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## Chief Executive's Office

Please ask for: Mr G K Bankes  
Direct Dial: (01257) 515123  
E-mail address: [gordon.banks@chorley.gov.uk](mailto:gordon.banks@chorley.gov.uk)  
Date: 03 January 2006

**Chief Executive:**  
Donna Hall

Dear Councillor

A meeting of the Licensing and Safety Committee is to be held in the Council Chamber, Town Hall, Chorley on Wednesday, 11th January, 2006 commencing at 2.00 pm.

### AGENDA

1. **Apologies for absence**

2. **Declarations of Any Interests**

Members of the Committee are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Council's Constitution and the Members Code of Conduct. If the personal interest is a prejudicial interest, then the individual Member should not participate in a discussion on the matter and must withdraw from the Council Chamber and not seek to influence a decision on the matter.

3. **Minutes (Pages 1 - 2)**

To confirm as a correct record the minutes of the meeting of the Licensing and Safety Committee held on 6 December 2005 (enclosed)

4. **Licence Condition Relating to Insurance of Licensed Hackney Carriage/Private Hire Vehicles (Pages 3 - 4)**

Report of Director of Legal Services (enclosed)

5. **Licence Condition Relating to Colour of Licensed Vehicles (Pages 5 - 6)**

Report of Director of Legal Services (enclosed)

6. **Amendments to Delegation Scheme - Spent Convictions (Pages 7 - 10)**

Report of Director of Legal Services (enclosed)

Continued....

7. **Any other item(s) that the Chair decides is/are urgent**

8. **Exclusion of the Public and Press**

To consider the exclusion of the press and public for the following items of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 4 of Part 1 of Schedule 12A to the Local Government Act 1972.

9. **Suspension of Private Hire Driver's License - PRB (Pages 11 - 18)**

Report of Director of Legal Services (enclosed)

Yours sincerely



Chief Executive

**Distribution**

1. Agenda and reports to all Members of the Licensing and Safety Committee (Councillor R Snape (Chair), Councillor Iddon (Vice-Chair), Councillors Bedford, Mrs D Dickinson, D Dickinson, A Gee, T Gray, Hoyle, M Lees, Lennox, McGowan, Mrs Smith, S Smith, Walker and Mrs Walsh) for attendance.
2. Agenda and reports to Director of Legal Services and Licensing Manager for attendance.

**This information can be made available to you in larger print or on audio tape, or translated into your own language. Please telephone 01257 515118 to access this service.**

આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

01257 515823

کیجئے:

**Licensing and Safety Committee****Tuesday, 6 December 2005**

**Present:** Councillor R Snape (Chair), Councillor Miss I Iddon (Vice-Chair) and Councillors T Bedford, Mrs D Dickinson, A Gee, T Gray, M Lees, T McGowan, Mrs I Smith, J Walker and Mrs S Walsh

**05.LS.57 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors David Dickinson, Lennox and E Smith.

**05.LS.58 DISCLOSURE OF REGIONAL/PREJUDICIAL INTERESTS**

The under mentioned Member declared a personal/prejudicial interest in relation to the report indicated below on the meeting's agenda for consideration.

Councillor Walker – Item 9 – Application for Licence to Drive Hackney Carriages/Private Hire Vehicles within the Borough of Chorley – Mr TJK.

**05.LS.59 MINUTES**

**RESOLVED – That the minutes of the meeting of the Licensing and Safety Committee held on 12 October 2005 and 2 November 2005 (Special Meeting) be received as a correct record and signed by the Chairman.**

**05.LS.60 LICENSING AND REGISTRATIONS - LICENSES ISSUED FROM 23 SEPTEMBER TO 11 NOVEMBER 2005**

The Committee received a report of the Director of Legal Services on the various licences and permits issued and the registrations affected by the Licensing Section since the last ordinary meeting.

**RESOLVED – That the report be noted.**

**05.LS.61 EXCLUSION OF THE PUBLIC AND PRESS**

**RESOLVED – That the press and public be excluded from the meeting for the following items of business on the ground that they involve the likely disclosure of exempt information as defined in Paragraph 4 of Part 1 of Schedule 12A of the Local Government Act 1972.**

**05.LS.62 PRIVATE HIRE DRIVER CAUTIONED FOR ASSAULT - MR KS (DOB 01/09/73)**

The Director of Legal Services submitted a report bringing the attention of Members to an incident involving a licensed private hire driver Mr KS which had resulted in him receiving a Police caution.

The report set out the background to the incident with the driver and his legal representative present putting forward representations in support, with the Committee carefully considering the representations made.

**RESOLVED – That although the behaviour of the driver fell below what is expected of a licensed private hire driver on this occasion he should be allowed to continue as a private hire driver but be given a severe warning that will be noted on his record.**

**05.LS.63 APPLICATION TO OPERATE PRIVATE HIRE VEHICLES WITHIN THE BOROUGH OF CHORLEY**

The Director of Legal Services submitted a report on an application for a private hire operators licence following a number of issues had caused the matter to be referred to the Committee.

The report set out the background to the application and the history behind the taxi operation.

The Committee received representations from the applicant, through an interpreter, and his legal representative, giving reasons why he should be the licensed operator of the firm.

**RESOLVED – That after careful consideration the Committee agreed to grant the Licence on a six month probationary period with the standard conditions being translated and submitted to the applicant.**

**05.LS.64 APPLICATION FOR LICENSE TO DRIVE HACKNEY CARRIAGES/PRIVATE HIRE VEHICLES WITHIN THE BOROUGH OF CHORLEY - MR TJK**

The Director of Legal Services submitted a report requesting the Committee to determine an application for a licence to drive a Hackney Carriage/Private Hire vehicle following a Criminal Records check had revealed information that would determine that the grant of the licence would only be made following deliberations of this Committee.

The applicant along with his father attended the meeting to put forward representation in support of his application and the Committee carefully considered the representations made.

**RESOLVED – That a Hackney Carriage/Private Hire Drivers Licence be granted to Mr TJK for a six month probationary period.**

**(Councillor Walker declared an interest in the above item and left the room during the decision and voting).**

Chair

| Report of                  | Meeting                      | Date     |
|----------------------------|------------------------------|----------|
| Director of Legal Services | Licensing & Safety Committee | 11/01/06 |

**LICENCE CONDITION RELATING TO INSURANCE OF LICENSED HACKNEY CARRIAGE/PRIVATE HIRE VEHICLES**

**PURPOSE OF REPORT**

1. To inform members of a problem that is arising regarding the insurance of licensed vehicles and for members to approve a new licence condition to address this problem.

**CORPORATE PRIORITIES**

2. This report has an impact upon the key priorities of the Council ie making a safer Chorley by ensuring as far as reasonably possible that all licensed vehicles are covered by insurance at all times

**RISK ISSUES**

3. The issue raised and recommendations made in this report involve risk considerations in the following categories:

|            |  |                  |   |
|------------|--|------------------|---|
| Strategy   |  | Information      |   |
| Reputation |  | Regulatory/Legal | 4 |
| Financial  |  | Operational      |   |
| People     |  | Other            |   |

4. There is a right of appeal against a condition imposed on private hire vehicle or hackney carriage proprietors licence to the Magistrates Court.

**BACKGROUND**

5. It is a requirement that upon licensing a hackney carriage or private hire vehicle a valid certificate of insurance must be produced. Often this is a cover note for a period of a month and it is becoming increasingly difficult to identify the proprietors who do not subsequently produce a full certificate of insurance. In addition one company is insuring some of it's vehicles on a weekly basis that again causes administration and enforcement problems.

6.

There is no licence condition making a vehicle proprietor responsible for producing an up to date insurance for the licensed vehicle and often the only time this is checked is when the licence is due for renewal.

7. It is therefore proposed that the following licence condition be added to both hackney carriage and private hire vehicle licences:-



**INSURANCE**

Where the insurance produced with the application for or renewal of this licence is due to expire before the date of expiry of the licence a current insurance document must be produced either on or before the date when the original insurance expires.

It is the responsibility of the licensee to ensure that a current insurance document is produced to the Licensing Section; failure to do so may result in the suspension of this licence.

8 It is envisaged that time will be available for an increased enforcement of insurance documents by making more use of the Council's data base and by spot checks followed by suspension of the vehicle licence if necessary.

**COMMENTS OF THE DIRECTOR OF FINANCE**

9. N/A

**RECOMMENDATION**

10. That the Committee approves the new licence condition in the form above.

ROSEMARY A. LYON  
DIRECTOR OF LEGAL SERVICES

There are no background papers to this report.

| Report Author | Ext  | Date             | Doc ID         |
|---------------|------|------------------|----------------|
| Keith Ogden   | 5163 | 22 November 2005 | LEGREP/91078LM |

| Report of                  | Meeting                      | Date            |
|----------------------------|------------------------------|-----------------|
| Director of Legal Services | Licensing & Safety Committee | 11 January 2006 |

## LICENCE CONDITION RELATING TO COLOUR OF LICENSED VEHICLES

### PURPOSE OF REPORT

- To inform members of a problem that is arising regarding the colour of licensed vehicles and for members to approve a change of licence condition to address this problem.

**2 CORPORATE PRIORITIES.** This report has no impact upon the key priorities of the Council.

### RISK ISSUES

- The issue raised and recommendations made in this report involve risk considerations in the following categories:

|            |  |                  |   |
|------------|--|------------------|---|
| Strategy   |  | Information      |   |
| Reputation |  | Regulatory/Legal | 4 |
| Financial  |  | Operational      |   |
| People     |  | Other            |   |

- There is a right of appeal against a condition imposed on private hire vehicle or hackney carriage proprietors licence to the Magistrates Court. In addition the requirement that vehicles should be of a particular colour could also be the subject of a challenge by way of judicial review.

### BACKGROUND

5. The hackney carriage proprietors licence contains a condition that the colour of a hackney carriage, "if of a saloon type, must be white". Similarly, the private hire vehicle licences contain a condition that the colour of a private hire vehicle, "if of a saloon type, must not be white". These conditions were imposed to make it easy for members of the travelling public to differentiate between hackney carriages and private hire vehicles.

6. These licence conditions are no longer effective because of the various classes of vehicles that have been introduced in recent years making the use of the term "saloon car" inappropriate as a means of maintaining the colour differential.

7 . It is important that members of the public are able to distinguish between those vehicles that are licensed as hackney carriage vehicles and can ply for hire and private hire vehicles that must be booked in advance. Given that this Council has a “ mixed fleet “ of hackney carriages ( London style taxis and other vehicles) the colour difference between hackney carriages and private hire vehicles is of more significance and it is therefore important to maintain the distinction.

8. It is therefore proposed that the following changes be made to the hackney carriage proprietors licence and private hire vehicle licences. If approved these conditions would attach to the new grant of a vehicle licence, the renewal of a vehicle and any transfers .

Hackney carriage condition 3.(g), ....The colour of the vehicle unless a purpose built hackney carriage shall be white.

Private Hire Vehicle condition 4(g), .... The colour of the vehicle shall not be white.

**COMMENTS OF THE DIRECTOR OF FINANCE**

N/A

**RECOMMENDATION**

That the Committee approves the amended conditions in the form above.

CHIEF OFFICER NAME – Rosemary A. Lyon  
 CHIEF OFFICER DESIGNATION – DIRECTOR OF LEGAL SERVICES

There are no background papers to this report.

| Report Author | Ext     | Date | Doc ID |
|---------------|---------|------|--------|
| Keith Ogden   | 5163*** |      |        |



| Report of                  | Meeting                        | Date            |
|----------------------------|--------------------------------|-----------------|
| Director of Legal Services | Licensing and Safety Committee | 11 January 2006 |

## AMENDMENTS TO DELEGATION SCHEME -SPENT CONVICTIONS

### PURPOSE OF REPORT

- For members to approve a policy and amendments to the delegation to the Director of Legal Services regarding applications for private hire and hackney carriage vehicle licences where spent convictions exist.

### CORPORATE PRIORITIES

- The report is relevant to further the following Key corporate priorities of the Council, ie making a safer Chorley by ensuring that all private hire and hackney carriage drivers are fit and proper persons.
- The issue raised and recommendations made in this report involve risk considerations in the following categories:

|            |  |                  |   |
|------------|--|------------------|---|
| Strategy   |  | Information      |   |
| Reputation |  | Regulatory/Legal | 4 |
| Financial  |  | Operational      |   |
| People     |  | Other            |   |

- There is a right of appeal in respect of a refusal to grant an application for private hire/drivers licence registration to the Magistrates Court.

### BACKGROUND

- Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 a council shall not grant a licence unless it is satisfied that an applicant is a fit and proper person.
- In order to discharge this legal responsibility and ensure that all drivers licensed by it are of the relevant standard and do not pose any risk to the public, the Council requires applicants to give authority for an application to be made by the Council to the Criminal Records Bureau for details of convictions to be released.
- The Rehabilitation of Offenders Act 1974(Exceptions)(Amendment) (England and Wales) Order 2003 excludes private hire and hackney carriage drivers from the Rehabilitation of Offenders Act 1974. The effect of which is that the "spent convictions" provisions do not apply and therefore applicants must declare all convictions regardless of the age.
- This Committee approved a revised delegation scheme to the Director of Legal Services, a copy of which is attached hereto in Appendix 1. This revision was considered necessary to ensure transparency and consistency for both applicants and licensing officers as to when matters would be referred to this Committee for determination. It is



also still considered appropriate and necessary for risk management purposes. However, this has resulted in some applicants with relatively minor convictions being required to attend before this Committee as the convictions are not regarded as spent.

9. In accordance with this Committee’s request, officers have reviewed the position with a view to ensuring efficiency of administration whilst ensuring that the protection of the public is paramount. All applicants will still be required to declare spent convictions.
10. It is proposed that officers would have delegated powers to issue private hire and hackney carriage drivers licences where the convictions would ordinarily be “spent” under the Rehabilitation of Offenders Act 1974 unless the offence is of a serious nature e.g, offences of a sexual nature, burglary, serious assaults or where the Director of Legal Services is of the view that the offences are relevant to the application e.g. a series of offences over a number of years.
11. The rehabilitation periods set down by the 1974 Act are set out below;

| CONVICTION                                      | REHABILITATION PERIOD                                  |
|---|--|
| Imprisonment over 2 ½ years                     | Never spent  |
| Imprisonment of 6 months – 2½ years             | 10 years   |
| Imprisonment of 6 months or less                | 7 years  |
| Borstal Training                                | 7 years  |
| Fine/Community Service Order                    | 5 years  |
| Absolute Discharge                              | 6 months   |
| Probation Order/Conditional Discharge/Bind Over | 1 year or until the order ends whichever is the longer |

**COMMENTS OF THE DIRECTOR OF FINANCE**

12. No comments.

**COMMENTS OF THE HEAD OF HUMAN RESOURCES**

13. No comments.

**RECOMMENDATION**

14. (1) The Committee approves the policy on spent convictions and the amendment to the delegated powers of the Director of Legal Services as set out in paragraphs 9 and 10 of this report
- (2) That Council be asked to amend the Constitution accordingly.

**REASONS FOR RECOMMENDATION**

15. Whilst it is essential that the drivers licensed by the Council are fit and proper persons there are occasions where it is not considered proportionate to require a person to attend before the Committee regarding minor offences since when a significant period of time has elapsed without any further convictions being incurred. This will also allow the Committee to concentrate on the more serious cases and ensure efficient administration of the system.

**ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 16. To continue to require all persons with convictions whether spent or not to attend before the Committee

| <b>Background Papers</b>                    |             |             |  |
|---|-------------|-------------|--|
| <b>Document</b>                             | <b>Date</b> | <b>File</b> | <b>Place of Inspection</b>               |
| Rehabilitation of Offenders Exemption Order | 2003        |             | Legal Services, The Coach House, Duxbury |

| <b>Report Author</b> | <b>Ext</b> | <b>Date</b>     | <b>Doc ID</b>   |
|----------------------|------------|-----------------|-----------------|
| C Hallwood           | 235809     | 9 November 2005 | LEGREP/91427JM2 |

ROSEMARY A LYON  
 DIRECTOR OF LEGAL SERVICES

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