

LICENSING AND PUBLIC SAFETY COMMITTEE

WEDNESDAY, 1ST FEBRUARY 2017, 2.00 PM
COUNCIL CHAMBER, TOWN HALL, CHORLEY

AGENDA

APOLOGIES

- 1 **MINUTES OF MEETING WEDNESDAY, 23 NOVEMBER 2016 OF LICENSING AND PUBLIC SAFETY COMMITTEE** (Pages 3 - 12)

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 **PUBLIC QUESTIONS**

Members of the public who have requested the opportunity to ask a question(s) on an item on the agenda will be asked to put their question(s) to the Committee. Each member of the public will be allowed to ask one supplementary question within his/her allocated 3 minutes.

4 **MINUTES OF THE GENERAL LICENSING SUB COMMITTEES**

- A **GENERAL LICENSING SUB-COMMITTEE HELD ON 25 NOVEMBER 2016** (Pages 13 - 16)

- B **GENERAL LICENSING SUB-COMMITTEE HELD ON 7 DECEMBER 2016** (Pages 17 - 20)

5 **PART TIME RELOCATION OF THE HIGH STREET TAXI RANK** (Pages 21 - 28)

Report of the Director of Early Intervention and Support (enclosed)

6 **INTRODUCTION OF A GENERAL LICENSING SAFEGUARDING AND SUITABILITY POLICY** (Pages 29 - 44)

Report of the Director of Early Intervention and Support (enclosed)

7	STREET TRADING POLICY	(Pages 45 - 74)
	Report of the Director of Early Intervention and Support (enclosed)	
8	CONSOLIDATED TAXI LICENSING POLICY	(Pages 75 - 160)
	Report of the Director of Early Intervention and Support (enclosed)	
9	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 Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Gordon France, Margaret France, Tom Gray, Keith Iddon, Mark Jarnell, Hasina Khan (Chorley East), Sheila Long, Adrian Lowe, Mick Muncaster (Clayton-le-Woods West and Cuerden), Kim Snape, Ralph Snape and John Walker.

If you need this information in a different format, such as larger print or translation, please get in touch on 515151 or chorley.gov.uk

To view the procedure for public questions/ speaking click here <https://democracy.chorley.gov.uk/documents/s67429/Appendix%203%20Standing%20Orders%20Aug%2016.pdf> and scroll to page 48

**MINUTES OF LICENSING AND PUBLIC SAFETY COMMITTEE****MEETING DATE** Wednesday, 23 November 2016**MEMBERS PRESENT:** Councillor Marion Lowe (Chair), Councillor Anthony Gee (Vice-Chair) and Councillors Jean Cronshaw, Gordon France, Margaret France, Tom Gray, Mark Jarnell, Hasina Khan, Sheila Long, Adrian Lowe, Mick Muncaster, Kim Snape, Ralph Snape and John Walker**OFFICERS:** Lesley Miller (Regulatory Services Manager), Stephen Culleton (Licensing Officer), Tracy, Alex Jackson (Legal Services Team Leader) and Nina Neisser**APOLOGIES:** Councillor Keith Iddon**OTHER MEMBERS:** Councillor Aaron Beaver**16.LPS.48 Minutes of meeting Wednesday, 21 September 2016 of Licensing and Public Safety Committee****RESOLVED – That the minutes of the Licensing and Public Safety Committee held on 21 September be confirmed as a correct record for signing by the Chair.****16.LPS.49 Declarations of Any Interests**

No declarations of any interests were received for any of the items on the agenda.

16.LPS.51 Taxi Licensing - Implementation of Vehicle Emissions and NCAP Safety Rating Conditions

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to agree the second consultation and proposed amended phased implementation of vehicle emissions standards and the European New Car Assessment Programme (NCAP) safety rating standards for Hackney Carriage and Private Hire Vehicle licences.

In February 2016 the Licensing and Public Safety Committee agreed in principle to the introduction of a minimum of Euro 5 emissions standards for licensed vehicles to

preserve and protect air quality and to a minimum standards of 4* NCAP safety rating of vehicles to protect public safety as part of the review of the vehicle conditions.

The Regulatory Services Manager informed Members that the Licensing Liaison Panel meeting following this had been productive and the options in the report were considered and proposed.

At the Licensing and Public Safety Committee meeting in July 2016 Members requested further information in relation to the lifespan of vehicles used as Hackney Carriage and Private Hire vehicles. Members were advised that determining the lifespan of vehicles proved difficult due to dependence on age, mileage and maintenance of the vehicle and the business model of the proprietor. Members were also reminded that when considering this, the mileages these vehicles were subject to was in excess of those made by a domestic vehicle, with the average licensed vehicle travelling 1000-2000 miles per week, with an average annual mileage of between 50,000 – 100,000 miles.

Members were informed that 28 MOT tests had been assessed at random which made up around 15 per cent of the whole fleet within Chorley. Findings illustrated that only three of these vehicles had travelled less than 100,000 miles, with very few being longer mileage vehicles. Three vehicles provided clear evidence of good preventative maintenance; two vehicles had six failures, five had four failures and there were six with three failures which consisted predominantly of illegal tyres, worn brakes and failed suspension.

Following this, evidence demonstrated that although the failures were being amended the advisories were not being addressed and numerous vehicles were not being maintained between MOT tests. Ultimately this raised concerns amongst the committee and they noted the information presented. Numerous local authorities do not tolerate MOT results including advisories which indicated the severity of this issue and presented a matter which needed addressing by the committee as consistent failures cannot be accepted.

At the Licensing Liaison Panel officers disregarded a blanket age restriction as this left the council open to challenge if it was to be implemented. Following this, Members discussed the potential options, including the timescales recommended at the Licensing and Public Safety Committee in July 2016.

All the options considered at the Licensing Liaison Panel and those included in the report were considered. After careful consideration it was proposed by Adrian Lowe, seconded by Hasina Khan and subsequently **RESOLVED unanimously to;**

- a) require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet Condition 21 (Emission standards of Euro 5 or above) and condition 22 (NCAP safety rating of 4* or above) from 1 January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application, (as would be required by Option 1 a),**

- b) that where a vehicle is written off due to a non-fault accident, the grandfather rights as described in the report are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle; and
- c) require all existing vehicles to comply with the conditions 21 and 22 from 1 January 2024 (the timescale proposed by committee members at the previous meeting).

16.LPS.52 Review of the Council's Policy which Limits the Number of Hackney Carriage Vehicle Licences Issued to 36

The Director of Early Intervention and Support submitted a report advising Members of the Licensing and Public Safety Committee to review the quantity control policy that currently limits the number of Hackney Carriage Vehicle licences the Council issues.

The Council currently has a Policy limiting the number of Hackney Carriage Vehicle licences it issues to 36; this includes provision for 9 Wheelchair Accessible Vehicles (WAV). The Council is not obliged to maintain a limited number of Hackney Carriage Vehicle licences. The Council 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.

Members were advised that where a limit exists and the Council wish to maintain that limit, the Council must be satisfied that there is no significant unmet demand.

CTS Traffic and Transportation Consultants were appointed for the purpose of undertaking a survey to determine whether or not there was any significant unmet demand for the services of Hackney Carriage Vehicles within the Borough of Chorley and to assess the Public interest in the provision of Hackney Carriage Vehicles within the Borough. In the interest of efficiency a cohesive approach was taken between the Council and CTS which extended to assimilating the questionnaires of the unmet demand survey and of the public interest survey; this enabled a more concise approach to the interpretation of the results that have been evaluated impartially by CTS.

It was noted to Members that the majority of existing WAV Hackney Carriage Licenses were first granted in approximately 2007, following the recommendation of a significant unmet demand report considered at that time, which recommended the issue of 7 WAV HC licenses. Since statistics were available, nine WAV have been added to the fleet. In a similar time period 20 per cent extra hackney carriages have been added to by 90 per cent more private hire vehicles. Market forces have not added further WAV to either fleet, and in fact have recently seen the general accessibility of the WAV in the fleet reduce. The estimated 2015 weekly usage of hackney carriages in Chorley was 3,122 passengers, an increase of 12 per cent since the last survey.

The council survey found a third of people said they had used an out of town vehicle in Chorley. It was clear that hackney carriages were clearly visible and known to people,

just not used; part of this was potentially due to the perceived cost. The impact and influx of such vehicles was reportedly having a detrimental effect on the trading capabilities of the Private Hire and Hackney Carriage Trade in Chorley; this was placing further burdens on officers in relation to enforcement. However, there is no legislative power available to prevent this activity taking place.

The Licensing Enforcement Officer highlighted the challenges of cross-border risks and the 'Uber effect' which had the potential to influence customer decisions to use out of town taxis. The Licensing Enforcement officer informed Members that they had rang care homes around the borough to discover that none of them were using these WAV's – potentially due to their position on the ranks as opposed to operating across the whole Borough. This therefore presented a gap/risk that needed addressing.

The Legal Services Team Leader asked about the availability of ranks and any effect on disabled access provision. The Lead Licensing Enforcement Officer indicated that the report highlighted how there was only one real active rank, in the High Street in Chorley; this location was properly used by Hackney Carriages and not significantly abused by any other vehicles. Observations found 15 per cent of the hackney vehicle movements were WAVs compared to the 25 per cent available in the fleet. On Market Day two people used wheelchair access Hackney Carriages at the rank.

Most of those surveyed knew of the High Street rank, and the only two places new ranks were requested were Chorley Bus Station and the hospital, although this demand was small. Members were invited to instruct the Council to repeat the process of seeking out and appointing additional ranks where necessary but include outlying villages in order to provide a wider service to the public and provide the taxi Trade with more options to operate elsewhere.

Members of the committee were presented with the recommendations. The Legal Services Team Leader advised members that with regards to the Crown Court and High Court, fearing appeal shouldn't inform their decision. Decisions should be legally correct and not made solely on moral grounds. In addition, the Lead Licensing Enforcement Officer drew Members attention to the legal requirements of the decision making process as outlined in paragraph 29 on page 29 of the report.

With regards to the options available the potential risks that Option at paragraph 8C would provide and the challenges this could open the Council up to were highlighted. It was advised that increasing the number of Hackney Carriage WAV licences to as many as Members saw fit could create a tombola effect as was experienced previously. This would present the danger of WAVs operating from the rank only and not serving the wider Borough and the outer community residents.

Furthermore, it was suggested to Members present that they could take this back to consultation, however they were advised that appeal might be more likely if numbers increased to a higher limit as per 8(c). Members were reassured that the Council had strictly followed protocol required for the consultation. It was indicated that the Trade had been included in this consultation and had provided a sound response.

The Legal Services Team Leader queried why the option of further consultation was suggested to Members if the initial consultation had provided an adequate response. The Lead Licensing Enforcement officer said that there had been two schools of thought but a need for further consultation was a matter for members. The relevant officers had been contacted and were satisfied with the conclusions, but members would decide whether further consultation was required to provide further reassurance. Following discussion, Members were satisfied and therefore agreed that no further consultation was required.

Members discussed the feasibility of Private Hire licence holders changing their vehicles to WAVs. Officers recognised the large demand however the extensive undertaking this required was indicated. Members were informed that PHVs had the ability and were entitled to convert to WAVs however evidence suggested they were choosing not to. Therefore to address any unmet demand of WAVs would be best encouraged via HCVs as they present greater scope to do so.

Concerns were raised that Option B needed rewording in order to avoid unintended consequences and avoid the floodgates opening to WAV licence holders. Members were assured that the prohibitive cost of the WAVs alone would be likely to act as a limiting measure to avoid potential 'free-for-all' in addition to conditions implemented to ensure that this would not occur. Members were advised that the intrinsic transfer value of the plate must not be a material consideration in maintaining restricted numbers as the value of the public takes precedence.

The Regulatory Services Manager read out a revised wording of the Option at paragraph 8(b) to make clear that the requirement for wheel chair access would not apply to renewals of the 27 non-WAV hackney carriage vehicles currently benefitting from a licence from the Council.

Subsequently, Cllr John Walker proposed Option B with no further consultation. This would ensure that the current 27 non-WAV vehicles would be maintained and allow the additional application of Hackney Carriage WAVs to the nine at present, but only when all conditions were met. Cllr Anthony Gee supported this and expressed the importance of only allowing special cases to help guarantee that the demand would be met, especially in rural areas.

Initially, Cllr Adrian Lowe proposed a combination of Options C and D which would maintain the limit at 36 however based on Equality and Diversity reasoning as included in the agenda this could be increased where considered significant on a case by case basis. Members were made aware by the Lead Licensing and Enforcement Officer of the potential legal risks of granting a licence on merit which could be challenged in the courts.

Following discussion this proposal was amended to Option D by Cllr Adrian Lowe with no further consultation as maintaining the current system in order to simplify and avoid the aforementioned risk was the favoured option.

Councillor Walker proposed Option B with no consultation. The motion was seconded by Councillor Muncaster. A vote was taken and the motion was lost (4:9:0).

After discussion amongst the committee and careful consideration of all the options it was proposed by Adrian Lowe, seconded by Hasina Khan and subsequently **RESOLVED (7:6:0) to;**

- d) maintain the limited number of HCV licenses the council will issue at 36 with no further additional consultation.**

16.LPS.53 Taxi Licence Fees and Charges - Review of Cost Apportionment

The Director of Early Intervention and Support submitted a report for the Licensing and Public Safety Committee to approve the advertisement of revised Fees and Charges for Taxi Licensing based on cost apportionment.

The current fees and charges were agreed by the Licensing and Public Safety Committee in July 2014 and following a consultation period came into force on 1 October 2014. The local authority is required to review these fees and charges on a regular basis.

Over the last two years there have been a number of changes to the way the Council processes applications and therefore, in order for the fees and charges to reflect the costs of service, it is important to review them in a timely manner to ensure they accurately reflect those costs. The council must ensure that they meet legislative requirements with regard to the structure of the fees and that the fees are not used to raise revenue and any surplus or deficit is carried forward on a 3 year cycle. Revised fees must be subject to an advertising period of a minimum of 28 days within the local press and consideration of any objections by members.

The Regulatory Services Manager requested that Members of the committee approve the advertisement before bringing back to a future committee. It was anticipated that the finalised figures would be available imminently and would be circulated to members.

After careful consideration it was proposed by Adrian Lowe, seconded by Anthony Gee, and subsequently **RESOLVED;**

- 1. to approve in principle the advertisement of revised Fees and Charges for Taxi Licensing based on the principle of cost apportionment.**
- 2. that the Regulatory Services Manager reports back to the next appropriate Licensing and Public Safety Committee the outcome of the advertisement, consider any objections and agree the implementation of the new Fees and Charges at that meeting, so that the new fees and charges can be effective from 1 April 2017.**

16.LPS.54 Safeguarding Training for Taxi Trade

The Regulatory Services Manager provided a verbal update which reminded Members of the Safeguarding Training for the Taxi Trade that had been taking place following the decision at the Licensing and Public Safety Committee held in July 2016.

Members were made aware that 230 members of the taxi trade had attended the free training sessions. 30 remained who had not undertaken the training.

The Regulatory Services Manager had contacted these remaining members of the taxi Trade via letter to remind them that this was the final opportunity to undertake the training free of charge. They were advised that if they did not accept the free training they would have to finance their own training.

Members were informed that future online training as suggested at the previous Licensing and Public Safety meeting was being looked into and the options were being assessed.

It was AGREED that the report be noted.

16.LPS.55 New DBS Arrangements for Taxi Trade

Members were reminded of the letter the council received in the summer of 2016 regarding the decision that the Council would lose its umbrella status meaning we would be unable to provide DBS checks.

The Licensing Enforcement Officer provided Members with a verbal update on their work to find an alternative method to delivering the DBS Service. An E-bulk alternative had been found via a service level agreement with Personnel Checks that would be reviewed in 6 months' time to track progress. However it was reported that the early stages had provided positive feedback.

It was AGREED that the report be noted.

16.LPS.56 Alternative DVSA Arrangements

The Licensing Enforcement Officer presented Members with a verbal update regarding a letter previously received from DVSA on 2 September which informed that the tests required by the Council were going to be withdrawn. Due to no available bookings, this meant that licence holders were unable to take the test from mid-October onwards.

Following research, findings suggested three alternative companies to be used within the local authority which met the standards required. The council concluded to take on all three to provide the taxi trade with the choice. These were now in place to be operated.

It was AGREED that the report be noted.

16.LPS.57 New Immigration and Identification Checks for Licensing

The Licensing Enforcement Officer verbally informed members of a Home Office meeting they attended regarding immigration of the taxi trade.

In order to apply for a licence the council must conduct face-to-face interviews and the applicant must provide all relevant documentation. The Council must take a coloured copy of these documents (this can be a colour scan, rather than a hard copy).

Members were informed that this exercise would not be implemented retrospectively but would be adopted at renewal. Where a licence automatically lapses, the licence holder has a duty to surrender it with the council.

It was AGREED that the report be noted.

16.LPS.58 Consultation on the Part Time Relocation of the High Street Taxi Rank

The Director of Early Intervention and Support submitted a report to update the Licensing and Public Safety Committee on the planned changes as part of the Market Walk Extension and wider town centre improvements; to set out the reasons for seeking to relocate the High Street taxi rank on Market days (Tuesday) and to set out a consultation plan for approval.

In September 2016, the Council as landowner gave approval to proceed with the development of a seven unit extension to Market Walk. Public consultation on the relocation of the markets has been held over the last month, from 4 October to 6 November with over 200 online responses as well as feedback which has been collected during a number of face to face consultation sessions and briefings. The current proposals from this would see market stalls located throughout the town centre and the introduction of market stalls onto High Street on Market day (Tuesday) would necessitate the temporary relocation of the taxi rank from High Street.

It was proposed to committee that instead taxis could operate from around the corner on Cleveland Street where there is an existing evening rank, and extend this to between 6am and 6pm on Market Days (Tuesdays). The proposal was considered due to its location close to the existing market site and taxi rank and would ensure that all existing permanent stall holders could have a position, as well as accommodating the current levels of casual traders. Following discussion regarding the precise hours at which the High Street rank would cease to operate on Market Day it was agreed that this would be a matter to be considered subsequent to the consultation.

Members of the committee were informed that in addition to the proposed changes to the hackney carriage rank location, there were a number of other changes to TRO's which would be required. These changes were a Highways Authority function under the Road Traffic Regulation Act 1984. It was advised that following consultation the Members of the Licensing and Public Safety Committee could seek to influence the Lancashire County Council on this.

Members were informed that subject to approval, it was proposed to commence the public consultation from 24 November for a period of eight weeks, up until the 22 January 2017. During this period, face to face consultation would take place with Members of the Licensing Liaison Panel (LLP).

The Lead Licensing Enforcement Officer indicated that following this consultation period the findings, together with any updated plans for regarding the taxis ranks, would be brought back to the Licensing and Public Safety Committee for final approval. The aim would be to have approval in place in advance of the Markets relocation in Easter 2017.

After careful consideration it was proposed by Adrian Lowe, seconded by Gordon France, and subsequently **RESOLVED unanimously to;**

- 1. note the update on the town centre improvements;**
- 2. note the proposed changes requested by Chorley Council to the Traffic Regulation Orders (TRO's) regarding prohibition of vehicles and changes to loading bays on High Street and Cleveland Street, which are the responsibility of the Highways Authority; and**
- 3. approve the plan to consult on the proposed changes to the High Street taxi rank location, which is the responsibility of the Licensing and Public Safety Committee under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.**

Chair

Date

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**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE Friday, 25 November 2016****MEMBERS PRESENT:** Councillor Marion Lowe (Chair), and Councillors Margaret France, Adrian Lowe, Mick Muncaster and John Walker**OFFICERS:** Stephen Culleton (Lead Licensing Enforcement Officer), Tracy Brzozowski (Licensing Enforcement Officer), Elizabeth Walsh (Solicitor), Stefanie Leach (Legal Assistant) and Nina Neisser (Democratic and Member Services Officer)**16.LSC.86 Declarations of Any Interests**

No declarations of any interests were received.

16.LSC.87 Procedure

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

16.LSC.88 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 grounds 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.

16.LSC.89 Application for the Grant of a Private Hire and Hackney Carriage Drivers Licence Made Under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976

The Director of Early Intervention and Support submitted a report for the members of the General Licensing Sub-Committee to determine whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Drivers Licence.

The applicant attended the meeting to make representations to the Sub Committee.

On 9 August 2016 officers received an application for a co-terminus application under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 for the grant of a Private Hire Drivers Licence (PHD) and under Section 46 of the Town and Police Clauses Act 1847 for the grant of a Hackney Carriage Drivers Licence (HCD). The application and Disclosure Barring Service (DBS) certificate identified a number of

convictions that fall within the Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing.

The applicant submitted an application for a Private Hire and Hackney Carriage Drivers Licence on 9 August 2016; he successfully passed the Council's Knowledge Test, the Council's Group II Medical requirements, and DSA Private Hire Driver Test Assessment.

The applicant has previously held a Chorley Council Private Hire Drivers Licence; this was issued on 12 November 2012 and expired on 12 November 2015. In light of a number of convictions disclosed at the time of application, the application was determined by delegated officer decision; this was taken in conjunction with the Chair of licensing at the time.

The applicant's DBS certificate has identified a number of offences reproduced below:

- 1) On March 10 1993 at Reedley Magistrates Court, the applicant was convicted of; Assault Occasioning Actual Bodily Harm on Offences Against the Person Act 1861 S. 47 Disposal; Conditional Discharge 12 Months, Compensation £75.00. Costs £35.00.
- 2) On July 5 1995 at Burnley and Pendle Magistrates Court, the applicant was convicted of; Using a Vehicle with no Test Certificate, Forging Document with Intent to Deceive (Not Otherwise Coded) on Road Traffic Act 1988 S.173 (1)(A). Disposal; Fine £60.00
- 3) On 5 July 1995 at Burnley and Pendle Magistrates Court, the applicant was convicted of; Using a Vehicle with no Test Certificate, Forging Document with Intent to Deceive (Not Otherwise Coded) on Road Traffic Act 1988 S.173 (1)(A). Disposal; Fine £50.00, Costs £45.00
- 4) On 17 June 2015 at Burnley Pendle and Rossendale Magistrates Court, the applicant was convicted of; Use of Threatening Abusive Insulting words/Behaviour or Disorderly Behaviour to Cause Harassment/Alarm/Distress on Public Order Act 1986 Section 4.A (1). Disposal; Fine £200.00, Costs £85.00, Compensation £150.00 Restraining Order – protection from Harassment 16/06/2016 on Conviction Victim Surcharge £20.00.

Officers invited the applicant to attend an interview on 8 November 2016 to discuss the application made and the circumstances of the convictions and cautions received. The applicant attended and by way of explanation to the convictions on 17 June 2015 identified above has stated; "It was a family dispute and believes they were treated unfairly by the Police".

Member's attention was drawn to the offence the applicant was convicted of on 17 June 2015, which occurred during the currency of their now expired PHD licence. As a condition of the PHD licence, the licence holder must inform the council of any conviction received within 7 days of that conviction during the currency of that licence.

The applicant informed Members that they were not aware of their duty to notify the council of their convictions as their licence had expired however they had notified the security company they were working for at the time of the conviction. The importance of informing the council of any convictions as a local authority and not solely notifying their employer at the time was strongly reiterated to the applicant.

When questioned about the different address on their previous PHD licence, the applicant informed the committee that they had moved house in 2013 and again to their current address in July 2016, however the applicant did not notify the council of this as they were not working at the time and did not think it relevant to do so.

Members noted the applicant's mitigated circumstances for the offence surrounding their conviction and their reason for not informing the council of their conviction. It was noted by members that the applicant had failed to notify the council of their change of address during their previously held licence.

After careful consideration of all the relevant factors, the sub-committee **RESOLVED; to refuse the application for a Private Hire and Hackney Carriage Driver's Licence for the following reasons;**

- 1) The applicant had failed to declare their conviction which occurred during the currency of their now expired PHD licence. It is a condition of a PHD licence to inform the council of any conviction received within 7 days of that conviction during the currency of the licence. Members regarded this omission of the applicant not informing the council as a breach of the council's conditions of licensing.**
- 2) Members felt that the applicant should have informed officers of the offence at that time, due to the nature of the offence the matter would have been put to members with a view to consider the applicant's fit and proper status to continue to hold a PHD licence. Members felt that the applicant had clearly intended not to inform the council and in doing so protected their PHD licence from any action the council may have taken.**
- 3) Disclosure of their conviction is clearly required and as the applicant failed to do this members considered this created a trust issue.**
- 4) The council's policy states that an application 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. Members considered that a period of less than 17 months since the conviction was not a sufficient rehabilitation period.**

The applicant is able to reapply for a PHD licence in 19 months. This will be when at least 3 years has passed since their conviction.

The applicant has 21 days from receipt of notice of the decision to appeal to the local Magistrate's Court.

Chair

Date

**MINUTES OF GENERAL LICENSING SUB-COMMITTEE****MEETING DATE** Wednesday, 7 December 2016**MEMBERS PRESENT:** Councillor Anthony Gee (Chair) and Councillors Jean Cronshaw, Keith Iddon, Mick Muncaster and Kim Snape**OFFICERS:** Stephen Culleton (Lead Licensing Enforcement Officer), Tracy Brzozowski (Licensing Enforcement Officer), Elizabeth Walsh (Solicitor) and Nina Neisser (Democratic and Member Services Officer)**16.LSC.90 Declarations of Any Interests**

No declarations of any interests were received.

16.LSC.91 Procedure

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

16.LSC.92 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 grounds 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.

16.LSC.93 Application for the Grant of a Private Hire and Hackney Carriage Drivers Licence Made Under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976

The Director of Early Intervention and Support submitted a report for the members of the General Licensing Sub-Committee to determine whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Driver's Licence.

The applicant attended the meeting to make representations to the Sub-Committee.

On 12 October 2015, officers received a co-terminus application under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 for the grant of a Private Hire Driver's Licence (PHD) and under Section 46 of the Town and Police Clauses Act 1847 for the grant of a Hackney Carriage Driver's Licence (HCD). The applicant's enhanced disclosure from the Disclosure and Barring Service was submitted in support of the application. This identified a conviction of concern involving dishonesty which falls within the Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing.

The applicant successfully passed the Council's Knowledge Test on 13 October 2016, and met the Council's Group II Medical requirements and passed the DVSA Private Hire Driver Test Assessment.

The applicant disclosed a criminal offence concerning dishonesty, the details of which are reproduced below:

1. The applicant was convicted of an offence of conspiring/acting with intent to prejudice Her Majesty the Queen and the Public Revenue with intent to defraud for which he was sentenced to 16 months imprisonment.
2. In 2011, the applicant was disqualified from being a company director for 10 years.
3. In 2013, a confiscation order was made by the Crown Court.

The applicant spoke to officers of the Council on 24 November 2016 and explained that the conviction resulted from a friend who had opened a clothing business where the applicant was the Company Secretary. Another friend allegedly knew the company computer passwords and used these to create false invoices demanding money for goods/services not provided and then attempted to claim the VAT. The applicant does not accept being part of the fraud and explained that he only served 4 months of his sentence before being released on probation.

The applicant provided a detailed account of his convictions to Members of the sub-committee. The applicant reiterated to Members that he had no direct involvement in the crime and was unaware until Revenue and Customs approached him. The applicant admitted that he was too quick to trust his friend with regards to his business and assured Members that he would not do so as easily in future. The applicant reassured the committee that he had committed no other offences. The applicant said he was ashamed of his convictions and wanted to work hard for his family and give back to the community via his driving.

The applicant confirmed to Members that he currently held a Private Hire and Hackney Carriage Licence at Blackburn and Darwen Council. He explained to Members that he applied two years after being convicted but was refused as the required time period since his conviction was not spent. The applicant was granted his current licence at Blackburn and Darwen Council in 2014. The applicant presented his licence to the sub-committee to confirm its validity. Prior to this, he owned his own business.

After careful consideration and taking into account all the relevant factors in determining whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Driver's Licence, the sub-committee **RESOLVED; that the applicant was a fit and proper person to hold a Private Hire Driver Licence and Hackney Carriage Driver Licence and that his application should be approved**

subject to the requirements of the standard conditions for the following reasons;

1. Members noted that the applicant successfully passed the Council's Knowledge test on 13 October 2016 and DVSA Private Hire Driver Test Assessment. He also met the Council's Group II medical requirements.
2. Members considered the Council's Policy on Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing. In general, an applicant with convictions for dishonesty which were less than 5 years old was unlikely to be granted a licence. The Council's policy envisages the rehabilitation period for dishonesty offences between 3-5 years and will have regard to the circumstances of the offence and any evidence demonstrating that the person was now a fit and proper person to hold a licence. In light of this, Members noted that just over 5 years had elapsed since the applicant's convictions and the grant of a Private Hire and Hackney Carriage Driver Licence was therefore within the Council's policy on previous convictions under a) Offences of Dishonesty.
3. The applicant had not been convicted of any further offences in the intervening period and expressed remorse. The applicant told members that he was extremely ashamed of what he had done and explained that he had learnt from the experience and would not trust another person again so easily in the future. The applicant stated that he wanted to give back to the community again through his driving.
4. Since his conviction the applicant had obtained a Private Hire Drivers Licence with Blackburn and Darwen Council.

Members reiterated the seriousness of the conviction to the applicant and indicated that should anything happen like this again he would be brought back before the sub-committee; however Members understood that he had been punished for his convictions.

16.LSC.94 Application for the Grant of a Private Hire and Hackney Carriage Drivers Licence Made Under Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976

The Director of Early Intervention and Support submitted a report for the members of the General Licensing Sub-Committee to determine whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Driver's Licence.

The applicant attended the meeting to make representations to the Sub-Committee.

On 5 September 2016 officers received a co-terminus application under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 for the grant of a Private Hire Driver's Licence (PHD) and under Section 46 of the Town and Police Clauses Act 1847 for the grant of a Hackney Carriage Driver's Licence (HCD). The application identified that the applicant has not held a full DVLA Driver's Licence for the required three years.

The applicant successfully passed the Council's Knowledge Test, the Council's Group II Medical requirements and the DSA Hackney Carriage Private Hire Driver Test

Assessment. The applicant's Disclosure and Barring certificate and DVLA driver records do not indicate any previous convictions.

The applicant informed Members that although he had not held his full DVLA Driver Licence for the required three year period, he had been driving in Pakistan for two years and currently held a Taxi Driver's Licence in Blackburn and Darwen. He had provided a certificate of attendance for a basic Safeguarding and Modern Slavery course at Blackburn and Darwen in May 2016 and completed Chorley Council's Safeguarding Training in October 2016.

The applicant explained that his father was a Hackney Carriage Licence Holder in Chorley. Members were made aware that he had owned a car for the past three years and he was currently a takeaway delivery driver. The applicant drove approximately 20,000 miles per year and had had no accidents, made no claims on his insurance or received any points on his licence.

After careful consideration and taking into account all the relevant factors in determining whether the applicant was a fit and proper person to hold a Private Hire and Hackney Carriage Driver's Licence, the sub-committee **RESOLVED; that the applicant was a fit and proper person to hold a Private Hire Driver Licence and Hackney Carriage Driver Licence and that his application should be approved subject to the requirements of the standard conditions for the following reasons;**

- 1. The applicant passed his DVLA Driver Entitlement in April 2015. Members noted that he had held his DVLA entitlement to drive for approximately 2 years and 7 months, and so had another 5 months before meeting the minimum of three years at the time of application required to have held a licence.**
- 2. Members considered that the applicant passed the Council's knowledge test and DSA Private Hire Driver Test Assessment and there were no convictions on his Disclosure and Barring Certificate. The applicant had met the Council's Group II medical standards.**
- 3. The applicant obtained a Private Hire and Hackney Carriage Driver's Licence in September 2016 and had not been convicted of any offence during this time. He had completed the basic Safeguarding and Modern Slavery course at Blackburn and Darwen Council in May 2016 and Chorley Council's Safeguarding Training in October 2016.**
- 4. In addition Members considered that the applicant had had his own car for the last three years and drove approximately 20,000 miles every year. The applicant was also a takeaway delivery driver and had been for a year and a half. For the aforementioned reasons, Members felt that they were able to depart from Council policy.**

Chair

Date



Report of	Meeting	Date
Director of Early Intervention and Support	Licensing and Public Safety Committee	1 February 2017

THE PART TIME RELOCATION OF THE HIGH STREET TAXI RANK

PURPOSE OF REPORT

1. To advise the Licensing and Public Safety Committee on the results of the consultation to relocate the High Street taxi rank on Market days (Tuesdays); as part of the Market Walk Extension and wider town centre improvements.

RECOMMENDATION(S)

2. Officers are authorised to commence the formal statutory 28 day consultation required under the 1976 Act and arrange for a notice in the local press and notice to the Chief Officer of Police.
3. In the event that no further representations are made within the 28 day statutory consultation period which oppose the new rank (or only those which are deemed to be vexatious or frivolous by officers in consultation with Chair or Vice-Chair) delegated power is given to the Director of Early Intervention and Support to appoint the temporary hackney carriage stand outlined in the report and to take all necessary steps to effect this.
4. In the event that further representations are received within the 28 day statutory consultation period which oppose the relocation of the rank on market days and which do not fall into the vexatious or frivolous category outlined above a report will be submitted to a special meeting of the Licensing & Public Safety Committee for consideration as soon as possible after the expiry of the 28 day statutory consultation period.

EXECUTIVE SUMMARY OF REPORT

5. Chorley town centre is about to undergo a significant programme of investment, which will include developing new retail and leisure units, a youth zone, extra care scheme as well as improving the public realm, developing additional car parking spaces, making improvements to crossing points, and relocating the Flat Iron market.
6. The Licensing and Public Safety Committee gave approval on 23 November 2016 to consult on the proposed changes to the High Street taxi rank location, which is the responsibility of the Licensing and Public Safety Committee under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976.
7. A consultation letter was sent directly to registered Hackney Drivers and we received responses from 13 out of 135 (9.6%). 4 were in agreement and 9 disagreed with the proposal – 122 didn't respond.
8. The public consultation via survey-monkey resulted in 56 responses of which 46 (75%) were in agreement and 15 (25%) disagreed.

9. Relocating the rank on Tuesdays between 6am and 6pm around the corner to Cleveland Street would enable Chorley's outdoor market to take place along High Street, in addition to a number of other pedestrianised streets in the town centre.
10. Chorley Markets are an important part of the town's history and economy and the Council wants to ensure that the markets continue to thrive well into the future. The changes proposed in this report would support and all existing market stall holders both permanent and temporary to be offered a space when it relocates.
11. In addition to the proposed changes to the taxi rank location, there are a number of other changes to TRO's which would be required. These changes are the responsibility of the Highways Authority and they have responded to say that it would be best facilitated under a Temporary Traffic Regulation Order (TTRO) which would enable changes to be made in the future should they be required if, after a period of operational practise, it proves necessary.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

12. 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	✓

BACKGROUND

13. High Street, Chorley, has long been established as the principle location for the hire of hackney carriages in Chorley, and accommodates 5 taxi's between Cleveland Street and New Market Street.
14. In 2003 the hackney carriage rank along the north side of High Street between its junctions with Cleveland Street and New Market Street was downgraded from a 24 hour rank to a day-time rank operating between the hours of 7.00am and 7.00pm.
15. In conjunction with this, a new 'evening' rank was appointed on the west side of Cleveland Street, between its junctions with High Street and Union Street. This rank currently accommodates 4 taxis, as one space was lost to the entrance of the new car park.
16. However, in 2006 the High Street rank was re-appointed a 24 hour rank due to both the public and taxi drivers' preference for continuing to operate informally along the north side of High Street, and also due to concerns about the potential conflict between taxis and members of the public late at night not being realised. The evening rank in Cleveland Street was retained with a view to testing the compatibility of two evening ranks within close proximity. The current ranks are shown in Appendix A.
17. Also within the report in 2006 it was noted that there was a general problem relating to the occasional parking of vehicles on the hackney carriage rank and as such a prohibition of vehicular waiting was imposed by the Lancashire Highways Authority under the provision of the Road Traffic Regulation Act 1984. This was to address a general problem relating to the occasional parking of vehicles on the hackney carriage rank.

TOWN CENTRE IMPROVEMENTS

18. In September 2016, the Council gave approval to proceed with the development of a seven unit extension to Market Walk. This approval is subject to achieving 75 per cent pre let agreements and work is ongoing to achieve this, but with firm interest in 80 per cent of the units it is anticipated the target will be achieved in the next few months.
19. The extension, which will be built on the eastern side of the Flat Iron car park, necessitates the temporary relocation of the Flat Iron Market which is held on the western side of the car park every Tuesday.
20. A report carried out by an independent markets consultant in 2015 recommended moving the market during the construction period, to pedestrianised areas in the town centre. Based on evidence of other markets in pedestrianised areas the temporary move is expected to have a positive impact on the market and surrounding shops.
21. Public consultation on the relocation of the markets has been held over the last month, from the 4th October to the 6th November with over 200 online responses as well as feedback which has been collected during a number of face to face consultation sessions and briefings.
22. The original plan included the closure of Market Street to accommodate a number of market stalls but feedback that has been received during the consultation has led to alternative options being considered.
23. The current proposal shown in Appendix B would see market stalls located throughout the town centre, including High Street, New Market Street, Market Place, Fazakerley Street, Chapel Street, and Cleveland Street. In terms of timescale it is currently estimated that the market will need to be relocated from June 2017.
24. The introduction of market stalls onto High Street on market day (Tuesday) would necessitate the temporary relocation of the taxi rank from High Street. It is proposed that instead taxis could operate from around the corner on Cleveland Street where there is an existing evening rank.
25. This proposal is being considered due to its location close to the existing market site and taxi rank and it will ensure that all existing permanent stall holders can have a position, as well as accommodating the current levels of casual traders.
26. It should be noted that in addition to the change in the appointments of the hackney carriage ranks under the provisions of Section 63 of the Local Government (Miscellaneous Provisions) Act 1976, the proposal would also be subject to changes to the prohibition of vehicles waiting on Cleveland Street which will need to be amended by the Highways authority through a TRO (or TTRO).
27. The proposals will also require negotiations with market walk tenants who are serviced from the service yard at the end of High Street. They have been asked to make alternative arrangements for servicing their stores on Tuesdays. Letters have already been sent out to those affected and feedback so far suggests that alternative arrangements can be made by the tenants.
28. Additionally there is a loading bay along the south side of High Street which is used by local businesses. If market stalls are located in High Street, then to maintain the flow of traffic the loading bay would not be usable on Market days.

29. It is therefore proposed to establish a loading bay along the east side of Cleveland Street on Market day. This change would also be subject to a TRO (or TTRO) which is the responsibility of the Highways Authority.

CONSULTATION RESULTS

26. Public non-statutory consultation on the proposed changes to the hackney carriage rank ran from the 24th November for a period of eight weeks, up until the 22nd January 2017.
27. Face to face consultation took place with members of the Licensing Liaison Panel (LLP) on 16th January 2017 whereby the attendees were in favour of the proposed changes.
28. A consultation letter was sent directly to registered Hackney Drivers and we received responses from 13 out of 135 (9.6%). 4 were in agreement and 9 disagreed with the proposal – 122 didn't respond.

Comments included:

- People know where the rank is in High Street
- Do the best to get people coming to Chorley to spend money
- Leave the Flat Iron alone
- Make High Street for taxis only
- Taxi drivers will lose business if the rank is relocated
- Market Street should be closed to accommodate the stalls instead of High Street

29. The public consultation via survey-monkey resulted in 56 responses of which 46 (75%) were in agreement and 15 (25%) disagreed.

Comments included:

- The bus & train station would be a good location for taxis
 - i. - Church Street / Chapel Street, near B&M
- Elderly & disabled people know where it is now so don't change it
- The proposed site is just as good as High Street
- It's the most simple and logical choice and adjacent to its current location
- Isn't too far from the current one so explaining to non-Chorley residents would be easy
- It's important that the town centre gets redeveloped and makes sense to put the market here
- Obvious place to move it to
- It will be easier for taxis exiting on to Union Street (no roundabout)

30. There have been several suggested for alternative options for relocating the rank which will be considered as part of the Town Centre Public Realm and Masterplan proposals going out for consultation in Spring 2017 and include the area around the proposed new Civic Square which encompasses the High Street and Cleveland Street hackney ranks.

31. If approved, notice of the changes will be issued and a 28 day statutory consultation period will commence with our partners and responsible authorities (Lancashire constabulary and LCC).

32. In the event that no further representations are made within the 28 day statutory consultation period which oppose the new rank (or only those which are deemed to be vexatious or frivolous by officers in consultation with Chair or Vice-Chair) the Director of Early Intervention and Support will appoint the temporary hackney carriage stand outlined and take all necessary steps to effect this.

- 33. In the event that further representations are received within the 28 day statutory consultation period which oppose the relocation of the rank on market days and which do not fall into the vexatious or frivolous category outlined above a report will be submitted to a special meeting of the Licensing & Public Safety Committee for consideration as soon as possible after the expiry of the 28 day statutory consultation period.
- 34. In parallel with this process we will be working with LCC to make amendments to a number of TRO's in the town centre, including changing the prohibition of vehicles waiting, and changes to loading bays and creating a temporary Pedestrian Zone which will also be required in order to enable a market to be located along High Street on one day per week.
- 35. It is acknowledged that the TRO process may take up to a year, which extends beyond the timescales in which the markets would be relocated. To account for the temporary nature of the relocation and the potential for further changes to be made in the near future regarding the town centre public realm, a TTRO will be sought to permit the changes.

IMPLICATIONS OF REPORT

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

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

COMMENTS OF THE STATUTORY FINANCE OFFICER

- 31. No comments

COMMENTS OF THE MONITORING OFFICER

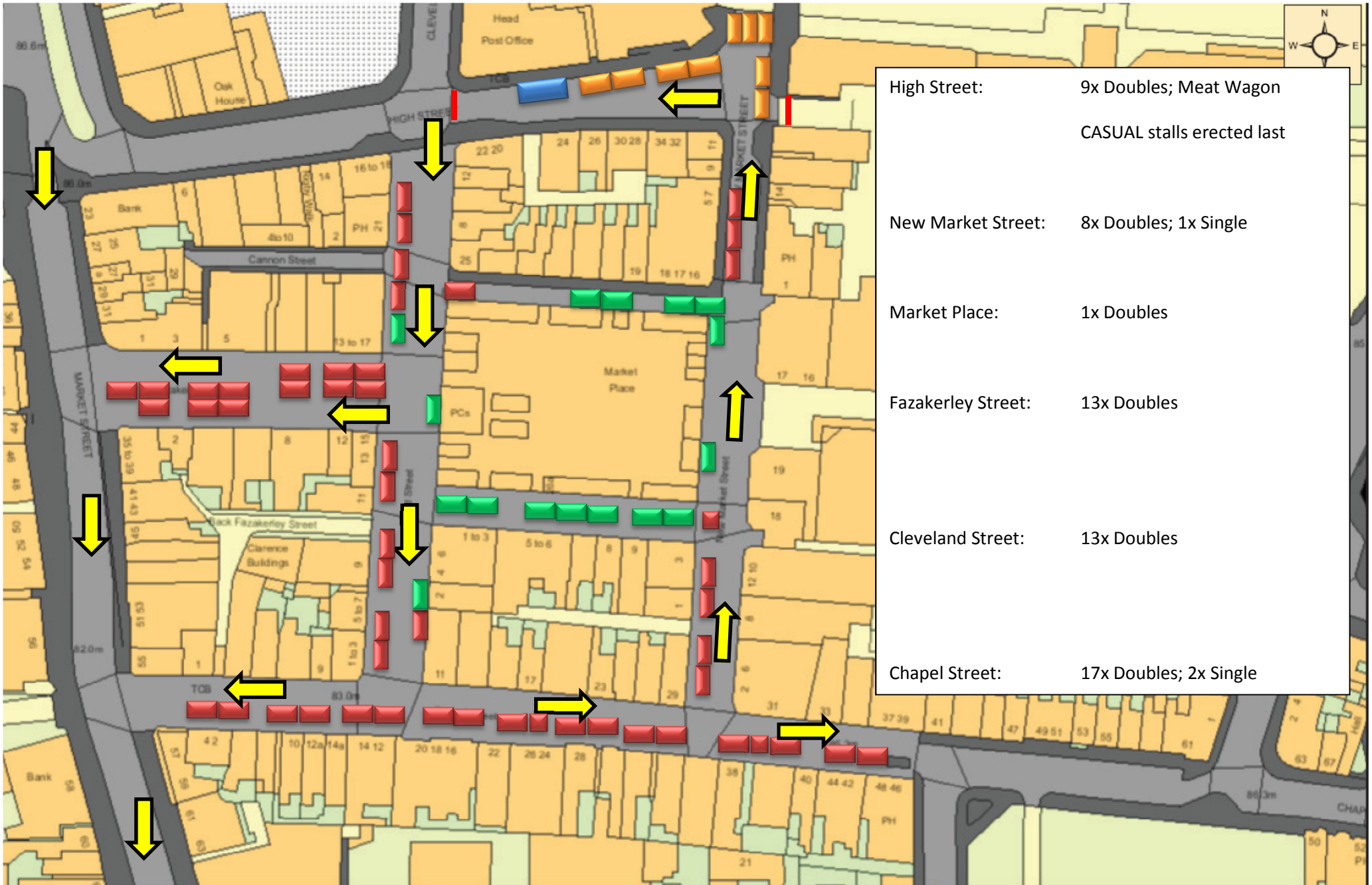
- 32. The Council has power to appoint, revoke and alter any hackney carriage stands under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976. The proposal is subject to notice being served on the police with 28 days to make representations and notice in the local press.
- 33. A hackney stand may not be located where it would impede access to bus stops or unreasonably impede access to premises. The 1976 Act does not prescribe any legal formalities for documenting the appointment of a hackney rank although some authorities formalise the appointment in the form of an order.
- 34. The stand must be marked out in accordance with the Traffic Signs Regulations and General Directions 2002. Stands may be created for the whole or any part of a day.
- 35. If any part of the proposed new rank overlaps with private land then consent of the landowner is required.
- 36. If the stand is on a highway then consent of the Highways Authority is required. Chorley therefore does not have complete control over the appointment but instead it is subject to a veto in favour of County Highways. Whilst officers at LCC may be sympathetic to the proposal it is essential to obtain consent in good time in accordance with LCC's scheme of delegation. If consent can only be granted by elected county councillors then officers at LCC should be asked to progress this to fit with Chorley Council's timetable.

37. Orders made or revoked under the Road Traffic Regulation Act 1984 are a function discharged by the Highways Authority by Lancashire County Council (LCC). As such the authority to revoke or make new orders and the timetable for their implementation is outside the control of Chorley Council although it may seek to sponsor any changes and persuade LCC to introduce them.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION

Background Papers			
Document	Date	File	Place of Inspection
Future development options for Chorley's Flat Iron Market	5 May 2015		
Consultation on the Part Time relocation of the High Street Taxi Rank	23 Nov 2016		

Report Author	Ext	Date	Doc ID
Conrad Heald	5507	24/01/17	Taxi rank relocation recommendation



High Street:	9x Doubles; Meat Wagon CASUAL stalls erected last
New Market Street:	8x Doubles; 1x Single
Market Place:	1x Doubles
Fazakerley Street:	13x Doubles
Cleveland Street:	13x Doubles
Chapel Street:	17x Doubles; 2x Single

■ Existing Gazebo Position
 ■ Proposed New Gazebo Position
 ■ Possible Extra Locations
 ■ Meat Wagon
 ➔ Traffic Direction

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Report of	Meeting	Date
Director of Early Intervention and Support	Licensing and Public Safety Committee	1 Feb 2017

INTRODUCTION OF A GENERAL LICENSING SAFEGUARDING AND SUITABILITY POLICY

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider the proposed General Licensing Safeguarding, Suitability and Convictions Policy to support the Council’s licensing policies in the future.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee determine to agree the implementation of the proposed General Licensing Safeguarding, Suitability and Convictions Policy to support the Council’s licensing policies in the future, where applicable.
3. Delegated power be granted to the Director of Early Intervention and Support to make amendments to the policy from time to time to reflect any changes in legislation or case law.

EXECUTIVE SUMMARY OF REPORT

4. Following the approval and adoption of the Safeguarding, Suitability and Convictions Policy for Taxi Licensing in 2015, a General Licensing Safeguarding, Suitability and Convictions Policy (**Appendix 1**) has been produced to cover a number of other licensing functions to ensure a consistent approach and enable efficient decision making.
5. The public has a reasonable expectation that where the Council issues a Licence or Consent to an individual, the relevant and appropriate level of checks have been made to ensure that that person is suitable to hold the licence or consent, are trustworthy and honest and do not pose a risk to the safety of the public or to animals in their care.
6. The Council is limited in its ability to apply conditions and consider safeguarding in the determination of many licences due to the aged nature of the legislation or byelaws, however, where Safeguarding, Suitability and Convictions can be used to support decision making, these will be applied to the Council’s decision making processes.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

7. 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	
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Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	X
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BACKGROUND

8. The Council is responsible for a multitude of licensing functions, including but not exclusively, Taxi Licensing, the licensing of Premises and persons for the sale of alcohol, late night refreshment, regulated entertainment, sexual entertainment, gambling and betting, street trading consents, houses in multiple occupation, caravan sites and animal welfare including boarding and breeding, pet shops, dangerous wild animals and zoos.
9. The public has a reasonable expectation that where the Council issues a Licence or Consent to an individual, the relevant and appropriate level of checks have been made to ensure that that person is suitable to hold the licence or consent, are trustworthy and honest and do not pose a risk to the safety of the public or to animals in their care.
10. A General Licensing Safeguarding, Suitability and Convictions Policy has been produced to cover a number of other licensing functions to ensure a consistent approach to all licensing matters in the future and enable efficient decision making.
11. Members should be aware that the legislation and byelaws associated with many of the Council’s Licensing functions do not reflect our current thinking in relation to safeguarding and risks, and therefore do not allow the consideration of wider issues in determining or applying conditions to licences.
12. Although the legislation does not always support the implementation of conditions in relation to safeguarding considerations, members should note that there are also illustrations of good practice, promoted and encouraged by the Council. For example, Riding Schools commonly accommodate the teaching of children and also people with both physical disabilities and learning disabilities at their facilities. Legally we are unable to apply stringent safeguarding requirements. However, the British Horse Society has safeguarding guidelines and support for its members. The Council, through its policies, can encourage its licenced establishments to follow such guidelines and in this way provide as much reassurance to the public as possible.
13. Following adoption of the General Licensing Safeguarding, Suitability and Convictions Policy the Council will need to consider a programme for the review of the Licensing and Consent Policies and Procedures to ensure that they are updated and reflect the principles laid down by the Council in relation to Safeguarding, Suitability and Convictions.
14. This will include the proposed introduction of a Street Trading Policy, and where applicable, Animal Welfare Licensing and HMO Licensing policies.
15. Reviews and timetables will be reported to future Licensing and Public Safety Committees.

IMPLICATIONS OF REPORT

16. 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

17. The legislation granting power to the Council to grant (and in some cases suspend or revoke) a licence or consent is contained in separate statutes specific to the activity which is licensable. The Council can only apply safeguarding criteria when exercising its power to

the extent that this is not inconsistent with legislation. In some cases it might be thought desirable to restrict those who can hold a licence. However this may not have been a consideration when the legislation was passed decades ago and the Council is obliged to act within that legislation even if now thought to be unsatisfactory.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Lesley Miller	5299	January 2017	***

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GENERAL LICENSING SAFEGUARDING, SUITABILITY AND CONVICTIONS POLICY

INTRODUCTION

The Council is responsible for a multitude of licensing functions, including but not exclusively, Taxi Licensing, the licensing of Premises and persons for the sale of alcohol, late night refreshment, regulated entertainment, sexual entertainment, gambling and betting, street trading consents, houses in multiple occupation, caravan sites and animal welfare including boarding and breeding, pet shops, dangerous wild animals and zoos.

This policy guides decision making and can be applied to new and renewal applications as well as any existing licences and consents for any licensing functions where the Council considers this policy to be relevant, except Taxi Licensing, where there is a specific policy 'Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' adopted by the Council in November 2015.

The application of this policy is dependent on the legislation under which each licence or consent is issued. Appendix 1 provides a table of each licence and identifies where this policy can be applied, where the policy might possibly be applied or used to support decision making and also identifies the licences where there may be safeguarding risks but the current legislation does not permit safeguarding to be a consideration in the issue of a licence.

Licences and consents may only be granted where the Council is satisfied that the individual is a "suitable person" to hold such a licence or consent where the legislation permits this type of test to be applied.

Where, this Policy is applicable, it is intended to give guidance on whether an individual is or is not a "suitable" person; specifically, the situation where an individual has previous convictions, cautions, complaints, reprimands and/or other relevant matters.

In carrying out its Licensing functions the Council has a responsibility to protect public safety and therefore must ensure where possible:

- That an individual is a "suitable" person
- That the public are not put at risk by individuals with a history of dishonesty, indecency and/or violence
- The safeguarding of children, young persons and vulnerable adults

The Council also has a duty to prevent harm to animals as part of the wider licensing functions and therefore this secondary objective is relevant to all animal welfare licensing activities.

There is an expectation from the public that those persons trading under a licence or consent granted by the Council are trustworthy, honest and do not pose a risk to the safety of the public or to animals in their care.

For example, a street trader serving ice cream from a mobile unit which visits residential streets within the borough may have regular contact with children. They may also know where those children live, when parents are home or not and what holiday plans they may have, by building up trusting relationships with those customers.

The operator of a house in multiple occupation, as the owner of the premises, likely to have keys and access to the individual units, for the purposes of maintenance and safety. This type of accommodation may house young or elderly people or those with specific vulnerabilities.

For these reasons it is imperative that the Council has a robust policy for ensuring that all those given a licence or consent by the Council are suitable and safe to be trusted with the safety of the public and animals and the personal information they may 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 or consent are:

1. Would I trust this person to be responsible for having access to any member of my family (children, parents, grandparents, grandchildren, husband, wife or pets), 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 (including dementia), 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 suitability test are permitted to hold any form of licence or consent issued by the Council.

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 where this policy is applicable.

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 apply to all licences and consents (except for those licences relating to taxi drivers). 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 suitable to hold such a licence or consent.

When submitting an application for a licence or consent individuals may be required to declare any and all previous convictions, this will depend on the legislation for each individual licence or consent. Individuals may also be required to disclose convictions which are not spent for the purposes of the Rehabilitation of Offenders Act 1974.

The information will be treated in confidence and will only be taken into account in relation to the relevant application and the associated legislation in order to assist the Council in determining whether the applicant is a safe and suitable person to hold a licence or consent.

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 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, trading standards or RSPCA investigation, but there has been no further action due to the criminal burden of proof or some other reason, 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 or consent. It will depend on whether or not an individual can satisfy the Council that they are a "suitable" person to hold such a licence or consent.

The Council may not be satisfied that an individual is a "suitable" person to hold a licence for any good reason that is supported by legislation. If adequate evidence that an individual is a suitable 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 consent or make any decision adverse to the licence or consent holder.

In considering evidence of an individual's good character and fitness to hold a licence or consent 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 (where relevant to a street trading consent for a mobile unit, such as an ice cream van).

The Council will, where appropriate, contact other agencies (e.g. other local authorities, the Police, Children's Services, RSPCA) for any other information which they may hold in order to determine the application or existing licence or consent. 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 or consent is valid, should we receive updates from the Police, of new convictions and cautions for licence/consent holders, this will allow us to decide whether action needs to be taken on the continuation of the licence or consent where permitted by legislation. It is the responsibility of each licence or consent holder, including any nominated assistant in relation to a street trading consent, to inform the Council promptly in writing of any conviction, caution or fixed penalty arising during the currency of the licence or consent. A criminal record check is required on application, and thereafter every three years for existing licence or consent holders, and nominated assistants. Applicants may wish to use the digital service provided by DBS for the annual updates.

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 licences and consents.

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 “suitable person”.

Any individual who is refused a licence or consent will need to refer to the individual legislation for the details of rights of appeal against this decision.

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

General Policy

1. Each case will be decided on its own merits.
2. The public has an expectation that the Council will take the necessary steps and make appropriate checks to ensure that applicants are suitable to persons to hold any licence or consent granted by the Council. One aspect of this is the extent to which previous convictions indicate that an individual is not a safe and suitable person and / or may or otherwise take advantage of the role and information that the licence or consent provides. This includes, but is not limited to, convictions for:
 - Offences against children, young people, vulnerable adults or animals
 - 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 carrying on the business for which the licence or consent is granted (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 licence or consent, 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 'suitable' person to be granted or to continue to hold a licence or consent (the onus is on the individual to produce such evidence).

Simply remaining free of conviction will not generally be regarded as sufficient evidence.

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.

The table in Appendix 1 provides details of relevant offences for each licence or consent. Where offences or convictions exist the Council will need to consider the relevance and make a determination on an individual basis.

Appendix 1- Table of Licences, identification of safeguarding risks and summary of where legislation allows the application of the General Safeguarding Policy

Safeguarding Policy is applicable Safeguarding Policy potentially applicable Safeguarding Policy currently not applicable

Licence, Permit or Consent	Legislation	Criteria for grant and (if applicable) criteria for sanctions such as suspension and revocation	Safeguarding risks identified	Relevant Convictions where policy might be applied	Recommendations and comments on application of policy and legislative provisions
Street Trading Consent	Local Government (Miscellaneous Provisions) Act 1982 Sch. 4	Grant if Council “thinks fit” to persons over 17. Conditions may be attached to prevent obstruction or nuisance and limit location & times of trading. Other conditions may be attached which are reasonably necessary. Suspension not available. Grounds for revocation not stated but will include breach of conditions.	Access to children and vulnerable adults, potentially on a regular basis. Ability to locate close to areas where children congregate, such as school and parks. Young adults working for traders Mobile vendors have regular rounds in residential areas, so potential to obtain personal information such as holiday plans- any issues of dishonestly or links to burglary etc. Supply of drugs	Supply of drugs Burglary Dishonesty Sexual Offences Violence Offences Serious Motoring Offences (as detailed in Table A – Major Traffic Offences, in the Taxi Licensing, Safeguarding, Suitability and Convictions Policy)	Street trading policy includes reference to general safeguarding and a requirement for a basic DBS – legislation allows for inclusion of conditions and procedures including nuisance. The relevant convictions relating to safeguarding risks could reasonably be considered as nuisance behaviour in the context of the Act when applying the policy and taking enforcement for breach of conditions or refusing an application on the basis of convictions.
Licence for House in Multiple Occupation	Section 64 Housing Act 2004	Council must grant licence if (i) house suitable or can be made suitable (ii) applicant fit & proper (iii) manager of house fit & proper. Fit & proper test includes dishonesty, violence, drugs or sexual offences, unlawful discrimination, breach of landlord & tenant law or prescribed code of practice by applicant and/or associate. Also management competence threshold. Revocation for serious breach of conditions; if licence holder and/or manager no longer fit & proper or if HMO no longer suitable under criteria prevailing at time. Revocation with consent of holder immediate; otherwise after appeal not made or appeal concluded	Access to personal information and property. Type of property may mean proportionally a greater number of young, elderly or vulnerable adults access this type of accommodation- risks relates to any issues of dishonestly or links to burglary etc. for managers and landlords.	Drugs Burglary Dishonesty Sexual Offences Violence Offences	Legislation makes specific reference to ‘fit and proper’. Safeguarding policy can be applied to these Licences. Action: Update conditions for licence to reference safeguarding policy and introduce additional record check requirements, Basic DBS to be included with application for grant and renewal.

Licence for Dangerous wild animals	S.1 Dangerous Wild Animals Act 1976	Grounds for granting licence: if not contrary to public interests as regards safety, nuisance or otherwise, (ii) applicant must be a suitable person (iii) animal will be secured and well treated and able to exercise. More wide ranging discretion than with other animal related licences but relates to protection of the public from the animal and not just welfare. Also a suitable person test. Court not Council may cancel licence or disqualify for breaching licence conditions or offences under animal welfare laws.	Animal Welfare considerations- allegations or convictions for cruelty. Suitable person test.	Supply of drugs Sexual Offences Violence Offences Cruelty/abuse of animals	The policy of the Act is animal welfare and protection of the public from the animal and nuisance. However, the additional considerations would be accepted because of the suitable person test. Someone involved in crime or drugs or with a history of violence might use the animal as a weapon. Action: Update conditions for licence to reference safeguarding policy and introduce additional record check requirements, Basic DBS to be included with application for grant and renewal.
House to House Collections	s.2 House to House Collections Act 1939	Licence granted by Council under s.2 House to House Collections Act 1939. Short term promotions certificated by police. Refusal or revocation on grounds that too few proceeds applied to charitable purpose, remuneration excessive, could enable begging or applicant/holder convicted of offences in Schedule to 1939 Act	Access to persons at their home address. Potential to gain access to individual premises and possible vulnerable persons.	Robbery Burglary Blackmail Dishonesty Sexual Offences Violence Offences Child abduction Failure to ensure that collectors fit and proper Refusal/failure to provide information	Refusal or revocation only on conviction for offences in Schedule to 1939 Act. Action: Review procedures for applications, possible inclusion of Basic DBS check to ensure no recent relevant convictions
Licence for a Sexual Entertainment Venue	Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982 as amended by Police and Crime Act 2009	Application subject to 28 day objection period. Police and public may object. Refusal if applicant unsuitable because convicted of any offence or for any other reason, if unsuitable person connected with applicant or if it would be inappropriate for locality. Criteria for refusal in paragraph 12 to Sch 3 i.e honest, qualified to run establishment, management structure, treatment of performers, protects public. Council may limit no. of premises for borough which can be nil but must in words of council policy in place since January 2011 be "rationally underpinned". No	Potential for the exploitation of vulnerable adults. There is a risk of sexual or violent offenders being given access to individuals Access to Children should be limited and controlled by licence conditions and legislation.	No limits in 1982 Act and CBC policy in para 2.2 refers to refusal for "any offence"	The Council currently has no SEV licences, but Legislation would allow for the Safeguarding policy to be used to underpin decisions. Action: None at this time

		determination on appropriate number made by the Council. Licence fees set at £8,000. Annual renewal fee also £8,000 Criteria for revocation by council only if licence holder unsuitable or associate of applicant unsuitable. Suspension not available,			
Licence for a Sex Shop	Local Government (Miscellaneous Provisions) Act 1982	Same criteria for grant and revocation as sexual entertainment venue. Application subject to 28 day objection period. Police and public may object. Refusal if applicant unsuitable because convicted of any offence or for any other reason, if unsuitable person connected with applicant or if it would be inappropriate for locality. Criteria for revocation by council only if licence holder unsuitable or associate of applicant unsuitable. Suspension not available.	Access to Children should be limited and controlled by licence conditions and legislation.	No limits in 1982 Act and CBC policy in para 2.2 refers to refusal for "any offence"	There is one licensed sex shop in the Chorley area. Legislation would allow for the Safeguarding policy to be used to underpin decisions. Action: None at this time
Personal licence (required to be held by Designated Premises Supervisor in licensed premises)	Section 120 Licensing Act 2003	Must be granted to persons over 18 who hold licensing qualification. If police object because applicant has committed any offence in Sch. 5 to Licensing Act 2003 (including licensing, dishonesty, drugs, sex offences) then may be refused.		Convictions contained in Schedule 4 to the Licensing Act 2003 which are not spent	If the police object, is it a straightforward refusal, or conditions can be applied. The Council would use the safeguarding policy to inform decision making and support decision. Action: None at this time
Licence for caravan Site/ Residential Park	Section12A Caravan Sites and Control of Development Act 1960 as amended by Mobile Homes Act 2013	Occupier's site licence. Discretion on conditions on site licences to protect persons in caravans and wider public. Can condition occasions/no. of caravans, types, position, amenity, fire safety, sanitation. Court may revoke site licence on application of council if holder convicted 3 times for breaching conditions or a compliance notice. Power to make regulations requiring that manager of relevant protected site must be fit & proper not	Access to personal information and property. Type of property may mean proportionally a greater number of young, elderly or vulnerable adults access this type of accommodation- risks relates to any issues of dishonestly or links to burglary etc for managers and landlords.	Burglary Dishonesty Sexual Offences Violence Offences	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time DCLG Guidance issued in March 2015 makes no mention of safeguarding issues. Case law has held that conditions more appropriate as a planning condition cannot be imposed. All that shows site licences are about the land, not the people. The Tribunal will have regard to the Model Standards 2008 (which are

		in force. It may be possible to revisit once s.8 in force. Council will be able to ask court to revoke on 3rd conviction or if manager not fit and proper to apply to Residential Property Tribunal to revoke.			all about the site and not persons) when determining any appeal. Also provision in s.8 Mobiles Homes Act 2013 regarding managers being fit & proper not in force. It may be possible to revisit once s.8 in force. Action: Review conditions and policy once legislation is updated by inclusion of s. 8
Cosmetic piercing (ear and body), Tattooing, acupuncture, electrolysis and semi-permanent skin colouring	Section 16 Local Government (Miscellaneous Provisions) Act 1982	Council issues certificate of registration rather than licence. No grounds for refusing certificate. Council has statutory duty to issue. Model byelaws adopted in 2007 create offences. Magistrates' Court (not council) may suspend or cancel registration on conviction for breaches of byelaws. Council may not issue future consent except without consent of magistrates. Council cannot cancel.	Access to Children should be restricted, as the legislation required adult accompaniment and consent for body piercing activities and under 18's should not be accepted by the Tattooist. Any person carrying out these activities on adults, will have one to one access to individuals, including intimate areas. There is a risk of sexual or violent offenders being given access to individuals with particular additional risks where the registration for the activity is at the private address of the applicant.	Supply of drugs Sexual Offences Violence Offences	Legislation and Byelaws concentrate on Health and Hygiene, No provision to include Safeguarding until the legislation or byelaws are updated. Some Council's prefer not to issue certificate of registration at domestic premises. We cannot just walk in unlike retail premises. We would need a warrant first. Action: Possibly review the registration procedure and policy with regard to domestic premises.
Premises licence/club premises certificate for sale of alcohol or late night refreshment	Section 18/Section 72 Licensing Act 2003	Likely to promote licensing objectives of (i) prevention of crime & disorder (ii) public safety (iii) prevention of public nuisance and (iv) protection of children from harm. Sanctions if licensing objectives compromised to significant degree	The current licensing legislation provides safeguards through the licensing objectives. It is the Licensing Authorities responsible to ensure appropriate conditions are agreed with the Premises Licence Holder to meet those Licensing objectives and reduce risks at each individual premise.	Any convictions relating to the four licensing objectives	Currently, there is no fit and proper test permitted in the legislation so safeguarding policy cannot be applied to these licences. The Licensing Objectives form the basis of decisions and enforcement in relation to these licences. Action: None at this time
Licence for Gambling and Betting premises	Gambling Act 2005	Likely to promote licensing objectives	The current licensing legislation provides safeguards through the licensing objectives. It is the Licensing Authorities responsible to ensure appropriate conditions are agreed with the Licence Holder to meet those Licensing objectives and reduce risks at each individual premise.	Any offence relating to the licensing objectives in Gambling Act 2005	Currently, there is no fit and proper test permitted in the legislation so safeguarding policy cannot be applied to these licences. The Licensing Objectives in the Gambling Act 2005 form the basis of decisions and enforcement in relation to these licences. Action: None at this time

Licence to keep riding establishment	S.1 Riding Establishments Act 1964	Animal welfare only express criteria in 1964 Act. A vet report must be considered before grant. S.7(4) provides that licence may be withheld on any grounds but must have regard to (i) management skills of applicant (ii) condition, accommodation, fire safety, health & welfare of horses . Council has no power to cancel licence but court may cancel it and disqualify a person from keeping a riding establishment. only on welfare grounds. No power to suspend.	Access to Children and vulnerable adults, potentially on a regular basis- specifically unsupervised lessons for children both able bodies and disabled, and vulnerable adults- learning or physical disability. Physical contact required in order to assist with mounting and dismounting horses and rider positioning. Employment or voluntary work by young people, working as stable hands/grooms etc. Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the legislation only permits the consideration of health and safety and animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. Action: Encourage use of BHS safeguarding guidelines in establishments.
Licence for Animal Boarding	S.1(3) Animal Boarding Establishments Act 1963	Criteria for refusal relate to accommodation, feeding, health and fire safety. Court, not council may cancel licence and disqualify holder if convicted for animal welfare offences. No power to suspend.	Access to personal information of customers- holiday plans, address etc. any issues of dishonesty or links to burglary etc. Employment or voluntary work by young people, working as kennel/cattery hands etc. Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the legislation only permits the consideration of animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. Action: None at this time
Licence for Animal Breeding	S1(4) Breeding of Dogs Act 1973 and 1991	Only court, not council may cancel licence or order disqualification following conviction for offences of breaching licence conditions Disqualification may be ordered by court under 1991 Act for obstructing officer or vet with warrant.	Employment or voluntary work by young people, working as kennel/cattery hands etc . Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time Only conviction for offences under 1973 Act are grounds for cancellation. Any abuses are dealt with under employment law, not licensing. The 1973 Act exists to protect dogs, not employees or volunteers. Action: None at this time
Licence for a Pet Shop	S.1 Pet Animals Act 1951	Only court, not council may cancel licence or order disqualification following conviction for offences of breaching licence conditions or other	Employment of young people, working as assistants etc. Animal Welfare considerations-	Cruelty/abuse/neglect of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the

		animal welfare laws	allegations or convictions for cruelty.		legislation only permits the consideration of animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. Action: None at this time
Licence for Zoo	Zoo Licensing Act 1981	Council must take into account representations from police, local planning authority and others. Refusal on grounds of (i) adverse effect on health & safety of nearby residents (ii) law and order; (iii) poor conservation measures (iv) animal welfare or if applicant convicted of animal welfare offences (v) lack of planning permission . Zoo Closure Direction may be made if breach of conditions not addressed, nuisance caused, or if licence holder or keeper convicted of animal welfare offences.	Employment or voluntary work by young people, working with animals etc. Animal Welfare considerations- allegations or convictions for cruelty.	Cruelty/abuse of animals	Legislation does not currently support the application of a fit and proper test, safeguarding policy cannot be implemented at this time as the legislation only permits the consideration of animal welfare issues. Any abuses in relation to employment are dealt with under employment law, not licensing. The Act exists to protect the animals, not employees or volunteers. Action: None at this time



Report of	Meeting	Date
Director of Early Intervention and Support	Licensing and Public Safety Committee	1 February 2017

STREET TRADING POLICY

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider the consultation responses to the draft Street Trading Policy and agree the timescale for review of the Policy.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee note the consultation response received on the proposed Draft Street Trading Policy.
3. That the Licensing and Public Safety Committee determine the implementation date of the Street Trading Policy as either with immediate effect or from 1st April 2017.
4. That the Licensing and Public Safety Committee determine the options for the timetable for a formal review and consultation of the Street Trading Policy as either 3 or 5 years.
5. That delegated power is granted to the Director of Early Intervention and Support to make amendments to the policy from time to time arising from changes to legislation or case law.
6. That delegated power is granted to the Director of Early Intervention and Support to review the fees for Street Trading Consents and apply the revised fees.

EXUCUTIVE SUMMARY

5. The Street Trading Policy is attached as **Appendix 1**. The policy refers to the General Safeguarding, Suitability and Convictions Policy which is also to be determined by the Committee to support the decision making process.
6. The Policy will be a living document, so where legislation changes occur or decisions that impact on the policy are made by the Licensing and Public Safety Committee over the life of the policy, the document will be updated to reflect this. However, the philosophy would be that the policy, which has been consulted upon, would be the basis for all decisions and in normal circumstances the policy would only be subject to revision at the regular, timetabled review dates, where the changes would be subject to consultation.
7. The draft policy was put out for consultation for a period of 12 weeks to the end of December 2016, each current consent holder was written to and provided a link to the council's website, where the document was published.
8. The Council received one brief consultation response from a consent holder providing support for the introduction of a policy and suggesting that the Council limit the numbers of consents, attached as **Appendix 2**. However, other authorities operating a licensing scheme rather than a consent scheme have greater scope to limit numbers as the licensing

provisions lend themselves to licensing pitches rather than providing a consent to operate within the wider borough limited only by prohibition on trading on certain streets and in specified areas.

- 9. The fees for Street Trading Consents have not been reviewed for a number of years.They should reflect the cost of the administration of the consent and therefore should be cost neutral, rather than profit or loss making.
- 10. The practice of charging a variance in fees between applicants that live within the borough and those that live outside should only permitted where the cost of inspection of the vehicle is greater due to the additional distance travelled to carry out those checks. Currently, we require all applicants from outside the borough to bring the vehicle to Chorley for inspection.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

- 11. 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	X
Clean, safe and healthy communities	X	An ambitious council that does more to meet the needs of residents and the local area	X

BACKGROUND

- 12. The local authority is responsible for ensuring that street traders are properly regulated under the Local Government (Miscellaneous Provisions) Act 1982, Part III and Schedule 4. Chorley Council operates a consent scheme which means that in accordance with the Act Chorley Council has designated streets across the borough ‘Consent Streets’ and a Street Trading Consent is required from the Council in order to trade in a such a street.
- 13. There has not previously been a policy to support the scheme, and this report aims to address this by proposing a policy to ensure that there are suitable and sufficient conditions for the Street Trading Consents.
- 14. Chorley Council is responsible for administering the Street Trading Consent Scheme under the Local Government (Miscellaneous Provisions) Act 1982, Part III.
- 15. Street trading means the selling, exposing or offering for sale any article, including a living thing, in a street. This includes the sale of food and ice cream from mobile units, but does not include news vendors, any trading done in a market, acting as a pedlar under a pedlar’s certificate or the delivery of goods as a roundsman, such as a milkman.
- 16. The Council does not have an existing published Street Trading Policy to guide decision making, having simply required the compliance with the existing consent conditions.
- 17. The current Street Trading Consent conditions have not been reviewed for a number of years and lack clarity with regard to conduct, food safety standards and safeguarding of the public.
- 18. There are currently no checks made for street traders with regard to criminal charges, convictions, complaints, investigations or the revocation of licences or consents by other local authorities.
- 19. There have been a number of issues in recent months in relation to the conduct of traders and also the eventual revocation of a street trading consent on the basis of the trader awaiting trial for a serious criminal offence.

- 20. However, due to the lack of policy, which would provide a mechanism to take action with regard to the information passed on by the police, there was a resultant delay in enforcement while legal advice had to be sought.
- 21. This highlighted the need for the Council to adopt a robust policy which ensures the protection of public safety as a fundamental priority for the Council.
- 22. Following the approval and adoption of Safeguarding, Suitability and Convictions Policy for Taxi Licensing, a General Licensing Safeguarding, Suitability and Convictions policy has been produced, and will be presented to committee for a decision, to cover all other licensing functions to ensure a consistent approach to all licensing matters in the future.
- 23. The Street Trading Policy introduces a requirement for the applicant to complete a basic Disclosure and Barring Services (DBS) check, this may be by electronic update service. The cost of the DBS will be borne by the applicant.
- 24. The fees for Street Trading Consents have not been reviewed for a number of years, finance have been asked to review the current fees in line with the requirement to ensure they reflect the cost of administering the consent and any additional enforcement or inspection costs associated with the consent.
- 25. Consents are issued for a period of 12 months only.
- 26. There are currently 23 issued consents, 17 of which are to applicants from within the Chorley Borough area, 6 from outside. Although, Street Trading is very seasonal and we often receive more applications in spring and requests to surrender and have the remaining months refunded as winter approaches.

IMPLICATIONS OF REPORT

- 27. This report has implications in the following areas and the relevant Directors’ comments are included:

Finance		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

- 28. The review of the Street Trading Consent conditions are in accordance with the Council’s powers under the Local Government (Miscellaneous Provisions) Act 1982 (‘the Act’). The implementation of a Street Trading Policy will provide guidelines where legislation is silent on the grounds for the grant, refusal and revocation of a Street Trading Consent.
- 29. It is open to Committee to approve the implementation of a Street Trading Policy and the reviewed Street Trading Consent conditions based on all the relevant information and following consideration of the report.
- 30. There is no statutory requirement to maintain a policy in relation to street trading consents.
- 31. The Council may charge such fees as it considers reasonable for the grant or renewal of a street trading consent.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Lesley Miller	5299	January 2017	***

STREET TRADING POLICY



Contents

Introduction..... 3

Legislative background 3

Application pre-requisites 4

Conditions of consents 4

Fees and Charges..... 6

Enforcement 6

Appeals 6

Appendix 1- Prohibited and Consent streets 8

Appendix 2- Application form, conditions and guidance 10

Appendix 3- General Licensing Safeguarding, suitability and convictions policy..... 23

Introduction

The purpose of this policy is to clarify the Council's position in relation to Street Trading and ensure that such trading is done in accordance with the Council's Strategic Objectives to promote a Strong Local Economy and Clean, Safe and Healthy Communities.

Street trading means the selling, exposing or offering for sale any article, including a living thing, in a street. This includes the sale of food and ice cream from mobile units, but does not include news vendors, any trading done in a market, acting as a pedlar under a pedlar's certificate or the delivery of goods as a roundsman, such as a milkman.

Chorley Council operates a consent scheme, whereby certain streets are either consented for trade or prohibited. These are identified in Appendix 1.

The Council may impose conditions to any consent and may also set fees and charges applicable to the consent.

It is an offence to trade without a consent, trade on a prohibited street, make a false statement in an application for consent or to contravene any conditions relating to the time and place of trading.

The Council may also revoke a consent where the trader is investigated by the police, charged or convicted of an offence or contravenes the conditions of the consent or for any other reasonable cause, or refuse to grant a consent where the application pre-requisites are not met or for any other reasonable cause.

The Council's licensing role to protect public safety should be reflected in any such similar regulatory functions, such as Street Trading Consents, to ensure that the public is not put at risk by granting of a consent to individuals that they do not think suitable to hold such consent. Therefore the General Licensing Safeguarding, Suitability and Convictions Policy will be used to also consider the suitability of individuals as street traders to apply a consistent approach to protecting public safety. This policy is attached as Appendix 3.

Legislative background

The Local Government (Miscellaneous Provisions) Act 1982, Part III and Schedule 4, is the primary legislation under which street trading is regulated. However, regard must also be had for other relevant legislation, such as Food Safety Act 1990 and the associated regulations, Anti-social Behaviour, Crime and Policing Act 2014, Health and Safety at Work etc. Act 1974 and associated regulations, Environmental Protection Act 1990, Trading Standards legislation, and this Street Trading Policy.

Under the Council's Scheme of delegation, officers have the authority to grant a street trading consent. Any refusal or revocation of such a consent, or the addition of any individual conditions, would be delegated to the relevant Director in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee.

The legislation does not provide for the right of appeal to the Magistrate's Court. Any appeal against decisions would be through Judicial Review. Alternatively a complaint could be made to the Local Government Ombudsman, although this is not an appeal and the Ombudsman could not overturn the decision.

Application pre-requisites

Applications must be made on the official application form (Appendix 2) and accompanied by a passport sized photograph of the applicant.

The applicant must pay the applicable fee to the Council upon application.

No-one under the age of 17 is permitted to trade under a consent.

Where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).

Traders that employ staff must have employer's liability insurance.

Any Staff employed must be nominated and their photographs supplied with the application.

An Applicant, including for any nominated assistant, must present a Basic Disclosure and Barring Service (DBS) certificate which is less than 2 months old at the date of application, or electronic updates will be accepted. The cost of the DBS will be borne by the applicant. Where there are any convictions then the application will be determined by the relevant Director in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee.

Where a street trading consent or licence has previously been revoked, either by Chorley Council, or any other authority, the Council may refuse an application for consent.

Any trader selling food must achieve a minimum Food Hygiene Rating Score of 3 in order to be eligible for a consent. The consent would be revoked where the trader falls below this minimum rating of 3.

Conditions of consents

A consent will only be granted for a period of 12 months and may be revoked at any time for any reasonable cause, as determined by the Council.

The Council may, in granting or renewing a consent, impose such conditions as it considers reasonably necessary.

The following standard conditions will apply:

- (a) A street trader shall not trade within 50 metres of a fixed retail shop selling similar goods as its principal business, during the shop opening hours for the particular shop.
- (b) Only those goods originally nominated by the applicant to be sold. Any changes to be notified to the Councils' Regulatory Services Team by the consent holder before sales commence.
- (c) Nuisance or annoyance shall not be caused (whether to persons using the street or otherwise).
- (d) No obstructions of any street or persons using it shall be caused.

- (e) The trader shall display his/her name and consent number in a prominent position on the vehicle, cart, barrow or portable stall at all times when trading.
- (f) The trader shall produce, on the request of an authorised officer of the Council, evidence of his/her identity. A passport size photograph must accompany the application form which will be used for this purpose if consent is granted.
- (g) The trader shall at all times ensure compliance with all legislation relevant to the conduct of the business, in particular:
 - (i) any vehicle used must be in roadworthy condition, taxed and insured.
 - (ii) any vehicle used shall not be sited in contravention of parking restrictions.
 - (iii) any loudspeaker may only be used in accordance with Section 62 of the Control of Pollution Act 1974, and,
 - (iv) any vehicle or stall used for the sale of food shall comply at all times with the Food Safety and Hygiene (England) Regulations 2013 and Regulation 852/2004 Annex II Chapter III.
 - (v) where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).
- (h) The trader shall provide adequate receptacles for rubbish and remove all rubbish deposited in the vicinity of the vehicle or stall.
- (i) Trading may only take place between the hours of 07.30am and 11pm on any day. Consent holders may apply to the Council for consideration to be able to trade outside of these hours. The Council reserve the right to revise any extended operation hours at any reasonable time.
- (j) The trader shall ensure that where food (including drinks) is sold, they achieve a minimum Food Hygiene Rating Score of 3.
- (k) Traders are expected to maintain high levels of good conduct and therefore must not interfere with any other trader in their lawful operations.
- (l) A trader will be required to provide a Disclosure and Barring Service Certificate with each application, including for any nominated assistant.
- (m) The trader must notify the Council in writing of any charges, convictions or cautions within 7 days which arise during the course of the consent, including for any nominated assistant, failure to do so may result in refusal to grant any future applications.
- (n) The holder of any consent may employ any other person to assist him without a further consent being required. For any such assistants nominated, a basic DBS must be completed for this person and their photographs to be supplied with the application.

NOTE The Council may vary these conditions at any time.

Fees and Charges

The Council will set the fees for street trading consent annually.

Traders who reside inside the borough will be subject to a discounted fee, to promote economic growth and development for Chorley residents.

If consent is surrendered or revoked during the 12-month period, the Council will charge an administration fee. Surrendered or revoked consents will be subject to a pro-rata refund based on whole and part months when trading has taken place.

Enforcement

Where, during the course of the consent, there are any charges, police investigations, and/or convictions against the consent holder or nominated assistant, the consent may be revoked with immediate effect. A consent may also be revoked for any other reasonable cause.

In the event that a further application for a Street Trading consent is made following revocation of a previous consent the matter will be passed to the relevant Director in consultation with the Chair or Vice Chair of the Licensing and Public Safety Committee, where the General Safeguarding, Suitability and Convictions policy will be applied.

Failure of the trader to advise the Council in writing of any charges, police investigations and/or convictions or cautions within 7 days which arise during the term of the consent may result in refusal to grant any future applications.

Where a complaint is received from either the public or another authority, such as the police or local authority, the complaint will be investigated and the Council may revoke the consent where a condition has been breached, they consider that on a balance of probabilities that an offence has been committed or the reputation of the Council may be undermined by the activities of a consent holder or for any reasonable cause.

Where two consent holders are investigated due to complaints of breaches of conditions or arguments over trading times and areas, both consent holders will be expected to fully participate in mediation. Where issues persist or mediation is refused the Council may consider enforcement action or referral to the General Licensing Sub-Committee for a consideration of the matter and a decision on whether to apply additional conditions, revoke or renew consents for either or both parties.

Appeals

Where a Street Trading Consent is revoked there is no right of appeal through the courts. Chorley Council has agreed the implementation of an internal appeal procedure, where applicants refused a consent or subject to revocation can appeal to the General Licensing Sub-Committee.

Where a consent is revoked, the appeal must be made to the Council within 21 days and trading will not be permitted until the appeal has been heard and the decision published.

Appendix 1- Prohibited and Consent streets

The Council has adopted a system of street trading comprising of designated “prohibited streets” and “consent streets”.

PROHIBITED STREET

A “prohibited street” means a street or area in which street trading is prohibited. In Chorley the prohibited streets with are:

(i) All land and streets in the open air, generally in the areas known as Rivington and Anglezarke within the Borough of Chorley. (Signs mark the approximate boundary of this area, further details are available from the Regulatory Services Team, telephone 01257 515151).

(a) There are three sites in this area where trading is permitted, these sites are let on a twelve month licence by Tender from United Utilities, Andertons Yard, Horwich - a street trading consent is also needed from Chorley Council.

(ii) The area of land adjacent to the Market Walk Development in Chorley bounded by the Market Walk Development, the car park and New Market Street, Chorley.

(iii) Streets in the area of the General Market, Chorley Town Centre:

- | | | | |
|-------------------|---------------|-----------------|-------------------|
| Cannon Street | High Street | Chapel Street | Market Place |
| Cleveland Street | Market Street | Clifford Street | New Market Street |
| Fazakerley Street | Union Street | | |

iv) The M6 Services at Charnock Richard and the M61 Bolton West Services.

CONSENT STREET

A “consent street” means a street or area where trading is not allowed without the consent of the Council. A consent is a document issued by the Council.

In Chorley all streets other than prohibited streets are designated “consent streets”. This means that a person wishing to trade in those streets must obtain the consent of the Council.

A “street” includes any road, footway or other area to which the public have access without payment. Therefore, the Act can apply to public and private car parks, shopping centres and leisure areas. However, to trade in a private area you still need the permission of the landowner as well as a street trading consent from the Council.

Exemptions

Street Trading means that selling or exposing or offering for sale of any article (including a living thing) in a street but this does not include:

- (a) trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (b) anything done in a market or fair (a public event where there is a variety of goods and entertainment available) the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) trading in a trunk road picnic area provided under the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading as:
 - (i) a petrol filling station
 - (ii) at a shop or on a street adjoining premises so used and as part of the business of the shop;

(f) selling things, or offering or exposing them for sale as a roundsman. This means purely delivering goods which have been pre-ordered before you arrive at the premises, or delivering a regular order, such as with a milk round. Delivering a small amount of pre-ordered goods, when the majority of your business is to offer a range of goods for customers to choose from on site, does not qualify you as a roundsman.

Appendix 2- Application form, conditions and guidance

EARLY INTERVENTION DIRECTORATE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART III - STREET TRADING
APPLICATION FOR STREET TRADING CONSENT**

GRANT / RENEWAL Application (delete as appropriate)

(Please use CAPITAL LETTERS)

NAME: _____

DATE OF BIRTH: _____ NI Number:

--	--	--	--	--	--	--	--	--	--

ADDRESS: _____

POSTCODE: _____ TEL NO. _____

TYPE OF VEHICLE: _____ REG NO _____

ARTICLES TO BE SOLD: _____

IF NO VEHICLE, OTHER METHOD OF SALE: _____

WHERE AND WHEN DO YOU PROPOSE TO TRADE: _____

I ENCLOSE FEE OF £
(Cheques payable to Chorley Borough Council)

I AM OVER 17 YEARS OF AGE

Signed _____ Date _____

Fees: Applicants residing within the Borough: £440.50 per annum.
Applicants residing outside the Borough: £562 per annum.

- NOTES:
1. A Consent granted will be valid for a period of twelve months from the date of issue.
 2. Completed application forms, DBS certificate and passport size photograph of the consent holder to be returned to: **Regulatory Services Section
Early Intervention and Support Directorate
Civic Offices
Union Street
Chorley PR7 1AL**

DATA PROTECTION ACT 1998
The information on this form will be used by Chorley Council under the terms of the Data Protection Act 1998 and will only be used in connection with the operation of the Environmental Services Unit. In case of query please contact the nominated Chorley Council Data Protection Officer at the Civic Offices, Union Street, Chorley, PR7 1AL.

FOR OFFICE USE ONLY
Received: _____ Consent issued: _____ No. _____ Fee Paid _____

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**STREET TRADING CONDITIONS**

The Council has adopted a system of street trading comprising of designated “prohibited streets” and “consent streets”.

1. PROHIBITED STREET

A “prohibited street” means a street or area in which street trading is prohibited. In Chorley the prohibited streets with are:

- (i) All land and streets in the open air, generally in the areas known as Rivington and Anglezarke within the Borough of Chorley. (Signs mark the approximate boundary of this area, further details are available from the Regulatory Services Team, telephone 01257 515151).
 - (a) There are three sites in this area where trading is permitted, these sites are let on a twelve month licence by Tender from United Utilities, Andertons Yard, Horwich - a street trading consent is also needed from Chorley Council.
- (ii) The area of land adjacent to the Market Walk Development in Chorley bounded by the Market Walk Development, the car park and New Market Street, Chorley.
- (iii) Streets in the area of the General Market, Chorley

Cannon Street	High Street
Chapel Street	Market Place
Cleveland Street	Market Street
Clifford Street	New Market Street
Fazakerley Street	Union Street
- iv) The M6 Services at Charnock Richard and the M61 Bolton West Services.

2. CONSENT STREET

A “consent street” means a street or area where trading is not allowed without the consent of the Council. A consent is a document issued by the Council.

In Chorley all streets other than prohibited streets are designated “consent streets”. This means that a person wishing to trade in those streets must obtain the consent of the Council.

A “street” includes any road, footway or other area to which the public have access without payment. Therefore, the Act can apply to public and private car parks, shopping centres and leisure areas. However, to trade in a private area you still need the permission of the landowner as well as a street trading consent from the Council.

There have been different interpretations as to what constitutes a “street” for a number of years. The law was clarified in 2009 by the case heard in the High Court, of West Berkshire District Council v Simon Paine [2009] EWHC 422 (Admin). The essential point from the case is that a “street” can include private land such as a private car park, even though the public might not be expected to enter the land, they can do so, without

payment. It does not just mean land which is part of a highway. This means that a number of activities that have not previously been considered to require a Street Trading Consent, will require one from now on. For example, parking on the private car parks of businesses, and selling goods to the employees, requires a Street Trading Consent.

You might also need planning permission if you want to trade from the same place on a regular basis or if you want to trade from a Council owned car park - contact the Council's Planning Section, Civic Offices, Union St, Chorley, telephone number (01257) 515151.

You should also contact Lancashire Highways Agency (Tel: 0845 0530011) to establish whether they have any comments regarding the proposed location of trading.

Exemptions

Street Trading means that selling or exposing or offering for sale of any article (including a living thing) in a street but this does not include:

- (a) trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- (b) anything done in a market or fair (a public event where there is a variety of goods and entertainment available) the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) trading in a trunk road picnic area provided under the Highways Act 1980;
- (d) trading as a news vendor;
- (e) trading as:
 - (i) a petrol filling station
 - (ii) at a shop or on a street adjoining premises so used and as part of the business of the shop;
- (f) selling things, or offering or exposing them for sale as a roundsman. This means purely delivering goods which have been pre-ordered before you arrive at the premises, or delivering a regular order, such as with a milk round. Delivering a small amount of pre-ordered goods, when the majority of your business is to offer a range of goods for customers to choose from on site, does not qualify you as a roundsman.

3. GENERAL CONDITIONS TO A TRADING CONSENT

A consent will only be granted for a period of 12 months and may be revoked at any time for any reasonable cause, as determined by the Council.

The Council may, in granting or renewing a consent, impose such conditions as it considers reasonably necessary.

The following standard conditions will apply:

- (a) A street trader shall not trade within 50 metres of a fixed retail shop selling similar goods as its principal business, during the shop opening hours for the particular shop.

- (b) Only those goods originally nominated by the applicant to be sold. Any changes to be notified to the Councils' Regulatory Services Team by the consent holder before sales commence.
- (c) Nuisance or annoyance shall not be caused (whether to persons using the street or otherwise).
- (d) No obstructions of any street or persons using it shall be caused.
- (e) The trader shall display his/her name and consent number in a prominent position on the vehicle, cart, barrow or portable stall at all times when trading.
- (f) The trader shall produce, on the request of an authorised officer of the Council, evidence of his/her identity. A passport size photograph must accompany the application form which will be used for this purpose if consent is granted.
- (g) The trader shall at all times ensure compliance with all legislation relevant to the conduct of the business, in particular:
 - (i) any vehicle used must be in roadworthy condition, taxed and insured.
 - (ii) any vehicle used shall not be sited in contravention of parking restrictions.
 - (iii) any loudspeaker may only be used in accordance with Section 62 of the Control of Pollution Act 1974, and,
 - (iv) any vehicle or stall used for the sale of food shall comply at all times with the Food Safety and Hygiene (England) Regulations 2013 and Regulation 852/2004 Annex II Chapter III.
 - (iv) where food is being sold, the applicant must also be a registered food business, this must be in the local authority area where their registered office is (this may be their home address).
- (h) The trader shall provide adequate receptacles for rubbish and remove all rubbish deposited in the vicinity of the vehicle or stall.
- (i) Trading may only take place between the hours of 07.30am and 11pm on any day. Consent holders may apply to the Council for consideration to be able to trade outside of these hours. The Council reserve the right to revise any extended operation hours at any reasonable time.
- (j) The trader shall ensure that where food (including drinks) is sold, they achieve a minimum Food Hygiene Rating Score of 3.
- (k) Traders are expected to maintain high levels of good conduct and therefore must not interfere with any other trader in their lawful operations.
- (l) A trader will be required to provide a Disclosure and Barring Service Certificate with each application, including for any nominated assistant.
- (m) The trader must notify the Council of any charges or convictions which arise during the course of the consent, including for any nominated assistant, failure to do so may result in refusal to grant any future applications.
- (n) The holder of any consent may employ any other person to assist him without a further consent being required. For any such assistants to be nominated, a basic DBS must be completed for this person and their photographs to be supplied with the application.

NOTE The Council may vary these conditions at any time.

4. **APPLICATION PRE-REQUISITES**

Applications must be submitted on the official application form and be accompanied by the appropriate fee (See below). A passport size photograph of the consent holder should be included with the completed application form. A valid Disclosure and Barring Service (DBS) is also required before the grant or renewal of a consent.

A consent will not be granted to any person under 17 years of age.

A consent will only be granted for a period of 12 months, but can be revoked at any time.

A consent will only be granted where the applicant provides a basic Disclosure and Barring Service (DBS- formerly the CRB) certificate, this must be less than 2 months old at the date of application, including for any nominated assistant. The applicant will be required to make an appointment the Council for this to be completed by contacting the Transactional Team on 01257 515151.

Where there are any convictions then the application will be determined by the Director in consultation with the Chair of the Licensing and Public Safety Committee.

Where a street trading consent or licence has previously been revoked, either by Chorley Council, or any other authority, the Council may refuse an application for consent.

5. **FEES & CHARGES PAYABLE**

Applicant residing within the Borough as per current published fees
Applicant residing outside the Borough as per current published fees

If consent is surrendered or revoked during the 12-month period, the Council will charge an administration fee of £62. Surrendered consents will only be refunded for the remaining whole months of the consent.

6. **PENALTIES FOR NON-COMPLIANCE**

It is an offence to:

- (a) Engage in street trading in a prohibited street.
- (b) Engage in street trading without consent in a street.
- (c) Make any false statement in an application for consent.
- (d) Engage in Street Trading from a vehicle, cart, barrow or portable stall without a consent permitting it.
- (e) Contravene conditions relating to the time and place of trading from a vehicle, cart, barrow or portable stall.

The maximum fine on summary conviction is £1,000.

Further advice and information is available from the Regulatory Services Team, Early Intervention Directorate, Tel: (01257) 515151.

STREET TRADING CONSENT GUIDANCE NOTES**FOOD SAFETY AND HYGIENE (ENGLAND) REGULATIONS 2013
REGULATION (EC) 852/2004 ANNEX II CHAPTER III**

1. High risk foods, e.g. cooked meats, uncooked pies and pasties, quiches, soft cheeses, prepared vegetable salads, egg mayonnaise, fresh cream cakes, sandwiches containing high risk foods etc. must be stored at not more than 8°C as soon as possible after arrival on the vehicle or stall. A thermometer should be provided for each refrigerator. If any of these foods are intended to be sold hot, they must be kept at not less than 63°C whilst awaiting service.
2. Hand washing facilities and facilities for the washing of food and equipment are required on the vehicle or stall.
3. Interior wall and roof surfaces must be in good order, repair and condition to enable them to be effectively cleaned e.g. laminated plastic with sealed joints, or any smooth impervious hard finish.
4. The floor must be in good repair and condition to enable it to be effectively cleaned, e.g. metal, heavy duty vinyl with as few joints as possible.
5. Work surfaces and shelving must be covered with a suitable impervious material e.g. stainless steel or laminated plastic. Legs to the above should be gloss painted or covered with an impervious material which can be effectively cleaned.
6. The interior of the vehicle must be kept clean at all times.
7. There must be adequate natural or artificial lighting provided.
8. All containers for foods must be of such a type to prevent any contamination of the food, and be kept clean.
9. Refuse containers must be provided, with tight fitting lids, inside the vehicle, and outside for use by customers if the vehicle is parked for any length of time.
10. Food should not be placed so as to involve risk of contamination.
11. Any unfit or unsound food must be kept apart from any other food.
12. Open food e.g. sandwiches, cakes, biscuits etc. must be kept covered whilst exposed for sale with a suitable clean cover.
13. No live animal shall be carried in a food vehicle.
14. Wrapping materials or containers must be clean and not allow any contamination of the food. Any printed material e.g. newspapers must not be used to directly wrap food in.

PERSONAL HYGIENE REQUIREMENTS

1. A clean and washable overall must be worn at all times.
2. Keep all cuts and abrasions covered with waterproof dressings.
3. Smoking is prohibited within the vehicle at all times.
6. If a food handler becomes aware that they are suffering from any food poisoning type illness they must notify the owner of the business and refrain from work. They should not return to work until they have been given medical clearance by their GP.

If they have salmonella, dysentery or staphylococcal infection they must notify the owner of the business who then must notify the Environmental Health Officer. They must refrain from work until cleared by the Officer.

FOOD REGISTRATION

If food intended for sale from a vehicle or stall etc., is stored elsewhere than shop premises, the Local Authority must be informed so that the storage premises can be inspected by an Environmental Health Officer.

Under the Regulations, the premises where the vehicle is normally kept will have to be registered. Forms are available from this department if the vehicle is kept in the Chorley Area. There is no charge for registration. If you do not keep your vehicle/trailer/stall within the Borough of Chorley, please contact your local Environmental Health Department.

**GUIDANCE NOTES FOR HEALTH AND SAFETY PRACTICES IN MOBILE FOOD
VEHICLES**

GENERAL REQUIREMENTS

1. Employers have a legal duty to employees including the provision and maintenance of plant and systems of work, provision of training and supervision, safe handling and storage of substances and articles and provision of a safe working environment.
2. Employers and the self-employed have a duty not to expose persons not being employees to any risk to their health and safety. Includes, members of the public and patrons of the food business.
3. Employees must safeguard themselves and their colleagues and co-operate with their employer in connection with those duties imposed upon them.
4. As from 1 April 1996, the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) requires that Chorley Council are notified of:
 - (i) All injuries to employees or self-employed persons which result in more than seven days off work should be notified within ten days of the accident, using Health and Safety Executive website.
 - (ii) All fatalities and specified major injuries to employees or self-employed persons, all specified dangerous occurrences, and any incident arising from work where a member of the public is killed or taken to hospital direct from site. Notification in these instances must be made immediately by the quickest practicable means (usually telephone) and followed by formal notification within ten days.
 - (iii) Certain prescribed industrial diseases, for more information see HSE website.
5. The Health and Safety (First Aid) Regulations 1981 place a duty on employers and the self-employed to provide a clean first aid box containing only specified first aid materials (ie no medicines, tablets, antiseptic etc.) and a guidance card on emergency first aid. In addition, employers must nominate as a minimum, a person to look after the first aid equipment, and to call the emergency services if necessary. Notices should be displayed giving the location of the kit.
6. The Electricity at Work Regulations 1989 place a duty on employers and the self-employed to ensure the safety of all electrical equipment. Planned routine maintenance is essential, and regular checks should be made to ensure the safety of equipment and the electrical installation.
7. The Control of Substances Hazardous to Health Regulations 2002 place a duty on employers and the self-employed to assess the potential health risk to employees and others by work with hazardous substances and to control those risks identified and monitor the effectiveness of any control measure introduced.
8. Any vehicle or trailer used must be so constructed and maintained as to be roadworthy.

LIQUEFIED PETROLEUM GAS (LPG)

1. Increasing concern is shown over the safety of LPG installations. LPG is a convenient, easy to handle fuel but it is a potentially dangerous substance. LPG takes the form of commercial propane, marketed in red or orange cylinders, and commercial butane, marketed in blue, green or yellow cylinders. The principal danger lies in the release of gas into a confined space, which can result in a fire or explosion risk. LPG is heavier than air, therefore leaking gas will usually descend.
2. The installation of gas appliances, flues, pipework, valves etc. must be undertaken by a competent person (Gas Safe registered) and should comply fully with all relevant British Standards.
3. Regular maintenance and examination of the installation should be carried out, including leak testing by the use of soapy water or similar. Naked flames must never be used.

LPG STORAGE ACCOMMODATION

1. Containers or cylinders of LPG and any manifold and changeover valves must be positioned in the open air or separate ventilated housing outside the body of the vehicle.
2. The ventilated housing may be recessed into the body of the vehicle, but must be sealed from the vehicle so that escaping gas cannot be released within the vehicle itself. Ventilation to external air may be achieved by ventilating the base or the side away from the vehicle, or both, using reinforced mesh or similar strong supporting construction. Ventilation at low level is very important.
3. All cylinders must be securely attached to the vehicle with their valves uppermost and be readily accessible to permit the changing or quick removal when necessary.
4. The compartment or housing construction must be of non-combustible material giving at least 30 minutes fire resistance, located to prevent damage to cylinders if subject to impact during a RTA. Joint's to be bonded or fire-stopped to prevent fire or hot gas spreading into the vehicle.
5. Access to the housing should only be from the outside of the vehicle, be secure to prevent tampering, but containers must be accessible in emergencies. The access point should be located on the nearside of the vehicle to minimise the risk of the operator being struck by a passing vehicle when changing the cylinders.
6. A Notice should be fitted to the outside of the housing to indicate the presence of LPG. Pictorial signs must comply with the Health and Safety (Signs and Signals) Regulations 1996.
7. Sources of ignition must be prohibited within one metre from the storage housing:
 - (i) The exhaust pipe may require shielding to prevent it becoming a source of ignition.
 - (ii) No part of the electrical installation must pass through the housing unless protected from mechanical damage.
 - (iii) The battery must be positioned away from the housing to prevent the risk of ignition of any escaping gas.

PIPEWORK AND JOINTS

1. Pipework should be LPG compatible, adequate rating and resistant to corrosion and abrasion, supported at intervals of not more than one metre, or 500mm in the case of soft copper.
2. Pipework passing through walls or partitions must be protected by grommets to prevent abrasion or fracture. Pipework passing beneath the vehicle must be installed to prevent mechanical damage from debris such as flying stones.
3. Pipework and fittings should be of solid drawn copper tube with copper or copper alloy fittings, or stainless steel tube and appropriate compression or screwed fittings. Copper pipework should not be exposed to temperatures above 100°C.
4. Every pipe containing LPG should terminate with a readily accessible shut-off valve or tap immediately before the appliance, in a readily accessible position. Taps should indicate clearly open and shut positions, and directions they must be turned to close them.
5. A shut-off valve should also be fitted prior to the first appliance on the line from the cylinders.

FLEXIBLE HOSES

1. Lengths must be kept to a minimum for essential flexibility.
2. High pressure hoses must be provided with integral threaded ends.
3. Low pressure hoses must be joined using either integral threaded ends, crimping or use of suitable hose clips (not of the worm-driven type).
4. Flexible hoses should not be used when temperatures exceed 50°C unless braided or armoured.

APPLIANCES

1. Appliances must be:
 - (i) Securely fastened to the vehicle.
 - (ii) Sited so as to allow easy access so that, in an emergency, the means of escape is not endangered.
 - (iii) Installed, maintained and serviced, in accordance with the manufacturer's instructions.
2. Appliances must not be sited in a position where heat from them may create a fire hazard or cause damage to surrounding material.
3. A flame failure device, which shuts off the supply of gas if the flame is extinguished is recommended to each appliance in all cases.
4. Appliances should not be lit whilst the vehicle is in motion, except that LPG fuelled refrigerators may be used on the road provided that:

- (i) A flame failure device is fitted and an adequate flue is provided.
 - (ii) It is properly secured, and does not show naked flame.
5. Refrigerators, when used on the road, are recommended to have an additional air intake of not less than 13cm² (1,300mm²) fitted in the floor of the vehicle below the refrigerator, but this must be sited so as to prevent a draught extinguishing the burner or pilot flame.
6. It is encouraged that a 12v battery source is used on freezer and refrigerators whilst vehicles are in motion.
7. Frying ranges should be fitted with:
- (i) An automatic high temperature limit device which will shut off the main burner if the temperature exceeds 230°C.
 - (ii) An automatic temperature control to maintain the temperature of the frying medium, with a maximum setting of 205°C.
8. Alternatively, a tap or valve should be fitted to control the main burner, together with a visual temperature indicating device incorporating an alarm mechanism if the temperature of the frying medium exceeds the pre-set value.

GAS SAFETY

MAINTENANCE AND INSPECTION BY EMPLOYERS AND USERS

1. Regulation 35 of GSIUR requires employers to ensure that gas appliances, flues, pipe work and safety devices are maintained in a safe condition. They should be inspected by a competent person in accordance with current industry practice. Periods between inspections may vary depending on the equipment and its use and should follow manufacturer's recommendations, but as a general rule **annual inspection** will be a reasonable minimum frequency.
2. It is the responsibility of the street trader to ensure that the competent persons carrying out the inspection and maintenance of the appliances are registered with Gas Safe and hold the qualification of Commercial Catering and LPG. More information can be found on the Gas Safe Register website at www.gassaferegister.co.uk/ or alternatively contact the Public Protection team at Chorley Council on 01257 515151.
3. A copy of the inspection report should be kept with the vehicle / trailer and made available for inspection at any reasonable time by an authorised officer.

VENTILATION

1. Adequate ventilation must be provided in every vehicle compartment where LPG fuelled appliances are used.
2. Suitable flues must be fitted to all appliances where required and flueless appliances avoided.

FIRE PRECAUTIONS

1. Clear written instructions must be displayed inside the vehicle, detailing the action to be taken in the event of fire or gas leakage.
2. A fire blanket should be provided, especially where frying is undertaken.
3. A dry powder fire extinguisher of 4.5kg capacity should be a minimum provision and will be suitable for both LPG and fat fires. The extinguisher must be located in a readily accessible position adjacent to the exit.
4. Access to and from the vehicle should be safe and free from obstructions.

Appendix 3- General Licensing Safeguarding, suitability and convictions policy

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Appendix 2- Consultation Response

Hi I am very satisfied with the new licensing method you guys have done, please could I recommend you look into how many street trading licenses are issued as other county boroughs have issued limited number of licenses (e.g. Preston).

Doing this will avoid conflict and will stop the streets of Chorley being flooded by street traders.

Thank you I really appreciate your concern in this matter.

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Report of	Meeting	Date
Director of Early Intervention and Support	Licensing and Public Safety Committee	1 February 2017

CONSOLIDATED TAXI LICENSING POLICY

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider the consultation responses to the draft consolidated Taxi Licensing Policy and agree the timescale for review of the Policy.

RECOMMENDATION(S)

2. That the Licensing and Public Safety Committee note the consultation responses received on the proposed Draft Hackney Carriage and Private Hire Licensing Policy and determine whether to include the condition for CCTV to be installed in all vehicles, as suggested by the consultation response.
3. That the Licensing and Public Safety Committee note the consultation responses received on the proposed Draft Hackney Carriage and Private Hire Licensing Policy and determine whether to include the proposed wording suggested by the Guide Dogs Association and include a requirement for any medical exemption certificate in relation to assistance dogs to be produced in a tactile format.
4. That the Licensing and Public Safety Committee determine the proposal to include a condition that a Council's Taxi Test not only requires the vehicle to pass an MOT test as part of the testing regime, but that the vehicle will fail the Council's Taxi Test where there are any advisory recommendations noted on that MOT.
5. That the Licensing and Public Safety Committee determine the proposal to remove the allowance (when a driver has made a timely application for a DBS check i.e. 28 days before the renewal date) for a Licence to be renewed in the absence of the DBS certificate.
6. That the Licensing and Public Safety Committee determine the proposal to attach an age limit of 6 weeks to the HPI check required by the vehicle conditions.
7. That the Licensing and Public Safety Committee determine the proposal from Customer Services to require all supporting documentation to be provided before a new driver application can be accepted.
8. That the Licensing and Public Safety Committee determine the implementation date of the Taxi Policy as either with immediate effect or from 1st April 2017.
9. That the Licensing and Public Safety Committee determine the options for the timetable for a formal review and consultation of the policy as either 3 or 5 years.
10. That delegated power is granted to the Director of Early Intervention and Support to make amendments to the policy from time to time arising from changes to legislation or case law.

EXECUTIVE SUMMARY OF REPORT

11. The Hackney Carriage and Private Hire Licensing Policy (**Appendix 1**) consolidates all previous Taxi Licensing policies with the addition of a very few proposals that are detailed below..
12. Therefore, the Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees.

13. The purpose of the published Policy is to ensure transparency and aid in the decision making process.
14. The Policy will be a living document, so where legislation changes occur or decisions that impact on the policy are made by the Licensing and Public Safety Committee over the life of the policy, the document will be updated to reflect this. However, the philosophy would be that the policy, which has been consulted upon, would be the basis for all decisions and in normal circumstances the policy would only be subject to revision at the regular, timetabled review dates, where the changes would be subject to consultation.
15. It is anticipated that this may have an impact on the number of Licensing and Public Safety Committee meetings required throughout the policy life, but this has yet to be tested.
16. The Draft Policy was put out for consultation for a period of 12 weeks to the end of December 2016, each licenced driver, vehicle proprietor and private hire operator was written to and provided a link to the Council's website, where the document was published.
17. The Council received two consultation responses.
18. The first consultation response is from Coopers, sent via email, suggesting the mandatory installation of CCTV in all vehicles and members are asked to consider the inclusion of this vehicle condition in the Policy for all new vehicles and also for existing vehicles as part of the renewal conditions.
19. The second was from the Guide Dogs Association, asking that we include conditions in relation to carrying assistance dogs, the consultation information they have provided is attached in **Appendix 2**.
20. Chorley Council already have conditions in the Policy in relation to assistance dogs, however, the committee may want to consider whether we adopt the wording proposed by the Guide Dogs Association and also the requirement for Tactile Medical Exemption Certificates, which allows those partially sighted or blind passengers to ensure that the certificate is valid.
21. At the last Licensing and Public Safety Committee in November 2016, following some research into MOT pass and fail rates for Chorley Licensed vehicles, Officers raised concerns about the clear lack of preventative maintenance carried out to a large proportion of the vehicles checked. Members will recall that there were high percentages of vehicles failing MOT's on numerous occasions and also issues with advisory notes, in particular in relation to tyres close to legal limits, worn brakes and suspension issues, where those issues were then being shown as the reason for failure at subsequent tests.
22. Members are asked if they want to take the opportunity before finalising the Taxi Policy to include a change to the existing Chorley Council Taxi Test whereby the vehicle fails the test where there are MOT advisory notes on the MOT certificate, requiring proprietors to ensure that those issues are addressed before the Vehicle Licence is issued or renewed.
23. In accordance with the implementation of the Immigration Act 2016 for the Taxi Trade, and the update provided to Members at the meeting in November, the wording in relation to the Right to Work section of the Policy has been updated to reflect the legal requirements placed upon the Council.
24. Members are asked to consider the removal of the existing procedure, which allows for a Licence to be renewed in the absence of a DBS Certificate where the DBS application has been made in a timely fashion (28 days prior to the expiry date). Members are recommended to change the policy to a 'No DBS Certificate- No Licence' approach. Members are advised that applicants are invited to start their renewal application and obtain their DBS and Medicals up to 3 months prior to the expiry of their licence.
25. Legal have invited members to consider an alternative, which is similar to our current policy. Members will want to consider the risks to the Council in making this decision.
26. Members are asked resolve a deficiency in the vehicle conditions and attach an age limit of 6 weeks to the HPI check at the point it is presented with the vehicle for inspection, to prevent old checks being presented and the Council having to accept these because the policy does not currently require the HPI to be recent in nature.
27. The Council received a consultation response from Customer Services with particular regard to new driver applications, asking that the policy require all supporting documentation, such as DBS certificate, medical, driver qualifications to be submitted before the application is accepted and the fee taken. We already encourage this on the forms, but it is not currently set out in policy.

Confidential report Please bold as appropriate	Yes	No
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CORPORATE PRIORITIES

28. This report relates to the following Strategic Objectives:

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

BACKGROUND

- 29. Chorley Council is responsible for Taxi Licensing within the provisions of the Local Government (Miscellaneous Provisions) Act 1976, in this document to be referred to as 'The Act'.
- 30. Additional provisions in relation to Hackney Carriage Vehicles are present within the Town and Police Clauses Act 1847 and within the Council's byelaws.
- 31. Taxi licensing legislation is limited and most functions and decisions with regard to Taxi Licensing refer to policy decisions made by the Council.
- 32. Chorley Council's Licensing and Public Safety Committee are responsible for making these policy decisions, which provides a framework for how the Council will process, administer, enforce and charge fees for Taxi Licensing.
- 33. Policy decisions are held within committee reports and the purpose of a consolidated Hackney Carriage and Private Hire Licensing Policy is to make those policy decisions easily accessible to promote efficiency and consistency in the Council's licensing functions.
- 34. The Licensing and Public Safety Committee has already carefully considered and made decisions on the details of each of the policies at previous committees, therefore the proposed Policy simply consolidates those decisions into one document with the exception of a few changes, identified in the following paragraphs.
- 35. The first consultation response is from Coopers, sent via email, suggesting the mandatory installation of CCTV in all vehicles and members are asked to consider the inclusion of this vehicle condition in the Policy for all new vehicles and also for existing vehicles as part of the renewal conditions.
- 36. Camera systems can now be obtained for as little as £30. Coopers have made this suggestion following and as a consequence of the advice provided by the trainers during the Safeguarding Awareness sessions.
- 37. This was raised with the trade at the Licensing Liaison Panel Meeting and members present supported the suggestion.
- 38. The second consultation response is detailed in Appendix 2, which includes the proposals from the Guide Dogs Association in relation to medical exemptions for drivers, the wording of conditions and the requirement for tactile medical exemption certificates.
- 39. At the last Licensing and Public Safety Committee in November 2016, following some research into MOT pass and fail rates for Chorley Licenced vehicles, Officers raised concerns about the clear lack of preventative maintenance carried out to a large proportion of the vehicles checked. Members will recall that there were high percentages of vehicles filing MOT's on numerous occasions and also issues with advisory notes, in particular in relation to tyres close to legal limits, worn brakes and suspension issues, where those issues were then being shown as the reason for failure at subsequent tests.
- 40. Members are asked if they want to take the opportunity before finalising the Taxi Policy to include a change to the existing Chorley Council Taxi Test whereby the vehicle fails the test where there are MOT advisory notes on the MOT certificate, requiring proprietors to ensure that those issues are addressed before the Vehicle Licence is issued or renewed.

41. Members' attention is also brought to the fact that due to lack of enforcement resources, there are limited opportunities for officers to carry out rank inspections and other proactive interventions such as ANPR events, and this does mean that the Enforcement Officers are less likely to pick up on defects and issues such as worn tyres in their routine work as proactive inspections are infrequent due to the volume of reactive work.
42. This proposal was raised with the trade at the Licensing Liaison Panel Meeting and members present supported the suggestion.
43. In accordance with the implementation of the Immigration Act 2016 for the Taxi Trade, and the update provided to Members at the meeting in November the wording in relation to the Right to Work sections of the Policy have been updated to reflect the legal requirements placed upon the Council.
44. Members are asked to consider the removal of the existing procedure, which allows for a Licence to be renewed in the absence of a DBS Certificate where the DBS application has been made in a timely fashion (28 days prior to the expiry date). This allowance was agreed in 2015 in order to be flexible to existing licence holders and renew on the basis that there was no evidence at renewal that the applicant did not meet the fit and proper test.
45. However, recent events in other neighbouring authorities have meant that the policy of issuing the renewal without sight of the updated DBS has been severely criticised and highlighted as poor practice on the part of the local authority. In light of this and the recent accessibility of electronic DBS applications to our applicants and the availability of the updating services, members are recommended to change the policy to a 'No DBS Certificate- No Licence' approach.
46. Members are advised that most delays in DBS certificates being returned are as a result of the applicant failing to provide all the information for the application in a timely manner. With the new online system they register then delay by waiting before they are reminded to complete the ID verification. If they complete all the application steps swiftly, then the DBS is usually processed within 7 days. This will not always be the case and legal have invited members to consider an alternative which is similar to the current policy and reminded members that the police should contact the Council where drivers are arrested as it is a notifiable occupation. However, this is reliant on the custody sergeant being familiar with the requirements in each case and officers have experience of where this has happened, but also of where this has not happened (the specific details of which could not be disclosed in the open forum of this meeting).
47. As part of the consultation exercise, it was noticed by officers that the new vehicle conditions, although requesting an HPI check for the vehicle, due to the DVLA no longer putting write off information on the log book, but we had not included a cut off for the age of the check, so we could be presented with HPI that are many months old and the policy would not support the need for a more up to date check. It is felt that 6 weeks would be sufficient to allow an applicant to have the check made before purchasing the vehicle and have the log book returned by the DVLA.
48. The Council received a consultation response from Customer Services with particular regard to new driver applications, asking that the policy require all supporting documentation, such as DBS certificate, medical, driver qualifications to be submitted before the application is accepted and the fee taken. We already encourage this on the forms, but it is not currently set out in policy. Customer Services felt that this would improve efficiency in have piece meal applications and reduce the administration in chasing up elements of the application or processing refunds for rejected applications. The only items outstanding after the acceptance of the application and fee would be the knowledge test and associated safeguarding training and test, which would be arranged with the Council on receipt of the application.

IMPLICATIONS OF REPORT

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

Finance		Customer Services	X
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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

- 50. There is no statutory requirement to maintain an overarching policy on taxi licensing and no national guidance to that effect. However a comprehensive written policy will assist in promoting consistency and fairness in decisions. It is also a useful resource for officers to refer to in the absence of the Lead Licensing and Enforcement Officer and should assist in succession planning.
- 51. There is no statutory requirement to review the policy but it is good practice to keep it under periodic review in the light of changes in legislation, relevant case law and any national guidance.
- 52. The policy is not rigid and officers and members are not obliged to follow it. However the Council should have good reason to depart from the policy.
- 53. With reference to the DBS proposal of 'No DBS- No Licence' Members may want to consider an alternative based on the statutory declaration suggested by Jim Button, the preeminent Taxi Licensing lawyer.
- 54. In a few cases a timely application is made to DBS, but the checks are not returned in time for the renewal date through no fault of the applicant but because of delays by DBS.
- 55. DBS checks received on or after the renewal date on a three year basis will necessarily contain convictions or cautions which are historic. In some cases the matters will be nearly three years old. Members should weigh the advantage of insisting on a "no DBS no licence approach" even if a timely application has been made by the driver if the DBS is likely to be received a few weeks after the renewal date as against the fact that a DBS check received before the renewal date may contain details of offences committed one, two or nearly three years previously.
- 56. A DBS check, even if received in good time before renewal is therefore always potentially stale. This is why the conditions attached to private hire driver licences oblige the holder to notify the Council in writing within 7 days of any convictions. Some drivers do not comply with this condition. The Council can rely on the additional protection arising from the fact that taxi driving is a notifiable occupation. This means that the police should notify the Council of any conviction (at least for serious matters) in respect of anyone known by the police to be a taxi driver. This system is not of course a failsafe, if only because for the system to work it must be known to the police that the alleged offender holds a taxi licence. Many holders of taxi licences do not work full time as taxi drivers and the fact that they hold a taxi licence may not always be apparent to the police.

COMMENTS OF THE FINANCE OFFICER

- 57. Any efficiencies and savings which arise from the introduction of a published Taxi Licensing Policy will be considered and reflected in any future review of the fees and charges.

JAMIE CARSON
DIRECTOR OF EARLY INTERVENTION AND SUPPORT

There are no background papers to this report.

Report Author	Ext	Date	Doc ID
Lesley Miller	5299	January 2017	***



Hackney Carriage and Private Hire Licensing Policy

2017

Contents

Introduction 4

 Terminology 4

 Taxi Licensing Objectives..... 4

 Legal Framework..... 4

 Policy Decisions 5

 Administration and Delegation of Functions 5

 Committee Hearings and Decisions 5

 Licensing Liaison Panel..... 7

Licences 7

 Fit and Proper Test..... 7

 Right to work..... 8

Driver Licences 9

 UK & European Driving Licence Checks 10

 The Knowledge Test..... 10

 Driver Qualifications 10

 Criminal Record or Disclosure and Barring Service Checks- DBS 11

 Medical Examinations 12

 Determination of applications by Committee 13

 Renewals 13

 Conditions of Licences..... 13

 Code of Conduct..... 13

 Smoking..... 14

 Use of mobile phones and other communication devices 14

 Assistance to passengers in wheelchairs 14

 Guide and Assistance Dogs 15

 Safeguarding of Children and Vulnerable Adults 15

Private Hire Operators Licence 16

 Fares..... 16

 Records..... 16

 Conditions of licence 17

 Insurance..... 17

 Planning Permission 17

 Change of Address 17

Business name..... 17

Taximeters..... 18

Touting 18

Complaints 18

Guide and Assistance Dogs 18

Safeguarding of Children and Vulnerable Adults 18

Out of Town Hackney Carriages..... 19

Vehicle Licences- General Provisions 19

 Application Requirements..... 20

 Vehicle Testing 21

 Trailers..... 21

 Change of Vehicle..... 22

 Transfer of Vehicle Ownership..... 22

 Insurance of Vehicles 22

 Accidents 23

 Transport of animals 23

 Record books and receipts..... 23

 Change of address..... 23

Vehicle Licences- Vehicle Type Conditions 23

 Stretched Limousines..... 36

Compliance and Enforcement..... 40

 Warnings 40

 Notices 40

 Revocation of licences..... 41

 Refusal of licences..... 42

 Appeals..... 42

Fees 43

Refunds 43

Reminder Letters..... 43

Appendix 1- Scheme of delegation..... 44

Appendix 2- Safeguarding, Suitability and Convictions Policy for Taxi Licensing..... 49

Appendix 3- Early Intervention and Support Directorate Enforcement Policy 69

Introduction

Chorley Council has the responsibility for licensing Hackney Carriage and Private Hire Vehicles, Drivers and Operators within the borough.

This guidance manual is aimed at consolidating in one document the Council's Policy on Hackney Carriage and Private Hire Licensing to ensure a consistent approach to undertaking those licensing and enforcement responsibilities.

Terminology

Where this document refers to both Hackney Carriage and Private Hire Licensing provisions the generic term 'Taxi Licensing' will be used.

Where the term Hackney Carriage is used this refers specifically to Hackney Carriage Licensing. A Hackney Carriage is a vehicle that is licensed to ply for hire by waiting on the rank and also by being hailed by a customer. Pre-arranged journeys booked through an Operator can also be made.

Where the term Private Hire is used this refers specifically to Private Hire Licensing. A Private Hire vehicle can only carry passengers following pre-booking through a private hire operator, who is responsible for dispatching the driver and vehicle.

The Private Hire Operator will be referred to as 'the Operator' in this document.

Private Hire and Hackney Carriage Vehicles whether operating as a passenger vehicle or not, must be driven only by a person with the appropriate and corresponding private hire or hackney carriage driver licence.

Taxi Licensing Objectives

The Local Authority's primary objective is to protect public safety and as such will regulate the Taxi Licensing trade to promote this objective.

Chorley Council also aims to stimulate a professional, responsible and efficient Taxi Trade within the borough. Consistent and fair regulation of the Taxi Trade will facilitate these further objectives without compromise to public safety.

Legal Framework

Chorley Council is responsible for Taxi Licensing within the provisions of the Local Government (Miscellaneous Provisions) Act 1976, in this document to be referred to as 'The Act'.

Additional provisions in relation to Hackney Carriage Vehicles are present within the Town and Police Clauses Act 1847.

There are a number of other important pieces of legislation that the Local Authority must also have regard to including:

The Road Traffic Act 1988

The Rehabilitation of Offenders Act 1974

The Transport Act 1985

The Road Vehicles (Construction and Use) Regulations 1986

The Legislative and Regulatory Reform Act 2006

The Equality Act 2010

Policy Decisions

Taxi licensing legislation is limited and most functions and decisions with regard to Taxi Licensing refer to policy decisions made by the Council.

Chorley Council's Licensing and Public Safety Committee are responsible for making these policy decisions, which provides a framework for how the Council will process, administer, enforce and charge fees for Taxi Licensing.

Policy decisions are held within committee reports and the purpose of this consolidated Policy is to make those policy decisions easily accessible to promote efficiency and consistency in the Council's licensing functions.

Administration and Delegation of Functions

The Council is responsible for a number of licensing functions, including Taxi licensing, and the responsibility for making decisions depends on the type of decision, the Council's constitution and the scheme of delegation.

The Licensing and Public Safety Committee is made up of 15 members, including a chair and vice chair and an additional 3 reserve members. This Committee meets 3 or 4 times per year and is responsible for making all policy decision in relation to taxi licensing. Therefore any changes to how the Councils processes, administers or regulates the service must be agreed by this committee.

In addition, the General Licensing Sub-Committee of the Licensing and Public Safety Committee meets as and when required to consider in particular applications for hackney carriage and private hire licences, where circumstances mean they cannot be decided by Licensing Officers.

Many matters can be dealt with by Officers through the Scheme of Delegation, which allows the Council to efficiently process applications or carry out regulatory functions without hindering applicants, drivers, proprietors or operators by having to wait for a committee meeting.

Delegated Authority is given to the Director of Early Intervention. Individual operational officers are in turn authorised to discharge some of these functions.

A Copy of the relevant section of the Council's Constitution and a summary of the scheme of delegation for taxi licensing is attached as Appendix 1.

Committee Hearings and Decisions

The Licensing and Public Safety Committee is made up of 15 members, including a chair and vice chair. This Committee meets up to 4 times per year and is responsible for making all policy decision in relation to taxi licensing (Full Council decision April 2008).

Reports are submitted by officers for decisions and are published 5 clear working days prior to the meeting.

Officers will give a verbal presentation of the report and the committee will vote. The minutes and decisions are published by Democratic Services.

In April 2016 a formal public questions procedure was agreed by the Council to ensure that members of the public and trade had an opportunity to put questions to the Committee in advance of the meeting and allow a response to be prepared. The Chair may still exercise discretion with regard to permitting additional questions or comments from the public during meetings.

The General Licensing Sub-Committee meetings are provisionally set on a monthly basis; however the dates can change in certain circumstances to accommodate applicants or deal with urgent issues or the meetings cancelled where there are no matters for consideration.

Where the General Licensing Sub-Committee meeting is hearing a matter whereby sensitive or personal information is necessary for the decision process, the reports for such cases will be restricted and not for general publication on the grounds 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 (Information relating to any individual).

Information is exempt to the extent that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The General Licensing Sub-Committee consists of 5 members and will be chaired by either the chair or vice chair of the Licensing and Public Safety Committee (Full Council decision April 2008).The hearing follows a written procedure with the parties allowed to speak and question one another in sequence.

A legal advisor from the Council is present at both committees to provide guidance on the legislation and existing policy to members.

An Officer from the Council's Democratic Services team will take minutes and is responsible for the publication of minutes and decisions.

Where representations are made by applicants or the trade, a legal advisor, advocate or friend may represent an applicant or members of the trade and will be given time to present their case.

Members may wish to ask Officers, applicants or trade representative further questions to clarify points regarding the decision.

When the members of the General Licensing Sub-Committee are ready to make a decision all officers, except for the Council's legal advisor and democratic services officer, and all other attendees, including the applicant and their representative must leave the meeting.

Decisions made by the committee will be relayed to the applicant as soon as possible, initially verbally and then in writing within 5 working days of the meeting. Any right of appeal to the courts against the decision will be confirmed within the decision notice and letter.

Licensing Liaison Panel

The Council has established a licensing liaison panel, the purpose of which is to establish a regular means of consultation and discussion between the Council and the trades and trade representation about licensing policy matters and issues that the trades may wish to bring to the Council's attention.

The Consultative Panel does not have a decision making role. Rather, its purpose is to review licensing matters and the wider context of licensed businesses and make recommendations, as appropriate, for the relevant Council bodies and other agencies to consider as they deem appropriate and make any decision as necessary.

Licences

Processing Timescale: An applicant must allow for a minimum of 3 working days for the licence to be issued by the Council once the application has been fully validated and all elements of the application completed.

Expired Licences: The law does not allow the Council to renew a licence that has already expired.

Fit and Proper Test

The Council will apply the 'fit and proper' test to all applicants and licensed drivers and private hire operators. It is the Council's responsibility to ensure that all persons that have any control over a licensed vehicle, either because they drive the vehicle, operate a firm which dispatches the vehicle are safe and suitable and do not pose any risk to the safety of their passengers and the public.

Where an applicant or licensed driver, private hire operator cannot demonstrate that they meet the fit and proper standard, or where there is a suspicion that this may be the case, the Council must act to ensure protection for the public.

Councils must remember that there are generally no other circumstance in which someone will get into a car driven by a person they do not know, excepting when under arrest and being escorted in a police vehicle. This places the passenger in a very vulnerable situation and the driver of the taxi in a position of great power and trust. Drivers and operators are also privy to very private information, such as addresses, passenger's regular routines and holiday dates, information which could be very valuable to those seeking to use it dishonestly. Therefore, it is imperative that safeguards are in place to ensure that only those persons that are safe, suitable and trustworthy are given this power.

The fit and proper assessment should be made either by an authorised officer or by the members of a committee, with the following question in mind:

- Would I want any members of my family, a child or a vulnerable person (including someone who may be intoxicated) to either be alone in a car with or in a vehicle under the control of this person.

If the answer is 'no' or 'not sure' then the fit and proper test has not been satisfied and the licence should be refused or revoked.

When the fitness and propriety of the holder of a driver licence or an operator licence is in issue the Council recognises that it may exercise its discretion to sanction the vehicle licence on the grounds that the holder is not fit and proper and it is undesirable for him/her to have access to a licensed taxi.

Right to work

These requirements apply to all Taxi Licences issued by the Council.

All applicants must provide an EEA Passport or UK birth certificate as part of the application.

Immigration Act 2016

The commencement date for the taxi trade in relation to the Immigration Act 2016 is 1st December 2016. There is a duty on the Council to ensure applicants from the taxi trade have a right to work in the UK. The Act requires the Council to carry out the following checks:

- The need to conduct face to face appointments;
- At the appointment, original documents must be inspected; and
- Colour copies of original documentation must be retained.

The duties placed on the Council are not retrospective. When the leave or right to work expires, the licence automatically lapses and the duty to surrender the licence is placed on the licensee.

Where an applicant's right to leave or work expires and they have applied to the Home Office for an extension, they will be issued with a certificate, the following conditions will apply:

- The Council can only licence applicants with those certificates for six months starting from the date of the certificate (This is because a decision will be made within six months);
- Applicants with T1, T2 and T4 visa's cannot be taxi drivers (This is because they are either:
 - a) Entrepreneurs;
 - b) Skilled sector such as a doctor; or
 - c) Students.
- Visa's held in expired passports can no longer be accepted. The applicant will now be expected to pay for the visa to be moved into a valid passport.

Where the applicant is not able to provide these or there is a query about the documentation provided the Council will contact the Home Office. The application will not be processed until this confirmation is received from the Home Office and therefore may be subject to delay in these circumstances while awaiting information from another agency.

Where the Right to Work does not extend for the length of the driver's Private Hire or Hackney Carriage licence at the time of issue (3 years) or the Private Hire Operators Licence (5 years), then the licence will only be granted up to the date of the expiry of the visa. Once the licence

holder is able to provide satisfactory evidence of a renewed Right to Work and Reside Visa, then the licence will be extended to the natural termination date, or again until the expiry of the latest visa, whichever is the shorter period.

There will be no additional fee to the licence holder for the extension to a licence initially issued for a shorter period than the usual duration of 3 or 5 years for Drivers and Operator Licences respectively. Where a visa is not extended, no refund will be made in relation to the licence, as all fees relate to the administration and issue of the original licence, not the duration for which the licence can be used.

Driver Licences

There are a number of distinctions between licences for Private Hire and Hackney Carriage Drivers and these will be identified as appropriate. However, many of the requirements for licensing are the same for both driver licences.

Application must be made on the Council's form and the appropriate fee paid. Where the applicant meets the Council's criteria for licensing a licence will be issued for a period of 3 years.

The following requirements must be met:

- Applicants must be over 21 years of age;
- Applicants must hold a full UK/European driving licence;
- Applicants must have three years' experience driving under a full licence;
- Applicants must pass the Driving Standards Agency Practical Driving Test for Taxis and Private Hire Vehicles, or the equivalent Council approved assessment. Those that wish to operate a wheelchair accessible vehicle must pass the Enhanced Wheelchair Assessment also;
- Applicants must be able to demonstrate they have a right to work;
- Applicants must pass the Council's Knowledge Test;
- Applicants must complete an enhanced Disclosure and Barring Service check for both grant applications and at each subsequent renewal, electronic applications and updates will be accepted;
- Applicants must demonstrate they are fit to drive by submitting a Chorley Council Group II medical form completed by their GP for both grant applications and at each subsequent renewal, unless over 65 where annual medicals are required;
- Applicants must be able to demonstrate that they are 'fit and proper';
- Applicants (including renewals for existing drivers) will be required to undertake safeguarding training.

Where an incomplete driver application has been received, due to the absence of one or more of the pre-requisites above, the application will be rejected. The applicant will be contacted after 2 months and reminded that the outstanding application items must be submitted within the next 28 days. The application will be rejected following a period of 3 months from the date of receipt of the application where those items have not been provided.

The applicant will be notified in writing and will be entitled to a refund of the application fee, minus any costs incurred to the Council, charges from outside agencies and the standard

administration fee. The applicant will be responsible for contacting the Council and providing the necessary details for a refund.

UK & European Driving Licence Checks

The applicant is required to present their UK or European driving licence for inspection for both grant and application.

Under the 1976 Act the full UK/European driving licence must have been held for at least 12 months

Drivers need an ordinary driving licence covering category B which allows them to drive vehicles up to 3.5 tonnes and with up to eight passengers.

The removal of the DVLA counterpart in 2015 means that the applicant must now make an online application to the DVLA for access to their driving record which can then be made available to the Council for the purposes of the application process.

In addition, there may be times when the Council need to check a driver's licence and this can be done using a service that provides access to these DVLA records for a small fee. There is a requirement for the driver to sign a mandate form at the application stage which permits this access.

The Knowledge Test

All new applicants are required to complete the Council's Knowledge Test

The test will consist of:

- A number of written questions to test the knowledge of routes to local places of interest and a reasonable working knowledge of roads and streets in Chorley and District.
- A number of written questions which will test knowledge of the law, as it relates to the hackney carriage and private hire trade. The applicant will also be tested on their knowledge of the Highway Code.
- A number of written questions in relation to safeguarding.

No persons other than the applicant and the examiner may be present during any part of the test. The applicant will be told at the completion of the test whether they have passed or failed. If the test is failed at the first attempt, then a further test can be taken at a later date. There is a charge for a re-test.

The Knowledge test will still be valid if an applicant has previously taken a test and then apply as a new applicant, if this is within 5 years of the applicant previously holding a Chorley Council PH/HC Drivers Licence.

Driver Qualifications

All drivers applying for a grant of a licence to drive must complete the Driver and Vehicle Standards Agency Practical Driving Test for Taxis and Private Hire Vehicles or Council approved equivalent, except where an existing driver has allowed their licence to lapse and already holds a DVSA qualification, then there is no requirement for this to be repeated on re-application.

DAV and WAV vehicles shall only be driven by an appropriately qualified driver who holds a DAV classified driver's licence. In which case such drivers have completed a recognised course in Equality and Diversity and wheelchair / disability handling and successfully complete the DSA Disabled Access Vehicle Driver assessment to qualify for the DAV/WAV Driver Licence as a condition of application.

Drivers that have achieved this additional qualification will have this recognised on their licence and badge by use of a recognisable wheelchair emblem.

The Council currently approves a number of alternative suppliers to provide practical driver assessments and the details of these are found on the Council's website.

Criminal Record or Disclosure and Barring Service Checks- DBS

When submitting an application applicants are required to declare ALL convictions/cautions or fixed penalty notices or endorsements they may have. The information they give will be treated in the strictest confidence and will only be taken into account in relation to their application. To knowingly or recklessly make a false statement or omit any material particular from an application, or any document submitted with it, is an offence punishable on conviction by a fine.

Drivers (but not Operators) are exempt from the protection of the Rehabilitation of Offenders Act 1974, meaning that ALL convictions will be taken into consideration. Where a driver is renewing a licence and previous convictions have already been considered by committee these will not be revisited unless pertinent to any new convictions or any fresh complaint or behaviour.

The council is empowered by law to check with the DBS for the existence and content of any criminal record held in the name of an applicant. Information received from the DBS is kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.

DBS checks must originate through the Chorley Council or through a company contracted by the Council to carry out this check, as authorised by the DBS, an electronic DBS and updates will be accepted.

Checks on criminal records may take up to four weeks before being returned to licensing authorities. Licences will not be granted in the absence of a DBS Certificate. .

Applicants may be given the option to pay an additional fee for a quick electronic check, which will identify if there are any changes since the previous DBS, the DBS Certificate number will be required. Where no changes are identified the licence may be issued without sight of the full DBS certificate. Where changes are identified then no licence will be granted until the full DBS certificate has been provided to the Council.

The disclosure of a criminal record or other information may not debar an applicant from gaining a licence unless the Council considers that the matters disclosed render the applicant unfit to hold a licence. The Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' (Appendix 2) will be used to guide applicants and the sub-Committee when determining applicants from those with criminal convictions or any other matters raised by the police on the DBS.

Any licensed taxi driver shall notify the Council in writing of any conviction or caution recorded against him/her and/or the imposition of any endorsement or fixed penalty within 7 days of such conviction or caution or penalty being imposed (LSC Feb 2008). This requirement is a condition of a private hire driver's licence. Failure to do so may result in enforcement action, referral to committee or delays in renewal of licences.

Medical Examinations

A medical examination to Group 2 standards will be required and the necessary forms are included. Once the Chorley Council medical is completed the applicant MUST apply for the licence within 3 Months.

The examination must be carried out by their GP or a GP that has access to the applicant's full medical records. GP's are required to reference the DVLA Group II guidance when completing the medical assessment. The GP will not be requested to give an opinion as to whether the driver meets DVLA Group II standards; this judgement is reserved for the Council's appointed Group II expert medical practitioner only.

Any fee charged by the GP is payable by the applicant. The examination must be carried out by any registered medical practitioner. Medical certificates must be renewed every 3 years in line with the renewal of the licence until the age of 65 years.

An applicant aged 65 years or over must undergo the medical examination every year.

If any of the questions in the Council's medical assessment form are answered indicating any specified Group II medical condition by the driver's GP, then this will be referred by the transactional team to a Council appointed Group II expert medical practitioner.

The Council's experts are employed to advise whether the applicant is fit to drive in accordance with the DVLA Group II standards as adopted by the Council as the standard that all drivers must meet. Applicants will be advised if medicals have been referred and kept informed as to the results of the referral.

Applicants may need to undertake further tests to satisfy the DVLA Group II standards and any charges for this will be met by the applicant. The Council's appointed Group II expert medical practitioners will provide guidance to the Council and will therefore make the judgement on whether the driver meets the Group II standards of fitness to drive.

A Licensee must immediately inform the Council in writing of any deterioration in health, medical condition and illness or of any injury that would affect the licensee's ability to drive a licensed vehicle.

Determination of applications by Committee

The General Licensing Sub-Committee will determine any application where there are criminal convictions or medical conditions not previously considered by the sub-committee or existing conditions which have worsened, or where there are any other reasonable grounds in relation to the applicant meeting the application criteria or the fit and proper person test.

The Committee may grant the application with standard conditions, grant the application with certain additional conditions to be attached or refuse the application.

No application for the Grant of a Driver's Licence will be granted until all application pre-requisites have been met.

Renewals

The invitation to renew any Driver Licence will be made at the point of granting the Licence. The information required will be provided to the driver when the licence is issued.

It is the responsibility of the driver to ensure that an application for renewal is made prior to expiry of the current licence. The applicant can apply for renewal up to 3 months prior to expiry and may submit a medical and enhanced DBS at that time.

The Council do not send out reminders in relation to the renewal and expiry of licences.

Failure to apply for renewal in time may result in a delay in the application being processed and issued.

Where a renewal application is not received on time or there are outstanding checks and the licence lapses, the applicant will ordinarily have to reapply for a grant of a new licence. The driver will not be licensed and it is an offence for the applicant to drive a taxi in the intervening period while awaiting the issue of the licence.

It is therefore in the best interests of the applicant that applications for renewal and provision of the relevant supporting documentation are made in a timely manner.

Conditions of Licences

The Authority is not permitted to place conditions on a Hackney Carriage Driver's Licence other than those enforceable by legislation or included in the Council's Byelaws. A broader spectrum of conditions can be applied to a Private Hire Driver's Licence.

A Hackney Carriage Driver is still bound by the requirements of the application and must meet the fit and proper test. When a Hackney Carriage Driver is driving a Hackney Carriage they are bound by the conditions attached to the Hackney Carriage Vehicle Licence.

Code of Conduct

The Driver shall:

- Afford all reasonable assistance with passengers' luggage.

- At all times be clean and respectable in his/her dress and person and behave in a civil and orderly manner.
- Take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by him/her.
- Not without the express consent of the hirer, drink or eat in the vehicle.
- Not without the express consent of the hirer play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.
- At no time cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which he/she is driving to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle.
- A driver must proceed by the shortest route, subject to the instructions of the hirer

Smoking

It is an offence for the driver or passengers to smoke in a licensed vehicle at any time (Legal requirement under the Health Act 2006).

Use of mobile phones and other communication devices

The use of hand held mobile phones for telephone conversations, texting and any other purposes when driving is prohibited under Road Traffic legislation.

The use of hands free devices in licensed vehicles is limited to single touch or voice activation in order to comply with Road Traffic Legislation.

Drivers who are found to be using devices in a way that potentially distracts them from driving safely may be subject to enforcement action and referral to Committee for a determination on their suitability to hold a taxi licence.

Assistance to passengers in wheelchairs

Drivers of wheelchair access vehicles (WAV) must have undertaken additional DVSA qualifications commensurate to their role. Drivers that have achieved this additional qualification will have this recognised on their licence and badge by use of a recognisable wheelchair emblem.

The Equality Act 2010 places a duty of drivers of WAVs to carry the passenger while in the wheelchair or in the passenger seat if the passenger requests this. To take all reasonable steps to ensure the passenger is carried safely and comfortably. To provide assistance to the passenger as required. Not to make any additional charge to a passenger in a wheelchair.

Where it is impossible or unreasonably difficult for a driver to comply with the duties of a DAV/WAV driver due to their physical condition, then the authority will issue an exemption and their licence will be converted to a standard driving licence and only reinstated as a DAV/WAV driving licence when they are fully able to perform those duties.

The WAV conditions will remain and stipulate that only suitably qualified drivers are permitted to drive the vehicle and therefore this will exclude a driver with an exemption from driving this type of vehicle.

Guide and Assistance Dogs

The Equality Act 2010 places a duty on all drivers and operators to accept to carry guide and assistance dogs unless the driver applies for an exemption on medical grounds. An Exemption will only be granted where there is a medical reason confirmed in writing by the driver's GP or hospital consultant.

Safeguarding of Children and Vulnerable Adults

The taxi trade has a very important role to play in ensuring that children and vulnerable adults have access to education and services by providing transport. It is imperative for the protection of those individuals and the reputation of the licensed taxi trade in the borough that drivers undergo adequate checks at the time of application and that the Council has a robust response to complaints and allegations.

It is the responsibility of every individual in society to protect children and vulnerable adults from harm by reporting concerns and supporting the relevant authorities in any investigations.

Where the Council is in receipt of a complaint or allegation regarding concerns over the conduct of a licensed driver or operator then the relevant licence will be suspended forthwith. The matter will be fully investigated and matter referred to the General Licensing Sub-Committee for determination.

Relevant and unlawful activities include but are not limited to physical abuse, emotional abuse, sexual abuse, including child sexual exploitation, or neglect of children and vulnerable adults.

Following further investigations, if it is apparent at any time that any licensed driver or operator is found to be complicit in any unlawful activities by way of failing to report concerns then their licence will also be suspended further to a review by the committee.

The Council may suspend or revoke a licence regardless of charge or conviction by the police where the licensing authority determines that there is a risk to public safety.

The Council will have regard to the 'Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing' (Appendix 2).

The principle of mandatory safeguarding training for all drivers and operators has been agreed by the Licensing and Public Safety Committee. All existing Drivers, vehicle owners and private hire operators are required to attend Safeguarding and CSE Awareness Training. Applicants for the grant or renewal of a driver licence or private hire operator licence will be required to complete a safeguarding training package (except where an existing driver/ operator has attended the Council's course within the last 12 months prior to their renewal).

Private Hire Operators Licence

In order to dispatch a driver and vehicle the operator must be licensed by the Council. An Operator may only dispatch a vehicle and driver that have corresponding valid driver and vehicle licences issued by Chorley Council.

The operator must also demonstrate that they are 'fit and proper' and this can extend to the persons they employ. Therefore, where an operator employs someone with criminal convictions this will reflect on the fit and proper status of the operator and may result in their licence being reviewed or revoked.

The operator's licence is valid for 5 years.

On application and at each renewal the operator and any partners and directors of the company must complete a Basic DBS Disclosure where no enhanced DBS already exists for the applicant. Therefore existing Chorley Council licensed drivers that are already subject to regular enhanced DBS checks are not required to also obtain a basic DBS as part of the PHO licence application or renewal.

Any licensed operator shall notify the Council in writing of any conviction or caution recorded against him/her and/or the imposition of any endorsement or fixed penalty within 7 days of such conviction or caution or penalty being imposed.

All journeys must be pre-booked by the passenger. The operator may use a number of methods for collecting bookings, such as personal visits to the operator site where there is planning permission and waiting room provisions for this, by telephone calls, online using either the operator's or referral company website or by the use of mobile applications.

Journeys may also be on a contract basis booked by a third party, such as a care establishment or school etc. on behalf of the passenger.

When the operator accepts a hiring, he/she shall, unless prevented by some sufficient cause, ensure that a licensed private hire vehicle attends at the appointed time and place

Fares

Where at the time of booking, a fare or rate of fare is not agreed with the hirer, the fare charged to the hirer shall not exceed that printed in the Table of Fares approved by the Council.

Records

The operator must keep detailed records of all journeys including:

- the date and time of the booking,
- hirer name and address and passenger name if different,
- collection and drop off points and times,
- the name and licence numbers of the driver and vehicle used for the journey; and
- any remarks, including contract details.

These records must be kept for a minimum of 2 years and available for inspection by the Council at any reasonable time.

The operator shall maintain an up-to-date list of the owners, the description and registration numbers of all private hire and hackney carriage vehicles employed by the business and their drivers, which shall include details of any radio call sign used, and shall produce such a list on request to any Authorised Officer of the Council or Police Constable.

The operator shall immediately notify the Council when any vehicle or driver ceases in his/her employment, or any vehicle or driver commences in his/her employment.

Except with reasonable cause the operator shall have in his/her possession at all times:

- the current driver's licence issued by the Council of any driver employed as a driver whether or not the vehicle driven is owned by him/her (unless the vehicle used is operated by another licensed operator by a sub-contract); and
- the current vehicle licence issued by the Council of any vehicle operated by him/her (unless the vehicle used is operated by another licensed operator by a sub-contract).

On leaving the employment of an operator a driver or vehicle proprietor shall be entitled to receive immediately on demand the return of the licences.

Conditions of licence

The authority may attach such conditions to the operator's licence as it considers reasonable and necessary to achieve the taxi licensing objectives.

Insurance

The operator must provide evidence of employer's liability insurance before an application will be granted (LPSC March 2015).

Planning Permission

Any premises used by an operator for the purpose(s) authorised by the operator's licence shall have the appropriate planning permission for that use and the operator shall comply with any conditions attached to such permission.

Change of Address

The operator shall notify the Council in writing of any change of his/her address within 7 days of such change taking place.

Business name

The operator shall not include the words "taxi or "cab" or the plural of these words in his/her business name.

Taximeters

Where any vehicle operated by him is fitted with an approved taximeter, the operator shall ensure that the taximeter is set to the fare rate agreed by the Council and properly sealed in accordance with Council regulations.

The operator shall ensure that vehicles operated by him which are fitted with a taximeter, charge a fare or charge calculated from the point in the District at which the hirer commences his journey and shall not exceed that displayed on the taximeter at the finish of his journey, the taximeter being brought into operation at the commencement of the journey.

Touting

The operator shall not:-

- Tout or solicit in a public place any person to hire or be carried for hire in any private hire vehicle; or
- Cause or procure any other person to tout or solicit in a public place any person to hire or be carried for hire in any private hire vehicle.

Complaints

The operator shall on receipt of any complaint relating to a contract for hire or purported contract for hire relating to or arising from his/her business, immediately notify the complainant of his/her right to forward the complaint to the Council.

Any complaint shall be investigated immediately by the operator and the complainant notified of the outcome within a reasonable time.

Where a complaint is investigated by an Authorised Officer of the Council, the operator shall conform to any directions of the Officer in respect of that complaint.

Guide and Assistance Dogs

The Equality Act 2010 places a duty on all drivers and operators to accept to carry guide and assistance dogs unless the driver applies for an exemption on medical grounds. An Exemption will only be granted where there is a medical reason confirmed in writing by the driver's GP or hospital consultant.

Safeguarding of Children and Vulnerable Adults

The taxi trade has a very important role to play in ensuring that children and vulnerable adults have access to education and services by providing transport. It is imperative for the protection of those individuals and the reputation of the licensed taxi trade in the borough that drivers undergo adequate checks at the time of application and that the Council has a robust response to complaints and allegations.

It is the responsibility of every individual in society to protect children and vulnerable adults from harm by reporting concerns and supporting the relevant authorities in any investigations.

Where the Council is in receipt of a complaint or allegation regarding concerns over the conduct of a licensed driver or operator then the relevant licence will be suspended forthwith. The matter will be fully investigated and matter referred to the General Licensing Sub-Committee for determination.

Relevant and unlawful activities include but are not limited to physical abuse, emotional abuse, sexual abuse, including child sexual exploitation, or neglect of children and vulnerable adults.

Following further investigations, if it is apparent at any time that any licensed driver or operator is found to be complicit in any unlawful activities by way of failing to report concerns then their licence will also be suspended further to a review by the committee.

The Council may suspend or revoke a licence regardless of charge or conviction by the police where the licencing authority determines that there is a risk to public safety.

The principle of mandatory safeguarding training for all drivers and operators has been agreed by the Licensing and Public Safety Committee. All existing Drivers, vehicle owners and private hire operators are required to attend Safeguarding and CSE Awareness Training. Applicants for the grant or renewal of a driver licence or private hire operator licence will be required to complete a safeguarding training package (except where an existing driver/ operator has attended the Council's course within the last 12 months prior to their renewal).

Out of Town Hackney Carriages

The legislation allows for a Private Hire Operator to employ a Hackney Carriage Driver and Hackney Carriage Vehicle licensed by another local authority (this must be the same local authority for both the driver and the vehicle they drive) to carry out private hire work within the local authority district by which the operator is licensed.

This is perfectly lawful and the Council cannot take action to prevent this practice.

Vehicle Licences- General Provisions

There are a number of distinctions between licences for Private Hire and Hackney Carriage Vehicles and these will be identified as appropriate. However, many of the requirements for licensing are the same for both vehicle licences.

Only a Chorley Council licensed driver may drive a Chorley Council licensed vehicle, whether or not the vehicle is carrying passengers. The type of licence, be it Private Hire or Hackney Carriage, must correspond to the type of vehicle licensed. The only exception to this is where the vehicle is driven for the purposes of mechanical assessment by a person authorised by the garage for that purpose.

A vehicle must be capable of being licensed for a minimum of 4 passengers and a maximum of 8 passengers. The proprietor of a vehicle must not allow the vehicle to carry more passengers than the licence specifies.

Chorley Council currently limits the number of Hackney Carriage Vehicles that are licensed to 36, 9 of which are wheelchair accessible (7 of these added by LSC April 2006 and conditions amended Nov 2006)). Chorley Council does not require specific models of Hackney Carriage Vehicles, such as London TX range which are the recognisable traditional 'black cab' style.

There is no requirement for the Hackney Carriage to have a separate driver compartment, except for WAV's and therefore there is a wide variety of makes and models of saloons and estate vehicles that are available to the trade for use as ordinary Hackney Carriages.

Hackney Carriage Vehicles, except WAV's, must be white in colour to distinguish them from Private Hire Vehicles.

Application Requirements

Application must be made on the Council's form and the appropriate fee paid. Where the applicant meets the Council's criteria for licensing a licence will be issued for a period of 6 months. Renewal information will be given at the time of issue of the.

The following requirements must be met:

- Any vehicle for which an application for grant of a vehicle licence is being made will be subject to a pre-inspection by an authorised officer of the council to ensure that all vehicle conditions are met prior to the application being accepted. Each vehicle must meet the Council's vehicle conditions in order to proceed to application for licensing.
- Any vehicle for which an application is made for either grant or renewal will be subject to the Council's Taxi Test at one of the Council's approved garages. This test incorporates a VOSA approved MOT test, which must be carried out at the same time as the remaining assessments specific to the Council's Taxi Test.
- The applicant must present the V5 vehicle registration document at the time of the application. Where the original V5 has been passed to the DVLA for change of owner details etc., the applicant must present a copy of the V5 plus the completed section relating to change of owner details or address etc. The updated V5 must be submitted to the Council within 6 weeks of the application date.
- Where the vehicle is fitted with a meter, the calibration certificate must be presented at the time of application.
- The applicant must provide proof of insurance for the vehicle and with specific reference to the proposed use and demonstrate that the vehicle has been

continuously correctly insured during the preceding licensed period. Except during periods where the vehicle has been subject to a suspension notice being issued under section 60 or 68 of the local Government (Miscellaneous Provisions) Act 1976 and was not being driven as a taxi Under s.60 a vehicle may still be driven as a taxi if its suspended pending appeal, the requirement for continuous insurance in this case will still apply.

- The vehicle must not be licensed as a hackney carriage or private hire vehicle with any other Local Authority.

Vehicle Testing

The Council's Taxi Test must be equivalent to or better than an MOT test. The current taxi test incorporates a VOSA approved MOT test, which must be carried out at the same time as the remaining assessments specific to the Council's Taxi Test. The vehicle will also be subject to a road test.

The Taxi Test must be conducted in its entirety at a Council approved garage.

Each licensed vehicle must be tested every 6 months, irrespective of age of the vehicle.

A Taxi Test will only be accepted;

- On renewal, where the vehicle test has been conducted not more than 28 Days prior to the expiry of the Current Vehicle licence and;
- In the case of an application for the grant of a HC / PH vehicle licence the vehicle inspection and Test shall not have been conducted more than 7 Days Prior to the date the application was made. In any case the vehicle shall have satisfactorily completed the Taxi test.

A vehicle can be presented for the Taxi Test for a Vehicle Licence Renewal up to 28 days before the expiry of the licence date. The existing licence expiry date will still be honoured and in all cases the taxi test date will be the same date as the expiry of the licence. 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.

Where a vehicle fails the taxi test the proprietor will have the option to keep the vehicle at the test centre and arrange repair on the premises or remove the vehicle to an alternate location for the necessary repairs. However, at this point should the vehicle be removed from the Testing Station the vehicle will be subject to suspension and the Licence plate will be marked accordingly, until the vehicle is re-tested and passes the taxi test. The testing station will be responsible for notifying Licensing Enforcement where the failed vehicle is to be removed from their site for repairs.

Trailers

No trailer shall be attached to a vehicle unless the trailer has been tested at the same time as the vehicle was tested and the trailer is clearly identifiable by a serial number or other permanent mark for purposes of identification.

Any trailer must provide secure and weatherproof storage for luggage.

Change of Vehicle

There is no provision within legislation or the Council's policy for a proprietor to change a vehicle within an existing licence. Where a vehicle is substituted, either permanently or temporarily, then a new application for a grant of a vehicle licence is required. The new licence will be valid for 6 months, unless subject to surrender, suspension or revocation.

The specific provisions in relation to Hackney Carriage Vehicles are as follows:

- Where the above applies to a HC Vehicle licence the Council will only recognise applications from existing HC vehicle proprietors whose details appear on the Council's register. In such circumstances any application received shall be made in the name of all the registered proprietors for that vehicle. In the case of an existing WAV vehicle only another WAV vehicle will be considered in accordance with the Council's HCV licensing conditions of application.
- Where a vehicle is presented on behalf of an existing HCV proprietor by a company whose business it is to provide relief taxi vehicles (such a company shall be a company recorded at companies house and be of limited status), the application shall reflect the registered keeper details given in the V5 document alongside the original proprietors.
- Where the change of vehicle applies to a HC Vehicle licence the original licence number will be preserved to protect the plate for the HC vehicle proprietor. In all other cases a new Licence & Licence Plate will be issued with a New Number.

Transfer of Vehicle Ownership

Where a licensed vehicle is transferred between proprietors then a transfer notice (Council form) must be completed by both parties and presented to the Council within 14 days, so that the vehicle record can be updated. There is no charge for this notification.

Insurance of Vehicles

The vehicle must be insured at all times for the specific use as a passenger vehicle for hire and reward. The insurance certificate must specify if the vehicle is for Private Hire or Hackney Carriage and provide insurance cover for all persons licensed to and with the authority to drive the vehicle.

The proprietor must be able to demonstrate that the vehicle is insured during the licence period, except for any period where the vehicle has been subject to suspension under s. 68 of the 1976 Act by the Council and was not driven as a taxi, (unless suspended under s.60 and pending an appeal).

Where a vehicle is not correctly insured or the insurance is deemed invalid then the Council's licence conditions have been breached and enforcement action may be taken.

Accidents

The proprietor of a licensed vehicle shall report to the Council as soon as is reasonably practicable, and in any case within 72 hours of the occurrence of any accident to the licensed vehicle causing damage materially affecting the safety, performance and appearance of the licensed vehicle or the comfort or convenience of persons carried.

The Council may wish to inspect the vehicle and the proprietor must provide access to the vehicle for this purpose.

Where a vehicle has been involved in an accident the Council may choose to serve a defect notice requiring certain repairs where the damage is slight and the safety of the vehicle is not compromised.

In more serious cases, the Council will suspend the vehicle until such time as the repairs are completed and the vehicle is presented for re-inspection.

Further enforcement action may be required depending on the severity of the damage, such as a requirement to produce a full mechanical inspection report in order for the vehicle to be considered for licensing.

Transport of animals

All animals must be accompanied by and under the control of the hirer and must be transported in the rear of the vehicle.

All drivers and operators must accept to carry guide and assistance dogs unless the driver applies for an exemption on medical grounds. There can be no additional charge made for the carriage of such dogs.

Record books and receipts

The proprietor shall ensure that a record book is kept at all times in the vehicle. This record book must show the occasions when a receipt is issued. A receipt must be given if requested and each receipt must show the licence number of the driver, the date and the amount charged. A sign should be displayed in the vehicle indicating that a receipt will be given if requested.

Change of address

The proprietor shall notify the Council in writing of any change in his address within 7 days of such change taking place.

Vehicle Licences- Vehicle Type Conditions

There are a number of distinctions between licences for Private Hire and Hackney Carriage Vehicles and these will be identified as appropriate. However, many of the requirements for licensing are the same for both vehicle licences.

The table of conditions will make clear where there is any distinction between conditions which are only applicable to or vary between Private Hire Vehicles and Hackney Carriage Vehicles.

Before a vehicle can be granted a licence it must undergo an inspection by a Council Officer to ensure compliance with all conditions below. This inspection is carried out prior to application to reduce the likelihood of the vehicle being refused a licence at the point of inspection once the administration of the licence has already begun, as the applicant would not be eligible for a full refund at that stage.

Condition	Reason for Condition
<p>1. Colour:</p> <ul style="list-style-type: none"> a) All Hackney Carriage Vehicles must be white in colour except where the vehicle is a WAV, where other colours are permitted. b) Private Hire Vehicles may not be white in colour, unless it is a stretched limousine or other similar vehicle. c) Bizarre or garish colour schemes will not be permitted. 	<p>To ensure a clear distinction for the public between Hackney Carriage Vehicles and Private Hire Vehicles.</p> <p>To maintain the professional and respectable reputation of the taxi trade within Chorley.</p>
<p>2. Insurance write offs and accident damage:</p> <ul style="list-style-type: none"> a) Vehicles that have been categorised as ‘write offs’ by any insurance company at any level will not be considered for licensing. b) Where the vehicle shows signs of accident damage but has not been subject to an insurance write off, the Council may use its discretion and licence the vehicle where the vehicle passes a further mechanical and structural assessment, including assessment of road worthiness and handling. The testing must be conducted by a qualified independent expert who must be able to demonstrate that they have responsibility for insurance assessment and collision investigation. The assessor must provide details of their professional indemnity insurance. c) All vehicles (except those newly registered) must be checked against HPI and a full printed report submitted as part of the application to the Council to confirm whether the vehicle has been subject to an insurance write off. 	<p>To protect public safety, vehicles subject to insurance write off must be identified.</p> <p>In order to protect public safety any vehicle that shows signs of accident damage would need to be tested to demonstrate that the vehicle is safe for fee paying passengers and structurally sound in that it is comparable with another vehicle of the same age, make and model that has not been subject to accident damage.</p> <p>The Assessor must provide a recommendation as to whether the vehicle meets the quality and safety standards and confirm if there is any additional risk associated with the vehicle in comparison to a vehicle of the same make, model and year of manufacture that has not been subject to accident damage and subsequent repair.</p> <p>The cost of any additional testing would be borne by the applicant.</p> <p>The DVLA have changed their process and no longer reissue the V5 log book following insurance write off for either Category C or D. Therefore in order for the Council and the prospective/ new owner of the vehicle to</p>

	<p>determine if the vehicle has been subject to such write off an HPI check would be required.</p>
<p>3. Type Approval and Vehicle Adaptations and Conversions:</p> <ul style="list-style-type: none"> a) Any vehicle presented for licensing shall meet the technical standards for type approval to <ul style="list-style-type: none"> i) European Whole vehicle type approval ii) British National type approval iii) British Single vehicles approval or iv) British Low volume type approval b) The vehicle must have a capacity for at least 4 adult passengers. c) A vehicle that was designed and built for 5 persons will not be licensed for more than 4 passengers. d) The proprietor shall not permit the vehicle to be used to carry a greater number of passengers than that prescribed in the licence e) Chorley Council may licence a suitable vehicle for up to 8 passengers. Where such a passenger vehicle is a conversion or adaptation of such a chassis, the applicant must demonstrate that this conversion was undertaken by a qualified conversion company and meets all necessary safety standards of the type approval. f) In order to demonstrate that the vehicles is suitable and meets the requirements of 3 a) above, has been properly converted and meets all necessary safety standards, the applicant must submit a conversion certificate / certificate of conformity / type approval or other relevant document in relation to any conversion or alteration that has cause to alter that vehicle since its manufacture. g) No 'Q' plated vehicles will be considered for licensing. h) The proprietor shall not allow the mechanical and structural specification of the hackney carriage to be varied without the consent of an Authorised Officer of the Council. Unauthorised variations will result in the licence becoming immediately invalid. 	<p>All vehicles used for the carriage of passengers must have the relevant Type Approval, which determines the vehicles structural suitability for this purpose.</p> <p>The vehicle will be licensed to carry the number of passengers it was specifically designed to carry in order to protect public safety.</p> <p>Many versatile chassis are built by manufacturers with the ability to be used in any number of ways, and the chassis will be given a specific approval type which demonstrates its suitability for safe conversion to a number of configurations. As such these vehicles are often converted to transport more than 4 passengers.</p> <p>This new condition allows for conversion to be undertaken after UK registration but require the applicant to demonstrate that the vehicle meets type approval and safety standards by way of certification. The additional officer time associated with reviewing certificates and reports, employing independent experts to review such and compiling additional reports for the Licensing Committees would need to be met by the licensing fees.</p> <p>For safety reasons the Council will not licence a Q plated car because a Q plate denotes a kit car or rebuild, where the full traceability of the vehicle cannot be authenticated by the DVLA.</p>
<p>4. Disabled & Wheelchair Access Vehicles:</p> <ul style="list-style-type: none"> a) Where a Hackney Carriage Vehicle is licensed for Disabled and /or Wheelchair 	<p>This DAV/WAV type for type replacement</p>

<p>Access, then any replacement vehicle must also be of equivalent accessible design.</p> <p>b) Any vehicle incorporating a lifting device shall at first application provide a certificate of conformity issued in accordance with the LOLER Regulations 1998, and produce at any subsequent renewal a certificate of safety issued in accordance with LOLER Regulations 1998 and guidance to the satisfaction of the council.</p> <p>c) Vehicles presented at first licensing from 5th October 2010 intended to provide Disability access shall for the purpose of Type 1 Disability Access will have the following:</p> <ol style="list-style-type: none"> i. Wheel chair means of access and egress and means of securing wheelchairs safely in the vehicle where all fixtures and fitting meet E1 Type Approval or equivalent. ii. A fixed bulkhead incorporating: <ul style="list-style-type: none"> • A partition screen • A pay point • Assisted means of communication. iii. Offer suitable accommodation for the provision of at least one adult size occupied wheelchair. iv. Suitable hand grips designed to be clearly recognisable to aid in the access and egress of passengers. v. Where the DAV/WAV is a Hackney Carriage a forward facing illuminated top sign permanently fixed to; or a built-in taxi sign as an integral part of the structure and operated by the taxi meter (The top sign does not have to display the words Chorley Borough Council)? vi. All vehicles will have 2 side passenger doors to access the rear compartment of the vehicle. vii. All seats must be accessible by a clear permanent opening of 400mm viii. All wheelchair accessible vehicles will have provision for at least two permanently fixed passenger seats in the rear compartment of the vehicle. ix. All vehicles will have been converted by a recognised coachbuilder / conversion company. x. Any ancillary equipment shall be capable of being stored securely and 	<p>ensures that the disabled taxi provision is maintained.</p> <p>The requirement to comply with LOLER protects the safety of passengers using these lifting facilities.</p> <p>The conditions relating to the accommodation and fixing of wheelchairs protects the safety and comfort of passengers using these facilities.</p> <p>Wheelchair Accessible Vehicles will be identified by use of a recognisable disability emblem on the plate.</p>
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<p>safely</p> <p>xi. All vehicles will be inspected and licensed at the discretion of the Council,</p> <p>d) All vehicles of Type 1 or 2 Disability Access shall display the appropriate disability emblem in a prominent position on the vehicle.</p>	
<p>5. Identification plates & livery:</p> <p>a) The identification plate and livery shall remain the property of the Council at all times. The Plate will display the expiry date of the vehicle licence and therefore must be replaced at each renewal.</p> <p>b) The licence plate shall be affixed to the vehicle by the proprietor at his own expense, in the following manner:-</p> <ul style="list-style-type: none"> • at the rear of the vehicle, and • to the exterior of the vehicle, and • with the number facing to the rear, and • in a vertical plane, and • must be affixed by bolts or screws or other similar secure means as approved by the Council, in such a manner as to be easily removed by an Authorised Officer. <p>c) The proprietor of the vehicle shall ensure the identification plates are maintained and kept in such condition that the information contained on the identification plate is clearly visible to public view at all times.</p> <p>d) Internal licence plate must be fixed to the dashboard not obscuring the drivers view or on the windscreen outside the swiped area.</p> <p>e) The internal disc must be fixed to the windscreen outside the swiped area not obscuring the driver’s view with the expiry date information visible from the vehicle exterior.</p> <p>f) The vehicle shall display Council provided livery to the front driver and passenger door fixed in a readable position. The Council’s door signs shall be fixed permanently to the vehicle and the use of magnets or other means of temporary fixing shall not be used.</p> <p>g) The proprietor shall cause to be fixed to the roof of any Hackney Carriage an illuminated sign bearing the words “CHORLEY BOROUGH TAXI” on both the forward and rearward faces of the sign. The sign shall be</p>	<p>The publication of the vehicle licence expiry on the licence plate allows the public, other proprietors and enforcement officers to easily see if the vehicle has a valid licence and reduces the risk of unlicensed but plated vehicles being used unlawfully.</p> <p>It is important for the public to be able to easily identify a Chorley Council licensed vehicle and distinguish between a Hackney Carriage and Private Hire by use of clear signage.</p> <p>A suitable internal licence display allows the passenger to confirm any details of the vehicle while travelling.</p> <p>The illuminated roof sign is a clear indicator to the public of the availability for hire of a Hackney Carriage.</p>

<p>capable of being so operated that when the vehicle is engaged for hire, the sign is not illuminated, this operation shall be controlled by the meter.</p>	
<p>6. Exemptions to Signage Requirements:</p> <ul style="list-style-type: none"> a) An Exemption Notice issued by Chorley Council, exempting a proprietor from the requirement to display the external licence plate on a private hire vehicle and the concurrent exemption for the wearing of the private hire driver’s identification badge is granted subject to the licensed vehicle being operated in accordance with the following conditions: <ul style="list-style-type: none"> i. When operating under the exemption notice the internal plate issued by the licensing authority will be displayed on the nearside of the windscreen or dashboard so as not to obscure the drivers view. ii. The Exemption Notice issued by the Licensing Authority in respect of the licensed private hire vehicle will be carried in the vehicle at all times and will be produced upon request to any authorised officer or any police officer. iii. Other than the internal plate, the proprietor will not display in, on or from the vehicle any advertisement, signage, logos or insignia advertising the operating company or the vehicle’s status as a private hire vehicle without the approval of the Licensing Authority. iv. The private hire vehicle licence plate will be affixed in a visible position within the boot of the vehicle and shall not be displayed externally whist the exemption notice is in force. Upon request the licence plate will be shown to any authorised officer or any police officer. v. When issued with an exemption notice, the vehicle will not be required to display any other signs which the Licensing Authority may at any time require private hire vehicles to display. vi. No taximeter shall be fitted in the vehicle. vii. A table of fares/tariffs will not be displayed in the vehicle. viii. During the period of the exemption notice, the driver shall not wear the private hire driver’s badge but will have it available for inspection by any authorised officer or any police officer on request. 	<p>These conditions only apply to Private Hire Vehicles and would normally only be considered for stretched limousines and chauffeur driver executive saloons.</p> <p>Failure to comply with these conditions may result in the withdrawal of the exemption notice. Once an exemption notice has been issued the vehicle cannot be used for normal private hire work, it must be used exclusively for contract hire.</p>

<p>ix. At all times during the period of the exemption notice the driver of the vehicle will be appropriately dressed in either a formal chauffeur’s uniform or a business suit with collar and tie.</p>	
<p>7. Other Signage:</p> <p>a) Approved no smoking signage must be fitted internally to the vehicle for the benefit of all passengers.</p> <p>b) No signs, notices, advertisements, plates, marks, numbers, letters, figures, symbols, emblems or devices whatsoever shall be displayed on, in or from the vehicle except as may be required by any statutory provision or required or permitted by these conditions.</p> <p>c) Except where the sign:</p> <ul style="list-style-type: none"> • contains no words or numbers other than the name, address and telephone number of the operator of the vehicle or the name under which he carries on his business and his business address and telephone numbers; • displays sponsored commercial advertisements, for which prior permission has been obtained from the Council. • displays an information sticker or disc describing membership of a taxi trade associations or similar taxi trade body is permitted in the windscreen of licensed hackney carriage and private hire vehicles provided that it is of such a size and in such a position so as not to obscure the field of vision of the driver. The display of such sticker or disc shall be limited to one per vehicle. <p>d) Any additional livery must not be above 12” measured from the bottom of the front passenger and driver door, and in any case must not protrude higher than the bump bar strip fitted to the door, this area will be regarded as the lower panel of the door</p> <p>e) Every Hackney Carriage vehicle must display in a prominent position inside the vehicle, the Council’s table of fares in force at that time.</p>	<p>The limitation on other signage reduces the likelihood of confusion or misunderstanding by the public by allowing clear observation of the signs relevant to the licence.</p> <p>Where a meter is used to calculate a fare for a journey the passenger should be provided with information relating to the fares charged for that journey.</p>
<p>8. Meters:</p> <p>a) All Hackney Carriage Vehicles must be fitted with a taximeter and this must be linked to the illuminated roof sign in order that the meter controls the illumination of the sign.</p>	<p>A meter is used by a taxi to calculate the fare in accordance with the table of fares published by the Council. Once the meter is on the roof sign must not be illuminated in order to indicate to the public the vehicle is not available for hire.</p>

<p>b) Where any taximeter is fitted to any licensed vehicle, the meter must be calibrated and the table of fares shall be prominently displayed within the vehicle. Any fares should be previously agreed by the Council. The meter shall bear the original seal(s) as fitted by the person authorised to carry out the calibration.</p> <p>c) The calibration certificate should be made available to an authorised officer upon request and provided at each vehicle renewal.</p>	<p>The meter must be calibrated and sealed to ensure that the correct fees are being calculated and the council should be given sight of the certificate to validate the security of the system.</p>
<p>9. Radios and Communication Devices:</p> <p>a) Where radios are used to communicate between the driver, proprietor or operator, the proprietor shall ensure that any radio equipment fitted to a vehicle is at all times kept in a safe and sound condition and maintained in proper working order.</p> <p>b) Any means of radio communication used by the proprietor or driver of a vehicle with respect to the operation thereof must be a means of radio communication using radio frequencies other than those licensed by the Department of Trade and Industry for use by Citizens Band Radio.</p> <p>c) The licensee shall not fit, carry or use any radio frequency scanning apparatus in or on a licensed vehicle.</p> <p>d) The use of data-head systems as a means of dispatching vehicles and for drivers to remotely accept bookings and log journeys is permitted. All data recorded by the system shall be retained by the Operator or proprietor and available for inspection for a minimum of 2 years.</p> <p>e) Where a mobile phone is used as a means for the driver to communicate with the proprietor or operator of the vehicle or any other person during the course of a journey this must be by the use of hands free device which is limited to single touch or voice activation.</p>	<p>Radios should be maintained to ensure that they can be effective for communication.</p> <p>The frequencies used must not interfere with other communication systems.</p> <p>These new conditions relating to the use of data head systems and mobile phones have been included for the following reasons: To reduce the likelihood and risk to public safety associated with the use of hand held mobile devices, hands free systems should be fitted which can be operated by single touch or voice activation. To reflect other legislative requirements on use of mobile phones while driving.</p>
<p>10. Exterior Bodywork Condition:</p> <p>a) No hole or tear of metal, or other items (e.g. trim) to be capable of injuring a pedestrian or passenger. This is to include doors, door panels (inside) etc.</p> <p>b) The bodywork, partially or wholly to show no discoloration that is beyond normal ageing, for the vehicles age/mileage in the</p>	<p>These conditions are to ensure the safety of passengers and protect the reputation of the fleet of licensed vehicles in Chorley.</p>

<p>opinion of the Authorised Officer. It is not acceptable for panels to be of contrasting colour e.g. panels, door skins, bonnet, that are replacements by 'second hand' or primer coated.</p> <ul style="list-style-type: none"> c) No tape or other means of fixings to any parts of the vehicle will be accepted other than the vehicle's standard fixings. d) The vehicle must not be a convertible, i.e. have a soft top. e) Forward mounted driving mirrors must be fitted on both sides of the vehicle. The mirrors must be maintained at all times to ensure the driver has a clear view to the rear of the vehicle. f) The proprietor shall ensure that the vehicle shall be maintained in a sound mechanical and structural condition and be capable of satisfying the Council's Vehicle Inspection & Safety Test at all times. g) The proprietor shall ensure that at all times when the vehicle is in use or available for hire, it is maintained in an efficient, safe, tidy and clean condition and that all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with. 	<p>This is because convertible cars are usually on two-door, not four-door vehicles. Mirrors must be effective to ensure the safety of both passengers and the public.</p> <p>The vehicle must not show signs of rust, damaged or mismatched paintwork or have any sharp or jagged edges. Windows should not be chipped or scratched and the wipers must work effectively. The external fittings such as bumpers and light units must be securely fixed with the appropriate fitment to ensure the safety of passengers and protect the reputation of the fleet of licensed vehicles in Chorley.</p>
<p>11. Engine Compartment:</p> <ul style="list-style-type: none"> a) The engine compartment should not have any loose wiring, cables or coverings. The engine and its components must be secure within the engine compartment. b) There should be no signs of leakage of any fluids. 	<p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>
<p>12. Tyres:</p> <ul style="list-style-type: none"> a) A vehicle must be fitted with at least four road wheels. This is to ensure the safety and comfort of passengers. Tyres must be road legal with a minimum tread of 1.6mm. b) Where the vehicle is designed to hold a spare wheel then a manufacturers approved spare wheel must be provided. c) The spare wheel must have a minimum of 3mm tread, be inflated to the correct pressure and maintained in a ready to use condition. d) Where there is no provision for a spare wheel then a manufacturer's approved inflation kit will be accepted. Any such kit 	<p>These conditions relate to safety for passengers and the public.</p>

<p>must be used in accordance with the manufacturer’s instructions.</p>	
<p>13. Lights: a) All lights should be working in accordance with their designed function. There should be no loose connections, defective bulbs or LEDs or broken casings.</p>	<p>These conditions relate to safety for passengers and the public.</p>
<p>14. Dashboard and Steering Column: a) The vehicle must not be left hand drive. b) Speedometer and odometer must be working correctly and illuminated. c) All settings to work and de-mist. d) Air-conditioning must be in working order where fitted. e) There should be no warning or service lights visible on the display when the ignition is switched on.</p>	<p>Left hand drive vehicles may pose a safety risk the passengers and the public because they are not designed or specifically intended for driving on UK roads and as such does not provide the best driving position and visibility for the driver.</p> <p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>
<p>15. Interior Trim Condition: a) The proprietor shall ensure that at all times when the vehicle is in use or available for hire, it is maintained in an efficient, safe, tidy and clean condition and that all relevant statutory requirements (including in particular those contained in Motor Vehicles (Construction and Use) Regulations) are fully complied with. b) An interior rear mirror must be fitted. The mirror must be maintained at all times to ensure the driver has a clear view to the rear of the vehicle. c) All pedal rubbers should be fitted; none should be worn to the metal, or missing. d) An interior passenger light shall be fitted and operative. e) All floor covering should be secure, tear/hole free, appropriate and present no risk to safety. f) No noticeable/abnormal odours. g) The vehicle should be watertight with no sign of water ingress or staining on the roof covering. h) The roof covering and all trim around doors and sills etc. shall be suitably fixed in position. They should be clean and free from any damage. i) There should be openable windows for passengers on each side of the vehicle and these shall be maintained in working order and be free from damage. j) The floor shall be provided with a proper carpet or other suitable covering that is not</p>	<p>The internal fittings such as handles, trim and lights must be securely fixed with the appropriate fitment to ensure the safety of passengers and protect the reputation of the fleet of licensed vehicles in Chorley.</p> <p>Mirrors must be effective to ensure the safety of both passengers and the public.</p> <p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>

<p>worn and is in such a condition as not to cause any passenger to trip or slip.</p> <ul style="list-style-type: none"> k) Any mats must be kept in clean condition and must be appropriately fitted so as not to cause any passenger to trip or slip. l) All fittings and fixtures must be kept in a clean condition, well maintained and in every way fit for public use 	
<p>16. Doors:</p> <ul style="list-style-type: none"> a) The vehicle must have at least two side doors for the boarding and alighting of passengers in addition to a separate door for the driver. b) No vehicle will be licensed if the passenger has to climb over seats or luggage to gain access or egress, or where such entrance or exit is sited over a fuel tank or high sill. c) Door catches must be secure at all times whilst being capable of easy operation by passengers. d) All door handles and levers shall be clearly visible and of a type consistent with those fitted to all other doors of the vehicle. 	<p>These conditions relate to the ease of ingress and egress from the vehicle for passengers and were agreed to ensure the safety and comfort of passengers and allow all passengers unhindered access and exit from the vehicle.</p>
<p>17. Seats:</p> <ul style="list-style-type: none"> a) All seats are to be secure. No movement will be allowed that compromises the safety and comfort of any passenger or driver. b) Seating for each passenger must be not less than 400mm (16”) with a minimum width, measured between the arm rests, or any other point that is protruding into passenger seating area, and be measured between the rear side passenger doors of not less than 1220mm (48”). c) Where the vehicle is fitted with continuous seats, one person shall be counted for each complete length of 400mm (16”) measured in a straight line lengthwise on the front of each seat. d) Where any such continuous seat is fitted with arms for the purpose of separating the seating spaces and those arms can be folded back or otherwise put out of use, the seat shall be measured as if it had not been fitted with such arms. e) Only one passenger may be accommodated in the front of the vehicle next to the driver in cases where the vehicle is designed to take only one front seat passenger. 	<p>These conditions were agreed by Committee to ensure the safety and comfort of passengers</p>

<ul style="list-style-type: none"> f) All seats must be fitted with the manufacturer’s head restraints to protect passenger safety in the event of an accident. g) No vehicle with rear or side facing seating will be considered for licensing except where that vehicle has been purposely constructed to accommodate such seating and holds a suitable vehicle type approval. In any event any vehicle presented with such seating arrangements will be licensed at the discretion of the council. h) Any vehicle application received for a vehicle licence for more than 4 passenger seats, that vehicle shall have been purposely constructed to accommodate such seating and hold a suitable vehicle type approval. i) The vehicle shall be of the original manufactures design and specification, every seat shall be regarded as a permanent seat for the purposes of licensing. j) Where seating is capable of being stowed within the confines of the body of the vehicle the Council may use its discretion to licence the vehicle where it meets the foot-well and legroom provisions in condition 18 below. k) Where additional stowable seating is used in the rear of the vehicle, the seats in front must lift as one unit in order to provide sufficient, easy and safe access to the rear seats. There must be a minimum opening of 400mm to the rear row of seats. l) No vehicle shall by any design or feature of that vehicle be capable to offer seating for more than the number of passengers as stated on the vehicle licence. Any modifications made to satisfy this requirement shall be made to the satisfaction of the council. m) Seats and upholstery shall be dry and have no obvious stains, rips, tears or holes. All upholstery shall match. n) All original seating must be maintained in a clean and serviceable condition. o) Where seat covers are fitted they must be so designed and secured as to prevent any movement of the covering during 	<p>See reasons for Condition 3.</p> <p>This condition relates to the ease of ingress and egress from the vehicle for passengers and comfort for passengers during the journey and were considered by the Committee following inspection of different vehicles with varying configurations. The condition was agreed to ensure the safety and comfort of passengers.</p> <p>This new condition is in response to the consultation and offers some flexibility within the policy to allow vehicles with stowable seating to be considered where the vehicle has sufficient leg and foot space for a comfortable journey and is capable of easy and safe access to these seats by an average sized adult.</p> <p>These conditions clarify matters considered by the vehicle inspection to ensure the safety of passengers and also the reputation of the fleet of licensed vehicles.</p>
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<p>use by passengers. They must be kept in a clean and serviceable condition and must be of a colour which is in keeping with the original trim of the vehicle.</p> <p>p) The law relating to child seats does not apply to taxis, children under 3 years old may travel without a car seat or seat belt but must be on the back seat. Children over the age of 3 must wear an adult seat belt and may travel in either the front or the back passenger seats.</p> <p>q) Where a passenger provides their own child seat the driver must ensure that it is properly fitted and secured for the duration of the journey.</p>	<p>These conditions clarify the legal position with regard to child seats.</p>
<p>18. Legroom:</p> <p>a) There shall be a minimum gap of 180mm (7”) between the back of any forward seat and the front edge of any rear seating; this shall be measured when the front seating is in its furthest pushed back position. (Seating relates to the base of the seat as opposed to the back support of the seating arrangement).</p> <p>b) Each passenger must be able to place their feet into a foot-well, in order that sufficient legroom is available for a comfortable journey. A foot-well will be defined as a marked/ observable difference in level between the floor level where the base of the seat is fixed and the space where the passenger would place their feet.</p>	<p>This condition relates to the ease of ingress and egress from the vehicle for passengers and their comfort and safety during the journey. This condition was included by the Committee following inspection of different vehicles with varying configurations. The condition was agreed to ensure the safety and comfort of passengers and was retained in February 2016 following the trade consultation where the trade proposed relaxation of this condition.</p> <p>Most stowable additional seating is unsuitable for the use of passengers as they do not usually provide sufficient leg room or a defined foot-well space. This condition ensures the comfort and safety of passengers.</p>
<p>19. Headroom:</p> <p>a) The height as measured between the rear seat and the height to the roof lining in a vertical plane must be not less than 860mm (34”). This shall be measured at the centre of a passenger seat situated between the two rear passenger doors.</p>	<p>This is to ensure the comfort of passengers.</p>
<p>20. Luggage Space:</p> <p>a) Every estate type vehicle shall be fitted with the manufacturer’s approved or other universal type approved grille, securely fixed to the frame of the vehicle between the passenger area and load (luggage) carrying area.</p> <p>b) Each vehicle must provide suitable and sufficient luggage space and a means of securing the luggage to prevent damage or injury</p>	<p>This is to prevent any injury to passengers where luggage may become dislodged.</p>
<p>21. Emissions Standards:</p>	<p>Taxis provide a public transport service and as</p>

<ul style="list-style-type: none"> a) Hackney Carriage Vehicles waiting on the rank are required to switch off engines (except in extreme weather conditions where heaters would be required for the welfare of the driver) in order to reduce air pollution emissions in the town centre. b) Vehicles presented for licensing as taxis should meet a minimum Euro 5 emissions standard. Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet this condition from 1st January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application. c) That where a vehicle is written off due to a none-fault accident, the grandfather rights as described above are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle; and d) Require all existing vehicles to comply from 1st January 2024 	<p>such are subject to a large number of journeys and high mileage. These vehicles have the ability to impact on the air quality of the district in the same way that any other public transport vehicle does. In the same way that fleet vehicles and public transport vehicles are required to meet a minimum emissions standards, vehicles licensed by the Council should also meet a minimum standard to ensure that the Council is fulfilling its duty in reducing harmful air emissions that impact on public health.</p> <p>The additional of grandfather rights for non-fault accidents was added following consultation with the trade and proposed at the LLP</p>
<p>22. NCAP Safety Rating:</p> <ul style="list-style-type: none"> a) Vehicles presented for licensing as taxis should meet a minimum NCAP European Safety rating of 4 stars. Require all vehicles subject to a grant of a Hackney Carriage or Private Hire Vehicle Licence to meet this condition from 1st January 2017; except allow those vehicles that have previously been subject to a licence, but where this has lapsed or been suspended, to be treated as existing vehicles, rather than at the next grant application. b) That where a vehicle is written off due to a none-fault accident, the grandfather rights as described above are honoured and the replacement like for like vehicle of the same make, model and year will be accepted as an existing vehicle; and c) Require all existing vehicles to comply from 1st January 2024 	<p>The purpose of vehicle licensing is primarily to protect public safety.</p>

Stretched Limousines

Conditions in relation to stretched limousines were agreed by the LPSC in December 2008, as these vehicles are not able to conform to the usual vehicle type conditions.

No stretched limousine will be considered for use as a **Hackney Carriage** Vehicle and will only be licensed for Private Hire.

The following conditions apply:

Condition	Reason for condition
<p>1. Left Hand Drive Vehicles:</p> <p>a) Left Hand Drive stretched limousines will be considered for licensing as a PHV.</p>	<p>The majority of stretched limousines are imported from the U.S. and are left hand drive. The Department for Transport has recommended that Councils should not refuse to licence limousines simply because they have characteristics which contravene their existing policy, i.e. left hand drive.</p>
<p>2. Sideways Seating:</p> <p>a) Stretched limousines with sideways facing seating will be considered for licensing as a PHV.</p>	<p>A main characteristic of stretched limousines is their sideways facing bench seats. In line with the Department for Transport’s guidance outlined above, the Council will consider the suitability of limousines with sideways seating for licensing.</p>
<p>3. Signage:</p> <p>a) The signage on limousines will consist of an internal plate fixed to the inside of the windscreen or dashboard on the nearside so as not to obscure the drivers view.</p> <p>b) Limousines do not require Council door signs.</p> <p>c) The private hire plate has to be fixed in the boot, clearly visible and be able to be produced on demand to any authorised officer or a police officer</p> <p>d) The proprietor shall ensure that the licence plate & internal plate are displayed in accordance with the current requirements of the Council.</p> <p>e) No other signs, notices or any other markings will be displayed on or in the vehicle without the written permission of the Council.</p>	<p>Signage serves to distinguish PHVs from ordinary saloon cars and to make them clearly identifiable to the public.</p> <p>However, the naturally distinctive appearance of stretched limousines means that they are very unlikely to be confused with a private road user’s vehicle.</p> <p>The internal plate must be displayed so that passengers know it is a licensed vehicle and the seating capacity</p> <p>To convey information to passengers where appropriate.</p> <p>To ensure that any material displayed in the limousine is suitable for public viewing.</p>
<p>4. Tinted Glass:</p> <p>a) Stretched limousines with heavily tinted glass in the windows behind the driver’s cockpit will be considered for licensing. Glass in the driver cockpit must satisfy the current legal requirements.</p>	<p>It is recognised that the privacy provided by tinted glass in the passenger compartment is a central characteristic of a limousine. However, glass in the driver cockpit must satisfy the standards within the Road Vehicles (Construction and Use) Regulations 1986 as amended.</p>
<p>5. Fare Table/ Taximeter:</p> <p>a) Limousines are not required to display a fare table or have a</p>	<p>Stretched limousines often do not operate under a fare system as journeys are generally pre-paid in advance based on the length of</p>

taximeter fitted.	time they are hired for.
<p>6. Roadworthiness:</p> <p>a) The stretched limousine must hold a valid Single Vehicle Approval (SVA) Certificate.</p>	The SVA test comprises a visual examination of a vehicle by VOSA and certifies its safety and roadworthiness.
<p>7. Vehicle Age:</p> <p>a) Stretched limousines to be licensed in accordance with the Council’s current PHV age policy.</p>	To ensure that the limousines licensed by the Council are in a good and safe condition.
<p>8. Insurance:</p> <p>a) An appropriate insurance policy must be in place which covers use of the vehicle for hire and reward.</p>	The Council has concerns that some limousines may be operating under insurance policies which do not cover use for hire and reward or take into account that the vehicle has been stretched.
<p>9. Tyres:</p> <p>a) The limousine must be fitted with tyres that meet the appropriate specification for both the size and weight.</p>	Given the increased weight of the vehicle, tyres of the correct weight and size rating must be used at all times.
<p>10. Vehicle Testing:</p> <p>a) Licensed limousines must be tested in accordance with the councils current PHV testing policy</p>	To ensure that limousines licensed by the Council are maintained to high standards and remain safe.
<p>11. Maximum Passengers:</p> <p>a) The limousine’s seating capacity must be reduced where necessary to a maximum of 8 passengers.</p> <p>b) No seats in the driver’s compartment shall be used to carry passengers</p> <p>c) The vehicle must not carry more than 8 passengers at any time. (A babe in arms is classed as a passenger no matter what their age).</p> <p>d) In any advertisement publicising their limousine service, the operator must state that the vehicle is only licensed to carry 8 passengers.</p>	<p>Councils can only licence vehicles with a maximum seating capacity of 8.</p> <p>This is to ensure that passengers are not carried in the front of the vehicle to improve driver and passenger safety.</p> <p>This condition will be enforced by Council officers performing spot checks on licensed vehicles, and is in line with legislative requirements.</p> <p>To inform customers of the maximum carrying capacity of the vehicle.</p>
<p>12. Seat Belts:</p> <p>a) Seatbelts must be fitted to all forward and rear facing seats and must be worn at all times by passengers whilst the vehicle is in motion.</p> <p>b) There is no legal requirement for seatbelts on sideways facing seats.</p>	As per construction and use regulations.
<p>13. Alcohol:</p> <p>a) Alcoholic drinks provided in the vehicle shall be under the terms of an appropriate licence relating to the sale and supply of alcohol</p> <p>b) Alcohol shall only be served while the vehicle is stationary and afterwards, all bottles shall be placed in a secure</p>	To comply with requirements of the Licensing Act 2003 and to safeguard the public.

<p>receptacle. c) No alcohol should be sold or supplied to any passenger under 18 years of age</p>	
<p>14. Entertainment: a) The driver shall not play or permit the performance of any media which, because of its age restricted classification or its content, is unsuitable for the age of the passengers in the vehicle (based on the age of the youngest passenger). b) The limousine operator shall ensure that a performing rights licence is held where appropriate. c) The limousine operator shall ensure that a licence under the provisions of the Licensing Act 2003 is held where appropriate.</p>	<p>To safeguard child passengers from viewing unsuitable material. Limousines which have the capability of playing recorded media for the entertainment of customers and may be required to hold a performing rights licence. Entertainment regulated under the Act includes TV, video, video games, loudspeakers, or any other activity provided for the passenger’s enjoyment.</p>

(The conditions relating to fire extinguishers has been removed in accordance with the removal of this conditions for all other vehicles and the signage conditions have been consolidated for clarity)

Compliance and Enforcement

Any applicant must meet the application criteria in relation to the particular licence before a licence will be issued. The Council has some discretion to depart from that policy on an individual basis and therefore some matters will be presented to the General Licensing Sub-Committee for a decision.

Once a licence is granted the holder must comply with all the conditions which relate to that licence.

The local authority is responsible for enforcing the requirements of the appropriate legislation and the conditions associated with each licence.

The Local Authority's Early Intervention and Support Enforcement Policy has regard for the Regulator's Compliance Code. The enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. The principle of consistent, transparent and proportionate enforcement is a material consideration of any enforcement approach.

Enforcement action will be taken in accordance with the Council's enforcement policy where it is necessary and reasonable to protect public safety. Therefore the impact of certain circumstances on the livelihood of the trade is inevitable. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

There are a number of enforcement options available for consideration and the action taken will depend on the circumstances of the case.

Warnings

In respect of minor breaches where there is no evidence of persistent offending, a written warning may be issued.

For instance, warnings may be issued following a delegated decision to renew a driver's licence where driving offences have become apparent at renewal, but have not been declared at the time of receipt in accordance with the requirement to notify the Council within 7 days.

This warning will be kept on the licence holder's file and may be presented at future hearings as appropriate.

Notices

There are a number of notices which may be served on licence holders, the decision to take such action is not made lightly and will require careful consideration by the authorised officer based on the evidence presented.

Production of documentation- sections 50 & 53 of the Act provides a formal mechanism for an Authorised Officer of the Council to require certain documents, such as proof of insurance and production of a driving licence on request. Failure to comply with the notice is an offence and may result in prosecution.

Suspension of vehicles- sections 60 and 68 of the Act allows an authorised officer to issue a suspension notice on the proprietor of a vehicle where the vehicle is deemed to not meet the relevant fitness standard (section 60 or 68), that a hackney carriage driver has committed an offence under the 1847 Act (section 60 only) or for any other reasonable cause (section 60 only). The proprietor may appeal against the suspension to the magistrates' court. Where a section 68 notice is served requiring repairs to the vehicle and the vehicle to be represented for the necessary testing and the vehicle does not pass such tests, after 2 months from the service of the notice, then the licence is automatically revoked. Where a vehicle fails the taxi test at the point of renewal, the vehicle will be suspended and the application for renewal will be refused if a vehicle not meeting the Council's vehicle conditions is presented as part of the application.

Suspension of drivers- section 61 of the Act provides for a suspension notice to be served on a driver where the driver has been convicted of offences, or where a Hackney Carriage driver has failed to comply with the requirements of the 1847 Act or for any other reasonable grounds. A suspension may be issued where attention is brought to the Council in relation to activities that breach the accepted code of conduct or have the potential to undermine public safety, this can include medical conditions that require further investigation before the driver's fitness to drive by meeting the group 2 standards can be ascertained. The suspension may be immediate where this action would be in the interests of public safety, or may come in to effect after 21 days in all other cases and be stayed pending the disposal of any appeal.

Suspension of Operators- section 62 of the Act allows the Council to suspend a Private Hire Operator Licence on a number of grounds. Again there is a right of appeal against the notice to the magistrate's court.

NB: a suspension notice should in general only be served where there is a perceived temporary issue to be overcome or investigated. It should not generally be issued where there is an intention to follow this with a permanent sanction, then this permanent sanction should usually be pursued in the first instance.

Revocation of licences

Where there is a potential threat to public safety, consideration of which information available at the time would normally preclude a driver from holding a licence then it is imperative that the Council takes action swiftly and revokes an existing licence. The Council must employ this precautionary approach as it is the Council's responsibility to protect public safety as a priority. Where further investigations and evidence then demonstrate that the licence should be reinstated, this should also be done as swiftly as possible.

Cases relating to revocation will normally be present to the General Licensing Sub-Committee for consideration and decision, this maybe following the service of a suspension notice where the matter cannot be resolved and therefore a permanent sanction is necessary.

The members of the sub-committee will take all evidence into consideration when making the decision.

It is important to note that it is not a requirement for the licence holder to be in receipt of a criminal conviction for any alleged offence for which the matter is being brought before committee. The committee must consider the evidence on the balance of probability and therefore a much lower threshold of proof is required in comparison to a criminal court

hearing. Nor do the police need to be conducting an investigation for the matter to be presented to the committee.

The Committee must first and foremost consider the allegations and complaint and make their determination in the interests of public safety, without reliance on criminal convictions as the sole indicator.

The Council's Safeguarding, Suitability and Convictions Statement of Policy for Taxi Licensing is attached as Appendix 2

The right of appeal against the committee decision exists any appeal must be lodged with the magistrate's court within 21 days of receipt of notice of the decision.

Refusal of licences

The scheme of delegation gives officers the authority to refuse to grant or renew vehicle licence applications. With applications which present no issues this will be done under delegated powers without reference to members. If there are relatively minor issues with an application such as a minor speeding offence then the driver licence may be granted by officers under delegated powers but only in consultation with the Chair or Vice-Chair.

All other determinations in relation to applications for driver licences must be made by the General Licensing Sub-Committee.

Again, the applicant has a right of appeal to the magistrates' court and to the Crown Court in respect of a refusal to grant a hackney carriage proprietor's licence.

Appeals

Appeals heard by the Magistrates' Court may result in the following action:

- Dismissal of appeal
- Substitution of decision
- Make an order for costs

The Magistrates' Court should not lightly reverse a decision that has been made by the authority, where the decision is in accordance with the authority's existing policies. It is not for the courts to be quick to undermine those policies, only to consider if they have been adhered to and executed properly or if there have been any failures of the authority to comply with the legislation.

Fees

The legislation provides that the fees charged for taxi licensing should reflect the costs of administering those functions. This includes the processing of applications and costs associated with hearings, licensing liaison panels and recovery of any direct costs to the council including taxi tests, medical expert referrals and DVLA checks etc.

The application fees are agreed by the Licensing and Public Safety Committee and are subject to an advertising process and regular review.

All fees must be paid on the submission of the application. Where the application fee is paid by cheque, the licence will not be issued until the cheque has been cleared by the bank.

Refunds

Fees are only eligible for refund where the licence application is rejected, refused or withdrawn. In which case, only the application fee is refunded and is subject to an administration charge, as set out in the fees and charges schedule. No refund for any other reason or of additional charges, such as DBS checks, knowledge test, taxi test fees etc. will be made.

This policy was reaffirmed in March 2015 by the LPSC, where it was reiterated that the fees reflect the cost to the Council of issuing the licence regardless of how long the licence holder chooses to use the licence, therefore there is no refund applicable for the surrender of any licence.

Reminder Letters

The Council has ceased sending reminder letters as each driver, operator and vehicle proprietor renews the relevant licences. The renewal application information will be provided with the licence. Each licence displays the expiry date and the responsibility lies with the licence holder to ensure that the renewal is made in good time.

Appendix 1- Scheme of delegation

Summary of Scheme of Delegation for Taxi Licensing

The Licensing and Public Safety Committee are responsible for making policy decisions in relation to Taxi Licensing

The comprehensive list of delegations can be found in the Council’s Constitution. This table is to be used as a guide to assist in understanding how common matters are processed within the Constitution.

Decisions made by the Lead Licensing and Enforcement Officer may be passed up to the Regulatory Services Manager or Head of Service and any decision can be referred to a higher level or in consultation with the chair/vice chair of the Committee where this is considered appropriate.

Matter to be dealt with	Decision Delegated to Director of Early intervention and Support			Decisions in consultation with Chair/Vice chair	Decision Delegated to General Licensing Sub-Committee
	Processing elements delegated to Transactional Team	Enforcement decisions delegated to the Lead Licensing and Enforcement Officer (LLEO)	Director Decision		
Application for grant or renewal of Private Hire/ Hackney Carriage Driver Licence	Process applications and grant only where all criteria are met, i.e. passed knowledge test, DVSA or equivalent certificate, medically fit, DBS checks show no criminal convictions or convictions have already been scrutinised by committee, valid DVLA licence, as per policy. If not met refer to LLEO in such cases. Grant and renew upon application a Private Hire/Hackney Carriage DAV (Disabled Access Vehicle) licence where appropriate requirements have been met (paragraph 2.17	Grant (or in the case of an existing licence) revoke and immediately re-grant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council’s Medical expert.	Grant or renewal where driving convictions, or where criminal convictions or other matters requiring consideration that fall within the policy are minor (paragraphs 2.8 and 2.9 of the constitution)	Approve applications for Drivers Licences which fall outside the Council’s usual policies for approval and to be reported to the Licensing and Public Safety Committee (paragraph 2.11 of the constitution)	All other cases such as refusal or grant with non-standard conditions

	of the constitution)				
Application for grant or renewal of Private Hire/ Hackney Carriage Vehicle Licence	Grant only where all criteria met i.e. Taxi test, insurance, HPI etc. (paragraph 2.12 of the constitution)	Grant where an element of discretion in applying the conditions is required but the vehicle still meets overall standards set by the policy (paragraph 2.12 of the constitution as amended) Rejection of vehicle on pre-inspection prior to application being received, where the vehicle does not meet vehicle conditions or where the hackney Carriage application is made when the maximum limited number of vehicles has been met. Authority to refuse to grant and refuse to renew private hire and hackney carriage vehicle licences where the applicant has failed to meet all the Council’s requirements, such as the vehicle not meeting the Council’s vehicle conditions or failure of the taxi test or another aspect of the application is incomplete. (paragraph 2.16 of the constitution)	All other cases or where referred by officer		
Application for grant or renewal Private Hire Operator Licences	Grant only where all criteria met i.e. employers liability insurance, DBS checks show no criminal convictions. If not met refer to committee in such cases.		Grant or renewal where driving convictions (paragraph 2.8 of the constitution)		All other cases
Revocation of Private Hire / Hackney Carriage		Authority to revoke an existing Chorley Private Hire/Hackney Carriage Driver licence and immediately re-grant to the same person with			All other cases

Driver Licence		Disabled Access Driver (DAV) Driver provision where the appropriate requirements have been met (paragraph 2.17 of the constitution) In the case of an existing licence, revoke and immediately re-grant a Private Hire or Hackney Carriage Driver Licence with the addition of non-standard conditions following consultation with and recommendations from the Council's Medical expert			
Suspension of Private Hire / Hackney Carriage Driver Licence (s 61 (2) and 61 (2B))		In urgent cases requiring immediate suspension - cases exercisable by the LLEO in respect of suspensions for periods not exceeding 28 days, in consultation with the Chair or Vice-Chair, where reasonably practicable and a report is submitted to the next available meeting of the Licensing and Public Safety Committee) (paragraphs 2.6 of the constitution)	Suspending by written notice to the licence holder any Private Hire or Hackney Carriage Driver's Licence for a period not exceeding two months (paragraphs 2.6 of the constitution)	In urgent cases- On consultation request from LLEO in absence of Director or CEO	On referral following urgent suspension
Issue Warning to of Private Hire / Hackney Carriage Drivers		Summary report prepared by LLEO		Issue written warnings as to future conduct to existing Private Hire and Hackney Carriage drivers (paragraphs 2.10 of the constitution)	
Revocation of Private Hire / Hackney					All other cases

Carriage Vehicle Licence					
Suspension of Private Hire / Hackney Carriage Vehicle Licence (s. 60 and s68)		Suspending by written notice to the licence holder any Private Hire or Hackney Carriage Vehicle Licence for a period not exceeding 28 days, in consultation with the Chair or Vice-Chair, where reasonably practicable and a report is submitted to the next available meeting of the Licensing and Public Safety Committee) (paragraphs 2.6 of the constitution)	Suspending by written notice to the licence holder any Private Hire or Hackney Carriage Vehicle or Driver's Licence for a period not exceeding two months (paragraphs 2.6 of the constitution)	In urgent cases- On consultation request from LLEO in absence of Director or CEO	On referral following urgent suspension
Suspension or Revocation of Private Hire Operators Licence					All Cases
Review of Private Hire Operator Conditions					All Cases
Production of documents (s50 and s53 of the Act)		All cases			
Applications for exemption under s 166, 169 or 171 of the Equality Act 2010		Grant exemption on medical grounds under Equality legislation following referral for consideration where criteria is met, refuse where criteria is not met (paragraph 2.16 of the constitution)			On referral when refusal of application needs to be considered due to lack of medical evidence.

Application for plate exemption		All cases			
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Applicants have a right of appeal to decision made in the magistrate's Court. (There is no right of appeal on a s.68 vehicle suspension, the right of appeal only comes in after 2 months when the licence lapses and a notice should be issued under s.60 where there is a right of appeal)

Appendix 2- Safeguarding, Suitability and Convictions Policy for Taxi Licensing



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 put at risk by 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 (including dementia), 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
<i>Aiding, abetting, counselling or procuring</i>	
Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12)	
<i>Causing or permitting</i>	
Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14)	
<i>Inciting</i>	
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
<i>Aiding, abetting, counselling or procuring</i>	
Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)	
<i>Causing or permitting</i>	
Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)	
<i>Inciting</i>	
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.

Appendix 3- Early Intervention and Support Directorate Enforcement Policy



EARLY INTERVENTION AND SUPPORT DIRECTORATE

ENFORCEMENT AND PROSECUTION POLICY

1. INTRODUCTION

- 1.1 It is the aim of Chorley Council Early Intervention and Support Directorate to protect and promote health, safety and welfare and enhance the quality of life of all residents, workers and visitors to the Borough. It will achieve much of this through education, by providing advice and by regulating the activities of others. Securing compliance with legal regulatory requirements, using enforcement powers including prosecution, is an important part of achieving this aim.
- 1.2 The Directorates regulatory functions are extensive. They include litter control and other waste enforcement, licensing, food safety, pollution and noise control, health and safety, infectious disease control, housing standards, empty properties, pest control, animal welfare, anti-social behaviour, dangerous dogs, homelessness and welfare rights.
- 1.3 The Early Intervention and Support Directorate Officers work with Central Government and other regulators on matters such as food safety, air pollution, waste management and contaminated land and health and safety to ensure coherent regulation. They may also work with other local authorities, many voluntary groups and non governmental organisations in order to achieve common goals.
- 1.4 The Early Intervention and Support Directorate regards prevention as better than cure. It offers information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy or excessive cost. It encourages individuals and business to put safety first and to integrate good working practices into normal working methods.
- 1.5 This Policy sets out the general principles which the Directorate intends to follow in relation to enforcement and prosecution. The Policy will be reviewed in line with the Council's overall Enforcement Policy.

2. PURPOSE AND APPROACH TO ENFORCEMENT

- 2.1 The purpose of enforcement is to ensure that preventative or remedial action is taken to protect the public or to secure compliance with a regulatory system. The need for enforcement may stem from a failure to comply with statutory obligations. Enforcement action will not constitute a punitive response to minor technical contraventions of legislation but be based on risk to health, safety or the environment and other factors such as a record of previous compliance. Although the Early Intervention and Support Directorate expects full compliance

with relevant legislative requirements, it will not hesitate to use its enforcement powers where such action is necessary and proportionate in the circumstances.

- 2.2 Chorley Council will have regard to Central Governments Regulators' Compliance Code when developing policies or principles or in setting standards or giving guidance. This Code supports the Government's better regulation agenda and is based on the recommendations in the Hampton Report. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business, the Third Sector and other regulated entities.
- 2.3 The powers available include verbal warnings, the issue of written warnings, service of informal notices (where a contravention needs to be remedied), emergency/prohibition notices (where there is an imminent risk of danger), formal notices, fixed penalties, cautions or prosecution, direct action and the carrying out of remedial works. Where the Directorate has carried out remedial works, it will seek to recover the full costs incurred from those responsible.
- 2.4 Where a criminal offence has been committed, in addition to any other enforcement action, the Early Intervention and Support Directorate will consider instituting a prosecution or administering a simple caution. An assessment will be made of the public interest to such actions when instigating a prosecution.

3. PRINCIPLES OF ENFORCEMENT

3.1 We operate a policy of firm but fair regulation with the principles of; **proportionality** in the application of the law and in securing compliance; **consistency** of approach, **transparency** about how the Early Intervention and Support Directorate operates and what those regulated may expect from the Early Intervention and Support Directorate, and **targeting** of enforcement action.

3.2 Proportionality

3.2.1 In general, the concept of proportionality is included in much of the regulatory system through the balance of action to protect the employee or the public against risks and costs.

3.2.2 Some incidents or breaches of regulatory requirements cause or have the potential to cause serious environmental damage or pose risks to the health or safety of the public or other groups or individuals. Other breaches or contraventions may interfere with people's enjoyment or rights, or the Early Intervention and Support Directorate's ability to carry out its enforcement activities. The Early Intervention and Support Directorate's first response is to prevent harm from occurring or continuing. The enforcement action taken by the Early Intervention and Support Directorate will be proportionate to the risks posed and to the seriousness of any breach of the law.

3.3 Consistency

3.3.1 Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Early Intervention and Support Directorate aims to achieve consistency in, advice given, the response to complaints and other

incidents, the use of enforcement powers and decisions on whether to prosecute.

- 3.3.2 However, the Early Intervention and Support Directorate recognises that consistency does not mean simple uniformity. Officers need to take account of many variables; the scale of impact, the attitude and actions of management, individuals and the history of previous incidents or breaches. Decisions on enforcement action are a matter of professional judgement and the Early Intervention and Support Directorate, through its officers, needs to exercise discretion. The Early Intervention and Support Directorate will continue to develop arrangements to promote consistency including effective arrangements for liaison with other enforcing authorities.

3.4 **Transparency**

- 3.4.1 Transparency is important to maintain public confidence in the Early Intervention and Support Directorate's ability to regulate. It means helping those regulated and others, to understand what is expected of them and what they should expect from Regulatory Services. It also means making clear why an officer intends to, or has taken enforcement action.

- 3.4.2 Transparency is an integral part of the role of the Early Intervention and Support Directorate's Officers and we will continue to train our staff and to develop our procedures to ensure that:

- where remedial action is required, it is clearly explained (in writing, if requested) why the action is necessary and when it must be carried out; a distinction being made between legal requirements and best practice advice;
- opportunity is provided to discuss what is required to comply with the law before formal enforcement action is taken, unless urgent action is required, for example, to protect against an imminent risk to the environment, health or safety or to prevent evidence being destroyed;
- where urgent action is required, a written explanation of the reasons is provided as soon as practicable after the event;
- written explanation is given of any rights of appeal against formal enforcement action at the time the action is taken.

3.5 **Targeting**

- 3.5.1 Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to or risk of serious risk to the environment, health or safety or where the risks are least well controlled. Action will be primarily focused on lawbreakers or those directly responsible for the risk and who are best placed to control it.

- 3.5.2 The Early Intervention and Support Directorate has systems for prioritising regulatory effort. They include guidance contained in Codes of Practice, the response to complaints from the public about regulated activities, the assessment of the risks posed by a person's operations and the gathering and acting on intelligence about illegal activities.

3.5.3 In the case of regulated business, management actions are important. Repeated incidents or breaches of regulatory requirements may be an indication of an unwillingness to change behaviour, or an inability to achieve sufficient control and may require a review of the regulatory requirements, the actions of the business operator and additional investment. A relatively low hazard activity poorly managed has potential for greater risk than a higher hazard activity where proper control measures are in place. There are, however, high hazard activities (for example, some major food industries or other industrial processes with the potential to cause significant harm) which will receive regular visits so that the Early Intervention and Support Directorate can be sure that remote risks continue to be effectively managed.

4. PROSECUTION

4.1 Purpose

4.1.1 The use of the criminal process to institute a prosecution is an important part of enforcement. It aims to punish wrongdoing, to avoid a recurrence and to act as a deterrent to others. It follows that it may be appropriate to use prosecution in conjunction with other available enforcement tools, for example, a prohibition notice requiring the operation to stop until certain requirements are met. Where the circumstances warrant it, prosecution without prior warning or recourse to alternative sanctions will be pursued.

4.1.2 The Early Intervention and Support Directorate recognises that the institution of a prosecution is a serious matter that should only be taken after full consideration of the implications and consequences. Decisions about prosecution will require the completion of an appropriate proforma, which must be submitted to Legal Services following sign off by the Head of Service and the Director of Early Intervention and Support and will also take account of the Code for Crown Prosecutors.

4.2 Sufficiency of Evidence

4.2.1 A prosecution will not be commenced or continued by the Early Intervention and Support Directorate unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be. Where there is sufficient evidence, a prosecution will not be commenced or continued by the Early Intervention and Support Directorate unless it is in the public interest to do so. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender.

4.3 Public Interest Factors

4.3.1 The Early Intervention and Support Directorate will consider the following factors in deciding whether or not to prosecute:

- **flagrant breach of the law;**
- **foreseeability** of the offence or the circumstances leading to it;
- **intent** of the offender, individually and/or corporately;

- **history** of offending;
- **attitude** of the offender;
- **deterrent effect** of a prosecution, on the offender and others;
- **personal circumstances** of the offender.

4.3.2 The factors are not exhaustive and those which apply will depend on the particular circumstances of each case. Deciding on the public interest is not simply a matter of adding up the number of factors on each side. The Early Intervention and Support Directorate will decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

4.4 **Companies and Individuals**

4.4.1 Criminal proceedings will be taken against those persons responsible for the offence. Where a company is involved, it will be usual practice to prosecute the company where the offence resulted from the company's activities. However, the Early Intervention and Support Directorate will also consider any part played in the offence by the officers of the company, including business proprietors, Directors, Managers and the Company Secretary or employees of the company. Action may also be taken against such officers (as well as the company) where it can be shown that the offence was committed with their consent, was due to their neglect or they 'turned a blind eye' to the offence or the circumstances leading to it. In appropriate cases, the Early Intervention and Support Directorate will consider seeking the prohibition of the business proprietor under the specific regulations.

4.5 **Choice of Court**

4.5.1 In cases of sufficient gravity, for example serious breaches of food safety or health and safety, where circumstances allow, consideration will be given to requesting the magistrates to refer the case to the Crown Court. The same factors as listed in paragraph 4.4.1 (above) will be used, but including consideration of the sentencing powers of the Magistrates' Court.

4.6 **Penalties**

4.6.1 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the courts. The Early Intervention and Support Directorate will continue to raise the awareness of the courts to the gravity of many offences and will encourage them to make full use of their powers. Examples of penalties presently available to the courts for certain offences are:

- Magistrates' Courts; up to six months imprisonment and/or unlimited fine on summary convictions.
- Crown Court; up to two years imprisonment and/or an unlimited fine.

4.6.2 The Early Intervention and Support Directorate will always seek to recover the costs of investigation and Court proceedings.

4.7 **Presumption of Prosecution**

4.7.1 Where there is sufficient evidence, the Early Intervention and Support Directorate will normally prosecute in any of the following circumstances:

- Where the alleged offence involved **a flagrant breach of the law** such that public health, safety or well being is or has been put at risk;
- Where the alleged offence involves **a failure by the suspected offender to correct an identified serious potential risk** having previously been given a reasonable opportunity to comply with the lawful requirements of an authorised officer;
- Where the offence involves **a failure to comply in full or in part with the requirements of a Statutory Notice**;
- Where there is **a history of similar offences** related to risk to public health.
- **Obstruction of Regulatory Officers** in carrying out their powers. The Council regards the obstruction of, or assaults on, its staff while lawfully carrying out their duties as a serious matter.

5. **ALTERNATIVES TO PROSECUTION**

5.1 In cases where a prosecution is not the most appropriate course of action, the alternatives of a simple caution, fixed penalty notice or seizure will be considered, depending on the factors referred to above.

5.2 A Simple Caution is the written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been brought. It will be brought to the Court's attention if the offender is convicted of a subsequent offence.

5.3 As with a prosecution, additional enforcement mechanisms may also be used in conjunction with a simple caution.

5.4 Fixed penalty notices will be issued in accordance with the relevant legal provision as an alternative to a prosecution in the first instance where:

- The offence is known to be a first offence
- The offence is of a minor nature
- Issue of a fixed penalty notice will have the same deterrent effect as a prosecution.

Fixed penalty notices will only be issued where there is evidence and information to identify an offender sufficient to satisfy the pursuit of any subsequent prosecution.

The issue of fixed penalty notices to children and young people will have regard to any current national government Guidance. Young people age 16 to 17 years inclusive will be treated in the same manner as other adults with regard to the service of fixed penalty notices, although the issue of the fixed penalty notice will be notified to the Youth Offending Team via the Crime Reduction Team.

Young people aged between 10 and 15 years inclusive will be, initially, served with a fixed penalty notice which will be subject to review following a case meeting between the Council, Youth Offending Team and the Police.

Children below the age of 10 years will not be served with a fixed penalty notice but may be subject to parental contact by a case officer if appropriate.

- 5.5 Community Protection Notices where a change in behaviour would benefit the wider community and prevent future offences or anti-social behaviour.

6. **WORKING WITH OTHER REGULATORS**

- 6.1 Where the Early Intervention and Support Directorate and another enforcement body both have the power to prosecute, the Early Intervention and Support Directorate will liaise with that other body, to ensure effective co-ordination, to avoid inconsistencies, and to ensure that any proceedings instituted are for the most appropriate offence. For the purposes of health and safety at work enforcement the Unit will liaise with local authorities in the Lead Authority Partnership Scheme (LAPS) where appropriate.

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Appendix 2- Guide Dogs Consultation Response

Taxi and PHV Policy - Assistance Dogs

Under the Equality Act 2010, licensed drivers of taxis and private hire vehicles are under a duty to carry passengers with guide, hearing and other assistance dogs without additional charge. When carrying such passengers, drivers have a duty to:

- a) Convey the disabled passenger's dog and allow it to remain under the physical control of the owner; and
- b) Not to make any additional charge for doing so.

It is best practice to ask the passenger where they want themselves and their dog to sit in the vehicle.

Enforcement Policy

Under the Equality Act 2010, it is an offence for any operator or driver to refuse to carry assistance dogs or to charge more for the fare or booking. On conviction for such an offence, drivers can be fined up to £1,000 and have their licence removed.

To ensure that the Equality Act 2010 is upheld, the Licensing Authority will:

- Have a zero tolerance policy to access refusals - investigating all reported violations of the Act with a view to pursuing a conviction.
- Undertake periodic test purchasing with assistance dog owners on licensed vehicles to ensure that licensing requirements are being complied with.
- Make it a condition of taxi and private hire vehicle drivers licences that they have undertaken disability equality training, which includes information regarding the carriage of assistance dogs

Medical Exemption Certificates

Drivers who have a certifiable medical condition which is aggravated by exposure to dogs may apply to the council for exemption from the duty on medical grounds. If no exemption has been applied for and subsequently granted, then drivers are still required to carry assistance dogs.

The Council will:

- Make it a condition attached to the licence that the notice of exemption must be exhibited in the vehicle by fixing it in an easily accessible place, for example on the windscreen or in a prominent position on the dashboard.
- Seek to use tactile medical exemption certificates so that guide dog owners are able to identify the certificate, which should be presented to the guide dog owner upon request.
- Only issue an exemption certificate when it is authorised by the driver's GP and is accompanied by medical evidence, for example a blood test, a skin prick test or clinical history.

Tactile Medical Exemption Certificates

The Equality Act 2010 states taxis and private hire vehicles (PHV) must carry assistance dogs unless they have been issued with a medical exemption certificate. It is currently very difficult for people with vision impairments to verify the validity of these certificates. This can be overcome through the creation of tactile medical exemption certificates.

Benefits of tactile certificates

- They empower assistance dog owners to know that if a taxi or PHV driver prevents an assistance dog from travelling in their cab on medical grounds, the claim is genuine.
- Accessibility best practises are met for people with vision impairments.
- It presents positive publicity opportunities for councils – Guide Dogs are happy to produce a joint press release regarding the use of these certificates.

Is braille necessary?

No, only around 5% of people registered blind and partially sighted in the UK read braille (RNIB, 2011). A raised or embossed "E", for example, will suffice. This would be larger than braille, and much simpler for those who do not read braille, making the certificate more accessible. However, both can be used.

Card Creation

- Certificates cost as little as £20 for 20.
- Cards can be ordered online from printing companies; the embossed E can be done either by the printing company or by using a stamp (similar to a Company Seal which can also be ordered online).
- We recommend councils work with local people with sight loss on the design but Guide Dogs is happy to support and advise.

Case Study and Example Card

Aberdeen City Council was the first authority to introduce a tactile medical exemption certificate. The card was designed in consultation with local disabled people, it is large print, on a yellow back ground and has an embossed E in the corner indicating authenticity. Other requirements included that the certificate must be affixed either to the vehicle windscreen or dashboard facing outwards in order that it may conveniently be read from outside the vehicle and must be made available to inspect upon request. An example of Aberdeen's medical exemption certificate can be seen to the left.

The image shows a yellow rectangular card with black text. At the top left, it says 'TAXI DRIVER'. To the right is the Aberdeen City Council logo. Below that, it says 'ASSISTANCE DOGS EXEMPTION' and 'ABERDEEN CITY COUNCIL'. A large embossed letter 'E' is in the bottom right corner. At the bottom, there are three white rectangular boxes for 'TD LICENCE No.', 'VALID TO', and 'SIGNATURE'.

Mary, a guide dog owner involved in the design said: "It's always been a concern to us that we have no way of knowing if a driver who refuses to carry our dog has a doctor's certificate. Now, they will be issued with a certificate with an embossed 'E' in the corner that we can feel. It would be great if other local authorities would follow Aberdeen City Council's lead".

For more information, please contact Helen Honstvet, Guide Dogs Campaigns Manager at helen.honstvet@guidedogs.org.uk or on 0118 983 0186.

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