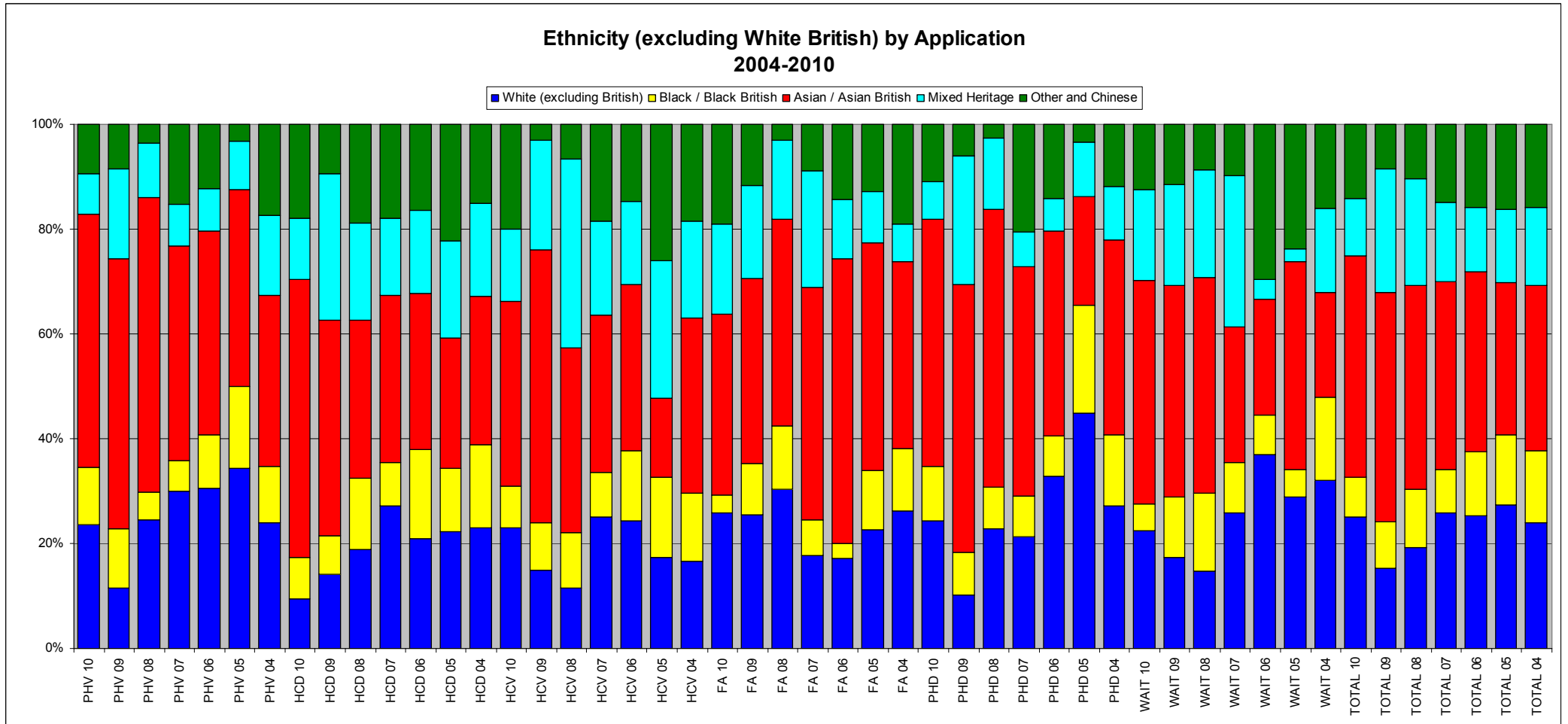
Gender comparison across all application groups 2009 – 2010 (percentage)

Gender	PHV	HCD	HCV	FA's	PHD	Wait	Unknow n	TOTAL
Female	4.50%	6.90%	5.20%	5.50%	5.40%	6.50%	0.00%	5.90%
Male	95.50%	93.10%	94.80%	94.50%	94.60%	93.50%	100%	94.10%
					%	%		
Total	100%	100%	100%	100%	100%	100%	100%	100%

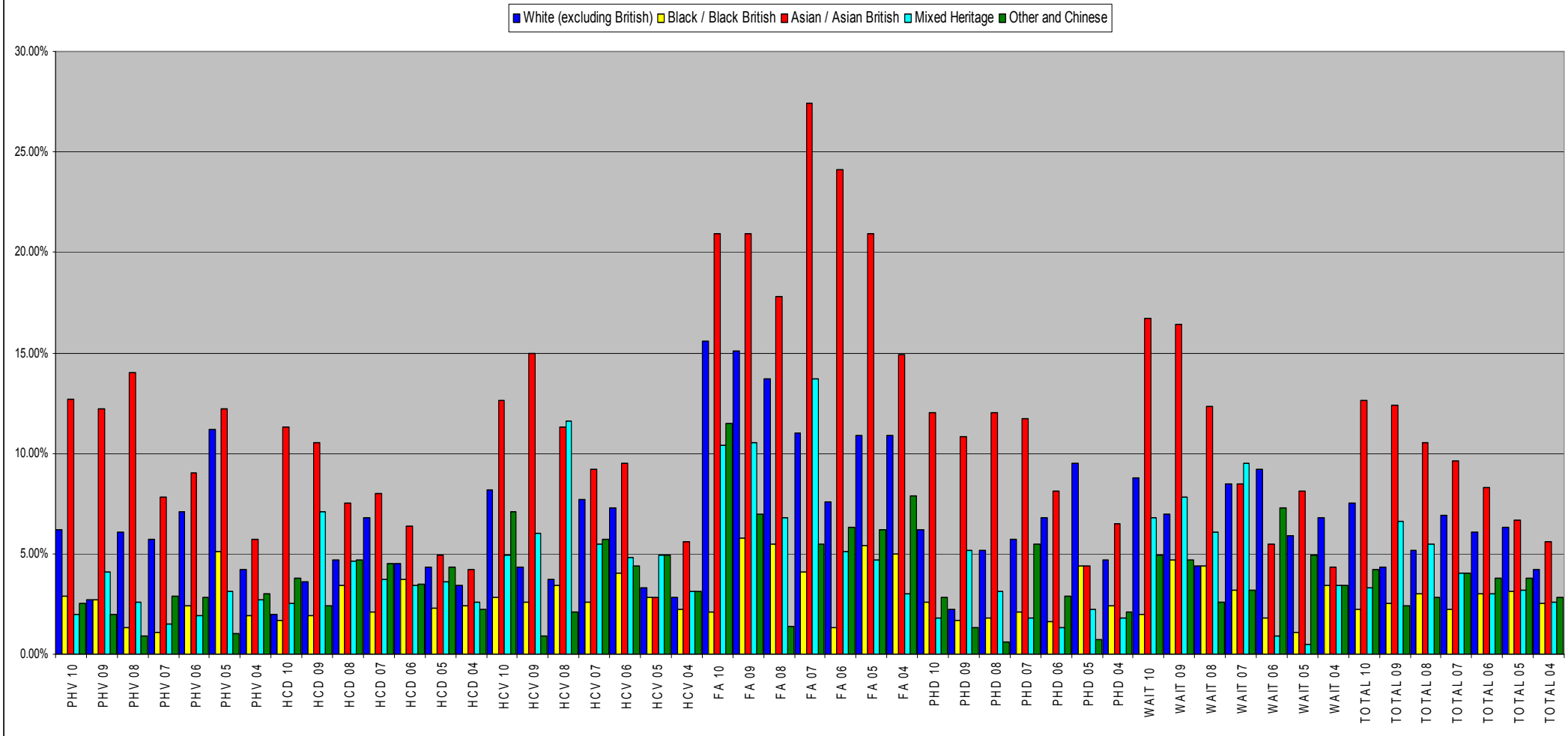
Percentage of ethnicity responses across all application groups

Ethnicity	PHV	HCD	HCV	FA's	PHD	Wait	Unknow n	TOTAL
White British	70.70%	67.70%	64.40%	39.6	70.20%	60.80%	72.70%	66.40%
White Irish	1.20%	0.20%	0.70%	0.00%	1.30%	0.00%	0.00%	0.60%
White Other	5.00%	6.80%	7.50%	15.60%	4.90%	8.80%	18.20%	6.90%
Black or Black British - African	2.50%	1.30%	1.40%	2.10%	2.30%	2.00%	0.00%	1.70%
Black or Black British - Other	0.40%	0.40%	1.40%	0.00%	0.30%	0.00%	0.00%	0.50%
Asian or Asian British - Bangladeshi	7.40%	3.40%	3.10%	6.30%	7.80%	6.90%	9.00%	5.10%
Asian or Asian British - Indian	0.00%	0.10%	0.30%	0.00%	0.00%	0.00%	0.00%	0.10%
Asian or Asian British - Pakistani	0.80%	0.60%	0.00%	3.10%	1.60%	1.00%	0.00%	0.90%
Asian or Asian British - Other	4.50%	7.20%	9.20%	11.50%	2.60%	8.80%	0.00%	6.51%
Mixed - White & Black Caribbean	0.40%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.10%
Mixed - White & Black African	0.80%	1.10%	2.10%	5.20%	1.00%	2.90%	0.00%	1.50%
Mixed - White & Asian	0.40%	0.60%	0.70%	1.00%	0.00%	1.00%	0.00%	0.50%
Mixed - Other	0.40%	0.80%	2.10%	4.20%	0.80%	2.90%	0.00%	1.20%
Chinese	0.40%	0.20%	0.30%	0.00%	0.50%	0.00%	0.00%	0.30%
Sudanese	2.90%	5.90%	0.00%	4.20%	4.40%	0.00%	0.00%	4.00%
Other	2.10%	3.60%	6.80%	7.30%	2.30%	4.90%	0.00%	3.90%
Total	100%	100%	100%	100%	100%	100%	100%	100%
Base	242	842	292	96	386	102	11	1971

58



Ethnicity (excluding White British)

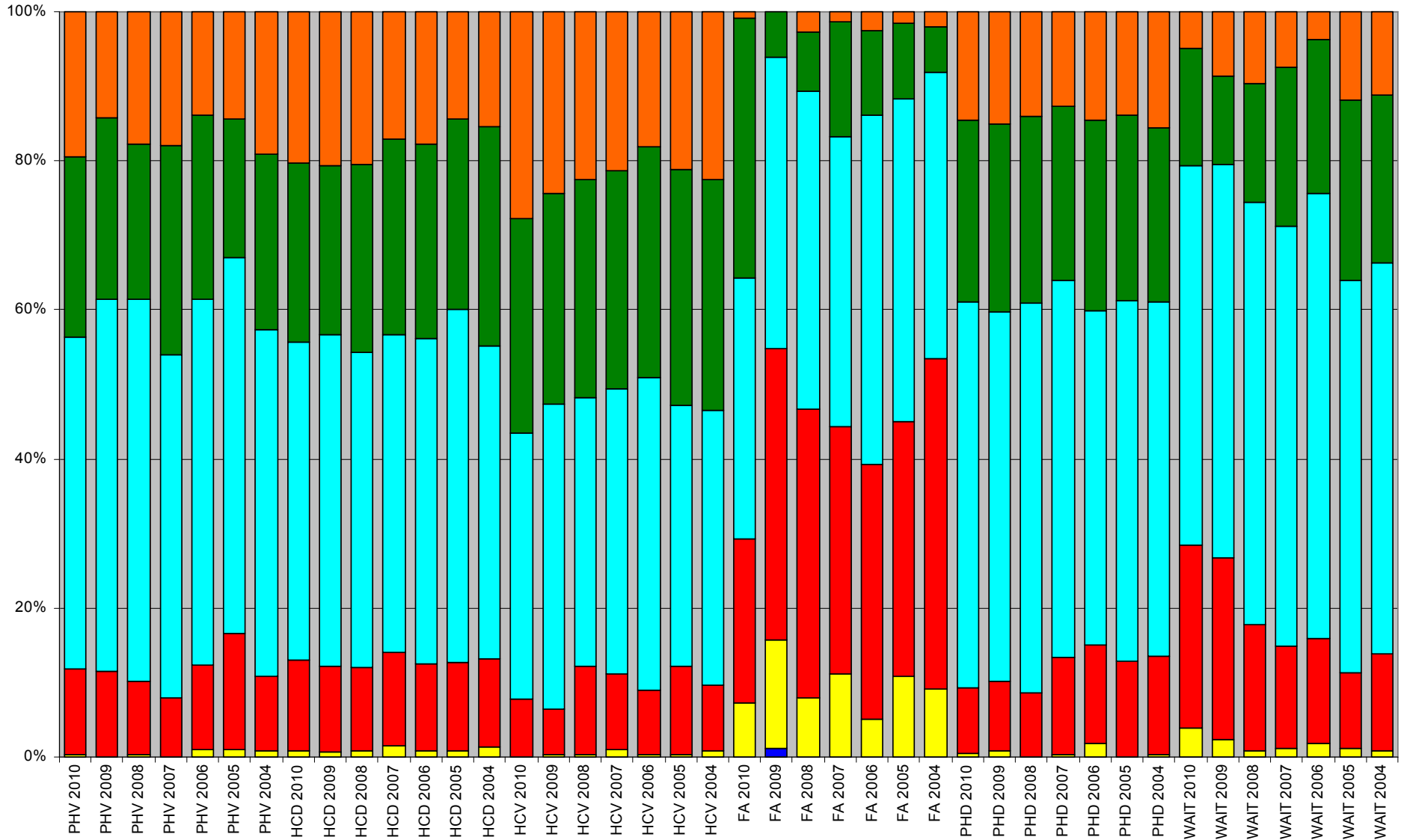


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Age

2004 - 2010

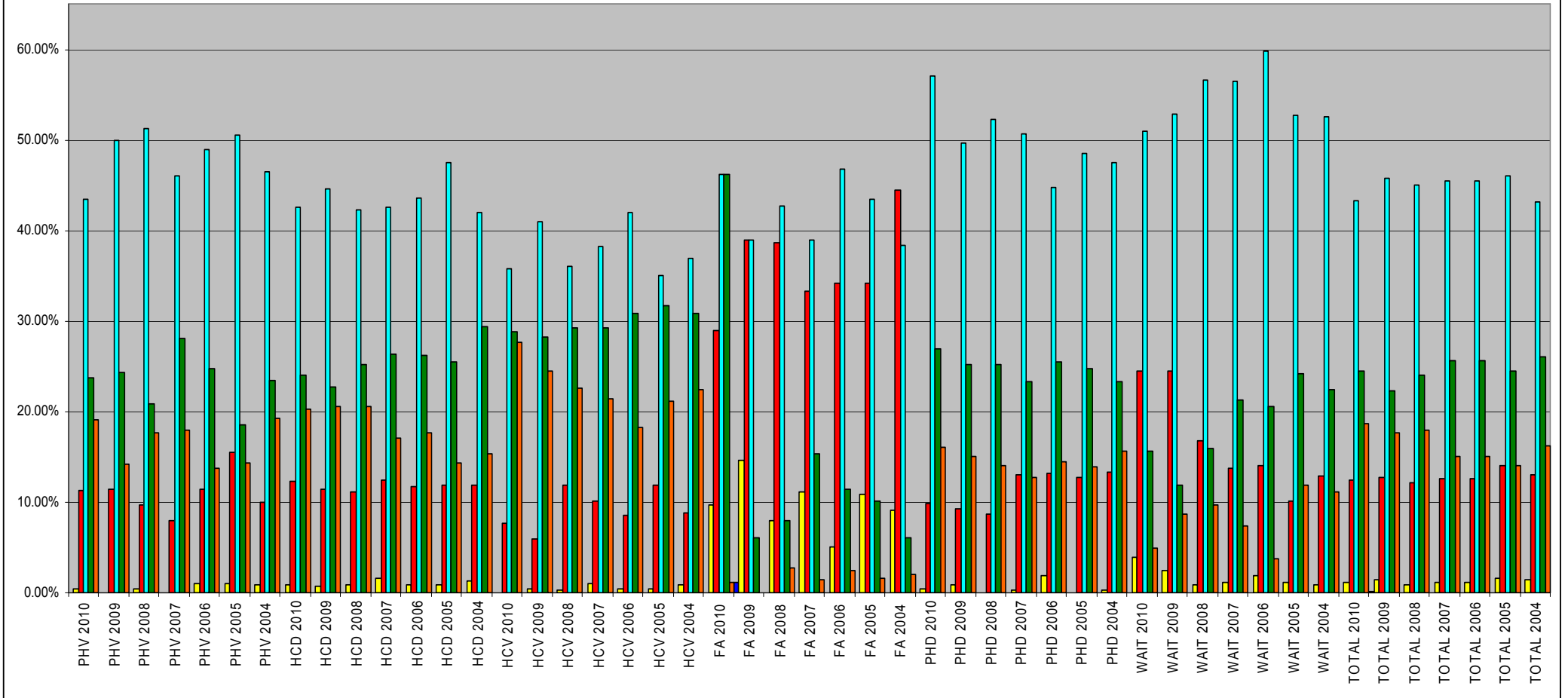
■ 16-17 ■ 18-24 ■ 25-34 ■ 35-49 ■ 50-59 ■ 60+



Age

■ 16-17 ■ 18-24 ■ 25-34 ■ 35-49 ■ 50-59 ■ 60+

61



LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 34

Brighton & Hove City Council

Subject: Inherited Hackney Carriage plates
Date of Meeting: 10 February 2011
Report of: *Head of Planning and Public Protection*
Contact Officer: Name: *Martin Seymour* Tel: 29-6659
E-mail: hco@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT:

- 1.1 One of the equality review measures to increase the proportion of wheelchair accessible vehicles was to require transferred hackney carriages to become wheelchair accessible. This was primarily targeted at transfer of vehicle licence following sale.
- 1.2 The taxi forum had not foreseen the consequence that licences inherited on death of licence holder would be caught by this provision.

2. RECOMMENDATIONS:

- 2.1 That Committee agree an exemption as follows:
- 2.2 Where the interest of an existing proprietor's hackney carriage vehicle licence registration is amended under Town Police Clauses Act 1847 s42 to a beneficiary following the death of a proprietor or at the discretion of the Head of Planning and Public Protection, where the change of registration is required for reasons such as the incapacity of a proprietor or following a legal separation from a partner, and is not for financial gain, the vehicle is exempt from becoming a wheelchair accessible at renewal unless previously required by licence conditions.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 At the special licensing committee held on 10 September 2010, the licensing committee received a report relating to the Brighton & Hove City Council Single Equality Scheme 2010/2012 which commits the council to improving access to Hackney Carriage (taxi) and Private Hire services for disabled people. Issues mentioned in the Scheme include the availability

of wheelchair accessible vehicles (WAVs), improved customer satisfaction, maintaining a mix of vehicle types, disability awareness training for drivers, and information about accessible services.

- 3.2 The aim of this Equalities Review was to review the effectiveness of Hackney Carriage and Private Hire services in meeting the needs of our citizens, in particular disabled people, and to seek Committee's recommendations for actions to address adverse impact and/or to promote equality. The report contained 17 recommendations.

Recommendation 8 stated: That the Committee approves that all new hackney carriage vehicle licences and licences which are renewed following a transfer should conform to the Conditions of Fitness as prescribed by the Public Carriage Office (ie purpose-built London type hackney carriage vehicles) or be for wheelchair accessible vehicles with M1 ECWVTA. A transfer in this context means the transfer of the interest of an existing proprietor's licence to another person, including transfer by the proprietor to her/himself and another person, for registration under Town Police Clauses Act 1847 s42. This recommendation was agreed.

4. CONSULTATION

- 4.1 This matter was discussed at the council's hackney carriage and private hire consultation forum on 29 September 2010. All members of that forum are free to express their opinions. Minutes from that forum show that forum members have concerns regarding transfer on death. Forum members were concerned that if a plate holder were to die, rather than transfer the plate to the wife or husband, a new wheelchair accessible vehicle would have to be put on. The forum was unaware of this implication and were united over the perceived misunderstanding. The Equalities Manager confirmed that she was unaware of this implication and that it appeared unfair to her. The taxi forum members requested that the matter was referred back to Licensing Committee.

- 4.2 More recently the GMB have requested that the wording of this policy requirement is reviewed to consider death of licence holder and divorce. Apparently it is common for hackney carriage proprietors to include their partner on the vehicle licence. It is common for the non driving partner to be removed if divorced. The GMB questions the fairness of requiring accessibility upon transfer. This will be explored further with the trade and Brighton & Hove Federation for Disabled People.

5. FINANCIAL & OTHER IMPLICATIONS:

- 5.1 Revenue:
There are no direct financial implications associated with this report.

Finance Officer Consulted: Karen Brookshaw Date: 18/01/2011

5.2 Legal

Where a local authority grants a hackney carriage vehicle licence, it is granted to the vehicle, and not the owner of the vehicle. Consequently when the vehicle is transferred following a bequest in a will, or inherited under the intestacy rules, the new owner is entitled to be registered as the owner. The Local Government (Miscellaneous Provisions) Act 1976 allows the council to attach to the grant of a vehicle licence such conditions as it may consider reasonably necessary. The Committee was therefore was entitled to decide at its special meeting in September 2010 that all vehicle licences renewed following a transfer should be wheelchair accessible. However, it is not clear that the Committee was aware of a significant issue, namely the effect of the decision on licensed vehicles inherited on the death of the licence holder. It is therefore proper for the Committee to revisit its decision.

Lawyer: Liz Woodley

Date: 31/01/11

5.3 Equalities Implications:

This report aims to treat licensed businesses fairly. There is a need to balance the need to increase wheelchair accessible vehicle provision against the personal circumstances of licence holders.

5.4 Sustainability Implications:

None.

5.5 Crime & Disorder Implications:

None.

5.6 Risk and Opportunity Management Implications:

None.

5.7 Corporate / Citywide Implications:

The city must be accessible to disabled people.

SUPPORTING DOCUMENTATION

None.

