

## **LICENSING AND PUBLIC SAFETY COMMITTEE**

WEDNESDAY, 18TH NOVEMBER 2015, 2.00 PM  
COUNCIL CHAMBER, TOWN HALL, CHORLEY

### **AGENDA**

#### **APOLOGIES**

**1 MINUTES**

(Pages 3 - 6)

To confirm the minutes of the Licensing and Public Safety Committee held on 22 July 2015 (enclosed)

**2 DECLARATIONS OF ANY INTERESTS**

Members are reminded of their responsibility to declare any pecuniary interest in respect of matters contained in this agenda.

If you have a pecuniary interest you must withdraw from the meeting. Normally you should leave the room before the business starts to be discussed. You do, however, have the same right to speak as a member of the public and may remain in the room to enable you to exercise that right and then leave immediately. In either case you must not seek to improperly influence a decision on the matter.

**3 MINUTES OF THE MEETINGS OF THE GENERAL LICENSING SUB COMMITTEE**

**3A GENERAL LICENSING SUB-COMMITTEE - 15 JULY 2015**

(Pages 7 - 10)

**3B GENERAL LICENSING SUB-COMMITTEE - 7 OCTOBER 2015**

(Pages 11 - 14)

**3C GENERAL LICENSING SUB-COMMITTEE - 4 NOVEMBER 2015**

(Pages 15 - 18)

**4 MINUTES OF THE MEETINGS OF THE LICENSING ACT 2003 SUB COMMITTEE**

**4A LICENSING ACT 2003 SUB-COMMITTEE - 4 NOVEMBER 2015**

(Pages 19 - 22)

**5 CHILD SEXUAL EXPLOITATION (CSE) AND THE TAXI TRADE**

Detective Inspector Tony Baxter of the Public Protection Unit will deliver a presentation on Child Sexual Exploitation (CSE) and the taxi trade.

6 **SAFEGUARDING, SUITABILITY AND CONVICTIONS POLICY FOR TAXI LICENSING**

(Pages 23 - 44)

Report of the Director of Public Protection, Streetscene and Community (enclosed)

7 **ANY URGENT BUSINESS PREVIOUSLY AGREED WITH THE CHAIR**

GARY HALL  
CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing and Public Safety Committee Councillor Roy Lees (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Doreen Dickinson, Gordon France, Margaret France, Keith Iddon, Mark Jarnell, Hasina Khan, Margaret Lees, Matthew Lynch, Mick Muncaster, Steve Murfitt, Ralph Snape and John Walker.

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**MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE**

**MEETING DATE** Wednesday, 22 July 2015

**MEMBERS PRESENT:** Councillor Roy Lees (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Doreen Dickinson, Gordon France, Margaret France, Mark Jarnell, Hasina Khan, Margaret Lees, Matthew Lynch, Mick Muncaster, Steve Murfitt, Ralph Snape and John Walker

**OFFICERS:** Alex Jackson (Legal Services Team Leader), Lesley Miller (Regulatory Services Manager) and Dianne Scambler (Democratic and Member Services Officer)

**APOLOGIES:** Councillor Keith Iddon

**OTHER MEMBERS:** Jodi Fitzpatrick (Solicitor)

**15.LPS.8 Declarations of Any Interests**

There were no declarations of any interest.

**15.LPS.9 Minutes**

**RESOLVED – That the minutes of the Licensing and Public Safety Committee meeting held on 12 March 2015 be confirmed as a correct record for signing by the Chair.**

**15.LPS.10 Approval of the minutes of the General Licensing Sub Committee's**

**RESOLVED – That the minutes of the General Licensing Sub Committee's held on 1 April and 27 May 2015 be confirmed as a correct record.**

**15.LPS.11 Approval of the minutes of the Licensing Act 2003 Sub Committee's**

**RESOLVED – That the minutes of the Licensing Act 2003 Sub Committee's held on 23 March and 11 June 2015 be held as a correct record.**

**15.LPS.12 Minutes of Licensing Liaison Panel**

Councillor John Walker asked the Chair why the Executive Member for Public Protection had chaired the last meeting of the Licensing Liaison Panel as it was usual practice for the Chair and Vice Chair of Licensing to attend the meetings and undertake this role.

The Chair and Vice Chair of the Licensing and Public Safety Committee were both appointed at the Annual Council in May so any change would have to be agreed at Council.

**RESOLVED – That Democratic Services look into why this change has been made.**

#### **15.LPS.13 Amendment to the Scheme of Delegation for Licensing**

The Committee received a report that sought to review the scheme of delegation to allow the Director of Public Protection, Streetscene and Community to make the decision to refuse private hire and hackney carriage vehicle renewals or grant applications for new vehicle licences in consultation with the Chair and Vice Chair of Licensing and Public Safety Committee.

The current scheme of delegation was agreed in March 2009 and at present, the Director of Public Protection, Streetscene and Community does not have delegated authority to refuse the granting of either a new vehicle licence or the renewal of an existing vehicle licence. A recent case where a hackney carriage had been presented for renewal and found not to comply with the Council's Vehicle Conditions had highlighted a need for this to be amended.

It was not considered that such cases are best brought in front of members and that renewals if granted are turned around in a fairly short period of time. The above example is a decision that is primarily a technical one based on vehicle safety and passenger comfort and does not require discretion on the part of the members unlike when considering if a driver is a fit and proper person in light of previous convictions or behaviour. The deferment of any such decision until a Sub Committee can be arranged was not thought to be an efficient way of determining applications either for the trade or the Council.

The report also sought to amend the scheme of delegation to allow officers to revoke a Gambling Premises Licence and the cancellation of licensed premises gaming machine permits issued under the Gambling Act 2005 in respect of the non-payment of an annual fee. This too would need a decision of the full Council in respect of an amendment to the Constitution.

Members noted that Section 193 of the Gambling Act 2005 limits any discretion or decision making for the Licensing Authority in its approach to administering the provision of the Act in this regard, save any administrative error associated with the non-payment of the fee. If the annual fee has not been paid then under the Gambling Act 2005 the licence must be revoked.

The amendment to the scheme of delegation would allow such matters to be dealt with expeditiously and will promote efficient use of both officer and member time.

#### **RESOLVED**

**That the Licensing and Public Safety Committee recommends to full Council to authorise the Head of Governance and Property Services to amend the current scheme of delegation to allow the Director of Public Protection, Streetscene and Community to make the decision to refuse private hire and hackney carriage vehicle renewals and to refuse to grant applications for new licences in**

**consultation with the Chair/Vice Chair of Licensing and Public Safety Committee.**

**That the cut-off point for receipt of an application to renew a taxi vehicle licence will be at close of business before the licence expires.**

**That the Licensing and Public Safety Committee recommends to full Council to amend the Council's Scheme of Delegation to allow officers to revoke a Gambling Premises Licence and cancel licensed premises gaming machine permits issued under the Gambling Act 2005 in respect of the non-payment of an annual fee.**

**15.LPS.14 Review of the Councils Policy which limits the number of Hackney Carriage Vehicle Licences issued to 36**

The Director of Public Protection, Streetscene and Community submitted a report advising Members of the Council's responsibility to review the quantity control policy that currently limits the number of Hackney Carriage Vehicle Licences that the authority issues.

The Council currently has a policy limiting the number of Hackney Carriage Vehicle licences it issues to 36, including provision for 9 wheelchair accessible vehicles.

The Council are not obliged to maintain a limited number of hackney carriage licences and may determine that the maintenance of the limit is not in the public interest in serving the transport needs of the borough and does not provide an adequate level of service for residents and visitors to the area.

However, where a limit exists and the Council wishes to maintain that limit, the Council has to be satisfied that there is no significant unmet demand.

Establishing unmet demand can be achieved by way of a survey of the hackney carriage provision within the borough of Chorley, examining by way of a series of observations of taxi rank activity and by issuing direct and in-direct questionnaires to interested parties including the general public. The Council may commission such a survey and recover the costs from the trade.

Should Members decide not to commission the unmet demand survey then the Council would over time lack recent data to justify not delimiting numbers. In this instance the Council would not be in a position to refuse the granting of an application for a hackney carriage vehicle licence without being exposed to possible legal challenge.

Members were informed that the Law Commission has recently conducted a wholesale review of taxi provision and surrounding legislation. Although it was anticipated that the recommendations would have found their way to statute by this time, this was not the case, and as yet, although considered that they would be implemented within this Parliamentary term, local authorities have not been advised on when these recommendations will become legislation.

The results and recommendations to Government have however now been made public and the document titled Taxi and Private Hire Services May 2014 was contained within the report for information. The Committee's attention was drawn to

those chapters which discussed and set out the proposals in relation to Local Authorities ability to limiting the numbers of Hackney Carriage Vehicle's and Accessibility for all. The Law Commission's report has been accepted by Government.

Should these provisions become legislation the Council would be obliged to review its policy in relation to limiting the number of HCV licences it will issue, having regard to a public interest only.

As the Law Commission's report was expected to be implemented within the forthcoming Parliamentary term, the Committee considered that it would be appropriate at this time to undertake a wider public interest test, to establish the extend of need across all genres of the community and the borough. As advised by officers, this may also include an unmet survey demand but would be dependent on cost.

It was proposed by Councillor Matthew Lynch, seconded by Councillor Gordon France and subsequently unanimously **RESOLVED that subject to reasonable costs within the allocated budget, to instruct officers to undertake a process of consultation to determine whether or not a decision to remove the Council's limit on the number of Hackney Carriage Vehicle licences it will issue is in the public interest. The consultation shall be so designed to examine the current arrangements and consider the removal of:**

- a) the numerical limit the Council currently imposes on the number of HCV licences it will issue; or
- b) removal of the numerical limit the Council currently imposes on the number of HCV licences it will issue, and only consider applications for the grant of a Hackney Carriage Vehicle Licence where the vehicle presented is able to meet the requirements of the Council's Conditions of Application for the Grant of a Wheelchair Accessible Vehicle Hackney Carriage Vehicle as detailed in the Councils condition of application, or
- c) to maintain the limited number of HCV licences it will issue.

**If the cost of such a survey was higher than the allocated budget, the details would be brought back to the Licensing and Public Safety Committee for a decision.**

**The results of any consultation undertaken and any recommendations shall be brought back to the Licensing and Public Safety Committee for their consideration.**

Chair

Date



<b>MINUTES OF</b>	<b>GENERAL LICENSING SUB-COMMITTEE</b>
<b>MEETING DATE</b>	<b>Wednesday, 15 July 2015</b>
<b>MEMBERS PRESENT:</b>	Councillor Roy Lees (Chair), Councillor (Vice-Chair) and Councillors Anthony Gee, Hasina Khan, Mick Muncaster and Ralph Snape
<b>OFFICERS:</b>	Alex Jackson (Legal Services Team Leader), Stephen Culleton (Licensing Officer), Sarah Longden (Student Environmental Health Officer) and Dianne Scambler (Democratic and Member Services Officer)
<b>APOLOGIES:</b>	None
<b>OTHER MEMBERS:</b>	Driver and his representative, 2 members of the public.

#### **15.LSC.39 Declarations of Any Interests**

There were no declarations of interests.

#### **15.LSC.40 Procedure**

The Chair outlined the hearing procedure following a complaint that would be used for this meeting following a complaint

#### **15.LSC.41 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 1 of Part 1 of schedule 12A of the Local Government Act 1972.**

#### **15.LSC.42 Section 60 & 61 of the Local Government (Miscellaneous Provisions) Act 1976, suspension and revocation of vehicle and drivers licences**

The Sub Committee considered a report of the Director of Public Protection, Streetscene and Community to determine if a driver is a fit and proper person to continue to hold his Hackney Carriage Vehicle and Hackney Carriage Driver licences following a complaint that had been made by a member of the public under Section 60 and 61 of the Local Government (Miscellaneous Provisions) Act 1976 – Suspension and Revocation of vehicle and drivers licences.

The driver and his representative, attended the meeting along with the complainants who had submitted the complaint against him.

On 4 June 2015, the Council received a complaint from a member of the public in relation to the manner in which Hackney Carriage Vehicle (HVC) was being driven on the evening of 29 May 2015 within the borough of Chorley and the Sub Committee provided with the details of the alleged complaint and viewed CCTV footage of the incident.

The driver was interviewed by officers in light of the complaint that had been received and a copy of his statement was contained within the report.

A statement from a member of the public who was one of the motorcyclists also provided a statement of the events on that evening. Although submitted after the agenda was published, this information was circulated to Members of the Sub Committee ahead of the meeting and the driver and his representative were given sufficient time to read its contents before the meeting commenced. The driver's representative, did request for this information not to be considered due to the lateness of when the driver received the documentation; however after careful consideration the Sub Committee dismissed the request on the grounds that the statement added little extra to the initial complaint, was only three pages long and could be considered by the driver and his representative during the short period during which members debated in private the request to exclude the further statement.

The driver, his representative and the complainants all answered questions of each other and the Sub Committee throughout the hearing to ascertain all the relevant facts before a decision was made.

Members were concerned about the positioning of the two motorcycles and sought clarification about the staggered road formation on the dual carriageway.

Members also wanted to be clear about the events that took place before and after the driver forced his way through the middle of the two motorcyclists at the roundabout as was evidenced on the CCTV footage and were satisfied that they had all the relevant facts they needed to make their decision.

After considering all the information at the meeting the Sub Committee **RESOLVED to authorise the Lead Licensing and Enforcement Officer to issue a written warning to the driver to lie on his licensing file.**

**The driver must satisfy the Licensing Unit that he has successfully completed a speed awareness course and a DSA taxi test within the next 3 months. If he fails to do this the driver will be brought back before the Sub Committee who will give serious consideration to revoking his driver's licence.**

**If the driver appears before the Sub Committee for any other reason in the future his driver licence may well be revoked.**

**Members listened to the complainants and the driver and his representative and viewed the CCTV footage. They were satisfied that the driver's standard of driving fell below the standard expected of a taxi driver.**

**The reasons for the decision are as follows:**



1. **The driver's driving was inconsiderate and intimidated the complainants. Even if the driver felt frustrated and felt he was being obstructed he should not have reacted by coming up so close behind the complainants. His driving was contrary to paragraph 147 of the Highway Code.**
2. **The driver drove too close to the complainants and by driving between them failed to give them adequate room when overtaking contrary to paragraphs 163, 212 and 213 of the Highway Code.**
3. **Members are satisfied that the driver exceeded the 30mph speed limit.**
4. **The driver has driven a taxi in Chorley for several years without complaints. Members have taken into account his previous good history.**
5. **The driver has no previous convictions or current endorsements on his DVLA licence.**
6. **Members note that the police initial view was not to press charges against the driver.**
7. **Members can see that the driver felt frustrated as he tried to overtake the complainants though they do not regard this in any way as an excuse for his behaviour.**

Chair

Date

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## General Licensing Sub-Committee

**Wednesday, 7 October 2015**

**Present:** Councillor Roy Lees (Chair), Councillor (Vice-Chair) and Councillors Margaret Lees, Matthew Lynch, Mick Muncaster and Ralph Snape

**Also in attendance**

**Councillors:**

**Officer:** Elizabeth Walsh (Solicitor), Lesley Miller (Regulatory Services Manager) and Dianne Scambler (Democratic and Member Services)

### 15.LSC.43 DECLARATIONS OF ANY INTERESTS

There were no declarations of any interests.

### 15.LSC.44 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 1 of Part 1 of schedule 12A of the Local Government Act 1972.**

### 15.LSC.45 APPLICATION FOR THE GRANT OF A PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCE UNDER SECTION 51 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND SECTION 46 OF THE TOWN AND POLICE CLAUSES ACT 1847

The Sub Committee considered a report of the Director of Public Protection, Streetscene and Community to determine whether or not, the applicant was a fit and proper person to hold a private hire drivers and hackney carriage drivers licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 46 of the Town and Police Clauses Act 1847.

The applicant already held Private Hire and Hackney Carriage Drivers licences and a Hackney Carriage Vehicle licence with Rossendale Borough Council which had been granted in December 2014. The applicant currently worked for Coopers Taxis, a Chorley based Private Hire Company and was dispatched as a Private Hire Vehicle under the Act of 1976. The applicant had a number of convictions recorded against him which prevented officers using delegated authority to grant the application.

The applicant attended the meeting with his legal representative, and his current employer. The applicant had disclosed within his application a number of convictions that were recorded against him that was detailed within the report. The applicant had attended the Council's offices on 14 September 2015 to assist officers in understanding the nature and content of the offences recorded and explanations were provided within the report. Further explanations were also given by the applicant at the Committee meeting.

The applicant, his legal representative and his employer answered questions of the Committee. His employer submitted a letter of support and also spoke at the Sub Committee meeting in support of the applicant, saying that he was a competent driver for his company, had driven for them for around 8 months and had a secure future with the firm. He and his partner had found the applicant to be extremely trustworthy and was a valuable member of the team, often going out of his way to help other people.

The applicant stated that he had no recent convictions and no court appearances scheduled. He explained that the troubles he had experienced were all in his past and he had overcome very personal circumstances to get where he was today. The applicant was now married with children and had a family to provide for.

The Committee were satisfied with the applicant's explanation for the circumstances surrounding his convictions and noted that he had turned his life around. They were also impressed by the attendance of his employer to support his application.

After careful consideration and taking into account all the relevant factors the Sub Committee **RESOLVED that the applicant was a fit and proper to hold a private hire driver and hackney carriage driver's licence under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 and that his application should be approved subject to the requirements of the standard conditions for the following reasons:**

**Members considered the Council's Policy on previous convictions which envisages rehabilitation periods of between 5 and 10 years, which require a substantial period to elapse before the applicant can be considered again for a private hire and hackney carriage driver licence. In light of this Members noted that:**

- a) **Almost eleven years have elapsed since the applicants convictions and the grant of a taxi driver licence was therefore with the Council's policy on previous convictions under paragraph B.1.3.2.**
- b) **The applicant has not been convicted of any further offences in the intervening period and has expressed remorse.**

**15.LSC.46 SUSPENSION OF A DRIVER'S LICENCE UNDER SECTION 61 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Sub Committee considered a report of the Director of Public Protection, Streetscene and Community to determine whether or not the driver was a fit and proper person to continue to hold his private hire and hackney carriage drivers licences under Section 61 of the Local Government (Miscellaneous Provisions) Act 196 – suspension of driver licences.

The driver had been granted his private hire and hackney carriage driver licences on 27 January 2006, having at that time completed a Group II Medical. The driver had continuously renewed his entitlement to his licences and currently held a Chorley Council Private Hire Drivers licence (PHD0843) and Hackney Carriage Drivers licence (HCD0335), both licences would expire on 26 January 2017.

On 14 July, the Council wrote to the driver advising him that he was required to complete a DVLA Group II Medical by 30 August 2015. The driver completed the medical on 18 August 2015 but failed to meet the medical standard required. Officers responded by suspending the driver's (PHD0843) and (HCD335) licences on 24 September 2015.

The Council's Medical Advisor deferred a decision on the driver's medical, to ask for further information relating to the management of his diabetes as it was evident from the completed medical that the driver had from 8 April 2013 been managing his diabetes by use of insulin, indicating that he now had Type 2 diabetes.

In order to meet the strict standard to be able to drive within the Group II criteria, the driver needed to satisfy the Council's Medical Advisor that he is aware of and able to manage the condition so that he posed no risk to himself or others. To date the information had not been provided.

The driver attended the meeting, along with his legal representation to answer questions of the Sub Committee. The driver provided evidence of his own management records of his diabetes and was aware that he needed to checks his levels on a more regular basis when out driving. He also provided the Committee with a letter that a Doctor had signed stating that he was fit to drive.

However, the driver did not present the evidence that had been requested of him by the Council's Medical Advisor so that he could take a view on whether or not he was fit to drive a taxi under the Group II Medical conditions. The Council's legal advisor explained to the driver, how this evidence could be obtained and why it was important.

After careful consideration and taking into account all the relevant factors the Sub- Committee **RESOLVED to continue with the driver's license suspensions until 23 November 2015 that had been made by officers until such a time as the driver could satisfactorily meet the DVLA Group II Medical requirement - written evidence of the monitoring of his Type 2 Diabetes by medical professionals who specialise in Diabetes to be provided within the timescale.**

**The driver was advised that this could be held electronically or by written record by his GP practice or at the hospital but that it was up to himself to request. Obtain and submit this evidence as part of his medical assessment requirements. This information will then be examined by the Council's Medical Advisor.**

**Delegated power will be given to the Director of Public Protection, Streetscene and Community officer (at that time with the**

**responsibility for licensing) to lift the suspension notice when satisfied that the provisions have been met.**

**Delegated power will also be given to the Director of Public Protection, Streetscene and Community officer (at that time with the responsibility for licensing) to revoke the licence should the driver fail to produce the sufficient medical evidence needed or the Council's Medical advisor is not satisfied that the driver is DVLA Group II medical compliant to drive, with immediate effect under Section 61 (2B) of the Local Government (Miscellaneous Provisions) Act 1976.**

**Members noted that the driver had informed his insurance company that he had diabetes however, Members were unsure if they were aware that his condition had changed to Type 2 diabetes and asked for a note to be placed on his licensing file.**

Chair



<b>MINUTES OF</b>	<b>GENERAL LICENSING SUB-COMMITTEE</b>
<b>MEETING DATE</b>	<b>Wednesday, 4 November 2015</b>
<b>MEMBERS PRESENT:</b>	Councillor Roy Lees (Chair), Councillor (Vice-Chair) and Councillors Jean Cronshaw, Margaret France, Anthony Gee and Hasina Khan
<b>OFFICERS:</b>	Elizabeth Walsh (Solicitor), Stephen Culleton (Licensing Officer) and Dianne Scambler (Democratic and Member Services Officer)
<b>APOLOGIES:</b>	None
<b>OTHER MEMBERS:</b>	None

#### **15.LSC.47 Declarations of Any Interests**

No declarations of any interests were received.

#### **15.LSC.48 Procedure**

The Chair outlined the hearing procedure that would be used to conduct the meeting.

#### **15.LSC.49 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 1 of Part 1 of schedule 12A of the Local Government Act 1972.**

#### **15.LSC.50 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 - Suspension of a drivers licence**

The Sub Committee considered a report of the Director of Public Protection, Streetscene and Community to determine whether or not the driver was a fit and proper person to continue to hold his private hire licence (PHD0245) following his suspension on 9 October 2015 following his confirmation that he was receiving treatment for Sleep Apnoea.

The driver was first granted his Private Hire Driver's Licence in December 1999. Having reached the age of 65, he was required to complete a DVLA Group II medical every 12 months and had submitted his last medical on 19 December 2014. The Council's Medical Advisor had advised that the driver was fit to drive at that time.

On 20 September 2015 and in accordance with paragraph 29 on his driver's licence, the driver wrote to the Council stating that he had ceased driving whilst he was undergoing some medical procedures and upon further investigation by council officers it was confirmed on 29 September 2015, that he was being treated for Sleep Apnoea.

The driver also verbally confirmed that he had telephoned the DVLA in early September to inform them of his condition following his diagnosis and stated that he had been told that he could carry on driving as he was receiving treatment. Officers advised that this advice was in line with Group I driver licences and as he did not hold entitlement for HGV or PSV vehicles that would indicate to the DVLA that Group II standard advice would not apply. There would be no reason why the DVLA would know that the driver was subject to Group II standards in this regard and the Sub-Committee advised him to contact them further regarding this matter.

The Council's Medical Advisor advised that the driver's PHD0245 private hire driver's licence should be revoked, as the Council upholds the standards imposed under the DVLA Group II medical – driving must cease until satisfactory control of symptoms has been attained, with ongoing compliance with treatment, confirmed by consultant/specialist opinion. Regular, normally annual, licensing review required.

Following this advice the Director of Public Protection, Streetscene and Community suspended the driver's PHD0245 driver licence on 9 October 2015 with immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 and the Sub-Committee were provided with a copy of the suspension notice for their information.

It is evident from a previous medical, that the driver had been diagnosed with suspected Sleep Apnoea in 2004; information contained in a letter by his consultant at that time indicated that he had been referred for sleep studies as he showed symptoms of possible obstructive sleep apnoea. There is no evidence from his records that this matter had been resolved. Members did note that the Council's procedures at that time were not as robust as the current procedure is today; however, the provision for a driver to inform the Council of any changes in their medical condition was still as relevant as it is today. The driver stated that he was monitored at the time but received no further correspondence regarding the matter and took that to mean that there was no further requirement for him to receive any further treatment for Sleep Apnoea.

On 16 October 2015, the driver provided the Council with a letter from his consultant which was forwarded on to the Council's Medical Advisor for consideration. At the meeting the licensing officer circulated the response which asked for further information to be provided before further advice could be issued. Having only just seen sight of this request himself, the driver strongly objected to a decision being made under these circumstances and the Members of the Sub Committee agreed. They did however, take the opportunity to ask questions of the driver about his condition and the treatment he was currently undertaking.

After careful consideration and taking into account all the relevant factors, the Sub-Committee **RESOLVED to continue with the driver's licence suspension until such a time that he could satisfactorily meet the DVLA Group II Medical requirements. The Council's Medical Advisor had insufficient evidence to advise the Council further on this matter. The driver is required to obtain the following**



details requested by the Council's Medical Advisor from his GP and a copy of every specialist letter concerning his sleep apnoea, in particular:

- Date of diagnosis since 2004
- Date of referral to specialist
- Date of starting CPAP
- Compliance information from the specialist
- When the sleep apnoea began to effect driving
- When the DVLA was informed

Delegated power be given to the Director of Public Protection, Streetscene and Community officer (at that time with the responsibility for licensing) to lift the suspension notice when satisfied that the provisions have been met.

Delegated power will also be given to the Director of Public Protection, Streetscene and Community officer (at that time with responsibility for licensing) to revoke the licence should the driver fail to produce the sufficient medical evidence asked for, or the Council's Medical Advisor is not satisfied that the driver is not DVLA Group II medical compliant to drive, with immediate effect under Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

Chair

Date

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**MINUTES OF LICENSING ACT 2003 SUB-COMMITTEE****MEETING DATE** Wednesday, 4 November 2015**MEMBERS PRESENT:** Councillor Roy Lees (Chair), and Councillors Margaret France and Anthony Gee**OFFICERS:** Alex Jackson (Legal Services Team Leader), Stephen Culleton (Licensing Officer) and Dianne Scambler (Democratic and Member Services Officer)**APOLOGIES:** None**OTHER MEMBERS:** None**15.LAS.51 Declarations of Any Interests**

No declarations of any interests were received.

**15.LAS.52 Procedure**

The Chair outlined the procedure to be used to conduct the meeting.

**15.LAS.53 The Gambling Act 2005 - Application for a gaming machine permit for more than two gaming machines**

The Sub Committee considered a report of the Director of Public Protection, Streetscene and Community to determine an application received from Poppleston Allen Solicitors, on behalf of the premises licence holder, Mitchells and Butler Leisure Retail Ltd, in respect of variation of a gaming machine permit for more than two gaming machines, made under Schedule 13, of the Gambling Act 2005 for a premises licensed under the Licensing Act 2003 known as The Highfield, Southport Road, Leyland. Although invited, there was no one present to support the application at the meeting.

The premises benefited from a Premises Licence issued under Section 17 of the Licensing Act 2003 authorising the sale of alcohol and a copy of the licence and plan of the premises were provided for information. Where premises wish to have more than two machines, the premises holder needs to apply for a Gaming Machine permit and the authority would consider the application based upon the licensing objectives, Gambling Commission guidance and other such matters as they felt relevant.

Officers had attended the premises on 8 October 2015, to assess the suitability of the premises to accommodate additional gaming machines in line with the application that

had been received. It was noted that two existing Category C gaming machines on the premises were positioned in an area reserved for over 18's only, together with a skills machine. Other areas of the premises were designated as family friendly and the premises promoted itself as offering a children's ball play area, extensive restaurant facilities, three crane grab machines and a number of novelty machines dispensing toys.

It was reported that there was no evidence that the premises promoted any advice or guidance to its staff or to the public in relation to the control of and use of the machines and at the time of the visit, the current Designated Premises Supervisor had not been available.

The premises presently benefited from a Gaming Machine Permit for two Category C machines and one Category D machine and the application received by the Council sought authority to introduce one additional Category D machine.

Members noted that the following machines had been made available to the public at the time of a licensing visit on 8 October 2015:

- 2 x Cat C gaming machines (located within the over 18's area)
- 1 x skills machine (located within the over 18's area) (genuine skill machines are outside the allotted quota of machines in the Gambling Act 2005)
- 2 x grab machines (within main restaurant area)
- 5 x toy dispensing machines (within the main restaurant area)
- 1 x grab machine (within a soft ball area)

Recent notification received by the Gambling Commission gave clarification to what category grab machines might fall into given the type of construction, operation and specification. Given the complexity of the different types of grab machines available and technical specifications offered by the various manufacturers, officers were not able to determine what category the existing grab machines fell into, there was also no obvious markings on the machines as was required to advise the public.

Members were informed that officers had received a set of operating instructions for one Prize Zone Crane, indicating that the machine to which it related would fall into a Category D machine. Officers had requested clarification as to which grab machine or machines that the manual relates to and Members were informed at the meeting that it was a Sega Key Master machine which was a Category D machine and was the reason why the premises holder had need to submit the application to vary the licence.

Members were reminded of the Gambling Act 2005 licensing objectives and the Gambling Commission's published code of practice, providing the requirements that must be complied with by the Gaming Machine Permit Holder.

After careful consideration of all the relevant information, the Sub Committee **RESOLVED to grant the application for one additional Category D Gaming machine at The Highfield Restaurant, Southport Road, Leyland for the following reasons:**

- 1. The granting of the application is reasonably consistent with the licensing objectives.**
- 2. The Category D Gaming machine will be positioned in the bar area where adequate supervision could be maintained for both children and adults.**

3. **That the Council's licensing officer advise the management of the Premises of the need for sufficient signage pertaining to the machine and training for staff.**

Chair

Date

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Report of	Meeting	Date
Director of Public Protection, Streetscene and Community	Licensing and Public Safety Committee	18/11/15

## **SAFEGUARDING, SUITABILITY AND CONVICTIONS POLICY FOR TAXI LICENSING**

### **PURPOSE OF REPORT**

1. For the Licensing and Public Safety Committee to consider the draft of the Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing and decide on the proposed content for acceptance or rejection as the updated policy.

### **RECOMMENDATION(S)**

2. That the Licensing and Public Safety Committee determine to either accept the proposed policy, reject the proposed policy and retain the existing policy or accept the proposed policy with amendments agreed by members following discussion. If the proposed policy is approved delegated power is granted to the Director of Public Protection Streetscene and Community to make minor amendments from time to time.

### **EXECUTIVE SUMMARY OF REPORT**

3. The draft Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing (APPENDIX 1) updates the current Convictions Policy and Guidelines including recommendations made by the Casey Report to have broader consideration for complaints and allegations that have yet to be determined by a court or have not resulted in conviction.

Confidential report Please bold as appropriate	Yes	No

### **CORPORATE PRIORITIES**

4. This report relates to the following Strategic Objectives:

Involving residents in improving their local area and equality of access for all		A strong local economy	
Clean, safe and healthy communities		An ambitious council that does more to meet the needs of residents and the local area	X

### **BACKGROUND**

5. The existing Convictions Policy and Guidelines titled '*Statement of Policy Concerning the Relevance of Criminal Convictions Relating to the Determination of Application or Renewal for a Hackney Carriage or Private Hire Vehicle Driver's Licence and The Operators and Proprietors of those Vehicles*' was adopted by the Licensing and Public Safety Committee in 2008.

6. It is incumbent on the Council to review all policies on a regular basis.
7. In February 2015, the Casey Report investigating Taxi Licensing in Rotherham and the convictions of licensed drivers for Child Sexual Exploitation raised a number of questions in relation to Council policies and made recommendations with regard to the consideration of complaints, allegations, investigations, arrests and charges, where no conviction was secured.
8. Rotherham were reliant on a record of convictions before any action was taken, a stance that was severely criticised by the Casey report as not sending a strong message on acceptable behaviour and failing to adequately protect or provide reassurance for the public.
9. Licensing Committees were reminded that they do not need the same burden of proof as required to secure a criminal conviction to suspend, revoke or refuse a licence. They do not have to prove an allegation or complaint beyond reasonable doubt, or await a conviction.
10. It is clear that a robust and more extensive policy and guidelines are required to not only protect the public and potential victims but also to protect other fit and proper drivers that may be tainted by association.

**IMPLICATIONS OF REPORT**

11. This report has implications in the following areas and the relevant Directors' comments are included:

Finance	X	Customer Services	X
Human Resources		Equality and Diversity	
Legal	X	Integrated Impact Assessment required?	
No significant implications in this area		Policy and Communications	

**COMMENTS OF THE MONITORING OFFICER**

12. The Council must only grant private hire driver licences, hackney carriage driver licences and private hire operator licences to persons who are fit and proper. The fit and proper test includes amongst other matters (e.g. knowledge test and medical status) an assessment of a driver or applicant's character demonstrated by previous convictions or cautions or other behaviour not subject of judicial or police sanction.
13. When hearing an appeal against the refusal, suspension or revocation of a licence the magistrates' court must stand in the shoes of the Council and follow its policies unless there is a good reason to depart from them. Putting in place a robust but fair policy will help in making council decisions consistent and also more likely to be upheld on appeal.

**COMMENTS OF THE FINANCE OFFICER**

14. No Comments, there are no financial implications in relation to this report.

JAMIE CARSON  
 DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITY

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Lesley Miller	5299	5/11/15	***





## DRAFT

# SAFEGUARDING, SUITABILITY AND CONVICTIONS STATEMENT OF POLICY FOR TAXI LICENSING

## INTRODUCTION

The Council is responsible for licensing Hackney Carriage Drivers and Vehicles, Private Hire Drivers and Vehicles and Private Hire Operators. For the purposes of this document this provision will be referred to as Taxi Licensing.

This policy covers new and renewal applications as well as any existing licences for drivers and operators.

Licences may only be granted where the Council is satisfied that the individual is a “fit and proper person” to hold such a licence.

This Policy is intended to give guidance on one aspect of whether an individual is or is not a “fit and proper” person; specifically, the situation where an individual has previous convictions, cautions, complaints, reprimands and/or other relevant matters.

In carrying out its Taxi Licensing functions the Council’s primary objective is to protect public safety and therefore must ensure:

- That an individual is a “fit and proper” person
- That the public are not exposed to individuals with a history of dishonesty, indecency and/or violence
- The safeguarding of children, young persons and vulnerable adults

The drivers, proprietors and operators of licenced vehicles are in a unique position of trust in relation to the personal safety of their passengers and the information they have about their journeys, regular activities and routines.

Few people would get into a car with a stranger, but that is the situation when you get into a taxi. In these circumstances passengers may also be at their most vulnerable, such as being alone or under the influence of alcohol.

Few people would allow their disabled child to be taken to school by a stranger, but this happens regularly with school contracts.

Few people would give their holiday plans to a stranger, identifying their property as being empty for a determined period of time, but that is the situation when you book your taxi to and from the airport or train station.

For these reasons it is imperative that the Council has a robust policy for ensuring that all those associated with the taxi industry are suitable and safe to be trusted with the safety of passengers and the personal information they hold on individuals.

### **Assessment of Suitability**

The most important questions that the Members of any Committee that decides on whether to grant, renew, suspend, revoke or refuse a licence to a driver, vehicle or operator, are:

1. Would I trust this person to be responsible for driving or operating a vehicle that any member of my family would use (children, parents, grandparents, grandchildren, husband or wife), with particular regard to whether they might be alone &/or vulnerable at the time?
2. And would I trust this person with sensitive personal information about my routines and holiday plans?

If the answer to those questions is 'No', 'don't know' or 'not sure' then a licence should not be granted or renewed and should be refused or where an existing licence is in place revoked, on the grounds that Members are not convinced that the applicant is safe and suitable.

### **Safeguarding Considerations**

Particular regard must be had for the safeguarding of children and vulnerable adults. Vulnerable persons not only includes those with learning or physical disability or impairment, but also includes those under the influence of drugs or alcohol, or in any other circumstances which render them less capable of making decisions; this might include suffering from shock after an incident or traumatic experience.

Following the review of Rotherham's Licensing Services serious failings were identified and consequently the Council did not take sufficient steps to protect the public. Chorley Council must learn from the mistakes of Rotherham and Rochdale and ensure that the appropriate policies and safeguards are in place to ensure that only those persons that meet the fit and proper test are permitted to hold any form of Taxi licence.

Therefore, it is important to not only consider convictions but also take steps to give sufficient weight to relevant personal relationships and associations with known or suspected criminals, complaints, allegations, investigations, arrests and charges, even where convictions are not secured, when making any decisions that can impact on the safety of the public.

The Licensing Committee is not a jury in a criminal court and does not have to be convinced beyond reasonable doubt of guilt. The precautionary principle should be applied in all cases.

Child Sexual Exploitation is not a remote problem that only affects other areas of the country, statistically there is evidence to support the claim that it happens everywhere, and that the people responsible for perpetrating and organising these crimes live and work in our communities. There is evidence of an association between taxi drivers, proprietors and operators and also other licenced premises, such as takeaways, pubs and off licences. As such the Licensing and Public Safety Committee and sub-committees have a clear responsibility to the public when making their decision, the consequences of failure in this

respect are far reaching, not only personally for the victims, but also for the reputation of the Council.

### **Convictions**

Although convictions are not the only consideration for the Council, they are important and clear guidelines are crucial.

The Rehabilitation of Offenders Act 1974 does not apply to individuals wishing to be or currently licensed to drive a taxi, although it does apply to operator licences. It is acknowledged that employment plays a vital role in reducing reoffending and changing behaviour, however, the Council's primary role when carrying out the licensing function is to protect public safety and ensure all those persons licensed by the Council are fit and proper to hold such a licence.

When submitting an application for a licence to drive a Hackney Carriage or Private Hire vehicle, individuals are required to declare any and all previous convictions. Individuals are also required to declare any and all:

- Formal/simple cautions
- Matters of restorative justice
- Fixed penalties and endorsable fixed penalties
- Details of matters of which they are currently the subject of criminal investigation and/or prosecution.

In relation to operator licences applicants are only required to disclose convictions which are not spent for the purposes of the Rehabilitation of Offenders Act 1974.

The Council requires that all Taxi Driver applicants provide an enhanced DBS (Disclosure and Barring Service) certificate, which will include details of all convictions and also may include details of charges and arrests which were not upheld and convicted in court. This information is just as pertinent as any convictions, as there are a number of technical reasons that a case may be withdrawn or lost and the detail of the case should be examined closely.

The Council's Policy also includes the requirement for Private Hire Operators (PHO) (including all business partners and directors of the company) that are not already subject to a Chorley enhanced DBS as a licensed driver, to provide a basic DBS on application and renewal of the PHO licence. Although spent convictions will not be visible because the PHO is not exempt from the provisions of the Rehabilitation of Offenders Act, like a driver, this policy still provides an additional safeguard, as the PHO has a strong influence on the use and potential misuse of a vehicle under their control.

The information will be treated in confidence and will only be taken into account in relation to the relevant application in order to assist the Council in determining whether the applicant is a "fit and proper" person to hold a driver's licence for the purposes of Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or "fit and proper" to hold an operator's licence and / or whether the Council should exercise any of its powers under Section 61 and 62 of this Act (i.e. suspension, revocation or refusal to renew a existing licence).

We will consider all convictions based upon the Council's guidelines. When considering convictions, complaints, allegations, investigations, arrests and charges the Council will be mindful of the severity of, the relevance to the licence applied for and the time elapsed since the offence or alleged offence. The age of the applicant at the time of the offences/ alleged offences will also be taken into account.

Complaints include those made directly to the Council, police, private hire operators or any other agency. Intelligence received from other agencies, which includes circumstances that have not resulted in a criminal conviction, caution or other disposal may be taken into account. By way of example, this would also include incidents that have resulted in a police investigation, but there has been no further action due to the criminal burden of proof, if the Council is satisfied that the incident occurred based on the balance of probabilities.

The disclosure of a criminal conviction, caution or other relevant information relating to an individual's conduct will not debar that individual from being granted, retaining or renewing a licence. It will depend on whether or not an individual can satisfy the Council that they are a "fit and proper" person to hold such a licence.

The Council may not be satisfied that an individual is a "fit and proper" person to hold a licence for any good reason. If adequate evidence that an individual is a fit and proper person is not presented or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence or make any decision adverse to the licence holder.

In considering evidence of an individual's good character and fitness to hold a driver / operator licence and where previous convictions / cautions or other information relating to criminal matters or character are disclosed, the Council will consider:

- The nature of the offence / issue and penalty
- When it was committed / took place
- The date of conviction / issue and the length of time elapsed
- The age of the individual when the offence / incident took place
- Whether or not it is part of a pattern of behaviour
- The intent the harm could or did cause
- Any other factors which may be relevant

Greater weight will be given to recent convictions, complaints, allegations, investigations, arrests and charges and in particular those criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle.

The Council will, where appropriate, contact other agencies for any other information (e.g. other local authorities, the Police, Children's Services) which they may hold in order to determine the application or existing licence. . Any checks made with the police will be in accordance with the guidelines in the Department of Transport Circular 2/92 and the Home Office Circular 13/92. This information will be kept in strict confidence and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and good practice after the application is determined or any appeal against such determination is decided.

Whilst a licence is in force, we should receive updates from the Police, of new convictions and cautions for licence holders. This will allow us to decide whether action needs to be

taken on the continuation of the licence. It is the responsibility of each licence holder to inform the Council promptly in writing of any conviction, caution or fixed penalty arising during the currency of the licence. A criminal record check is required on application, and thereafter every three years.

## **GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS**

The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining applications for drivers' licences.

The guidelines cannot deal with every possible offence and the Council will take into account offences not specifically referred to, or any other conduct which may be relevant to an application. If an applicant has a conviction for an offence not covered by the guidelines a judgement will be made based on the factors outlined at paragraph 3 when determining the application.

Offences are given a general description in the guidelines and offences of a similar nature created in any statutory provision, modification or re-enactment, will be taken into account and interpreted in accordance with the spirit of the guidelines

The guidelines are not an attempt to provide a definition of what constitutes a "fit and proper person".

Any individual who is refused a driver's licence on the grounds that the Council is not satisfied he is a 'fit and proper' person has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal.

The guidance will be used for the determination of all new applications, the renewal of existing licences and the continuous review of current licences where any offences are committed during their period of validity.

### **General Policy**

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure that applicants are 'fit and proper' persons to hold private hire or hackney carriage driver licences. One aspect of this is the extent to which previous convictions indicate that an individual is not a "fit and proper" person and / or may take advantage of passengers, abuse or assault them or otherwise take advantage of the role that the licence provides. This includes, but is not limited to, convictions for:
  - Offences against children, young people or vulnerable adults
  - Dishonesty
  - Sexual offences
  - Violence and drugs
  - Traffic offences
3. Whether an applicant has any recorded criminal activity is a critical factor in making this judgement.
4. Convictions or cautions which are recorded for any offences may be considered by the Council in determining an application. This guidance refers to the most common groups of relevant offences, namely, offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs.

5. An offence when committed in relation to driving or operating a taxi (or complaint about behaviour) will be viewed in a more serious light and a longer period of rehabilitation will be required.

A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a private hire or hackney carriage driver licence, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence) and be able to provide supporting evidence to show that they are a 'fit and proper' person to be granted or to continue to hold a licence (the onus is on the individual to produce such evidence).

Simply remaining free of conviction will not generally be regarded as sufficient evidence that a person is a "fit and proper" person to hold a licence.

Consideration will be given to any patterns of offending, intent and the harm which was or could have been caused.

Multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account. Any case which involves a sexual offence, murder or manslaughter the application / licence will normally be refused / revoked.

### **Specific Guidance on the Relevance of Offences and Convictions**

***This section of the guidelines lists offence types and details the impact which these or similar offences will have on an application for a licence to drive a private hire or hackney carriage where convictions or cautions are disclosed:***

#### **a) Offences of Dishonesty**

The Council takes a serious view of any convictions involving dishonesty. In general, an applicant with convictions for dishonesty which is less than **5 years** of the conviction date, is unlikely to be granted a licence, but in all cases would be referred to a hearing for determination.

In particular, an application will normally be refused where the applicant has a conviction for an offence listed below and the conviction is less than 3-5 years prior to the date of the application. Between 3 and 5 years after conviction, or release from prison (whichever is the most recent), regard will be made to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

- Burglary
- Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- Blackmail
- Bribery
- Conspiracy to defraud
- Forgery (e.g. producing false insurance policy)
- Fraud
- Handling or receiving stolen goods
- Obtaining money or property by deception
- Theft
- Offence of possession of goods with false trade mark for sale or hire-Trade Marks Act 1994

- Other deception
- Similar offences
- Offences which replace any of the above offences.

### **Justification**

Drivers of private hire and hackney carriage vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Passengers may include especially vulnerable people and children.

Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

### **b) Violence**

Convictions for violence are amongst the most serious of all criminal offences.

#### **Offences of violence against children and young people**

Drivers of private hire and hackney carriage vehicle are often entrusted with the transportation of children and young persons who are particularly vulnerable whilst in the care of the driver.

An extremely serious view will be taken where an applicant has been convicted of any offence of violence involving a child (under 14 years of age) or a young person (aged 14 to 17 years) and, in order to afford an appropriate degree of protection to children and young people, an applicant will be required to provide substantial evidence of rehabilitation before the Council will be satisfied that the applicant passes the 'fit and proper' test.

All applicants with such convictions will be referred to a hearing for determination of the application. A conviction less than **5 years** old will generally be refused. Between 5 and 10 years after conviction, or release from prison (whichever is the most recent), regard will be made to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

Where the commission of an offence involved the loss of life, a licence will normally be refused.

#### **Offences against adults**

Private hire and hackney carriage vehicle drivers maintain close contact with the people from all parts of the community and the Council takes the view that law abiding citizens should not be exposed to a risk of violence by placing them in a vehicle driven by a person with a history of criminal violence. The elderly and infirm, the vulnerable, lone females and people who are the worse for wear through drink are all at particular risk from a driver with a tendency to resort to violence.

Where the commission of an offence involved the loss of life, a licence will normally be refused.



All applicants with such convictions will be referred to a hearing for determination of the application. A conviction less than **3 years** old will generally be refused.

### Offence types

Convictions falling into the most serious group offences of violence involving the loss of life is likely to result in **outright refusal** of an application; e.g.

- (i) murder
- (ii) manslaughter
- (iii) culpable homicide
- (iv) Similar offences
- (v) Offences which replace the above offences

Applicants with one or more convictions for very serious violence should expect the application to be refused until a period of at least **10 years** has elapsed from the date of the last offence or their release from prison (whichever is most recent); e.g.

- Arson
- Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861)
- Actual bodily harm (s.47 Offences Against the Person Act 1861)
- Which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
- Grievous bodily harm with intent (s.18 Offences Against the Person Act 1861)
- Grievous bodily harm with intent (s.20 Offences Against the Person Act 1861)
- Robbery
- Possession of firearm
- Riot
- Kidnap
- Assault Police
- Common assault which is racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
- Violent disorder
- Resisting arrest
- Similar offences
- Offences which replace the above offences

Applicants with one or more convictions for serious violence should expect the application to be refused until a period of at least **5 years** has elapsed from the date of conviction or their release from prison (whichever is most recent), including:

- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Fear of provocation of violence which is racially-aggravated (s.4 Public Order Act 1986) or (s.31(1)(a) Crime and Disorder Act 1998)
- Intentional harassment, alarm or distress which is racially-aggravated (s.4A Public Order Act 1986 offence) or (s.31(1)(b) Crime and Disorder Act 1998)
- Harassment which is racially-aggravated (s.2 Protection from Harassment Act 1997) or (s.32(1)(a) Crime and Disorder Act 1998)
- Putting people in fear of violence which is racially-aggravated (s.4 Protection from Harassment Act 1997) or (s.32(1)(b) Crime and Disorder Act 1998)
- Harassment, alarm or distress which is racially-aggravated (s.5 Public Order Act 1986) (s.31(1)(c) Crime and Disorder Act 1998)
- Similar offences
- Offences which replace the above offences

Applicants with one or more convictions for other offences of violence should expect the application to be refused until a period of at least **3 years** has elapsed from the date of conviction or their release from prison (whichever is most recent), including:

- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Affray
- Battery
- Harassment, alarm or distress (S5 Public Order Act 1986 offence)
- Fear of provocation of violence (s.4 Public Order Act 1986 offence)
- Intentional harassment, alarm or distress (s4A Public Order Act 1986 offence)
- Obstruction
- Possession of offensive weapon
- Criminal damage
- Similar offences
- Offences which replace the above offences

### **Justification**

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

### **c) Drugs**

**Supply of drugs** - An application will normally be refused where the applicant has a conviction for an offence related to the supply of drugs and the conviction is less than **5 -10 years** prior to the date of application or their release from prison (whichever is most recent). Between 5 and 10 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the individual is now a fit and proper person to hold a licence.

**Possession of drugs** - An application will normally be refused where the applicant has more than one conviction for offences related to the possession of drugs and the convictions are less than **5 years** prior to the date of the application.

An application from an individual who has an isolated conviction for an offence related to the possession of drugs within the last **3 to 5 years** will require careful consideration of the facts.

**Addiction** - If any applicant has been classified as an 'addict' they will be required to show evidence of at least **5 years** free from drug taking following rehabilitation/detoxification treatment supported by their doctor.

### **Justification**

The use of drugs has a tendency to make people unpredictable, unreliable and sometimes violent. Driving whilst under the influence of drugs is illegal and dangerous not only to the driver, but also to passengers and other road users.

In addition, private hire and hackney carriage drivers are in a position where they could quite easily become involved in the transportation and/or supply of drugs by the very nature of the activity. This would clearly be undesirable.

Members of the public have a right to expect that those persons who are granted licences to transport them are not drug users or involved in the supply of drugs.

**d) Sexual and indecency offences**

**Sex Offenders' Register** - Any applicant currently on the sex offenders' register should expect an application to be refused.

**Offences against Children and Young Persons** - Where an applicant has been convicted of a sexual offence involving a child or young person they should expect the application to be refused.

**Other Offences** - Applicants with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence.

Applicants will normally be refused a licence if they have a conviction relating to sexual offences until they can show a substantial period (normally 10 years) free from any such conviction or their release from prison (whichever is most recent). Between 5 and 10 years following conviction or their release from prison (whichever is most recent), regard will be had to the circumstances of the offence and any evidence demonstrating that such an individual is now a fit and proper person to hold a licence, including:

- Importuning
- Indecent exposure
- Soliciting
- Other similar offences or offences under the Sexual Offences Act 2003 when the provisions of that Act come into force

The Council may also consider such circumstances that, if they occurred at the time of the consideration of the application, would not be a criminal offence.

**Intelligence and other information which has not resulted in a criminal conviction-** The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. The Council will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Where appropriate, the Council will investigate such information/ intelligence. Any additional information gathered through the investigation process may then be taken into account at any subsequent hearing.

**Justification**

Drivers of private hire and hackney carriage vehicles are in a position of trust and frequently transport children, young people, vulnerable adults or lone female passengers (who are sometimes drunk etc.). They are often alone with the passenger and are in complete control of the vehicle and the journey and any risk that the driver may sexually assault, attack or interfere with a passenger must be eliminated by refusing a licence.

## e) DRUNKENNESS

**With a motor vehicle (no disqualification)** - An application will normally be refused where the applicant has a conviction, which has not resulted in disqualification by the courts, for an offence which has occurred within **2 years** of the date of the application.

Where there is more than one conviction for this type of offence within the last five years, the application is unlikely to be successful

**With a motor vehicle (disqualification)** - Where a disqualification has occurred as a result of a drink-driving conviction, at least **5 years** free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

Where there is more than one conviction for this type of offence within the last ten years, the application is unlikely to be successful

**Not in a motor vehicle** - An isolated conviction associated with drunkenness need not automatically prevent an applicant from gaining a licence. In some cases, a warning may be appropriate.

More than one conviction associated with drunkenness could indicate a behavioural problem or 'dependency' necessitating critical examination and refusal of a licence.

**Dependency & Alcoholism** – Where there is any possibility of dependency or alcoholism a recent medical report from the applicant's Doctor will be required and an applicant will normally be required to show a that period of at least **5 years** has elapsed after completion of rehabilitation/detoxification treatment where they were alcoholic.

### Justification

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

Driving whilst under the influence of drink is unacceptable under any circumstances and puts not only the driver, but passengers and other road users at risk. Such irresponsible behaviour is not conducive to properly observing the responsibilities of a private hire or hackney carriage driver.

Other criminal behaviour involving drunkenness, such as being 'drunk and disorderly' also tends to suggest that an applicant does not have the appropriate temperament for the role.

## MOTORING OFFENCES

### Major Traffic Offences

**Any of the offences listed in the Table A, or any offence listed in Table B which resulted in a licence being endorsed with 6 or more penalty points is deemed to be a Major Traffic Offence**

An application will normally be refused where an applicant has been convicted of a serious traffic offence less than **2 years** prior to the date of the application.

Where an applicant has more than one conviction for a serious traffic offence in the **5 years** prior to the date of application, it will normally be refused.

If any conviction for a major traffic offence has resulted in a disqualification by the courts, applicants should refer to the “disqualification” section below.

**TABLE A****MAJOR TRAFFIC OFFENCES**

AC10:	Failing to stop after an accident
AC20:	Failing to give particulars or to report an accident within 24 hours
AC30:	Undefined accident offences
BA10:	Driving while disqualified by order of Court
BA30:	Attempting to drive while disqualified by order of Court
CD10	Driving without due care and attention
CD20:	Driving without reasonable consideration for other road users
CD30:	Driving without due care and attention or without reasonable consideration for other road Users
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD40:	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DD90	Furious driving
DR10:	Driving or attempting to drive with alcohol level above limit
DR20:	Driving or attempting to drive while unfit through drink
DR30:	Driving or attempting to drive then failing to supply a specimen for analysis
DR40:	In charge of a vehicle while alcohol level above limit
DR50:	In charge of a vehicle while unfit through drink
DR60:	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive
DR70:	Failing to provide specimen for breath test
DR80:	Driving or attempting to drive when unfit through drugs
DR90:	In charge of a vehicle when unfit through drugs
IN10:	Using a vehicle uninsured against third party risks
LC20:	Driving otherwise than in accordance with a licence
LC30:	Driving after making a false declaration about fitness when applying for a licence
LC40:	Driving a vehicle having failed to notify a disability
LC50:	Driving after a licence has been revoked or refused on medical grounds

MS50:	Motor racing on the highway
MS60:	Offences not covered by other codes (including offences relating to breach of requirements as to control of vehicle)
TT99	To signify a disqualification under 'totting-up' procedure. If the total of penalty points reaches 12 or more within three years, the driver is liable to be disqualified
UT50:	Aggravated taking of a vehicle
<b><i>Aiding, abetting, counselling or procuring</i></b>	
Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)	
<b><i>Causing or permitting</i></b>	
Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)	
<b><i>Inciting</i></b>	
Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16)	
Or similar offences or offences which replace the above offences	

### Minor Traffic Offences

**Any single offence in Table B has attracted 6 or more penalty points will be treated as though it were a Major Traffic Offence.**

#### Single conviction

Where an applicant has a single Minor Traffic Offence in the **12 months** immediately preceding the date of application, the application will normally be granted using officer delegation subject to a warning as to future conduct.

#### Two or more Convictions

Where an applicant has two or more convictions for Minor Traffic Offences in the 12 months immediately preceding the date of application an applicant will normally be expected to show a period of at least six months free from conviction before an application is considered.

#### Renewal Applications

For an existing licence holder, where there is a single conviction resulting in 3 penalty points, notification of such is sufficient, however, where there are a number of convictions during the course of the licence resulting in more than 6 penalty points the matter may need to be brought to the attention of the Sub-Committee for consideration.

Failure to notify the Council in accordance with the licence conditions may result in delays at renewal of the licence.

The Council may use its officer delegation, in consultation with the Chair/Vice Chair of the Licensing Committee, to renew the licence where minor offences have been committed, or the renewal application may be presented to the Sub-Committee for determination. This will

depend on the number of minor offences committed over the course of the licence and will be considered on a case by case basis.

Where the licence holder has failed to notify the Council a warning will be issued and this will be taken into consideration in relation any other matters in relation to the licence holder.

**TABLE B****MINOR TRAFFIC OFFENCES**

CU10:	Using vehicle with defective brakes
CU20:	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30:	Using a vehicle with defective tyres
CU40:	Using a vehicle with defective steering
CU50:	Causing or likely to cause danger by reason of load or passengers
CU80	Using a mobile phone while driving a motor vehicle
MS10:	Leaving a vehicle in a dangerous position
MS20:	Unlawful pillion riding
MS30:	Play street offences
MS40:	Driving with uncorrected defective eyesight or refusing to submit to a test
MS70:	Driving with uncorrected defective eyesight
MS80:	Refusing to submit to an eyesight test
MS90:	Failure to give information as to identity of driver, etc.
MW10:	Contravention of Special Road Regulations (excluding speed limits)
PC10:	Undefined contravention of Pedestrian Crossing Regulations
PC20:	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30:	Contravention of Pedestrian Crossing Regulations with stationary vehicle
SP10:	Exceeding goods vehicle speed limit
SP20:	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30:	Exceeding statutory speed limit on a public road
SP40:	Exceeding passenger vehicle speed limit
SP50:	Exceeding speed limit on a motorway
SP60:	Exceeding speed limit offence
TS10:	Failing to comply with traffic light signals
TS20:	Failing to comply with double white lines
TS30:	Failing to comply with a "Stop" sign
TS40:	Failing to comply with direction of a constable or traffic warden
TS50:	Failing to comply with traffic sign (excluding "Stop" sign, traffic lights or double white lines)
TS60:	Failing to comply with school crossing patrol sign

TS70:	Undefined failure to comply with a traffic direction sign
<b><i>Aiding, abetting, counselling or procuring</i></b>	
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)	
<b><i>Causing or permitting</i></b>	
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)	
<b><i>Inciting</i></b>	
Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)	
Or similar offences or offences which replace the above offences	

**For all traffic offences convictions for aiding, abetting, counselling, procuring, causing, permitting or inciting the offence will be treated as though the offender had committed the primary offence.**

**Note:** Where new offences are created or existing offences are consolidated or re-enacted etc they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

### **Plying for Hire**

In the case of a private hire driver found guilty of an offence of plying for hire, the General Licensing Sub-Committee will normally suspend or revoke the licence for a period which the Committee will determine.

### **Breach of Conditions, Bye-laws and complaints**

Any breach of conditions by a private hire driver or operator or any breach of bye-laws by a hackney carriage driver may be referred to the General Licensing Sub-Committee

Any repeated breach of licence conditions by a private hire driver or operator or any repeated breach of bye-laws by a hackney carriage driver will be referred to the General Licensing Sub-Committee.

A driver brought before the Licensing Sub-Committee for a single breach of licence conditions or bye-laws should expect a formal written warning or period of suspension of up to 3 months.

A driver brought before the Licensing Sub-Committee for a repeated breach of licence conditions or bye-laws should expect a period of suspension or for the licence to be revoked.

### **Reapplication**

Applicants are advised that where an application has been refused or a licence revoked, the General Licensing Sub-Committee will not entertain a further application within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the applicant's circumstances which can be supported by evidence.



## **DISQUALIFICATION**

### **Disqualification – Serious Traffic Offence**

An application will generally be refused unless a period of at least **3 years** free from conviction has elapsed from the restoration of the UK driving licence by DVLA. This period will be extended to at least 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

### **Disqualification – Intermediate Traffic Offence**

An application will generally be refused unless a period free from conviction has elapsed from the restoration of the UK driving licence by DVLA which is twice the period of disqualification imposed by the court. i.e. 3 month disqualification = 6 month period free from conviction before an application will be considered.

### **Disqualification – Minor Traffic Offence**

An application will generally be refused unless a period free from conviction has elapsed from the restoration of the UK driving licence by DVLA which is equal to the period of disqualification imposed by the court i.e. 3 month disqualification = 3 month period free from conviction.

## **TOTTING UP**

TT99 'totting up' – if the total number of penalty points reaches 12 or more within a 3 year period the driver is liable to disqualification by the Court.

### **Totting up With Disqualification**

An application will be refused unless a period free from conviction has elapsed from the restoration of the DVLA licence, which is equal to the period of disqualification imposed by the court.

Where any of the offences which contribute to a 'totting up' disqualification are included in the list of Serious Traffic Offence in Table A above, the Council will consider the application under the "Disqualification" criteria for serious traffic offences.

### **Totting up without Disqualification**

An application from any person who has accrued sufficient points under the 'totting up' procedure to be disqualified but, where the court has accepted a plea of 'exceptional hardship' and has not imposed a disqualification will be consider by the Council as though a disqualification for the most serious of the offences which contributed to the 'totting up', had been imposed, for the purposes of determining when a licence application should be considered. (e.g. where the offences contributing to the totting up are SP30, SP80 and IN10 the Council would consider IN10 under 'Disqualification – Serious Traffic Offence' above).

## **SPENT CONVICTIONS**

Private hire and hackney carriage drivers are exempted occupations for the purposes of the Rehabilitation of Offenders Act 1974, by virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002, and convictions are, therefore, never spent.

The Council will consider spent convictions if they appear to be relevant in deciding whether the applicant is a 'fit and proper person', taking into account the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

### **CAUTIONS AND ENDORSABLE FIXED PENALTIES**

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

### **MULTIPLE CONVICTIONS FROM SINGLE INCIDENT**

Where an applicant has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines

In these circumstances the period for which the applicant would normally be expected to show free from conviction will be that which applies to the most serious offence in the group.

### **OTHER RELEVANT OFFENCES**

The Council takes a serious view of any convictions involving the law and practice concerning bail conditions. In general if an application is received with a conviction which is less than **3-5 years** of the conviction date or their release from prison (whichever is most recent), it is unlikely to be considered favourably.

In particular, an application will normally be refused where the applicant has a conviction for offences committed under the:

- Bail Act 1976
- Bail (Amendment) Act 1993
- Magistrates' Court Act 1980
- Magistrates' Court Rules 1981
- Criminal Justice Act 2003
- Powers of Criminal Courts (sentencing) Act 2000

or similar offences or offences which replace the above offences and the conviction(s) are less than **3 years** prior to the date of application. Between 3 and 5 years, regard will be had to the circumstances of the offence and any evidence demonstrating that such an individual is now a fit and proper person to hold a licence.

### **OFFENCES INVOLVING PRIVATE HIRE VEHICLES & HACKNEY CARRIAGES**

(Offences under Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts, Hackney Carriage Byelaws or Section 167 Criminal Justice and Public Order Act 1994 - touting)

The principal purpose of the licensing regime set out in the above legislation is to ensure the protection of the public.

Breaches of any of this legislation is considered to be a serious matter and convictions for offences under these Acts (including illegally plying for hire and/or touting) are likely to lead to an application being refused or, where a licence is held, to it being suspended or revoked or not renewed.

An applicant will normally be refused a licence if there has been conviction for an offence under any of the Acts at any time during the **2 years** preceding the application or where there is more than one conviction, within the **5 years** preceding the date of the application.

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