

# Public Document Pack



**Assistant Director, Governance and  
Monitoring**

**Julie Muscroft**

Governance and Democratic Services

Civic Centre 3

High Street

Huddersfield

HD1 2TG

**Tel:** 01484 221000

Please ask for Jenny Bryce-Chan

Email: [jenny.bryce-chan.gov.uk](mailto:jenny.bryce-chan.gov.uk)

Monday 5 December 2016

## Notice of Meeting

Dear Member

### Licensing and Safety Committee

The **Licensing and Safety Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **11.00 am** on **Tuesday 13 December 2016**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A coach will depart the Town Hall, Huddersfield to undertake a site visit at 9.30 am. The Committee meeting to consider the applications will commence at 11.00 am.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

**Julie Muscroft**

**Assistant Director of Legal, Governance and Monitoring**

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

## **The Licensing and Safety Committee members are:-**

### **Member**

Councillor Cathy Scott (Chair)  
Councillor Amanda Pinnock  
Councillor Mahmood Akhtar  
Councillor Karen Allison  
Councillor Gulfam Asif  
Councillor Richard Eastwood  
Councillor Michelle Grainger-Mead  
Councillor James Homewood  
Councillor Christine Iredale  
Councillor Manisha Roma Kaushik  
Councillor Robert Light  
Councillor Mohan Sokhal  
Councillor Kath Taylor  
Councillor Michael Watson

When a Licensing and Safety Committee member cannot be at the meeting another member can attend in their place from the list below:-

### **Substitutes Panel**

#### **Conservative**

B Armer  
D Bellamy  
L Holmes  
K Sims  
B McGuin  
N Patrick

#### **Green**

A Cooper

#### **Independent**

T Lyons  
C Greaves  
C Greaves  
T Lyons

#### **Labour**

F Fadia  
E Firth  
S Ullah

#### **Liberal Democrat**

J Lawson  
A Marchington  
L Wilkinson

# Agenda

## Reports or Explanatory Notes Attached

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**Pages**

**1: Membership of the Committee**

This is where Councillors who are attending as substitutes will say for whom they are attending.

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**2: Minutes of Previous Meeting**

1 - 2

To approve the minutes of the meeting of the Panel held on 24 March 2016.

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**3: Interests**

3 - 4

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

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**4: Admission of the Public**

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

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## **5: Deputations/Petitions**

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

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## **6: Public Question Time**

The Committee will hear any questions from the general public.

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## **7: Provision of Taxi Ranks in Holmfirth**

5 - 14

The Committee is asked to review the approval of the temporary Hackney Carriage Ranks at Victoria Street and Victoria Square and the proposed bus station rank.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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## **8: Code of Conduct for Buskers and Street Entertainers**

15 - 26

The Committee is asked to consider the attached proposed Code of Conduct for Buskers and Street Entertainers and give approval for its implementation.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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**9: Unmet Demand Survey**

27 - 30

To advise the Committee of the Council's policy to review quantity control every three years where the Council potentially intend to continue to limit the number of available Hackney Carriage vehicle licences it issues.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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**10: Revised Private Hire Operator Policy & Conditions**

31 - 48

The Committee is asked to approve the revisions to the Policy in relation to Private Hire Operator Licences and Conditions.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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**11: Individual Vehicle Approval ('IVA')**

49 - 60

To review the existing practice in respect of Individual Vehicle Approval ('IVA'), consider the options available for existing private hire / hackney carriage vehicle licence holders, and approve one of the options available as an alternative to obtaining an IVA.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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## **12: CCTV in Licensed Vehicles**

61 - 70

To inform Members of a decision by the West Yorkshire Combined Authority to consult on a 'unified policy' for all West Yorkshire Councils in relation to CCTV in licensed private hire and hackney carriage vehicles and to request approval for consultation to be undertaken to introduce CCTV as a mandatory requirement for all licensed private hire and hackney carriage vehicles.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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## **13: Out of Area Applicants - Geographical Knowledge Test**

71 - 74

To request approval from the Committee to consult with stake holders and the trade on introducing a geographical knowledge test for applicants for a hackney carriage/private hire licence (badge) from outside the Kirklees area.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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## **14: Licensed Drivers Driving Assessments**

75 - 80

The Licensing and Safety Committee is asked to note the change in service provider to carry out an equivalent test to the Driver, Vehicle and Standards Agency (DVSA) Taxi Driver Assessment course which is being ended by the DVSA as from the 31 December 2016.

Contact: - Catherine Walter, Local Land Charges and Highways Registry Manager tel: 01484 221000.

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Contact Officer: Jenny Bryce-Chan

## KIRKLEES COUNCIL

### LICENSING AND SAFETY COMMITTEE

**Thursday 24th March 2016**

Present: Councillor Ken Smith (Chair)  
Councillor Mahmood Akhtar  
Councillor Bill Armer  
Councillor Christine Iredale  
Councillor Carole Pattison  
Councillor David Ridgway  
Councillor Mohan Sokhal  
Councillor Michael Watson  
Councillor Donna Bellamy

Apologies: Councillor Andrew Palfreeman

In attendance:

Observers:

**1 Membership of the Committee**

Councillor Donna Bellamy substituted for Councillor Andrew Palfreeman

**2 Minutes of Previous Meeting**

That the Minutes of the meeting of the Committee held on 18 January 2016, be agreed as a correct record.

**3 Interests**

Councillor B Armer declared an 'other' interest in that in respect of agenda item 9 he knows the applicant and some of the witnesses.

Councillor C Iredale declared that she had been lobbied on the application to register land off Marsh Lane, Shepley as a Town and Village Green (agenda item 9).

**4 Admission of the Public**

The Committee considered the question of the exclusion of the public and determined that all the items be taken in public session.

**5 Deputations/Petitions**

No deputations or petitions received.

**6 Public Question Time**

No questions were asked.

**7 Regulation of Cosmetic Piercing and Skin Colouring Business**

The Committee considered a report seeking approval to adopt the 'Model Byelaws' produced by the Department of Health in relation to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis.

**RESOLVED** - That 'Model Byelaws' produced by the Department of Health in relation to the regulation of acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis be adopted.

**8 Assessment Criteria and Convictions Policy for Licensed Drivers**

The Committee considered a report outlining revision to the policy on the relevance of criminal conduct, unsavoury conduct and complaints against licence holders and applicants for licence.

**RESOLVED** - that revision to the Assessment Criteria and conviction Policy for Licensed Drivers be approved.

**9 Application to register land off Marsh Lane, Shepley as a Town or Village Green**

The Committee considered a report seeking to register land off Marsh Lane Shepley as a Town or Village Green.

**RESOLVED** - That the registration of the land off Marsh Lane, Shepley be approved as a Town or Village Green.



<b>KIRKLEES COUNCIL</b>				
<b>COUNCIL/CABINET/COMMITTEE MEETINGS ETC</b>				
<b>DECLARATION OF INTERESTS</b>				
Licensing and Safety Committee				
Name of Councillor				
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest	

Signed: ..... Dated: .....

## NOTES

### Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



**Name of meeting:** Licensing and Safety Committee  
**Date:** 13 December 2016  
**Title of report:** Provision of Taxi Ranks in Holmfirth

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not applicable</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>Key Decision – No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not applicable</b>
<b>Date signed off by <u>Director</u>&amp; name</b>	<b>Jacqui Gedman – 24/11/16</b>
<b>Is it signed off by the Assistant Director - Financial Management, Risk, IT &amp; Performance?</b>	<b>Debbie Hogg – 10/11/16</b>
<b>Is it signed off by the Assistant Director – Legal, Governance &amp; Monitoring?</b>	<b>Julie Muscroft – 24/11/16</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Mather – Portfolio Holder for Housing &amp; Enforcement Management</b>

**Electoral wards affected:** Holmfirth  
**Ward Councillors consulted:** Holmfirth South  
**Public or private:** Public

## 1. Purpose of report

- 1.1. To review the approval of the Temporary Hackney Carriage Ranks at Victoria Street and Victoria Square and the proposed bus station rank.
- 1.2. Hackney Carriage Stands (taxi ranks) are provided for the exclusive use of hackney carriages (taxis) to wait for their next hiring.
- 1.3. Taxi ranks are an important feature of both the taxi trade and urban life. Stands are vital if the taxi trade is to be able to perform its functions and fully realise its potential of providing transport for

individuals. It is especially important that ranks are provided at locations that are convenient and suitable for the public, particularly disabled persons and other persons for whom other forms of transport as less accessible.

## 2. Background

2.1. The Council may appoint taxi ranks on the public highway or private land and the stands can be either continual or part-time use. If the stand is to be on a public highway, the consent of Kirklees Council (as the highways authority) is required. Before a new stand is created or the maximum number of vehicles that can use the stand is varied, notice must be given to West Yorkshire Police. A public notice must also be provided in one local newspaper. Any objections that are received must be considered before a rank is appointed or varied. The relevant statutory Notices were published in the Huddersfield Examiner on 11<sup>th</sup> February 2013 for ranks to be implemented at the locations shown below.

### **(2) Victoria Square, Holmfirth**

*A taxi stand for 2 hackney carriage vehicles in the first lay-by adjacent to 15 – 17 Victoria Square, Holmfirth. It is proposed this stand shall only operate 20.00 hours to 02.00 hours the next day.*

### **(3) Victoria Street, Holmfirth**

*A taxi stand for 4 hackney carriage vehicles adjacent to 24 – 30 Victoria Street, Holmfirth. It is proposed this stand shall only operate between the hours of 20.00 hours to 02.00 hours the next day.*

At that time the following consultation were carried out and Committee will see from the list that observations were made by ward and parish councillors as well as the trade:

- West Yorkshire Police – observations
- Newsome Ward Councillors (John William Street) – no observations
- Ward Councillors Holme Valley South – observations
- Ward Councillors Holme Valley North – observations
- Home Valley Parish Councillors - observations
- Highways – no observations
- Kirklees Parking Service – observations
- Taxi Trade representatives – observations
- Local Businesses – no observations

2.2. As a result of the observations the matter was determined at a meeting of the Licensing and Safety Committee on March 26<sup>th</sup> 2013. After hearing from Cllr Patrick and trade representatives the Committee made the following determination (decision in full is attached at Appendix 1)

***(2) That approval be given for Temporary Hackney Carriage Taxi Ranks at Victoria Street (4 vehicles) and Victoria Square (2***

*vehicles), Holmfirth between 20:00 hours to 02:00 hours the next day.*

***(3) That discussions take place between the relevant parties and the Local Ward Councillors for the provision of appropriate Hackney Carriage Taxi Rank provision as part of the proposed new scheme for the Bus Station in Holmfirth.***

The ranks were duly implemented and have operated since until the present time. Discussions did take place between the licensing department and highways colleagues and space for a rank was identified within the bus station area.

**2.3.** Ward councillors are pressing for the move to take place and trade representatives are opposed to the move taking place. The matter has therefore been brought back to this Committee for reconsideration of the matter.

**2.4.** Plans of the locations of these ranks are attached at Appendix 2A and 2B

### **3. Financial considerations/implications**

**3.1.** The Licensing Authority bears the cost of the implementation and signage for the ranks.

### **4. Legal considerations/implications**

**4.1.** There is no right of appeal regarding the designation or amendment of a taxi rank. However the Authority should be prepared to give reasons for its decisions.

**4.2.** If Members elect to move the ranks to the bus station a statutory notice must be published advertising the termination of the rank and the creation of the new rank in the bus station.

### **5. Environmental issues**

**5.1.** No specific implications in this regard.

### **6. Equality and Diversity**

**6.1.** Accessibility and meeting the needs of disabled users should be one of the key considerations when looking at the provision of taxi ranks.

### **7. Representations**

**7.1.** This matter has been brought to the Committee at the request of our customers who are opposed to the bus station rank. The ward councillors for Holme Valley South strongly oppose the ranks remaining in their current location and wish to see the rank in the bus station implemented. A written representation from Cllr Patrick is attached at Appendix 3.

**7.2.** Ward councillors wish to see the current space returned to ordinary on street parking for road users. The trade are opposed to having the rank in the bus station as it would be a “backward” facing rank which would mean that customers reach the back of the rank first and would not go to the front of the queue. It is understood that representations will be made directly to the Committee from both ward councillors and trade representatives.

**7.3.** West Yorkshire Police have no observations to make on this matter.

**7.4.** A location plan and artists impression of the proposed bus station rank is also attached at Appendix 2 and 2A

## **8. Implications for the Council**

**8.1.** Positive - Improved practise in line with Government standard.

**8.2.** Negative – none

## **9. Officer recommendations and reasons**

**9.1.** Officers recommend that the Licensing and Safety Committee after hearing from interested parties reconsider the currently placed and proposed bus station rank.

**9.2.** The Licensing & Safety Committee has two options:

- a) Retain the ranks in both Victoria Square and Victoria Street
- b) Remove both ranks and approve the proposed bus station rank

## **10. Cabinet portfolio holder’s recommendations**

**10.1.** Cllr Naheed Mather asks the Committee to consider the report and based on that and the site visit, to make a decision based on the Health & Safety of the trade and also taxi users.

## **11. Contact officer & relevant papers**

Catherine Walter  
Licensing, Local Land Charges & Highways Registry Manager  
Tel: 01484 221000  
Email: [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

## **12. Assistant Director responsible**

Joanne Bartholomew, Assistant Director – Place  
Tel: 01484 221000  
Email: [joanne.bartholomew@kirklees.gov.uk](mailto:joanne.bartholomew@kirklees.gov.uk)

## Appendix 1

### Decision Summary

Committee: Licensing and Safety Committee  
Date: 26 March 2013  
Committee Clerk: David Gordon Tel: 01484 221000

Chair:  
Councillor Mumtaz Hussain

Councillors Attended:  
Steve Hall, Derek John Hardcastle, Mark Hemingway, Lisa J Holmes, Hilary S Richards, Phil Scott, Mohan S Sokhal, Amanda L Stubley

Apologies:  
Councillors Ahmed, Brice, Palfreeman and Christine Smith

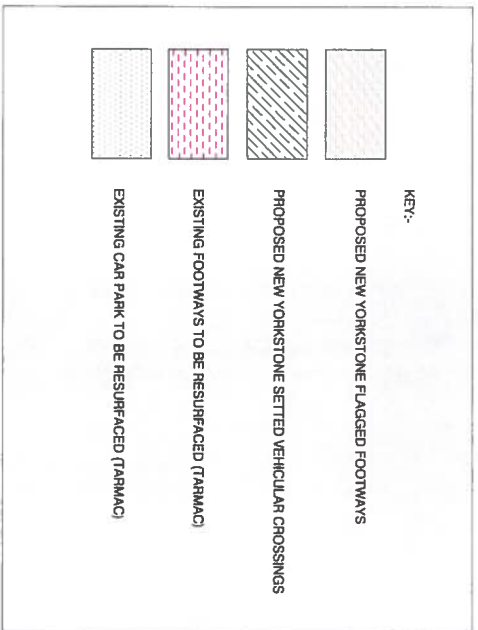
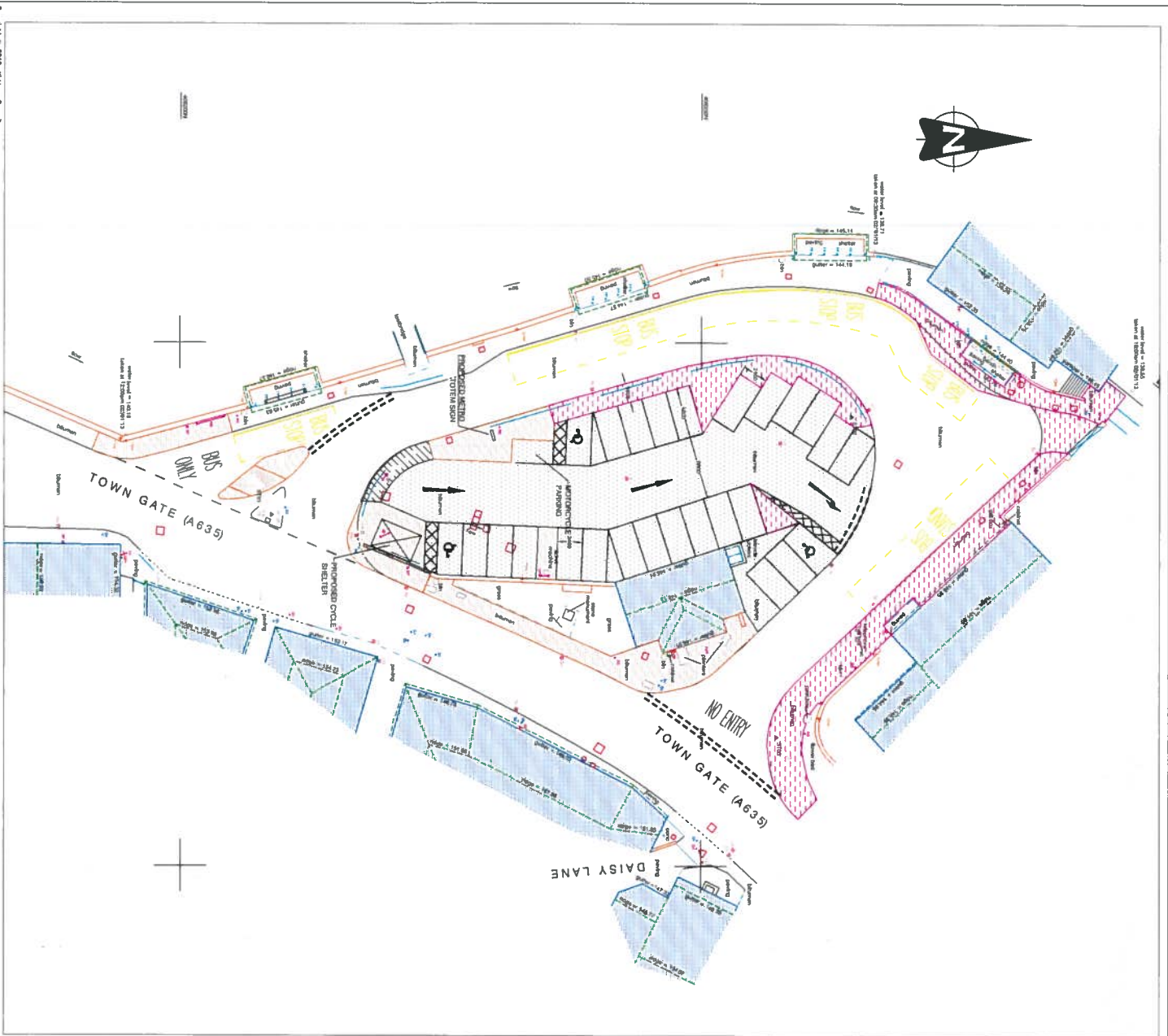
Proposed New Taxi Ranks at Holmfirth and Huddersfield Town Centre.  
To consider proposals for new Taxi Ranks at Victoria Street and Victoria Square, Holmfirth and John William Street, Huddersfield.

Contact:  
Catherine Walter - 01484 456860

Wards Affected: Holme Valley South, Newsome Decision:

- (1) That approval be given for the Taxi Rank at John William Street, Huddersfield between the junction of Church Street and the junction of St Peter's Street for 6 Hackney Carriage vehicles between 23:00 hours to 04:00 hours the next day.
- (2) That approval be given for Temporary Hackney Carriage Taxi Ranks at Victoria Street (4 vehicles) and Victoria Square (2 vehicles), Holmfirth between 20:00 hours to 02:00 hours the next day.
- (3) That discussions take place between the relevant parties and the Local Ward Councillors for the provision of appropriate Hackney Carriage Taxi Rank provision as part of the proposed new scheme for the Bus Station in Holmfirth.

# APPENDIX 2



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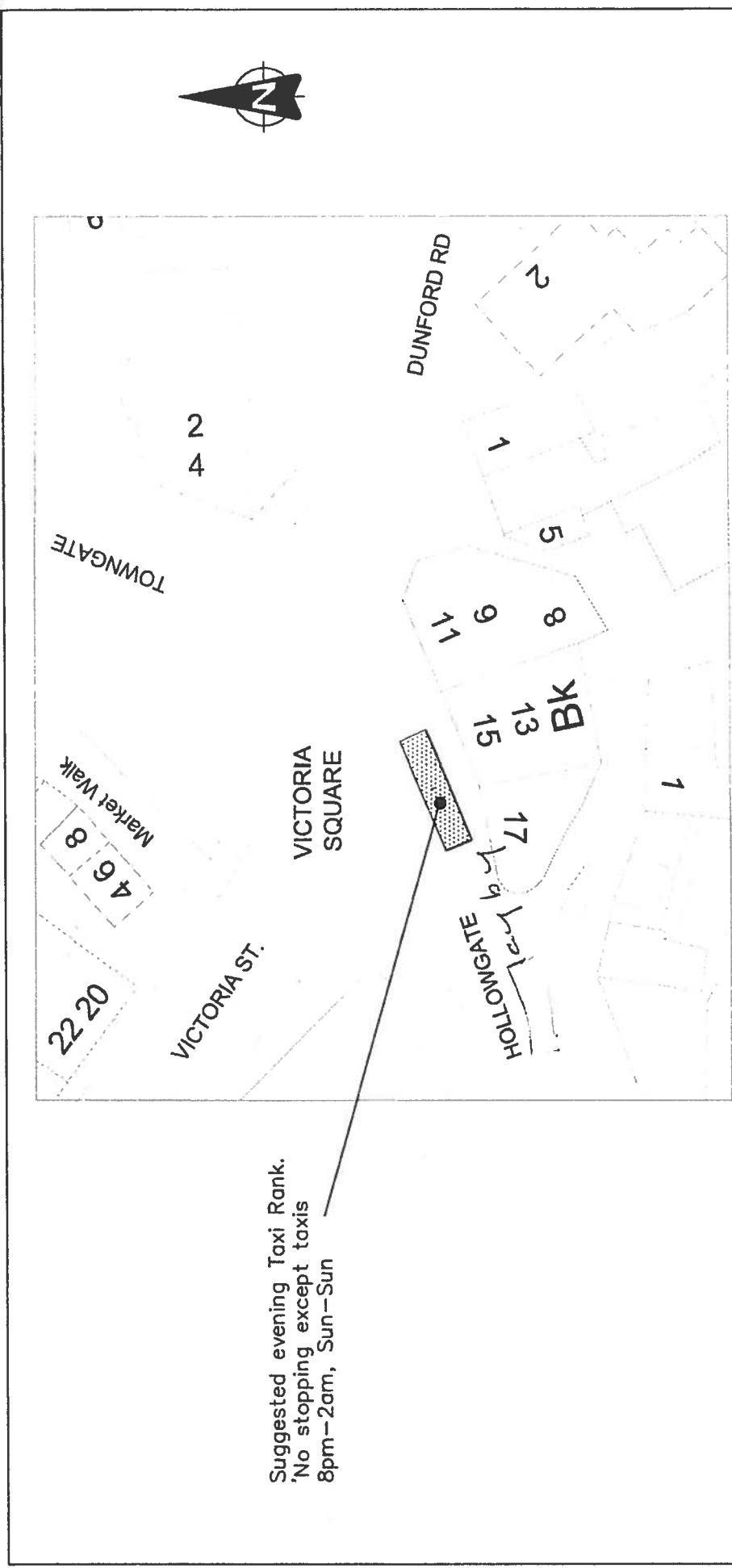
<p><b>Kirklees</b> COUNCIL</p>	
<p>Directorate of Place One Centre 3, Market Street Huddersfield, HD1 2TG</p>	
SECTION	HIGHWAY DEVELOPMENT
DESIGNER	JDW
PROJECT NO.	25/04/24
DATE	MAY 13
PROJECT	HOLMFIRTH TRANSPORT HUB
TITLE	DRAFT LAYOUT
DRAWING NO.	HO/1285/DRAFT/JDW/1A
CDR No.	



# APPENDIX 2A




— = potential hackney rank 11pm - 4am for a minimum of 6 vehicles.

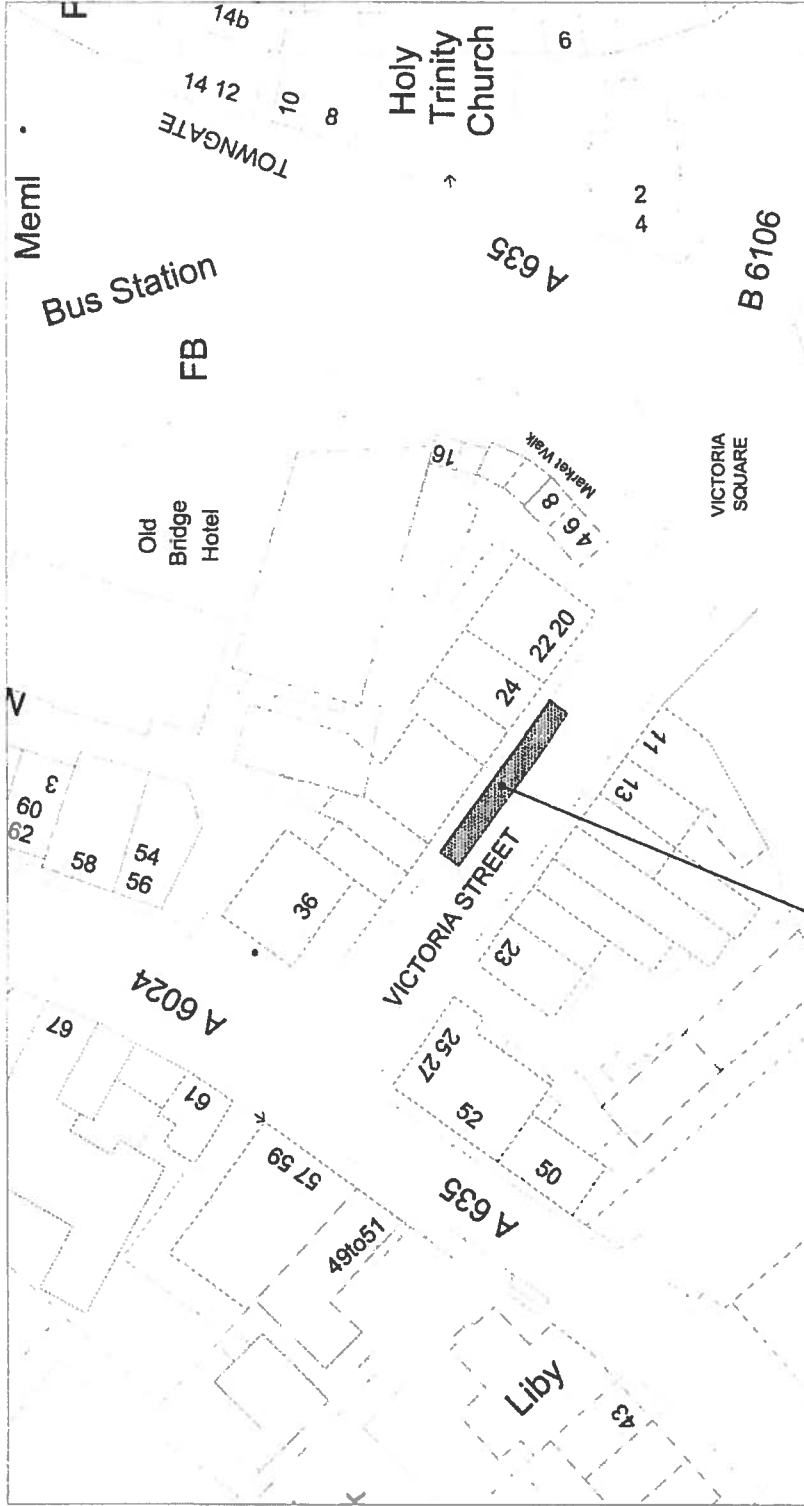


Suggested evening Taxi Rank.  
No stopping except taxis  
8pm-2am, Sun-Sun

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Date: 2007


 <p><b>Kirklees</b> COUNCIL</p>	Project	
	Victoria Square, Holmfirth	
<p>Highways &amp; Transportation Flint Street, Fartown Huddersfield, HD1 6LG</p>	Title	
	Suggested Evening Taxi Rank	
Scale		NTS
Drawn		Checked
Joe		
Section		Date
Safety		31/3/11
Drawing No.		TF/18/200/194.2

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Suggested evening Taxi Rank.  
 'No stopping except taxis  
 8pm-2am, Sun-Sun

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 Date: 2007

 <p><b>Kirklees</b> COUNCIL</p>	Project		Victoria Street, Holmfirth	
	Title		Suggested Evening Taxi Rank	
<p>Highways &amp; Transportation                  Flint Street, Fartown                  Huddersfield, HD1 6LG</p>		Scale	NTS	
		Drawn	Joe	Checked
		Section	Safety	Date
		Drawing No.		TF/18/200/194

## APPENDIX 3

Dear Catherine,

My representation for the licensing and safety committee on 13<sup>th</sup> December 2016 in relation to the Hackney Carriage Ranks in Holmfirth is as follows.

A decision was made by the Licensing and Safety Committee on the 26<sup>th</sup> March 2013 to approve a 'temporary' hackney carriage rank at Victoria Street (4 cars) and one at Victoria Square (2 cars) to operate between 8pm and 2am. The decision notice also says that discussions take place with relevant parties and ward councillors regarding the provision of a hackney carriage rank as part of the new scheme for the bus station.

Ward councillors were against the proposal to create a hackney carriage rank in Victoria Street and Victoria Square as these were not considered by us to be good sites, being on a busy road and close to residential properties (flats above shops). A rank already existed next to the Post Office but it was little used. Since the temporary approval there have been problems with hackney carriages parking on Victoria Street and Victoria Square and a number of complaints have been reported by members of the public and ward councillors regarding over ranking and the parking of hackney carriages on both sides of Victoria Street. This narrows the road and creates traffic problems as well as road safety issues. Hackney carriages continue to over rank and park illegally despite being told not to.

The bus station improvements have taken place and taxis can now be accommodated in the bus station. As bus services cease more space becomes available and there is sufficient room to resite the six taxi rank spaces, indeed there is capacity for more. The bus station is in the centre of the town, is well lit and forms a safe point for taxis to pick up customers.

This representation is supported by all three ward councillors.

I trust the Licensing Committee will support us and move the hackney taxi ranks to the bus station.

Regards

Cllr Nigel Patrick  
Ward Councillor



**Name of meeting:** Licensing and Safety Committee  
**Date:** 13<sup>th</sup> December 2016  
**Title of report:** Code of Conduct for Buskers and Street Entertainers

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	No
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Director</u> & name	Jacqui Gedman – 23/11/16
Is it signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	Debbie Hogg – 10/11/16
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 30/11/16
Cabinet member <a href="#">portfolio</a>	Cllr Mather – Portfolio Holder for Housing & Enforcement Management

**Electoral wards affected:** ALL  
**Ward councillors consulted:** ALL  
**Public or private:** PUBLIC

## 1. Purpose of report

To inform the Committee of a proposed Code of Conduct for Buskers and Street Entertainers

## 2. Summary

Busking is a performance (usually musical or dancing) in a public place that takes place for the intention of passers-by to donate money for private gain. Buskers and other forms of street entertainment often form part of the street scene in many towns and cities providing entertainment to residents and visitors to the area.

Kirklees Council welcomes busking and other forms of street entertainment as performers can create an enhanced atmosphere across our town centres, providing pleasure to

residents, businesses and visitors. However, they can on occasion become intrusive to people living and working nearby.

### **3. Background**

There is currently, outside of London, no specific legislation which governs buskers or the licensing of them. Historically the Council has operated a voluntary registration scheme for buskers who wish to perform in Kirklees. Buskers have been actively encouraged to apply for an identity card which lasts for one year and was only granted after audition. The process is time consuming and an erroneous bureaucratic burden on both buskers and council staff alike. As there is no enabling legislation this has meant that no fee could be levied for this service.

In order to ease the bureaucracy it is proposed that we stop imposing a “licensing regime” on buskers and street entertainers and instead ask them to abide by a new Code of Conduct.

The Code of Conduct (see Appendix A) is guidance for street entertainers to promote good neighbourliness and mutual respect between performers and other people balancing the need and the benefits of busking and performance and the rights of people to reasonable and quiet enjoyment of their locality.

The few complaints associated with buskers in Kirklees can generally be addressed within existing legislation or by-laws (e.g. Environmental Protection Act)

We will continue to investigate any complaints that are received about the activities of buskers and street performers. Where it is deemed that there is non-compliance with the code and an individual or group are causing a noise nuisance or obstruction to the highway enforcement action will be taken.

Advice will be offered in all cases and reasonable opportunity will be given to rectify issues identified; however, if problems persist, the authorities will use the statutory powers available to them to resolve such problems.

### **4. Implications for the Council**

#### Legal Implications

Article 10 of the Human Rights Act 1998 allows for the freedom of expression and must be considered in relation to busking. Under the Licensing Act 2003 busking is not licensable as it does not fall into the criteria of regulated entertainment.

#### Resource Implications

Adoption of the Code will free up officer time to concentrate on statutory licensing applications

### **5. Consultees and their opinions**

A six week consultation was carried out with the following people/groups

- Currently licensed buskers
- Elected Members

- W Y Police
- Published on the Councils Website

Consultees were asked to make comment on ceasing the current practice of “licensing” buskers and the proposed code of conduct.

Five responses were received in response to the consultation which were mainly positive. Copies of the responses are attached at Appendix 2

## **6. Next steps**

To implement its use by officers with immediate effect

## **7. Officer recommendations and reasons**

To note and endorse the Busking and Street Entertainment Code of Conduct as based on the consultation conducted in developing the Code, busking is seen to be a positive activity. The Code gives clarity to those wishing to busk and also meets the needs of businesses and visitors to our town centres.

## **8. Cabinet portfolio holder’s recommendations**

Cllr Naheed Mather is pleased to support the new streamlined procedure.

## **9. Contact officer**

Catherine Walter

Licensing, Local Land Charges & Highways Registry Manager

Tel: 01484 221000

Email: [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

## **10. Assistant Director responsible**

Joanne Bartholomew, Assistant Director – Place

Tel: 01484 221000

Email: [joanne.bartholomew@kirklees.gov.uk](mailto:joanne.bartholomew@kirklees.gov.uk)

## **Code of Conduct for Buskers and Street Performers**



### **Code of Conduct for Buskers and Street Performers**

Whilst Kirklees Council welcomes activity which enhances the experience and atmosphere of its town centres, it is important that the needs and requirements of other town centre users such as businesses, shoppers, and residents are taken into consideration. Kirklees request that all performers act as a 'good neighbour' and comply with our code of conduct.



## Code of Conduct

- When selecting your pitch please avoid blocking access to shops, offices, residences and fire escapes as well as other amenities such as cash machines
- Please be respectful to street traders, we recommend at least a 20m gap
- Please avoid locating close to other street activity and fellow performers
- You are responsible for ensuring that your presence does not cause obstruction of the highway, including gathering crowds to watch
- With respect to residents and workers in our town centre's shops and businesses we ask that you do not perform for longer than 1.5 hours from the same location
- Your performance should not be so loud that it can be plainly heard at a distance of 50m
- Amplification is NOT encouraged as it often generates a number of complaints, at which point you would be requested to either lower the volume, move on or even cease performing altogether
- You should have a varied repertoire so as not to cause undue nuisance to residents, retailers and other town centre users
- Performers actions, appearance, dress, lyrics, script or props must not be of a nature that could cause offence or alarm to other users of the town centre
- Young people under the age of 16 must obtain any relevant permits from the Council's Children and Young Peoples Service on 01484 221000 and be accompanied by an adult
- Performances must not be delivered in a manner that is dangerous to you or to members of the public
- Whilst we appreciate that members of the public may wish to contribute for enjoyable performances, you must not actively solicit monetary contributions, this includes signs or the passing round of a hat
- Care must be taken in protecting your own equipment and/or any contributions gained
- Selling of CD's (or any other items) is not permitted
- You must immediately comply with a request by an officer of Kirklees Council or West Yorkshire Police to lower your volume, move location or cease busking

### **As a street performer in Kirklees I agree to:**

1. Be a good neighbour and consider other town centre users
2. Change location after 1.5 hours
3. Vary my repertoire
4. Keep volume to an acceptable level
5. Accept the instruction/advice of Kirklees Council officer/West Yorkshire Police
6. Not block doorways, fire exits or the highways

**Victoria Thomson**

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**To:** Licensing  
**Subject:** RE: Buskers Code of Conduct

**From:** Maurice Healy  
**Sent:** 20 March 2016 16:06  
**To:** Licensing  
**Subject:** Buskers Code of Conduct

Hello Ms. Thomson

I'm Busker No. BU0122 & have read the "draft Code of Conduct" which seem to cover the Council / residents / visitors requirements.

The only observations I would make are:-

- 1) How will the "Quality Control" be managed when registering / auditioning is removed? Leeds has a lot of "Wail & Strum with loud noise" category.
- 2) Could the Code define the minimum distance required to move from an existing pitch to another pitch after the allowed 1.5 hours has elapsed?

Regards  
Maurice Healy



KPPENDIX  
2.

**Victoria Thomson**

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**To:** Victoria Thomson  
**Subject:** RE: Buskers Code of Conduct

**From:** Jayne Pearson  
**Sent:** 03 December 2015 16:25  
**To:** Victoria Thomson; Andrew Jackson; Adele Poppleton; Neal Fearn; Laura Whiteley  
**Subject:** RE: Buskers Code of Conduct

Vicky

I agree with Andrew's comments earlier and I do wonder if we can put an actual level on which is acceptable and if we do then who has the capacity to go out and monitor? For info I often put a level on some events if I think that the applicant may be doing something that we may find unacceptable to the adjacent businesses and that limit is 75db but I do not have the capacity to check that level.

Most of the businesses I speak to really don't complain about buskers and the level they are performing at apart from a couple of businesses on New Street.

See what you think

Jayne

Jayne Pearson  
Senior Business Initiatives Officer (Town Centre Management)  
Investment and Regeneration Service  
Civic Centre III  
Huddersfield HD1 2TG

Tel : 01484 221000 or 07976 497758  
Email : [jayne.pearson@kirklees.gov.uk](mailto:jayne.pearson@kirklees.gov.uk)

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**From:** Victoria Thomson  
**Sent:** 02 December 2015 15:33  
**To:** Andrew Jackson; Jayne Pearson; Adele Poppleton; Neal Fearn; Laura Whiteley  
**Subject:** Buskers Code of Conduct

Good Afternoon All

Following on from Cath's email about reviewing busking requirements I have put together a Code of Conduct for buskers in any of Kirklees' town centres.

If you have anything you would like me to add or change then please let me know.

Kind Regards

Victoria Thomson  
Kirklees Licensing Officer  
01484 456862

Please note that I currently do not work Thursdays

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**Victoria Thomson**

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**To:** Victoria Thomson  
**Subject:** RE: Changes to Busking in Kirklees

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**From:** Cllr Nigel Patrick  
**Sent:** 15 March 2016 13:11  
**To:** Victoria Thomson  
**Subject:** RE: Changes to Busking in Kirklees

Accepting there should be some form of control, but also accepting busking is part of the streetscene and plenty of good musicians started out as buskers. Seasick Steve for example.

Is the code of conduct in addition to the license or instead of?

Holding an audition seems a bit odd to give a license. It would be subjective and comes down to the musical taste of the assessor. Not sure Seasick Steve would always pass that test.

Code of conduct looks ok. One thing that did pop out was 'a varied repertoire'. Again subjective. Needs clarifying. Do you mean more than one song or songs that sound different? I can think of a few successful bands whose music all sounds the same to me.

---

**From:** Victoria Thomson  
**Sent:** 15 March 2016 10:34  
**To:** Cllr MasoodG Ahmed; Cllr Mahmood Akhtar; Cllr Karen Allison; Cllr Simon Alvy; Cllr Bill Armer; Cllr RobertW Barraclough; Cllr Donna Bellamy; Cllr Martyn Bolt; Cllr Cahal Burke; Cllr Jean Calvert; Cllr Andrew Cooper; Cllr Nosheen Dad; Cllr Jim Dodds; Cllr Donald Firth; Cllr Eric Firth; Cllr Charles Greaves; Cllr David Hall; Cllr Steve Hall; Cllr Mark Hemingway; Cllr Erin Hill; Cllr Lisa Holmes; Cllr Edgar Holroyd-Doveton; Cllr Judith Hughes; Cllr Mumtaz Hussain; 'Cllr Christine Iredale'; Cllr Paul Kane; Cllr Viv Kendrick; Cllr Musarrat Khan; Cllr John Lawson; Cllr Vivien Lees-Hamilton; Cllr Robert Light; Cllr Gwen Lowe; Cllr Terry Lyons; Cllr Andrew Marchington; Cllr Naheed Mather; Cllr Hanif Mayet; Cllr Peter McBride; Cllr Darren ODonovan; Cllr Marielle O'Neill; Cllr Andrew Palfreeman; Cllr Shabir Pandor; Cllr Abdul Patel; Cllr Nigel Patrick; Cllr Carole Pattison; Cllr Andrew Pinnock; Cllr Amanda Pinnock; Cllr Kath Pinnock; Cllr Hilary Richards; Cllr David Ridgway; Cllr Karen Rowling; Cllr Mohammad Sarwar; Cllr Cathy Scott; Cllr Phil Scott; Cllr David Sheard; Cllr Kenneth Sims; Cllr Elizabeth Smaje; Cllr Ken Smith; Cllr Mohan Sokhal; Cllr Julie Stewart-Turner; Cllr Amanda Stuble; Cllr JohnJ Taylor; Cllr Kath Taylor; Cllr Graham Turner; Cllr Nicola Turner; Cllr Sheikh Ullah; Cllr Molly Walton; Cllr Michael Watson; Cllr Linda Wilkinson; Cllr Gemma Wilson  
**Subject:** Changes to Busking in Kirklees

Good Morning Councillors

We currently run a system whereby if anyone wants to busk in Kirklees they must first apply for a licence and do an audition before a licence is granted.

These licences are free however we supply a photo card and paper licence to the busker which, when you factor in officer time for processing it, it becomes quite costly. We also used to rely heavily on the community rangers in the town centre to assist us in moving anyone on who was either causing a nuisance or unlicensed, however there are no community rangers anymore and as we are based in Flint Street and our main enforcement concerns are taxi's and licensed premises we are unable to enforce the licences we have granted. We also don't have any right to make people get licences to busk therefore we don't have any real enforcement power.

I have had a look at what other authorities do in relation to buskers and Leeds have a code of conduct for anyone wishing to busk in their city centre. I have therefore put together a code of conduct suitable for Kirklees and have consulted all of the relevant Council service for their input and it is now out for consultation with current licensed

buskers. Please find attached a copy of this for your information and if you wish to make any representation about it then please do so before 30<sup>th</sup> April 2016.

Kind Regards

Victoria Thomson  
Senior Licensing Officer  
01484 221000 – ext 70520

Please note that I currently do not work Thursdays

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**Name of meeting:** Licensing and Safety Committee

**Date:** 13<sup>th</sup> December 2016

**Title of report:** Unmet Demand Survey

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	Key Decision – No Private Report/ Private Appendix - No
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Director</u> & name	Jacqui Gedman – 02/12/16
Is it signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	Debbie Hogg – 24/11/16
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 10/11/16
Cabinet member <a href="#">portfolio</a>	Cllr Mather – Portfolio Holder for Housing & Enforcement Management

**Electoral wards affected:** ALL  
**Ward councillors consulted:** NONE  
**Public or private:** PUBLIC

## 1. Purpose of report

To advise Members of the Council's policy to review quantity control every three years where the Council potentially intend to continue to limit the number of available hackney carriage vehicle licences it issues.

## 2. Summary

To inform of the need to review the current limit on Hackney Carriage numbers. A procurement exercise is currently being undertaken for a new Unmet Demand Survey which will provide the Committee with the necessary background information to make a decision on whether to retain a limit or not and if retained at what level. The last survey was carried out in 2013 and these should be undertaken every three years to establish if there is any level of latent (hidden) or patent demand (that which can be seen) if the number of Hackney Carriages is limited.

### 3. Background Information

Section 16 of the Transport Act 1985 gives local authorities the power to limit the number of Hackney Carriage licences provided that the local authority is satisfied that there is no significant demand for Hackney Carriages which is unmet.

Currently the number of Hackney Carriage licences is limited to 247.

The last survey and review held in 2013 identified that there were enough Hackney Carriage licences in Kirklees to meet demand at that time and that there was no need for any additional Hackney Carriage licensed vehicles. This view satisfied the Committee and no additional Hackney Carriage licences were granted, with numbers remaining at 247.

The Department for Transport (DfT) has issued Best Practice Guidance for Taxi and Private Hire Vehicle Licensing the current version of which is dated March 2010. With reference to quantity restrictions of taxi licences outside London it states:

*“Quantity restrictions of taxi licences outside London  
The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis ‘if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet’.*

Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

As to the conduct of the survey, the DfT set out a range of considerations. But key points are:

- the length of time that would-be customers have to wait at ranks.
- waiting times for street hailing’s and for telephone bookings. But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- latent demand, for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- peaked demand. It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not ‘significant’ for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.

- consultation. As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- publication. All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.

#### **4. Implications for the Council**

##### **4.1. Legal**

Whilst not a statutory requirement the commissioning of an Unmet Demand Survey for Taxis is essential to ensure that operational logistics in respect to Hackney Carriage Vehicles is professionally assessed and recommendations considered to ensure we have an effective Hackney Carriage fleet size should a decision be made to retain a limit.

##### **4.2. Financial**

The cost of the survey will be met from the income received from licence fees thus providing a nil cost to the council. The company carrying out the survey will be chosen following the Councils procurement procedures.

#### **5. Consultees and their opinions**

None, although the trade, user groups, members of the public will be consulted as part of the survey – see above.

#### **6. Officer recommendations and reasons**

To note the Licensing Managers intention to undertake a scoping exercise in accordance with the Council's Contract Procedure Rules to identify and appoint an appropriate consultant to undertake an unmet demand survey.

To bring the results of the survey to a future meeting of the Licensing and Safety Committee for it to consider the survey results.

#### **7. Cabinet portfolio holder's recommendations**

Cllr Naheed Mather noted the intention to carry out a survey and would be pleased to review the final report.

#### **8. Contact officer & relevant papers**

Catherine Walter

Licensing, Local Land Charges & Highways Registry Manager

Tel: 01484 221000

Email: [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

**9. Assistant Director responsible**

Joanne Bartholomew, Assistant Director – Place

Tel: 01484 221000

Email: [joanne.bartholomew@kirklees.gov.uk](mailto:joanne.bartholomew@kirklees.gov.uk)



**Name of meeting:** Licensing & Safety Committee  
**Date:** 13th December 2016  
**Title of report:** Revised Private Hire Operator Policy & Conditions

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	N/A
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	N/A
Date signed off by Director & name	Jacqui Gedman – 02/12/16
Is it signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	Debbie Hogg – 09/11/16
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 24/11/16
Cabinet member <a href="#">portfolio</a>	Cllr Mather – Portfolio Holder for Housing & Enforcement Management

**Electoral wards affected:** All  
**Ward councillors consulted:** All  
**Public or private:** Public

## 1 PURPOSE OF REPORT

1.1 To consider the revision of the Policy in relation to Private Hire Operator Licences and Conditions.

## 2 BACKGROUND

2.1 Members may be aware from previous reports that the Council already has some conditions regarding conditions relating to Operators of Private Hire vehicles.

2.2 Following the Jay & Casey reports at Rotherham which estimated that more than 1,400 children were abused in Rotherham from 1997-2013, this document considers the measures that Kirklees Council have in place to ensure that Operators perform to the high standard expected from them in the interests of public safety and that they take responsibility where they use drivers of hackney carriages licensed outside Kirklees. This issue is of particular importance because the Casey & Jay Reports both stated that tax

drivers played a "prominent role" in the abuse which had "significant impact" on public confidence in the towns' drivers.

### **3 Key Points**

- 3.1 Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') creates a regime for the licensing of private hire operators. This licence, if granted, allows the licence holder to take bookings for, and dispatch, licensed private hire vehicles, driven by licensed private hire drivers.
- 3.2 The Act recognises the position of trust held by a Private Hire Operator and dictates a local licensing authority shall not grant a private hire operator's licence unless they are satisfied the applicant is a 'fit and proper' person to hold such a licence. If a licence is granted, the Act permits a local licensing authority to attach, to that licence such conditions as it considers reasonably necessary.
- 3.3 It is vitally important that the provision of a professional and respected hackney carriage and private hire trade is maintained, which can only be achieved by continued partnership working with the trade and also by monitoring and implementing improvements of the required standards of service. It is under this banner that the current private hire operator conditions, which came into force in November 2008, have been reviewed.
- 3.4 The review highlighted where improvements were needed and a revised policy, including revised conditions, was developed and consulted on. A copy of the revised Policy (changes tracked for ease of reference) is attached at Appendix 1. Details of the consultation are at Section 4 to this report.
- 3.5 In order that Members can familiarise themselves with the changes a copy of the existing conditions are attached at Appendix 2

### **4 IMPLICATIONS FOR THE COUNCIL**

- 4.1 The Licensing regime exists to ensure that the safety of the public is protected. As a result it is necessary for the Council to have a robust licensing regime in place for private hire operators that adequately deals with any issues that might undermine the safety of the public.

### **5 CONSULTEES AND THEIR OPINIONS**

- 5.1 The proposed revisions to the Policy have been shared with licensed private hire operators and discussed at a trade liaison meeting. No objections to the changes have been received.
- 5.2 All revised policy and conditions were shared with all ward councillors. No objections have been received.

### **6 NEXT STEPS**

- 6.1 To implement the changes.

### **7 OFFICER RECOMMENDATIONS AND REASONS**

- 7.1 Officers ask the Committee to note the revisions to the Policy and Conditions relating to Private hire Operators. The implementation of the revised policy will ensure members of the public can be confident the Council are taking all reasonable steps to ensure private hire operators are working to the highest standards.

## **8 CABINET PORTFOLIO HOLDER RECOMMENDATION**

- 8.1 Cllr Naheed Mather supports the proposed revised Private Hire Operator conditions and recommends that the Committee ratifies their implementation.

## **9 CONTACT OFFICER AND RELEVANT PAPERS**

Catherine Walter  
Licensing, Local Land Charges & Highways Registry Manager  
Tel: 01484 221000  
Email: [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

### **Papers:**

Appendix 1 – Revised Policy & Conditions Private hire Operators  
Appendix 2 – Current Policy & Conditions Private hire Operators

## **10 ASSISTANT DIRECTOR RESPONSIBLE**

Joanne Bartholomew  
Assistant Director – Place  
Tel: 01484 221000  
Email: [joanne.bartholomew@kirklees.gov.uk](mailto:joanne.bartholomew@kirklees.gov.uk)

**Appendix 1**



# Taxi and Private Hire Licensing

**Policy in respect of Private Hire Operator Licences and Conditions**



## 1. Background

The Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') was created to enable conditions relating to safety to be placed upon drivers, vehicles and operators, making private contracts with members of the public for vehicles, with drivers.. At the time the 1976 Act was introduced Private Hire at was concentrated on saloon vehicles offering, in the main, local journeys.

Since the introduction of the 1976 Act the Private Hire sector has grown and extended significantly; and there is now a much wider range of vehicles, services and technology available to assist in booking a service.

## 2. Policy Statement

The operating of a business involving Private Hire vehicles has the same business, legal and public safety principles as other areas of activity licensed by the Local Authority.

While public safety is paramount, it is also very important to Kirklees Council that Operators fit comfortably into their environment and are not the cause of residential nuisance and that they contribute positively to the image of the District and take ownership of a civic responsibility.

Operators are a major factor in contributing to public safety by ensuring they and their drivers, adhere to this policy and the conditions attached to the various licences.

The aim of the policy & conditions is to increase the professionalism of the trade through business improvements and best practice; increasing both the level of customer service offered and that of public safety.

## 3. Customer focus, business improvements and best practice

During the course of consulting on this policy some suggestions were put forward that do not form part of this policy; however, they are considered examples of good practice. . While the controlling legislation, or liability for certain acts, or failures to act, might lie within other specific legislation. The Council feels that those areas should remain outside of conditions attached to a Private Hire Operator licence, but nevertheless are worthy of highlighting as good practice. Significant breaches of other primary legislation might still be considered as factors contributing to a 'fit and proper person' test.

### a. Corporate clothing (shirt or outer garment)

There are distinct benefits for this in terms of enhanced safety for customers and also improving the image of the trade in Kirklees. There appears to be a positive link in supplying a uniform style shirt with the company logo on it and customer satisfaction along with the professional outlook of the Operator. However, it is thought to be

beyond licensing control but should be considered as a good business practice by Private Hire Operators.

**b. Staff training and public access to private hire Operator premises and health and safety considerations**

It would be good practice for each Private Hire Operator (except single vehicle companies) to ensure that all of their call handling staff have received:

- Accredited customer service training
- Data protection training
- Be subject to a DBS

DBS disclosure is thought to be important, considering the amount of personal and secure information that can be collected. It is felt that the practice of using totally unqualified or untrained staff is inappropriate. Concerns within the trade are that people are 'employed' outside of all of the employment law, HM Revenue and Customs arrangements, minimum wage legislation and outside of other financial scrutiny arrangements that should be in place.

The Data Commissioner retains responsibility for monitoring the 'data controller' the Private Hire Operator. However, if there were to be breaches of data security the Council reserves the right to take compliance or other formal action against the private hire Operator to reduce the risk of crime or danger to public safety. HM Revenue and Customs or the Health and Safety Executive are the appropriate authority for some of the proposals. Whilst there may be some issues which might be poor business practice or worse it is thought to be beyond licensing control.

Where there is a public waiting area, measures must be in place to keep all personal audio and written data private and secure.

As the Operator you are responsible for the safety of staff and the public on the premises and you are advised to undertake a full review by an appropriately qualified health and safety officer.

Officers may inform the appropriate regulatory body if they have a concern.

**c. Record of Driver Hours**

In contrast to the regulation of hours worked by a PSV or HGV driver, a self-employed Private Hire driver has no such legal restrictions on them. If they were the subject of a contract of employment with the Private Hire Operator then there would be a restriction of 48 hours per week averaged over a 17 week period, but that is the only legal constraint. The consequences of driver fatigue all too often appear

following some serious road traffic collision and whilst the driver may be held accountable for any subsequent fatality it is an issue that the Private Hire Operator should be aware of when they use a Private Hire driver in those circumstances. There are many full time drivers but also others who use their Private Hire driver licence as a secondary form of income.

This issue requires an awareness by Private Hire Operator's and it would be best practice for Private Hire Operator's to be alert to the signs of tiredness and exhaustion and you may wish to consider your own liability in not taking full account of such issues when entering into a contract arrangement with a customer.

**d. Fare awareness**

This is often the subject of complaint by the travelling public and is frequently the cause of disputes. That situation can be improved upon by clearer information at the time of booking and a visible notice showing how fares are calculated on the Private Hire Operator web-site or public waiting area, to be easily read by any person seeking to hire a Private Hire vehicle or Hackney Carriage at those premises.

It would be helpful if at every point of producing such information it was pointed out "fares should be agreed before the journey". Where the vehicle uses a meter, this should be clearly explained and on what occasions it is not used (pre-arranged contract fares, out of Licensing District fares etc).

The more information that can be visible to passengers the better it is for your driver, your business reputation, and, of course, the public. Being 'upfront' with this can help reduce the risk of escalating arguments and create a safer environment for the driver.

**4. Planning regulation**

Planning legislation has primacy and responsibility for enforcing breaches of planning rests with that department and cannot be undertaken by Licensing Officers. However Licensing Officers will support communities where complaints are made in assisting enforcement by planning and Regulatory Officers and also by seeking an early resolution to a problem through the relevant Private Hire Operator.

**5. Safety standards of licensed vehicles under the operating licence**

Officers will consider the prosecution of Private Hire Operators for defective vehicles used in the course of their business and it is intended to continue with that theme and also offences where there is no vehicle insurance in place.

On rare occasions that may be out of the control of the Private Hire Operator but control measures can be put in place which would help the Private Hire Operator reduce their personal risk of prosecution and increase public safety.

To increase public safety and reduce the risk of prosecution to themselves, Private Hire Operators are strongly advised to maintain a weekly record of vehicle inspections carried out by them on their operating licence to ensure checks on tyres, Council livery, accident damage, condition of interior etc. as prescribed by the Council.

The personal responsibility of the licensed Private Hire Operator for the safety of their customer is inescapable and each Private Hire Operator should be able to demonstrate their commitment to customer & road safety.

## **6. Standard Conditions & Pre-application Criteria**

All licences issued by the Council in connection with the driving and operation of Private Hire vehicles are in accordance with the provisions of the 1976 Act. Operators, Drivers and Proprietors should be familiar with this Act, the provisions of the Town Police Clauses Act and the Equality Act 2010 affecting Private Hire licences.

Set out in this booklet are the pre-conditions to the consideration of the grant of a Private Hire Operator licence. Additionally, once licensed, a Private Hire Operator must continue to meet these standard pre-conditions.

The following Conditions apply to all Operators of Private Hire vehicles, licensed or seeking to be licensed. In certain circumstances additional appropriate Conditions may be attached to an individual licence which could be set out as an addendum, by way of a formal notice served upon the licensed Operator.

Exceptions to vary conditions will be recorded on the licence and the reason for the variance.

The Council informs of changes to its Conditions by publicising them in a variety of ways. It is the responsibility of the licence holder to be familiar with those changes and seek appropriate advice and guidance if in doubt.

Additional copies of these Conditions can be obtained, free of charge, by visiting the Taxi and Private Hire Licensing office, downloading from the Council's website or requesting a copy be sent by post. It is also a Condition of the Operator's licence that a copy is available for viewing at the base

Councillors have considered carefully the following Conditions and emphasise that they are essential requirements. Failure to observe may lead to the suspension of the operating licence and consideration of licence revocation and prosecution (there are explanatory notes at the end of these Conditions).

**Local Government (Miscellaneous Provisions) Act 1972  
Pre-Application Criteria & Standard Conditions  
Private hire Operators Licence**

**1. OPERATOR LICENCE – THE APPLICATION PROCESS**

Any person wishing to acquire a licence to operate a Private Hire vehicle shall be a 'fit and proper person' and produce such information as reasonably required by the Authority or undertake such appropriate training and testing as required to assist in establishing that assessment.

The application to the Council shall be solely in their name on the prescribed form, and they must pay such fee as prescribed by the Council. Such fee is not returnable and may be set to enable the Council to tier fees appropriately relative to the number of vehicles operated.

**2. POINT OF ENTRY TRAINING AND ASSESSMENT**

Every applicant for an Operator licence shall be required to: -

- Complete the appropriate application form
- Complete a DBS Disclosure form
- Attend a Private Hire Operator training and appropriate assessment

The Council will only issue licences to applicants that are deemed to be fit and proper. In assessing this, the Council will have regard to the following:

- Criminal record (including convictions, cautions, warnings, fixed penalties and reprimands),
- Issue of any Magistrate's Court summons against them;
- Any harassment or other form of warning or order within the criminal law including Anti-Social Behaviour Orders or similar;
- Factors such as demeanour, general character, non-criminal behaviour, honesty and integrity,
- Previous conduct or complaints (particularly in cases where the applicant holds or has previously held a licence issued by Kirklees Council),
- Business practices demonstrated by the applicant (for example standard of record keeping, compliance with other regulatory requirements, financial practices etc.)
- Their arrest for any offence (whether or not charged)

**3. BUSINESS PARTNERSHIPS**

Every applicant shall in addition to the information specified in the above two paragraphs, provide the name, date of birth and address of any person if the applicant proposes to operate the business in partnership with any other person(s) and undertake the same 'fit and proper person' assessment and training and testing requirements.

Each Operator licence issued by the Licensing Authority shall be issued only in the name of the applicant and that person shall be deemed solely responsible as the Operator upon the licence being granted and the licence is not transferable from the first mentioned person to another person.

An Operator shall, within seven days, disclose to the Council in writing details of any convictions imposed on him (or any business partners, directors or company secretary) during the period of the Licence or if he is arrested, cautioned or being investigated for any offence whether charged or not.

An Operator shall, within seven days, notify the Council of any change in his or his business partner's address taking place during the period of the Licence.

#### 4. **ADVERTISING**

No Operator may use the word **TAXI** or **CAB** or **HACKNEY CARRIAGE** or any combination or derivation thereof in any advertising manner on the vehicles they operate, and any such advertising shall include the words Licensed Private Hire.

Any other type of advertising on vehicles must be in accordance with the Councils "Advertising on Vehicles" Policy. A copy is available on the Councils website or on request.

#### 5. **RECORD OF BOOKINGS**

An Operator shall keep records in the form prescribed by the Council containing particulars of booking and of private hire vehicle operated by him. Separate records must be kept at each premise from which the Operator carries on business. The records shall be produced immediately by the Operator or his employee on request to any Authorised officer of the council or to any constable for inspection. The records shall be kept for at least three years on the premises. The council prescribe the following:-

An Operator shall keep a true and proper record of every booking of a Private Hire vehicle invited or accepted by him. The record **shall be kept** on computer or **in a suitable book** with consecutively numbered pages. Before each journey commences the Operator shall enter therein:-

- i. The place at which the booking was received and the date and time thereof
- ii. The name of the hirer

- iii. Whether the booking was made by telephone, personal call or other means (to be stated)
- iv. The address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
- v. The plate number of the vehicle to be used for the journey
- vi. The name of the driver undertaking the hiring

If a computer is used it must be connected to a printer **at all times** in order that records can be printed **on demand** and the records must not be able to be retrospectively altered in any way .

An Operator, having accepted a booking for a Private Hire vehicle shall ensure the vehicle, unless delayed or prevented by some reasonable cause, attends at the address from which the journey is to commence, at the required time.

Drivers working for the Operators business will at all times be clean and respectable in their hair, dress and person and behave in a civil and orderly manner.

## 6. **VEHICLE & DRIVER RECORDS**

An Operator shall keep a record of each private hire vehicle operated by him, such record to contain details of:-

- The name and address of the proprietor to whom the vehicle licence has been issued
- The number of such vehicle licence
- The date of expiry of such vehicle licence
- The number of persons for whom the vehicle is licensed

The Operator must have in place a system of ensuring no driver works when his driving licence, insurance or vehicle licence have expired or been suspended or revoked or his vehicle has no valid compliance test in place. That system will be available for inspection at all times by an authorised officer of the Council.

## 7. **VEHICLE LIVERY**

An Operator shall cause permanent stuck on company signs (available from the council) to be displayed at all times on Private Hire vehicles when operating from their premises.

## 8. **COMPLAINTS SYSTEM**

Private Hire Operators must maintain a register of complaints by the public in a format approved by the Council (computerised or hard copy). The format of the complaints register must be maintained in the manner prescribed by the Council.

Upon receiving any 'specified complaint' or allegation regarding any person licensed by the Authority Operators must report it immediately when the licensing office is open, and in any other event within 72 hours.

The specified complaints or allegations are:

- of sexual misconduct, sexual harassment or inappropriate sexual attention
- racist behaviour
- Violence
- Dishonesty
- breaches of equality

In straight forward terms, allegations of criminal behaviour whilst acting as a Private Hire Driver.

Low level' complaints can build up a business profile that can be indicative of a professional development need, or in the worst case the concealing of some potential significant offending or allegations of unsafe behaviour.

These concerns are to be dealt with by a requirement to maintain a 'register of complaints' and outcomes, for inspection by the Authority for a set period, of 12 months.

## **9. LICENCE DURATION**

Each Operator licence issued by the Licensing Authority shall be valid for a period up to 5 years or as the Licensing Authority may decide, subject to any changes to primary legislation.

## **10. USE OF OPERATOR NAME FOLLOWING REVOCATION OF LICENCE.**

Where an Operator licence is revoked by the Council, the name (or a similar name) of the Private Hire company associated with that licence cannot be used by another Operator until such time as six months has elapsed since the date of revocation or the date on which all appeal processes have been concluded (whichever is the longer).

11. Applicants or existing licence holders that are found to have intentionally misled the council, or lied as part of the application process, will not be issued with a licence and any existing licence may be revoked.

12. An Operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance or when unlawfully booked may have his Operator's Licence revoked immediately and will not be permitted to hold a licence for a period of at least three years.

## **13. ABSENCE FROM BUSINESS AND COMMUNICATION WITH PRIVATE HIRE OPERATORS**



Private Hire Operators must notify the Council and nominate a responsible person to take responsibility on an interim basis if they are absent for 15 days or more and supply contact detail of the manager to the Local Authority.

At all times the Private Hire Operator will ensure that the Local Authority has his/her most up to date contact detail including a mobile telephone number and email address. There should be a generic email address for the company and a confidential email address for the Operator so that sensitive information can be properly handled and held confidentially by the Operator.

Subsection (2) to (5) of section 233 of the Local Government Act 1972 shall have effect and are incorporated in these Conditions in relation to any notices required or authorised by these Conditions to be given or served on the **Operator** by or on behalf of the Council or by an Authorised Officer.

#### **14. TRAINING TO EXPECTED STANDARDS OF SERVICE AND SAFETY DURING THE LIFETIME OF A LICENCE**

During the lifetime of a Private Hire Operator licence, an Authorised Officer of the Council may require a licence holder to undertake reasonable and appropriate training to meet these expectations and requirements. Such a requirement would be in writing. A reasonable time scale of up to 3 months will be set for the training to be successfully undertaken at a place designated by the Council. If there is a refusal or failure to attend, or the licensed Operator does not meaningfully participate in the training or attain the training accreditation the licence may be suspended and consideration given to its revocation. The cost of such training will be borne by the licence holder.

Similarly, the same considerations set out in the preceding paragraph will apply to those who manage distinct areas of the operating business or business partner(s).

#### **15. ASSISTANCE DOGS**

Every Proprietor, Driver and Operator of a licensed Private Hire vehicle shall ensure that assistance dogs are carried within the passenger compartment of the vehicle on request.

Operators are reminded of their responsibilities under the Equality Act, 2010, and are advised

#### **16. 'OUT OF TOWN' HACKNEY CARRIAGES ACTING AS PRIVATE HIRE VEHICLES IN THE KIRKLEES LICENSING DISTRICT**

##### **SCHEDULE OF DRIVERS**

The Private Hire Operator, shall in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage driver employed or used for Private Hire bookings this will include Hackney Carriage drivers licensed by this or other Authorities.

Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage driver, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.

The Private Hire Operator shall retain a copy of the Hackney Carriage driver licence granted by this or any other authority along with a copy of the driver's DVLA licence, and any other driver of that vehicle, and forward a copy of those documents to the Licensing Office forthwith, and in any event within 72 hours of registering that driver.

### **SCHEDULE OF VEHICLES**

The Private Hire Operator shall, in writing, notify the Licensing Authority forthwith, and in any event within 72 hours of each and every Hackney Carriage vehicle employed or used by the operator. This includes those Hackney Carriage vehicles licensed by this or other Authorities.

Where a Private Hire Operator ceases to employ or use any such licensed Hackney Carriage vehicle, the Operator shall forthwith, and in any event within 72 hours, notify the Licensing Authority in writing.

The Private Hire operator shall retain a copy of the Hackney Carriage vehicle licence granted by another Authority along with a copy of the MOT or Compliance Certificate and policy of insurance and vehicle registration document and forward a copy of those documents to the Licensing Office within 72 hours.

### **ADVERTISING ON VEHICLES**

Where a Hackney Carriage vehicle is licensed by another Authority, such a Hackney Carriage driver or Hackney Carriage vehicle is expressly prohibited from using any literature, any documentation, any advertising or displaying any signage associated to the Private Hire Operator or Kirklees Council which suggests or might lead to a misunderstanding that the vehicle is licensed by this Authority.

## **17. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, PART 2**

All licences in connection with the driving and operation of Private Hire vehicles and all conditions attached to the grant of such licences are issued by the Licensing Authority in accordance with the provisions of the 1976 Act.

Each Private Hire Operator shall make themselves aware of the provisions of the 1976 Act and any other relevant legislation including the Licensing Authority conditions attached to the grant of a Private Hire Operator, driver or vehicle licence.

**PLEASE NOTE THAT SHOULD YOU FEEL AGGRIEVED BY ANY OF THE CONDITIONS IMPOSED ON THE LICENCE, YOU HAVE THE RIGHT OF APPEAL TO A MAGISTRATES' COURT WITHIN 21 DAYS FROM THE DATE WHEN THIS LICENCE WAS ISSUED TO YOU.**

I understand that an Operators' licence has been granted to me, having regard to the above mentioned conditions. I undertake to abide by these conditions and further understand that should I, or any driver operating through this business fail to do so my Operators licence could be reviewed or revoked.

Signed.....

Witness.....

Dated.....

Dated.....

**KIRKLEES COUNCIL**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

**PART II – LICENSING OF PRIVATE HIRE VEHICLES – CONDITIONS  
ATTACHED TO A LICENCE TO OPERATE A PRIVATE HIRE VEHICLE**

1. An **Operator** shall keep records in the form prescribed by the Council, containing particulars of bookings and of private hire vehicles operated by him. Separate records must be kept at each premise from which the **Operator** carries on business. The records shall be produced by the **Operator** on request to any Authorised Officer of the Council or to any Constable for inspection. The records shall be kept for at least one year. The Council prescribe the following:-
  - (a) An **Operator** shall keep a true and proper record of every booking of a Private Hire vehicle invited or accepted by him. The record **shall be kept in a suitable book** with consecutively numbered pages in which the **Operator** shall, before each journey commences, enter therein:-
    - i) the place at which the booking was received and the date and time thereof
    - ii) the name of the hirer
    - iii) whether the booking was made by telephone, personal call or other means (to be stated)
    - iv) the date of the journey, the address or other place from which it is to commence, the address or place of destination and the requested time, if any, for the journey to commence
    - v) the plate number of the vehicle to be used for the journey
    - vi) the name of the driver undertaking the hiring
  - (b) An **Operator** shall keep a record of each Private Hire vehicle operated by him, such record to contain details of:-
    - i) the name and address of the proprietor to whom the vehicle licence has been issued
    - ii) the number of such vehicle licence
    - iii) the date of expiring of such vehicle licence
    - iv) the number of persons for whom the vehicle is licensed
  - (c) An **Operator** shall cause permanent stuck on Company signs approved by the Council to be displayed at all times on Private Hire vehicles when operating from their premises.

2. An **Operator's** Licence granted by the Council will remain in force for a period of one year, unless the Council specify a lesser period or revoke or suspend the licence at any time.
3. An **Operator** shall only operate from premises in respect of which planning permission has been obtained from local planning authority.
4. Subsection (2) to (5) of section 233 of the Local Government Act 1972 shall have effect and are incorporated in these Conditions in relation to any notices required or authorised by these Conditions to be given or served on the **Operator** by or on behalf of the Council or by an Authorised Officer.
5. An **Operator**, having accepted a booking for a Private Hire vehicle shall ensure the vehicle, unless delayed or prevented by some reasonable cause, attends at the address from which the journey is to commence, at the required time.
6. An **Operator** shall, within seven days, disclose to the Council in writing details of any convictions imposed on him (or if the **Operator** is a Company on any of it's Directors or it's Secretary) during the period of the Licence.
7. An **Operator** shall, within seven days, notify the Council of any change in his address taking place during the period of the Licence.

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**Name of meeting:** Licensing & Safety Committee  
**Date:** 13th December 2016  
**Title of report:** Individual Vehicle Approval ('IVA')

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	N/A
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	N/A
Date signed off by Director & name	Jacqui Gedman – 02/12/16
Is it signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	Debbie Hogg – 09/11/16
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 30/11/16
Cabinet member <a href="#">portfolio</a>	Cllr Mather – Portfolio Holder for Housing & Enforcement Management

**Electoral wards affected:** All  
**Ward councillors consulted:** N/A  
**Public or private:** Public

## 1 PURPOSE OF REPORT

1.1 To review the existing practice in respect of Individual Vehicle Approval ('IVA') and the options available, for existing private hire / hackney carriage vehicle licence holders, as an alternative to obtaining an IVA.

## 2 Key Points

2.1 Members of the public undertaking journeys within licensed vehicles have no opportunity to assess the fitness or safety of a vehicle prior to entering those vehicles. As such, they are reliant on the Licensing Authority to have carried out all the relevant checks on a vehicle before a licence is granted or renewed.

2.2 Currently the Council require all vehicles to pass a compliance test, conducted by the Council's own testing stations, before a vehicle licence is granted or renewed. This 'compliance test' is a more stringent version of a normal 'M.o.T' that all private vehicles must pass before being used on public roads. However, as with M.o.T's, this compliance test assesses the condition of the vehicle and not the design and construction of the vehicle.

- 2.3 In general, the safety of the design and construction of a vehicle is tested when it is 'type approved'. Type approval is conducted by vehicle inspectors employed by the Vehicle Operator Services Agency ('VOSA'); and the IVA is one aspect of 'type approval' that allows for the assessment of the design and construction of an individual vehicle.
- 2.4 As a result of working with partnering agencies on road side checks of licensed vehicles, in particular officers from VOSA, the safety of certain types of licensed vehicle is being called into question. The types of vehicles affected are, vehicles converted into mini-buses, vehicles that have had seating configuration changed and vehicles converted to carry wheelchairs; and it is the quality of the workmanship on these conversions that is being called into question. We recognised at this stage that whilst the vehicles were being tested for compliance this test did not check the safety of the conversion work.
- 2.5 The Council, currently licence 66 vehicles that have had some form of conversion carried out on them, whether that be a conversion from a van into a mini-bus or a mini-bus converted to carry wheelchairs.
- 2.6 As a result of these concerns a practice was introduced that stipulated all vehicles that have been subject to some form of conversion, must obtain an I.V.A from VOSA. This practice applied to all 'New' vehicles being brought onto the fleet, and existing licensed vehicles.
- 2.7 The policy, when applied to 'New' vehicles, is working well, people wishing to licence new, converted, vehicles know the requirement to obtain an IVA and must satisfy this requirement as part of the application procedure for a 'New' vehicle. However, the practice, when applied to existing licensed vehicles, is creating difficulties, for the trade.
- 2.8 This options paper looks at those issues, and examines the known alternatives to obtaining an IVA, that would still satisfy the Council's requirement that the vehicles it licenses are safe and suitable to carry the fare paying public.

### **3 IMPLICATIONS FOR THE COUNCIL**

- 3.1 The Licensing regime exists to ensure that the safety of the public is protected. As a result it is necessary for the Council to have a robust regime in place for assessing the safety and suitability of private hire vehicles that have been subject to some form of conversion.
- 3.2 While the safety of the public is paramount, any testing regime introduced has not only to be 'necessary' but has to be 'reasonable' as well. Based on this, the question needs to be asked, is it reasonable to ask the owners of vehicles that have been subject to a licence for, in some cases, a number of years without any issues, to now have to undertake an additional assessment over the vehicles normal compliance test; and the cost of this to be borne by the vehicle owner.
- 3.3 The Council, via its licensing service, are now aware of issues that affect the safety and suitability of some existing licensed vehicles that have been subject to some form of conversion; and in most cases, the standard of these conversions has not been assessed.



- 3.4 Implications arise if an incident was to occur with one of these vehicles, and the standard of the conversion was a contributory factor in the incident, and the Council had not taken all reasonable steps to assess the condition of that conversion.

#### **4 CONSULTEES AND THEIR OPINIONS**

- 4.1 While no formal consultation has taken place on this option paper, the paper has arisen out of meetings with the trade who brought the issues with IVA's to the attention of officers.

#### **5 NEXT STEPS**

- 5.1 The Licensing Committee is requested to consider the options available and instruct the Licensing Manager to proceed with Members preferred option.
- 5.2 More information is attached at Appendix one and each option available to Members is set out in paragraph 5.

#### **6 OFFICER RECOMMENDATIONS AND REASONS**

- 6.1 Officers have no preference in relation to the current options as each has its benefits and disadvantages. Officers would recommend not making a decision without first hearing from the trade reps who will be in attendance at committee to make representations.

#### **7 CABINET PORTFOLIO HOLDER RECOMMENDATION**

- 7.1 Cllr Naheed noted that option e appeared to be a sensible option but considered that whichever option was preferred that it be reviewed after 12 months.

#### **8 CONTACT OFFICER AND RELEVANT PAPERS**

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Licensing, Local Land Charges & Highways Registry Manager  
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Email: [catherine.walter@kirklees.gov.uk](mailto:catherine.walter@kirklees.gov.uk)

**Papers:**  
Appendix 1 – Options

#### **9 ASSISTANT DIRECTOR RESPONSIBLE**

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Assistant Director – Place  
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# Individual Vehicle Approval Options

## 1. Background

The Council, in its capacity as Licensing Authority are under a duty to ensure that the vehicles it licences for use as a private hire or a hackney carriage vehicle are safe and suitable for the members of public they carry.

Members of the public undertaking journeys within licensed vehicles have no opportunity to assess the fitness or safety of a vehicle prior to entering those vehicles. As such, they are reliant on the Licensing Authority to have carried out all the relevant checks on a vehicle before a licence is granted or renewed.

As a result of working with partnering agencies on road side checks of licensed vehicles, in particular officers from the Vehicle and Operator Services Agency ('VOSA'), it has come to the attention of Licensing Officers that the safety of certain types of licensed vehicle is being called into question. The types of vehicles affected are, vehicles converted into mini-buses, vehicles that have had seating configuration changed and vehicles converted to carry wheelchairs; and it is the quality of the workmanship on these conversions that is being called into question. We recognised at this stage that whilst the vehicles were being tested for compliance this test did not check the safety of the conversion work.

To understand the concerns it is necessary to look at how a vehicle becomes registered, in the United Kingdom, to be used on public roads; and the Individual Vehicle Approval ('IVA') aspects of the type approval process.

## 2. Registering a Vehicle in the UK & IVA's

Before a vehicle can be first registered in the UK for sale or service it must be type approved. EU Directive 2007/46/EC is the base European legislation for the approval of vehicles that are mass produced, built in small numbers or as individual vehicles. The Directive amends the existing European Community Whole Vehicle Type Approval Scheme ('ECWVTA') so as to include other vehicle categories for the first time; and it provides for the mandatory implementation dates upon which all vehicle categories must meet specified safety, security and environmental standards before they can be used on the road.

The ECWVTA allows a vehicle, of a type, to be approved for use across all member states in the EU without the need for further testing in each country. Full ECWVTA won't suit everyone due to the extensive, rigorous and therefore expensive testing requirement that is necessary to gain approval, particularly those manufacturing vehicles in low numbers. As a result of this, the Directive provides for three basic routes to approval.

### a) ECWVTA - European Community Whole Vehicle Type Approval

This route is for manufactures of large numbers of vehicles who wish to get their vehicles 'type approved' to sell across the whole of Europe.

### b) NSSTA - National Small Series Type Approval

This route is for manufactures of small numbers of vehicles who wish to get their vehicles 'type approved' for sale only within the UK. NSSTA is based on the concept of 'type approval' rather than the approval of individual vehicles and uses similar (but sometimes less exacting) technical standards. The key disadvantages revolve around limitations in the number of vehicles that can be manufactured in a year.

**c) IVA - Individual Vehicle Approval**

This route is a UK National approval scheme for vehicles and trailers imported, assembled or manufactured in very small numbers or as individual vehicles e.g. amateur built cars, bespoke trailers etc. Vehicles submitted for IVA inspections need to demonstrate that they generally comply with the technical provisions of EU Directive 2007/46/EC. The IVA scheme also checks that vehicles constructed for non-European markets comply with UK law.

Type approval places vehicles into different categories; the categories are defined according to the following classification:

- **Category M: Motor vehicles with at least four wheels designed and constructed for the carriage of passengers.**
  - Category M1: Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat.
  - Category M2: Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass not exceeding 5 tonnes.
  - Category M3: Vehicles designed and constructed for the carriage of passengers, comprising more than eight seats in addition to the driver's seat, and having a maximum mass exceeding 5 tonnes
- **Category N: Motor vehicles with at least four wheels designed and constructed for the carriage of goods.**
  - Category N1: Vehicles designed and constructed for the carriage of goods and having a maximum mass not exceeding 3,5 tonnes.
  - Category N2: Vehicles designed and constructed for the carriage of goods and having a maximum mass exceeding 3,5 tonnes but not exceeding 12 tonnes.
  - Category N3: Vehicles designed and constructed for the carriage of goods and having a maximum mass exceeding 12 tonnes.
- **Category O: Trailers (including semi-trailers).**
  - Category O1: Trailers with a maximum mass not exceeding 0,75 tonnes
  - Category O2: Trailers with a maximum mass exceeding 0,75 tonnes but not exceeding 3,5 tonnes.
  - Category O3: Trailers with a maximum mass exceeding 3,5 tonnes but not exceeding 10 tonnes.
  - Category O4: Trailers with a maximum mass exceeding 10 tonnes.

Type approval is only mandatory when a vehicle is first registered in the UK for sale or service. It is not mandatory for vehicles that already have a type approval and are subsequently converted once registered in the UK. This means a vehicle falling under category N1 can be converted from a Light Goods Vehicle into a Minibus without having to be re-assessed for type approval. It is this lack of oversight on conversions and the quality of workmanship on vehicles that are converted from one type to another that is causing concerns, as the workmanship is not something that would be picked up on at a vehicles normal MOT.

A 'M.O.T' assesses the condition of the vehicle, whereas 'Type Approval' assesses the design and construction of a vehicle.

### **Types of IVA**

There are two types (levels) of IVA 'Basic' and 'Normal'. Basic IVA involves a visual inspection and other tests to make sure the vehicle meets the necessary standards. Documentary evidence is not normally needed for a 'Basic' IVA'. However, if the vehicle has been modified by the fitting of additional seats that contain seat belt anchorages, a certificate may be required for the additional seats to demonstrate compliance with the M1 seat belt anchorage requirements.

You can only apply for a 'Basic' IVA if you have a passenger car (M1) or light goods vehicle (N1) in one of these categories:

- left-hand drive vehicles
- personal imports
- amateur built vehicles (kit cars)
- rebuilt vehicles
- very low volume production vehicles
- ambulances
- motor caravans
- hearses
- armored passenger vehicles
- a vehicle manufactured using parts of a registered vehicle

A 'Normal' IVA is for vehicles that don't meet the criteria for a basic IVA. It involves a more detailed inspection, vehicles have to meet extra standards, and documentary evidence has to be provided.

### **Are IVA's Voluntary**

If a vehicle has been registered in the UK and it needs to prove compliance you cannot go for a 'Statutory IVA' you have to use the 'Voluntary IVA system instead and this is the only route a vehicle owner can take if a Local Authority requires proof of compliance for a taxi / vehicle that has been modified since it was first registered. Therefore an IVA is only mandatory by way of conditions attached to a vehicle licence or because it forms part of the application criteria for new vehicle licences.

Because the IVA is voluntary it would be down to each individual Local Authority if they make a vehicle owner go for a Basic IVA or Normal IVA. With a Voluntary IVA, if the vehicle passes the inspection the vehicle owner gets a 'Confirmation of Compliance' rather than an 'Approval Certificate'

### **Voluntary IVA Fees**

The following table outlines the current fees for a IVA inspection. It should be noted, even though the costs of the inspection are relatively low; the associated costs are significant, for example the costs of obtaining the documents and / or the costs of carrying out any work to meet the IVA standard.

Voluntary	Inspection fee before VAT	Inspection fee including VAT at 20%	Re-inspection fee before VAT	Re-inspection fee including VAT
Basic (classes L, M, N, P)	£213.98	£256.77	£43.01	£51.61

### 3. Current Position

In relation to applications for a 'New' private hire or hackney carriage vehicle licence the current application criteria is as follows:-

1. If your vehicle is type approved as M1, and no alterations have been made to the seating or internal layout of that vehicle, you can licence that vehicle as it is without producing any further documentation.
2. If your vehicle is type approved as M1, and alterations have been made to the seating or internal layout (inc. alterations to allow the carriage of wheelchairs), then before an application is made to licence that vehicle, the owner must have an 'IVA' undertaken at a Vehicle and Operator Services Agency ('VOSA') approved centre. The certificate produced upon passing the IVA must accompany the initial application for a licence.
3. If your vehicle is type approved as N1, that is converted from a 'Light Goods Vehicle' to a minibus, then before an application is made to licence that vehicle, the owner must have an 'IVA' undertaken at a VOSA approved centre. The certificate produced upon passing the IVA must accompany the initial application for a licence.

This application criteria for new vehicles means the Council, acting in its capacity as Licensing Authority, can be confident any vehicle that has been subject to some form of conversion / alteration to the original manufacturer's design / specification, still meets the required EU safety standards for vehicles, and is therefore safe and suitable to be used as a licensed vehicle.

For existing licensed vehicles it is not as straightforward. Records indicate there are 66 vehicles licensed by Kirklees Council that are type approved as M1 or N1 that have had some form of conversion / alterations carried out on them. Most of these vehicles have been licensed for a number of years without any problems. They have passed the Council's compliance test and have been used by members of the public and the Council's School contract team without any reported incidents about the vehicle's safety. Notwithstanding this, as described in the introduction to this paper, we are now aware through our partnership working, problems do exist, and that these problems may not be detected when vehicles are presented for their compliance test, which is the benchmark generally used for assessing a vehicle; and we cannot now ignore those problems and concerns.

Initially existing licence holders with a converted vehicle were informed they would need to have the vehicle inspected by VOSA under the IVA scheme and provide the certificate upon successful completion. The existing licence holders were spoken to in June 2016 and given until the 31<sup>st</sup> July 2016 to produce proof they had made an appointment otherwise their vehicle licence would be suspended.

While the trade were understandably concerned about this change in practice, some have made attempts to obtain IVA's, with a handful being successful. However, the attempts of those trying to obtain an IVA, have brought to the forefront a number of unanticipated problems the trade are facing in obtaining an IVA, with some of those problems being:-

- the length of time VOSA are taking to not only respond to applications,
- the length of time for getting an appointment to have a vehicle assessed, once an application has been processed,
- inconsistency in the way vehicles are tested and the interpretation of the regulations by different VOSA inspectors,
- having to provide additional documentation to VOSA which is either not available, or could not be located by the vehicle,
- VOSA are refusing to test vehicles over a certain age,
- VOSA are saying the IVA is voluntary so why are the Council saying it is 'Mandatory'
- VOSA test to today's standards – if the vehicle was converted satisfactorily in 2009 for example, if the standards have changed since this date, the vehicle may not pass an IVA test in 2016 even though it was safe in 2009.
- In cases where vehicles have changed hands since being new the original convertors/suppliers are charging the current owners to obtain retrospective documents. The cost of obtaining these is about twice the cost of the actual IVA test.

As a result of the issues the trade are saying they are experiencing a commitment given to re-visit the practice relating to compulsory IVA for existing licensed vehicles. It needs to be noted that officers have asked the trade for evidence of the problems being experienced, but none has yet been produced.

#### 4. Offences

In relation to a vehicle that is already registered in the UK, and has been modified, there is no offence for if the vehicle is not subjected to a IVA, this borne out by the fact if a vehicle is already registered then, from a DVSA view point, the IVA is voluntary, albeit a Local Authority may make it a mandatory requirement for licencing purposes.

However, if the conversion / adaptations are not suitable offences under the Road Vehicle (Constructions and Use) Regulations may occur, for examples:-

Regulation 46 – offences relating to seat belt anchorage

Regulation 75 – offences relating to maximum permitted laden weight

Regulation 100 – offences relating to maintenance & use of vehicle so as not to be a danger etc.

#### 5. Options

Following further research by officers the following options have been identified, that, to varying degrees, alleviate the concerns over the safety of the conversions to existing licensed. It needs to be emphasised that it is intended these options only apply to existing licensed vehicles and not 'New' vehicles.

##### a) Mandatory IVA for existing licensed vehicles, conducted by VOSA only

This option would maintain / reaffirm the current position, in that all existing licensed vehicle that have been modified would need to have a IVA test conducted at an approved VOSA testing station.

Keeping this position will ensure the test is conducted by an independent body and to national recognised standards. In addition it will ensure the public and officers can be confident the alterations made to a vehicle are safe and suitable and therefore can allow the vehicle to continue to be licensed.

However, anecdotal evidence suggests there are inconsistencies between the different approved testing stations, what will fail in one test station will pass in another. The test and associated ancillary cost can be expensive; in addition, an IVA is not an MOT so vehicles will still have to undertake a compliance test with the Council. There is a limited number of relatively local testing stations, and appointments are scarce, this is already proving problematic for drivers who have tried to get an IVA and have struggled to get an appointment within a reasonable timescale, some are reporting that VOSA are not responding to their applications at all.

As the IVA would be classed as 'Voluntary' it would be a decision for the Council to decide if we accept a 'Basic' or 'Normal' IVA. The original letter sent to vehicle owners stipulated that it should be a Basic IVA, which in theory means the vehicle owner would not need to provide documentation, other than, potentially, documents relating to additional seats. However, anecdotal evidence suggests VOSA are asking for more detailed documentation.

**b) Commission third party vehicle convertor to test vehicles.**

This option would allow the Council to commission third party vehicle convertors to test and approve the conversions that have been undertaken on existing licensed vehicles. This would mean the testing is done by companies, independent of the Council, that carry on a business as 'vehicle convertors' and would be qualified to assess the workmanship of conversions.

However, assessing these businesses as to their suitability to carry the testing is not a straight forward processes. There appears to be no formal requirement for a business to be registered with any organisation or government department. As such the onus would be on the Council to satisfy itself that the business was legitimate and was capable and competent to carry out the testing on the Council's behalf. In addition, there is more of a risk in inconsistencies when using third party companies. There is also the possibility companies will fail vehicles unnecessarily in order to try and generate more income for their own business. There is also a risk companies will accept additional payment in order to pass a vehicle that was not safe or suitable.

**c) Council testing stations test the vehicles**

Taking this option will allow the Council to retain control over the test and the standards to be applied. It will ensure there is a more consistent approach to the testing and there would be potential for it to link into the current compliance test, meaning vehicle owners would not need to have two tests done. As the Council can only recover costs, the cost to the trade would also be kept to a minimum.

However, while staff at the Council's testing stations are experienced, they do not necessarily hold qualifications that would allow them to judge the workmanship of a conversion and whether it is safe and suitable. Fleet management have stated there are likely to be courses available that would up-skill the current staff to enable them



to carry out the assessment; but, they are concerned over liability issues if the Council were to approve a conversion and state it is safe and suitable and something goes wrong. Timescales to up-skill vehicle testers would also have to be factored in. In addition, the testing stations are currently running at near capacity. These additional testing requirements would therefore place additional strain on the resources available and may lead to backlogs for other compliance tests.

**d) Document production**

This option places the onus on the vehicle proprietor to provide sufficient documentation to prove the conversion has been carried out to a standard that makes the conversion safe and suitable.

The problems associated with this are numerous. Vehicle proprietors are already complaining they cannot get the documentation required by VOSA for the IVA. In some cases vehicles have changed hands on several occasions and any documentation that might have been available has been lost. In addition, there would be issues surrounding who is qualified enough to assess any documentation that is produced, is the documentation legitimate, what would qualify as sufficient documentation, who has completed the documentation.

However, following discussions with Licensing Officers at East Cambridgeshire Council, this approach may not be as problematic as first impressions may give. Asking the vehicle owner to produce documentation as to the quality of the conversion, if done correctly, places the onus on the vehicle owner to satisfy the Council the conversion of a vehicle has been done to a satisfactory standard.

The Council could set the criteria for acceptable documentation, for example the documentation has to come from a reputable garage registered with a recognised trade organisation / body, it must specify that the conversion has been done to a standard that would, if tested, meet the requirements of a 'Basic IVA', it must be signed and dated by the garage owner and the person inspecting the vehicle. If officers have any concerns over the legitimacy of the documentation arrangements could be made to visit the vehicle converters business premises to assess the quality of the business, any refusal to accept this condition would be an automatic refusal of the documentation. In addition, any serious concerns over the documentation or any doubts at all as to the quality of conversion despite the production of documentation, the option should remain that allows officers to request or compel the vehicle owner to obtain an IVA from VOSA.

**e) Appoint external agency, other than VOSA, to inspect vehicles**

Fleet management has suggested that the Freight Trade Association ('FTA') may be able provide a service, whereby they inspect the vehicle on behalf of the Council and offer some form of documentation to say the conversion is safe and suitable. Fleet management have been asked to make enquiries with the FTA about this; however, this is not likely to be a quick process. From initial discussions, the FTA already offer a vehicle checking service for PSV's and HGV's, and it is suggested it would be a similar service that the FTA could offer.

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**Name of meeting:** Licensing & Safety Committee  
**Date:** 13th December 2016  
**Title of report:** CCTV in Licensed Vehicles

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the <a href="#">Council's Forward Plan</a> ?	N/A
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	N/A
Date signed off by Director & name	Jacqui Gedman – 02/12/16
Is it signed off by the Assistant Director - Financial Management, Risk, IT & Performance?	Debbie Hogg – 09/11/16
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Julie Muscroft – 30/11/16
Cabinet member <a href="#">portfolio</a>	Cllr N Mather – Portfolio Holder for Housing & Enforcement Management

**Electoral wards affected:** All  
**Ward councillors consulted:** N/A  
**Public or private:** Public

## 1 PURPOSE OF REPORT

1.1 To inform Members of a decision by the West Yorkshire Combined Authority to consult on a 'unified policy' for all West Yorkshire Councils in relation to CCTV in licensed private hire and hackney carriage vehicles.

## 2 KEY POINTS

2.1 Following a recent meeting of the West Yorkshire Combined Authority Licensing Chairs Group, a decision was taken to consult on a unified policy on the introduction of a policy that makes it mandatory that all private hire and hackney carriage vehicles are fitted with CCTV; currently none of the Combined Authorities have such a condition.

2.2 There are two main reasons for implementing such a policy:

- (a) The paramount reason is one of public safety; there have been a number of reports into CSE failings, and the links to CSE within

the taxi trade, in particular the Casey report into the failings at Rotherham Council.

While the reports that have been published into CSE failings relate to specific authorities, the national media coverage means the links highlighted between CSE and the taxi trade have damaged the reputation of the taxi trade in general on a national basis.

- (b) Driver safety / protection – as well as carrying vulnerable people, drivers of private hire and hackney carriage vehicles are, by the nature of their role, placed in a vulnerable position. They are subject to false allegations, violent attacks / robberies and subject to customers who undertake journeys and make off without paying.

This issue is reported less in the media; however, there are a number of cases where allegations have been made against taxi drivers that, following review of CCTV, have turned out to be false. Some of these cases have involved the person making the allegation being charged and convicted of offences.

- 2.3 CCTV is seen as a means of addressing these issues, and a number of local authorities are considering, or have, introduced a policy relating to mandatory CCTV, for example Rotherham, Warrington and Southampton.
- 2.4 Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 makes provisions for the licensing of private hire vehicles, Section 48(2) allows a local authority to attach to the grant of a licence such conditions as it considers reasonably necessary.
- 2.5 While the licensing of hackney carriage vehicles is done under the Town Police Clauses Act 1847, Section 47 of the Local Government (Miscellaneous Provisions) Act 1976, again allows a local authority to attach such conditions to the grant of a hackney carriage vehicle licence such condition's as the local authority deem reasonably necessary
- 2.6 The Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') provides a power for a local authority to attach such conditions as they consider 'reasonably necessary' to the grant of licence. While the 1976 Act dictates the conditions have to be reasonably necessary, the European Court of Human Rights ('ECHR') stipulates a policy of a local authority must also be justified as a 'proportionate means of achieving a legitimate aim'.
- 2.7 Consideration has been given to the type of CCTV system that would be acceptable i.e. video only or video and audio, and while the recording of images alone would assist in any investigations while offering some protection for drivers, it is the general consensus that any CCTV system installed should also record audio. This will ensure the full extremities of any incident are recorded and can be used in evidence both for and against the driver.
- 2.8 Officers have looked at the specification of systems that have been introduced by other local authorities and feel the correct balance between

the safety of drivers and passengers against privacy can be met by a specification that records video footage while the vehicle is being used for private hire / hackney carriage purposes, and not when in use as a private vehicle; and will only record audio when activated by the driver or passenger. Any footage and audio will be encrypted, and can only be downloaded in specific circumstances by authorised officers.

- 2.9 A copy of the proposed specification which will be the same across the Combined Authority district is attached at Appendix 1.

### **Tinted Windows**

- 2.10 Should it be made mandatory that all licensed private hire and hackney carriage vehicles install CCTV, then officers are also inviting Members to revise the current policy in relation to tinted windows.
- 2.11 The Council encourage vehicle owners to update their vehicles to newer models, which are safer, more comfortable, more economical and more environmentally friendly. However, invariably newer vehicles are fitted, as standard, with privacy glass (tinted) to the rear passenger windows and rear window.
- 2.12 Historically local authorities have been reluctant to licence vehicles with tinted windows on the grounds of public safety. In that, officers need to be able to see in vehicle, vulnerable people feel more secure if members of the public can see into a vehicle.
- 2.13 If a policy on mandatory CCTV was to be introduced, it would mitigate the concerns over safety and being able to see into vehicles, and to some extent would provide a better level of protection for the travelling public.
- 2.14 Therefore as part of the consultation on the introduction of CCTV, officers are also seeking views on whether to revise the current policy on tinted windows so as to allow for 'manufacturer' fitted tinted windows. It should be noted, the policy on applying 'after-market' tints would still apply in that we would not accept film based tints that had been applied to windows.
- 2.15 The current policy on Tinted windows is as follows:-

All windows fitted to Kirklees Private Hire Vehicles MUST comply with the minimum legal requirements; to transmit 75% of light to the front windscreen and 21% light to all other vehicle windows. Further, all vehicles must meet required standards at annual testing. No tinted film is accepted on current licensed vehicles or new applications (with effect from January 2007)

### **3 IMPLICATIONS FOR THE COUNCIL**

- 3.1 At present the policy is out to consultation, as such implications are limited to any media attention that may be directed at the Council.
- 3.2 However, following consultation, should the policy be introduced, then the Council will be open to legal challenge from any driver / vehicle owner that oppose the introduction of conditions relating to CCTV on their licences.

### **4 CONSULTEES AND THEIR OPINIONS**

- 4.1 The proposed policy on CCTV is currently out to consultation for a period of 12 weeks from 11<sup>th</sup> November 2016, results of the consultation will be presented to the Licensing Safety Committee at a future meeting for the Committee to consider.

## **5 NEXT STEPS**

- 5.1 The Licensing Committee are asked to endorse the consultation being under taken in relation to this policy.

## **6 OFFICER RECOMMENDATIONS AND REASONS**

- 6.1 Officers recommend Members endorse the consultation being taken to introduce CCTV as a mandatory requirement for all licensed private hire and hackney carriage vehicles;

## **7 CABINET PORTFOLIO HOLDER RECOMMENDATION**

- 7.1 Cllr Naheed Mather looks forward to receiving the outcome of the consultation in due course.

## **8 CONTACT OFFICER AND RELEVANT PAPERS**

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### **Papers:**

Appendix 1 – CCTV Specification

## **9 ASSISTANT DIRECTOR RESPONSIBLE**

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**Kirklees Council**  
**Private Hire and Hackney Carriage Vehicles**  
**CCTV Technical Specification and System Requirements**

In order to be considered suitable for installation in a Kirklees Council Licensed vehicle, a taxi camera system must meet the following requirements:

### 1.0 Operational Technical Specifications

Reference	Specification	Details
1.1	100% solid state design or a proven vibration and shock resistant system	The system should not have any fan and the recording should be vibration and shock proof, i.e.: -Flash-based SSD (100% industrial grade), -Hard disk with both mechanical anti-vibration and anti-shock mechanism and self-recovery and self-check file writing system.
1.2	8 to 15 Volts DC	Operational between 8 and 15 volts DC
1.3	Reverse polarity protected	System to be protected against reverse voltage.
1.4	Short circuit prevention	System to be protected against short circuits
1.5	Over voltage protection	System to be protected against high voltage transients likely to be encountered in the vehicle electrical system.
1.6	Automotive Electromagnetic Compatibility Requirements	The in-vehicle taxi camera system must be compliant with the Council Directives: -2004/108/EC on Electromagnetic Compatibility (CISPR 22/EN55022), -2004/104/EC on Radio Interference (sections 6.5, 6.6, 6.8 and 6.9) The taxi camera equipment should therefore be e-marked or CE-marked with confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles.
1.7	System activation (on / off) switch to be located in a position where it is not accessible from inside the vehicle (i.e. in the boot / engine compartment).	The system is required to be active at all times that the vehicle is being used as a licensed vehicle. This will allow the facility for the system to be deactivated during times when the vehicle is being used for private purposes (e.g. domestic use). The switch that deactivates the system must be located within the vehicles boot or engine compartment (i.e. it must only be possible to deactivate the system from outside of the vehicle).
1.8	First-in/first-out buffer recording principle	
1.9	Built-in, automatic logging of all access actions, including date and personnel names	
1.10	Security, duration and auto-clearing of log files	
1.11	Image export formats and media	Images must be exported in commercially available formats.
1.12	Image protection during power disruption	Images must be preserved in the event of loss of power. Battery back-up will not be permitted
1.13	Unit must operate without the ignition being turned on.	The Unit must have the ability to operate for at least 2 hours without power from the ignition.
1.14	Image and audio data shall be recorded and stored in a unit separate from the camera head.	
1.15	GPS capability	System must be compatible to allow for GPS capability.
1.16	The system must be capable of recording audio time synchronized to the recorded images.	

1.17	The system shall not to record audio except when audio recording is activated by means of an approved trigger.	The system should have the ability to start recording audio data by means of at least two trigger buttons (see also 1.26 below). One trigger button must be capable of being activated by the driver. Once the trigger is activated the system must begin to record audio data. The system will continue to record audio until the same trigger is activated again. The second activation of the trigger must result in the cessation of audio recording (e.g. a button could be pressed to begin audio recording, if the (i.e. the trigger, which could for example be a button, would be pressed to begin audio recording, pressing the button again would stop audio recording). The second trigger button must be capable of being activated by the passengers in the vehicle independently of the driver. Once the trigger is activated the system must begin to record audio data. The system will continue to record audio until the same trigger is activated again. The second activation of the trigger must result in the cessation of audio recording (i.e. the trigger, which could for example be a button, would be pressed to begin audio recording, pressing the button again would stop audio recording). Both audio activation triggers must be independent of each other – this means that audio recording can only be deactivated by means of the same trigger (driver or passenger) that was used to activate the audio recording.
1.18	The audio playback, when triggered, shall be in 'real time' and synchronised with the images that are captured.	
1.19	Digital sampling of the audio signal must exceed 8KHz	
1.20	Digital resolution of the audio samples must exceed 10 bits.	
1.21	The audio microphone shall be integrated within the camera head.	
1.22	Audio data and image data must be stored together, not in separate files, and must be protected against unauthorised access or tampering.	
1.23	The system must support testing of the audio function for installation set-up and inspection purposes.	
1.24	The system must 'go to sleep' to reduce battery drain during prolonged idle time. It must be capable of immediate reactivation	
1.25	Images recorded by the system shall not be displayed within the vehicle.	
1.26	The system must have at least two emergency activation triggers (panic buttons).	One of the triggers / panic buttons must be capable of being operated by the driver – this must be independent of the audio recording activation switch. At least one other trigger / panic button must be capable of being operated by a passenger from any passenger seat in the vehicle. Once activated, this switch must trigger the recording of video and audio in accordance with section 6.1 below.
1.27	The system must include a visual indicator that will clearly show when audio recording is taking place. This indicator must be visible to all passengers within the vehicle.	This may take the form of an indicator LED built into the audio activation switch, or a remote LED that can clearly be seen by passengers.



## 2.0 Storage Capacity Technical Specification

Reference	Specification	Details
2.1	Minimum of fourteen days of recording capacity	The camera system must be capable of recording and storing a minimum of fourteen days of images of HD1 (720/288) size or better.
2.2	Images must be clear in all lighting conditions	System to provide clear images in bright sunshine, shade, dark and total darkness. Also, when strong back light is present.

## 3.0 Camera Head Technical Specification

Reference	Specification	Details
3.1	Camera installation non-obstructive	The camera and all system components shall be installed in a manner that does not interfere with the driver's vision or view of mirrors or otherwise normal operation of the vehicle.
3.2	Protected camera disconnect	The camera head shall be designed to disconnect for ease of removal and replacement by maintenance personnel.
3.3	Special tools for adjustment/removal	To prevent inappropriate interference only tools supplied to authorised fitters should be capable of carrying out adjustments or removal.
3.4	Field of view to capture all passengers in the vehicle	The lens of the camera must be of a type that captures the driver and all passengers of the vehicle on the recorded image. The lens must be of a style not to create a "fishbowl" effect.
3.5	Images must be clear	System to provide clear images in all lighting conditions and allow different skin tones to be detected
3.6	Compatible for use in vehicles with a partition (shield)	The camera system must be adaptable to provide clear images when a vehicle is equipped with a shield. This may be accomplished with the use of multiple camera heads.
3.7	Multiple cameras	The unit shall be capable of supporting up to four (4) cameras. Four cameras may be required to provide adequate coverage in larger vehicles and/or certain purpose built vehicles.

## 4.0 Storage Device (Recorder) Technical Specification

Reference	Specification	Details
4.1	Impact and shock resistance	The recorder shall be impact resistant, sufficient to withstand a typical car accident, or striking with a large, heavy object such as a suitcase.
4.2	Controller in concealed location	The storage unit shall be concealed from view and effectively inaccessible except by authorised personnel.
4.3	Download port provision	The recorder shall be equipped with a communication port for downloading by authorised personnel.
4.4	Download port shall be located in an easily accessible location such as a glove compartment.	The recorder download port shall be located in the glove box if practicable, if not then in a location that does not require the removal of panels and is accessible.
4.5	Download port cable length (1 foot minimum)	Download port shall be at least one foot in length for ease of download.
4.6	Recorder to be securely affixed to the vehicle	
4.7	Log to register each user access	
4.8	Log to register camera system parameter modifications	
4.9	Log to register each image download session	
4.10	Log to register modification/manipulation of downloaded images	
4.11	Log to register exporting of downloaded images	
4.12	Log to register exporting of downloaded clips	

4.13	Log file protected against unauthorised access	
4.14	Time/date stamp	All stored images must be time and date stamped.
4.15	Vehicle ID number stamp	All stored images must have two fields for vehicle identification (VIN & number plate).
4.16	Controller non-modifiable ID code stamp	Each recorded image shall be automatically stamped with a unique and non-modifiable code that identifies the controller that was used to record the image.
4.17	Controller (Storage Recorder)	Manufacturer to supply Kirklees Council with a supply of specialised tools to allow for removal of the controller and download of data when required.

## 5.0 Specifications for video and audio recording rate

Reference	Specification	Details
5.1	Video image recording on system activation (when audio is not activated).	The system shall record images at the rate of four images per second.
5.2	Video image recording when audio is activated.	The system shall record images at the rate of twenty five images per second during periods when audio recording is activated (either due to time requirement, or through activation by the driver trigger switch or passenger panic button).
5.3	When activated, audio recording must be in real time and synchronised with the video recording.	
5.4	System to continue to record images (and audio when applicable) when engine is off.	System must continue to record images (and audio when applicable) for 30 minutes after engine / ignition is switched off.

## 6.0 Specification for activation via driver or passenger trigger / panic buttons

Reference	Specification	Detail
6.1	The activation of a trigger button must provide for overwrite-protected image storage when activated by driver or passenger.	The system must be fitted with at least two trigger buttons that once activated will trigger the protected recording of audio and video (see also 1.17 and 1.26 above).
6.2	Emergency image overwrite protection capability	Image sequences resulting from emergency activation shall be recorded in an area of memory which is protected from being overwritten
6.3	Overwrite protection capacity for at least 3 activations	
6.4	Overwrite protection self-clear on 96 hr timer	

## 7.0 Downloading Technical Specification

Reference	Specification	Details
7.1	Time to download complete memory not to exceed 30 minutes	Time to download to be accomplished in 30 minutes or less.
7.2	Provision of necessary software, cables, security keys to Kirklees Council Licensing Team.	
7.3	Windows 8 compatible.	
7.4	Downloaded images stored in non-volatile media	
7.5	Downloaded images stored in secure format	
	Verifiable image authenticity	Each image shall be stamped with controller ID and vehicle ID and be

7.6		tamperproof.
7.7	Provision of technical support to Kirklees Council Licensing team when necessary.	To assist in accessing system in case of damage to the vehicle or to the system in case of accident within 1 hour during normal working hours and within 8 hours otherwise.
7.8	Wireless Download Prohibited	Unit must not allow for wireless downloads. Wireless diagnostic may be used. All wireless hardware to be disabled.
7.9	Filter the specific images for events and times for the approximate time of the crime committed.	

## 8.0 Requirements in relation to System Information

Reference	Requirement	Details
8.1	Provision of service log sheet with each unit shipped	The unit manufacturer shall have a service log shipped with the unit. The manufacturer shall also enclose detailed instructions for the drivers with each unit shipped. An installation manual shall also be furnished to authorised installers and fleet operators.
8.2	Serial number indication on service log	The unit will be marked with a serial number
8.3	Installation date indication on service log	The provision for the installer to indicate the installation date
8.4	Provision of driver instruction card with each unit shipped	
8.5	Provision of installation manual to installers and fleet operators	
8.6	Clarity of operating instructions	The system shall be provided with clear and concise operation instructions which are written with due consideration to varying levels of literacy.
8.7	Installation by authorised agents	The unit shall be installed by manufacturer's authorised agents, or other installers approved by the council (subject to agreement with the manufacturer).
8.8	Provision of authorised agents list to Kirklees Council Licensing Team	The manufacturer shall provide a list of all authorised agents to Kirklees Council Licensing Team.
8.9	Documentation	The manufacturer must provide clear and concise operating instructions which are written in layman's terms. (Details on how the system records the images)
8.10	Image Protection	All captured images must be protected using encryption software that meets or exceeds the current FIPS 140-2 (level 2) standard or equivalent.

## 9.0 System requirements in relation to Vehicle Inspection Facility - Inspections

Reference	Requirement	Details
9.1	Provision of system status/health indicator	The driver shall have an indicator showing when the system is operational and when there is a malfunction.
9.2	Mounting location of system status/health indicator to be seen by driver only	The indicators shall be mounted/installed for the driver's vision only. The indication system must be in accordance with section 9.3 and 9.4 below.
9.3	Additional indicator requirement	Where a system is fitted with an indicator to show that the system is on, this indicator shall be separate to those listed above or of a different colour to avoid any possible confusion on the part of the drivers using the system.
9.4	Designed / installed to be testable by Kirklees Council Licensing Team (or persons acting on behalf of the council – such as vehicle inspectors)	The system shall be designed and installed such that the system may be easily tested by Kirklees Council Licensing Team staff to ensure that all features are operating and that images are being recorded as prescribed.

## 10.0 System requirements in relation to Vehicle Inspection Facility - Inspections

Reference	Requirement	Details
10.1	Vandal and tamper resistance	
10.2	Provision of statement of compliance	In addition to a formal test of all aspects of this requirement specification, a statement of compliance shall be provided and signed by an officer of the company.
10.3	Reliability in operational and environmental conditions	The system shall provide reliable and full functionality in all operational and environmental conditions encountered in the operation of taxis.
10.4	Programmability of image timing parameters	It shall be possible to change timing and parameters without the requirement to change components.
10.5	Training and Technical Support and Equipment	Manufacturer must provide Kirklees Council Licensing Team with a Training and Technical Manual. Supply a working unit to Kirklees Licensing for testing purposes.
10.6	Software and Hardware	Manufacturer to supply Kirklees Council Licensing Team with a supply of cables and software to be installed under the supervision of the council's authorised staff.
10.7	Agreement between the Camera Manufacturer and Kirklees Council	Agreement to allow Kirklees Council access to the relevant software from the manufacturer so that in the event the manufacturer goes out of business, council will be able to support the system.



**Name of meeting:** Licensing and Safety Committee  
**Date:** 13<sup>th</sup> December 2016  
**Title of report:** Out of Area Applicants – Geographical Knowledge Test

<b>Key decision: Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan</a></b>	<b>Key Decision – No Private Report/Private Appendix - No</b>
<b>The Decision - Is it eligible for “call in” by <a href="#">Scrutiny</a>?</b>	<b>‘Not applicable’</b>
<b>Date signed off by <u>Director</u> &amp; name</b>	<b>Jacqui Gedman – 02/12/16</b>
<b>Is it signed off by the Assistant Director - Financial Management, Risk, IT &amp; Performance?</b>	<b>Debbie Hogg – 10/11/16</b>
<b>Is it signed off by the Assistant Director – Legal, Governance &amp; Monitoring?</b>	<b>Julie Muscroft – 30/11/16</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Mather – Portfolio Holder for Housing &amp; Enforcement Management</b>

**Electoral [wards](#) affected:** All  
**Ward councillors consulted:** None  
**Public or private:** Public

## 1. Purpose of report

To request approval from Members to consult with stake holders and the trade on introducing a geographical knowledge test for applicants for a hackney carriage/private hire licence (badge) from outside the Kirklees area.

1.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may attach to the grant of a licence this section such conditions as they may consider reasonably necessary.

1.2 It is established practice to consult with the trade where the council propose to make changes to either policy or conditions of licensing and this is endorsed by the Taxi and Private Hire Licensing Guidance from the Department for Transport Best Practice Guidance.

## **2. Summary and Background Information**

- 2.1. The licensing authority has recently experienced a large demand for appointments for new drivers who live outside the Kirklees area. Currently Licensing Officers will have a brief discussion with the applicant to confirm their intentions should a licence be granted. The applicants are suggesting that they are being directed to Kirklees to obtain a licence and being told that they can then work in other controlled districts outside of Kirklees once a licence from Kirklees is granted. They are though being told that if they are licensed by Kirklees they are expected to predominantly work in Kirklees.
- 2.2. They are being directed to us because they believe our process is perceived as relatively straightforward and cheap compared to other districts such as Sheffield which already has a geographical knowledge test.
- 2.3. This influx of applications from out of area applicants is causing problems for our existing licence holders getting appointments. We have recently introduced an extra 24 hours of appointments since moving to the Contact Centre in October but despite this the trade are finding that they are struggling to get appointments in a timely manner due to the amount of new driver applications we are receiving, mainly from people out of area. This can result in existing drivers/vehicles being unlicensed for a period meaning they cannot work until they are able to get an appointment to renew their licence.
- 2.4. To address the issue of people applying from outside the area and whom have no knowledge of the Kirklees district we would like to introduce a geographical knowledge test that the out of area applicants must undertake and pass before they can apply to be a licensed driver with us. This would free up more appointment times for our existing licensed drivers and also make it more difficult for the operators who exploit the cross border sub-contracting regulations.

## **3. Implications for the Council**

- 3.1. An improved standard and knowledge of the district from out of area applicants who successfully complete the test. Reduced concerns regarding out of area drivers badged in Kirklees.

## **4. Consultees and their opinions**

- 4.1. If the Committee approve the proposal a consultation will be carried out with the trade and other interested parties in Kirklees for a period of 8 weeks. This will include seeking the views of the trade and their representatives, customers, the public, W Yorkshire Police, school contract and others.
- 4.2. This will be done by letter, facebook, online (Kirklees website), face to face and surveys
- 4.3. Once the consultation with interested parties has taken place a more detailed report will be produced with the responses and findings being presented to Members for them to consider and make a decision..

## **5. Officer recommendations and reasons**

- 5.1. To instruct the Licensing Manager to undertake an appropriate consultation with the trade and interested parties about introducing a geographical knowledge test for applicants who live outside the Kirklees area.

## **6. Cabinet portfolio holder recommendation**

6.1 Cllr Naheed noted the issues arising from applicants who have no local geographical knowledge and supports the proposed consultation being carried out.

## **7. Contact officer**

Catherine Walter

Licensing, Local Land Charges & Highways Registry Manager

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## **8. Assistant Director responsible**

Joanne Bartholomew

Assistant Director – Place

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**Name of meeting:**                    **Licensing & Safety Committee**  
**Date:**                                    **13<sup>th</sup> December 2016**  
**Title of report:**                      **Licensed Drivers Driving Assessments**

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b> .
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>No</b> <b>Public Report – Yes</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>“ not applicable”</b>
<b>Date signed off by <u>Director</u> &amp; name</b>  <b>Is it signed off by the Assistant Director - Financial Management, Risk, IT &amp; Performance?</b>  <b>Is it signed off by the Assistant Director – Legal, Governance &amp; Monitoring?</b>	<b>Jacqui Gedman – 23/11/16</b>  <b>Debbie Hogg – 02/12/16</b>  <b>Julie Muscroft – 24/11/16</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Mather – Portfolio Holder for Housing &amp; Enforcement Management</b>

**Electoral wards affected:**            **All**  
**Ward councillors consulted:**        **None**  
**Public or private:**                      **Public**

## 1. Purpose of report

- 1.1** The Licensing and Safety Committee is asked to note the change in service provider to carry out an equivalent test to the Driver, Vehicle and Standards Agency (DVSA) Taxi Driver Assessment course which is being ended by the DVSA as from the 31 December 2016.
- 1.2** The reason that it is necessary to do so, is that the requirement to pass a DVSA Taxi Drivers Assessment is part of the Council's policies in relation to hackney carriage and private hire drivers that all new applicants for hackney carriage and private hire drivers licence must pass a DVSA Taxi Drivers Assessment as a prerequisite to being granted a drivers licence in the Kirklees District.
- 1.3** The DVSA wrote to all Local Authorities on the 31 August 2016 to advise them that it is withdrawing its Taxi Driver Assessment with effect from the 31 December 2016. There was no prior warning or consultation with Local Authorities over this withdrawal. See letter attached to this report as Appendix 1.

## **2. Background**

- 2.1** The Council's policy requirement that all new applicants for hackney carriage/private hire drivers licences in the Kirklees District must pass a DVSA Taxi Drivers Assessment was affirmed by Members of the Licensing and Safety Committee at their meeting on the 26<sup>th</sup> October 2009.
- 2.2** The requirement that all new applicants for hackney carriage/private hire driver's licences must pass the DVSA Taxi Drivers Assessment before being granted a driver's licence is part of a number of prerequisites for the grant of such a licence in Kirklees and which includes a group 2 Medical, In house training on customer care, equalities and safeguarding to name but a few.
- 2.3** All of these requirements including the DVSA Taxi Drivers Assessment were introduced by the Licensing and Safety Committee in consultation with the local taxi and private hire trades in order to maintain and improve the standards of driver and passenger safety in Kirklees, along with encouraging applicants to regard taxi driving as a professional long term occupation and one which can provide high standards of customer safety and care for fare paying passengers.
- 2.4** This overall ethos may have been put in jeopardy by the very recent announcement from the DVSA that they will be ceasing all Taxi Driver Assessments as from the 31 December 2016 because the demand for these tests is outstripping the DVSA's capacity to meet that demand. They have advised that they do not have enough test examiners and need to prioritise their resources to reduce waiting times for those waiting to take ordinary car tests.
- 2.5** As mentioned the DVSA) Taxi Driver Assessment course is ending by the 31 December 2016. However, all slots available to that date have been fully booked for weeks and the knock on effect is that new applicants can no longer get a test with the DVSA and are being delayed in their applications for a badge.
- 2.6** Most other councils in the country have the same requirement and find themselves in the same position as Kirklees.
- 2.7** Kirklees are more fortunate than most in that it has an in-house driver training unit which delivers the Speed Awareness Course on behalf of West Yorkshire police. As such they are members of the Association of National Driver Improvement Course Providers (ANDISP).
- 2.8** The Unit has previously put in place a hackney carriage/private hire driving test for existing drivers who have accumulated 9 penalty points on their driving licence. Members may recall this was the option that was approved at a previous Licensing and Safety Committee on 11 February 2015 which was instead of existing drivers being suspended pending obtaining a DVSA test which at the time had a waiting list of in excess of 2 months at some centres.
- 2.9** As time is of the essence, the Licensing Manager has been working with the Unit to see if they can extend their current arrangements to new applicants. This would be the quickest, safest and most reasonable option for the Council when considering how to replace the DVSA test. Fortunately, this is possible and work has commenced to introduce the test as soon as practically possible.

### **3. Implications for the Council**

The Council's policy to require all new applicants to take and pass a Taxi Driving Assessment as well as promoting passenger and driver safety and comfort also links into and supports the Council's Corporate Plan for 2016 – 2017 under the following criteria:

- Enhanced employment prospects,
- Community safety
- Increasing skills
- Support business growth
- Enable better job prospects
- Facilitate improved qualification and skills attainment

### **4. Consultees and their opinions**

The requirement for all new applicants applying for a hackney carriage and private hire driver's licence to take and pass a DVSA Taxi Drivers Assessment is an existing policy. Members are being asked to note the changes of the tests being carried out by a suitable alternative service provider in light of the DVSA withdrawing its own test examiners and facilities with effect from the 31 December 2016.

Given that there is no change suggested or required to the Council's current policy in this regard and also that there is likely to be very little difference in cost for new hackney carriage/private hire driver applicants, undertaking any form of consultation with the existing hackney carriage and private hire trades or any form of public consultation is unnecessary in the circumstances and could also incur the existing taxi trade unnecessary cost through their licence fees.

### **5. Next steps**

To consider the contents of this report. To implement the new testing regime.

### **6. Officer recommendations and reasons**

It is recommended that the Licensing & Safety Committee note the following actions

- 1) That the Council continue requiring all new applicants for a Kirklees Council hackney carriage/private hire drivers licence to take and pass a Taxi Drivers Assessment equivalent to the standard required by the DVSA Taxi Drivers Assessment
- 2) Note the change of service provider for the assessments.

### **7. Cabinet portfolio holder's recommendations**

Cllr Naheed Mather endorses the revised practice and in the interest of maintaining high standards recommends that the Committee also endorse the revised practice.

## **8. Contact officer & relevant papers**

Catherine Walter

Licensing, Local Land Charges & Highways Registry Manager

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### **Papers:**

Appendix 1 – DVSA Letter

## **9. Assistant Director responsible**

Joanne Bartholomew

Assistant Director – Place

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# APPENDIX I



Driver & Vehicle  
Standards  
Agency

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[www.gov.uk/dvsa](http://www.gov.uk/dvsa)

Chief Executive  
Local Authority  
KIRKLEES  
HD5 9AA

31 August 2016

## DVSA Taxi Driver Assessments

DVSA (and previously DSA) have been conducting Taxi Driver Assessments for participating Local Authorities since 1999. Demand has increased over the years, with a throughput in 2015-16 of approximately 23,000 and a forecast of 28,000 for the business year 2017-18.

These assessments now require considerable examiner resource, at a time when the demand for statutory tests is at an all-time high. The Agency is under pressure to reduce car test waiting times and in order to achieve this, we need to prioritise our activities.

Regrettably, a decision has been made to withdraw the provision of Taxi Assessments with effect from 31 December 2016. We understand that this will be a disappointment and inconvenience to those Local Authorities who currently require their taxi drivers to pass the DVSA assessment.

The Agency also recognises the road safety benefits of such an assessment; therefore, we would point out that there are potential providers such as road safety charities and Driving Instructor representative bodies, who may be interested in providing an alternative service. Details of these organisations can be easily obtained by submitting a general internet search.

Yours faithfully

**Neil Wilson**  
Head of Driver and Driver Training Policy

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