

Public Document Pack



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Tuesday 27 September 2022

Notice of Meeting

Dear Member

Licensing and Safety Committee

The **Licensing and Safety Committee** will meet in the **Council Chamber - Town Hall, Huddersfield** at **10.00 am** on **Wednesday 5 October 2022**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

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

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

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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 Amanda Pinnock (Chair)
Councillor Melanie Stephen
Councillor Ammar Anwar
Councillor Carole Pattison
Councillor Moses Crook
Councillor James Homewood
Councillor Jo Lawson
Councillor Mohan Sokhal
Councillor Adam Zaman
Councillor Adam Gregg
Councillor Kath Taylor
Councillor Michael Watson
Councillor Paola Antonia Davies
Councillor Andrew Marchington
Councillor Karen Allison

When a Member of the Licensing and Safety Committee member cannot attend the meeting, a member of the Substitutes Panel (below) may attend in their place in accordance with the provisions of Council Procedure Rule 35(7).

Substitutes Panel

Conservative

B Armer
V Lees-Hamilton
R Smith
M Thompson
J Taylor

Green

S Lee-Richards

Independent

C Greaves
A Lukic

Labour

S Hall
M Kaushik
F Perry
C Scott E Firth
T Hawkins

Liberal Democrat

A Munro
J Lawson
A Pinnock

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

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

2: Minutes of Previous Meeting

1 - 20

To approve the minutes of the meeting of the Committee held on the 6th July 2022.

3: Interests

21 - 22

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.

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.

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.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Public Question Time

The Committee will hear any questions from the general public.

7: Hackney Carriage Fares

23 - 34

Purpose of report is for members to consider and resolve a new fare card for the Hackney Carriage Vehicles.

Contact: Fiona Goldsmith, Public Protection Group Leader,
Licensing, Tel: 01484 221000

8: Driver Training Policy

35 - 42

The purpose of the report is to advise members of a minor change to the existing driver training policy and the proposed introduction of a fast-track application process for new driver applicants.

Contact: Fiona Goldsmith, Public Protection Group Leader,
Licensing, Tel: 01484 221000

9: Review of Hackney Carriage and Private Hire Statement of Fitness and Suitability Policy

43 - 68

The purpose of the report is to seek approval from members to commence on a consultation in relation to the proposed changes to the Council's current suitability policy following its 3-year review.

Contact: Fiona Goldsmith, Public Protection Group Leader,
Licensing Tel: 01484 221000

10: Decision Making - Hackney Carriage and Private Hire Licensing

69 - 80

The purpose of report is for members to consider and resolve a decision-making process relating to the hackney carriage and private hire licensing service.

Contact: Fiona Goldsmith, Public Protection Group Leader,
Licensing, Tel: 01484 221000

Contact Officer: Jenny Bryce-Chan

KIRKLEES COUNCIL

LICENSING AND SAFETY COMMITTEE

Wednesday 6th July 2022

Present: Councillor Amanda Pinnock (Chair)
Councillor Ammar Anwar
Councillor Moses Crook
Councillor Jo Lawson
Councillor Mohan Sokhal
Councillor Adam Zaman
Councillor Adam Gregg
Councillor Michael Watson
Councillor Paola Antonia Davies
Councillor Andrew Marchington

In attendance: Fiona Goldsmith, Public Protection Group Leader,
Licensing
Russell Williams, Operational Manager, Public Protection,
Licensing
Martin Wood, Head of Public Protection

Apologies: Councillor David Hall
Councillor Kath Taylor
Councillor Karen Allison

1 Membership of the Committee

Apologies were received from the following members: Cllr David Hall, Cllr Karen Allison, Cllr Kath Taylor, and Cllr James Homewood

Cllr Eric Firth and Cllr Susan Lee-Richards attended the meeting as subs.

2 Minutes of Previous Meeting

That the minutes of the meeting held on the 2 March 2022 be approved as a correct record.

3 Interests

No interests were declared.

4 Admission of the Public

All agenda items were considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

6 Public Question Time

No public questions were asked.

7 Review of Licensing Policy Statement (Gambling)

The Licensing & Safety Committee (Committee) considered a report which outlined the outcome of the consultation process in respect of the review of the Council's Licensing Policy Statement (Gambling).

Fiona Goldsmith, Group Leader Licensing, advised the Committee that the Gambling Act 2005, currently requires Licensing Authorities to publish, at least every three years, a statement of their licensing policy (gambling). Members of the Committee were directed to an appended report which indicated amendments to the policy in line with national guidance.

The Committee was informed that the consultation took place between 1st April 2022 and 16th May 2022, and following the consultation, four responses were received. Two responses were not relevant to the consultation and two comments stated that they disagreed with the use of the word 'limit' in part D-4 of the draft policy, for reducing gambling harms through a public health approach. The comments stated that an approach that will seek to limit the number of gambling premises is contrary to the current legislative framework.

The Committee was asked to consider the responses to the consultation and the amendments that have been made to the policy as a result of the responses, specifically asking the Committee to remove the word limit from part D-4 of the policy. Ms Goldsmith advised that the Committee is then asked to recommend the draft policy to full council to be formally adopted as the Council's Licence Policy statement.

In response to the information presented, the Committee questioned why there had been such a poor response to the consultation. In response the Committee was advised that when consultation is undertaken in respect of the Gambling Act, all license holders that holds a gambling licence within the authority and other on the list are consulted, however, generally speaking responses are only received when there are issues.

It appears to be a national issue that responses are not always forthcoming when consulting on the Gambling Act, and on this occasion, the changes have been minor. Regular meetings are held with the Gambling Commission, which is the national regulator for operators, this issue will be raised with them to get an idea of what is happening across the country in relation to consultation responses.

The Committee raised further questions regarding the increase in online gambling, for example, through mobile devices and how this is being monitored. The Committee was advised that the monitoring of online gambling sits purely with the Gambling Commission and the licensing authority does not have any involvement in that. The Commission is working hard to look at online gambling and the harms that are caused by it. It is important to recognise that online gambling is a concern, and it is a concern for public health, however, the remit of the policy and the Licensing and Safety Committee is in relation to physical premises.

RESOLVED:

That

- a) the word “limit” be removed from Part D – 4 of the policy
- b) the draft policy be referred to Full Council to be adopted as the Council Licensing Policy Statement (Gambling)

8 Licensing Services Update

The Committee considered a report which provided an update on the activities undertaken to discharge the council’s licensing function from the 1st October 2021 to 31st March 2022.

Fiona Goldsmith, Group Lead Licensing, informed the Committee that the Licensing Service had agreed to present six-monthly updates to the Committee on the activities of the service in discharging the council’s licensing function and any changes to the legislation that underpins the work.

The Committee was informed that in 2021, the service standards were introduced. These standards clearly set out what an applicant can expect from the licensing service when applying for a drivers licence, a vehicle licence or an operators licence, with monitoring of the standards commencing in October 2021.

The Committee was directed to a table within the appended report which outlined how the service is performing in relation to the standards as follows:

October – December 2021

	No. processed	In target	%	Out of target	%
Drivers	422	409	96.9%	13	3.1%
Vehicles	585	445	76.1%	140	23.9%
Operators	23	23	100%	0	0

January – March 2022

	No. processed	In target	%	Out of target	%
Drivers	389	385	99.0%	4	1%
Vehicles	597	595	99.7%	2	0.3%
Operators	37	37	100	0	0.0%

There is clear evidence that the standards that have been put in place are working and applications are being dealt with in a timely manner within the standards that have been set by the Committee. This is positive and the aim is to achieve 100%.

The Committee was advised that two new pieces of legislation have recently been introduced. Firstly, the Taxis and Private Hire Vehicles (Disabled Persons) Act 2022.

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This came into force on 28th June 2022, and places a duty on drivers of vehicles that are not wheelchair accessible, to carry a disabled person and their mobility aid and provide 'reasonable assistance' without charging extra.

The key changes to existing legislation include:

- Drivers are obliged to carry and provide fair service to all passengers, regardless of impairment at no extra cost
- Drivers must provide as much mobility assistance as is reasonably required including carrying mobility aids
- A new duty in the legislation requires drivers to assist disabled passengers to identify and find the vehicle they have booked without making any additional charge for doing so
- Local authorities must keep a register of licensed wheelchair accessible hackney carriage and private hire vehicles, and must make these accessible to the public

Secondly, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022. The two main aspects of the Act are:

- From 31st May 2022, if any licensing authority in England has information regarding a hackney carriage or private hire driver licensed by another authority that is relevant to safeguarding or road safety concerns in its area, it must share that information with the authority that issued the driver's licence
- The Act will require licensing authorities in England to input into a central database instances where the authority has refused, suspended, chosen not to renew or revoked a hackney carriage or private hire driver's licence. This is based wholly or in part on information relating to the driver concerning safeguarding or road safety. If there is a relevant entry, the authority must contact the recording authority to request the relevant information. The decision-making licensing authority must then have regard to the information provided when making their decision.

The Committee was informed that this is an important piece of legislation for the council as there are licensed vehicles from other authorities that come in and out of the borough, and this is a way to ensure that if they are driving badly or there are safeguarding issues, this can then be communicated with the authority they are licensed with.

This is a useful tool because when new driver applications are received, the database can be checked to see if any other authority has refused, suspended, or revoked any driver in that authority. The authority can then be contacted for further details. Previously, the onus was on the driver to indicate on their application form, whether they have been licensed with another authority.

The Committee was further advised of the following:

- In 2019-2020, the total number of taxi applications received were 2,513

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- In 2020-21, the numbers received were 2,032, this reduction was largely due to Covid
- From April 2021 to the end of March 2022, there has been a total of 2,208. Although the numbers are not the same as pre-pandemic they are steadily increasing again
- The service regularly meets with the Hackney Carriage Association members and the association works very well and there have been positive meetings, where they raise issues and concerns. Discussions are taking place with private hire operators and drivers to encourage them to create a private hire association, where they can also raise issues and concerns

Ms Goldsmith advised the Committee that during the pandemic, the Government introduced the Business and Planning Act 2020 to help hospitality businesses to continue to operate during the imposed restrictions. This Act brought in a fast-track application process for pavement licences to allow patrons to sit outside to have a meal and a drink.

The Act is due to expire at the end of September 2022, however, it has been announced that they are currently working on a new bill which is in relation to the pavement licensing regime. Pavement licensing is not new, it has been in force for a while under the Highways Act, however it was a fairly lengthy and costly process. The aim of introducing new legislation is to simplify the process for applicants as well as making it easier for the licensing authority.

The bill being proposed in relation to the pavement licence regime is to make it permanent and there are some slight amendments to the current requirements within the Business and Planning Act which includes the following:

- Amend the fee councils can charge applicants, increasing it from £100 to £350 for premises which already hold a pavement licence and £500 for new applicants
- Extend the public consultation period and council determination period from 7 to 14 days
- Extend the duration of pavement licence from one to two years
- Prohibit local authorities from granting a tables and chairs licence under the Highways Act, if a pavement licence is capable of being granted under the new Bill
- Pavement licences can be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met

Under the Business and Planning Act all alcohol licensed premises were gifted off-sales, there has been no mention of that continuing after the end of September 2022. Those premises that were given off-sales, will revert back to their original license only being allowed on-sales consumption on the premises.

In respect of applications received under the Licensing Act 2003, the numbers are as follows:

2019/2020 – 425
2020/2021 – 145

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2021/2022 - 369

The total number of applications dealt with by the service between 1st October 2021 and 31st March 2022 were 2,836.

The Committee was informed that with regard to staffing within the licensing service, a temporary Senior Licensing Officer has been recruited for a 12-month period to cover maternity leave and there are two new permanent licensing officers within the service.

Over the next twelve months the service will concentrate on taking a proactive approach to licensing enforcement and compliance duties, working with the police, VOSA, Environmental Health, Parking Services, Trading Standards, and officers from neighbouring authorities.

A vehicle operation the service carried out in May 2022, in partnership with the police and VOSA resulted in the following:

- 19 licensed vehicles were checked, three hackney carriage and sixteen private hire (2 private hire vehicles were licensed by Calderdale Council)
- 18 vehicle rectification notices were issued, and two vehicle licenses were suspended (one being one of the vehicles licensed by Calderdale Council)

RESOLVED:

That the Licensing Service update report be noted.

9 Delegated Officer Decisions (Licensing)

Fiona Goldsmith provided an update on a request made by the Committee in March 2022, that officers look at how information on decisions made under the Council's current Fitness and Suitability Policy can be presented in the public domain.

On the 2nd March 2022, information was presented to the Committee on the decisions taken by officers under the Council's Fitness and Suitability Policy. The Committee resolved to consider this item under exclusion of the public, however, expressed concern that the right and proper decisions being taken by officers were being hidden from public view. The Committee requested that officer consider this and bring back a report that could be made public in relation to detailing the decisions taken under the policy, with a view that members of public see that the right decisions around public protection are being taken.

In response to this request, officers have been working with colleagues in Information Governance on how to make this type of information public without breaching the council's duties under General Data Protection Regulation (GDPR).

Fiona Goldsmith advised the Committee that this is proving more challenging than first anticipated, and it has not been possible to bring a report to this meeting that achieves the wishes of the committee while maintaining the council's duties under

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GDPR. Work will continue with Information Governance colleagues and further information will be presented at the next Committee meeting.

The Committee was informed that since January 2020 to 1st June 2022, there have been 69 decision taken under delegated authority by the Group Leader in Licensing as follows:

Type of Decision	Number
Warnings	14
Suspensions	9
Revocations	31
Refusals	9
Grants	2
No further action	1
Suspension lifted	3

The Committee reiterated that the information that was presented in private at the last meeting, showed some good news stories which highlighted the work that the officers were undertaking. For example, there was one instance of a taxi driver having an accident while on a school run. For any parent in Kirklees, who has children who are transported in taxis, to see the level of enforcement and the way that was dealt with, is reassuring.

The Committee stated that an opportunity is being missed to put good news stories in the public domain, and this can be done without individuals being identified. The officers mandated by the Committee are doing some good work in protecting people and the public need to be made aware of this. A suggestion was made to invite Information Governance to the next Committee meeting.

RESOLVED:

that the Delegated Officer Decision report be noted.

- 10 Department for Transport – Statutory Taxi and Private Hire Vehicle Standards**
- The Committee was advised that the Department for Transport (DfT) published a set of statutory standards for taxi and private hire vehicles, and made it a requirement for all local authorities to review their existing policies, and look to adopt the DfT standards. In response as an authority, work was undertaken to review existing policies, highlighting where current policy does not meet the statutory standards.

The Committee was informed that the appended report also details the outcome of the consultation that the Committee requested be conducted in relation to the proposed changes to the existing policy. The consultation commenced on 14th September 2021, and following an extension concluded on 30th March 2022. The final number of respondents to the consultation was 428.

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Advising the Committee on the integrated impact assessment, Russell Williams, Operational Manager, informed the Committee that it was important to address some of the comments that have been made regarding the policies and procedures of the Licensing Service in respect of racism. An attempt has been made through the impact assessment to address these concerns.

Mr Williams advised that there is a duty on the Committee and officers to have regard and abide by the Equalities Act 2010 and that means eliminating unlawful direct and indirect discrimination. All policies and procedures of the Licensing Service apply to all licence holders and applicants, irrespective of a person's background and therefore they are unlikely to lead to discrimination. The legitimate aim of those policies is to protect the public and that is the whole purpose of the licensing regime.

The Committee was asked to respond and make decision on each of the following questions that were in the consultation:

Question 1

Do you agree that the licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence?

The Committee was advised that the responses to the consultation varied with suggestions ranging from 7 days, 72 hours, 48 hours for serious offences but not minor ones and one request to reduce it to 24 hours. The current policy stipulates seven-days' and the officer recommendation is to amend the existing policy to the proposed 48-hour notification to the licensing authority.

The Committee debated whether the proposal should be amended to stipulate that license holders are obligated to notify the licensing service as soon as reasonably practical and in any event within 48 hours.

Options:

1. To adopt the statutory standards
2. Keep existing policy, including the reason for the decision to deviate from the statutory guidance
3. Set own timescale based on the results of the consultation, including the reason for the decision to deviate from the statutory guidance

The 11 Committee members in attendance voted as follows:

To adopt the statutory standards - 7

To amend to stipulate that license holders are obligated to notify the licensing service as soon as reasonably practical and in any event within 48 hours - 1

Abstain - 3

Question 2

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Do you agree that if the Licensing Authority make a decision to refuse or revoke a licence due to an individual being thought to be a risk of harm to a child or vulnerable adult this matter should be referred to the DBS?

There were 317 responses to the consultation, 76% agreed, 18% disagreed and 6% did not know.

The Committee was informed that although this is not currently written into the policy, the practice already takes place when deemed necessary. To adopt this would be in accordance with the Safeguarding and Vulnerable Groups Act 2006.

In response to concerns raised by the Committee, Mr Williams on a point of clarification explained that all drivers are given an opportunity to put forward their case before a decision is made. There are however occasions when an immediate decision is required based on the interest of public safety, and, even in those cases attempts are made to contact the driver, either by inviting them into the office, speak to them by phone, or knock on their door to get an account from them before the decision is made. Decisions in licensing are delegated to the Group Leader for Licensing, and there are checks and balances in place around those decisions.

The officer recommendation is to agree with the wording of the standard.

Options:

1. To adopt the statutory standards
2. Reject the statutory standards, including the reason for the decision to deviate from the guidance

The Committee members voted as follows:

- To adopt the statutory standards – 9
- To keep it as it is – 1
- Refer the matter to the Committee - 1

Question 3

If action is taken by the council as a result of information being received from the police, do you agree that the information should be fed back to the police?

The officer recommendation is to agree with the wording of the standard.

Options:

1. To adopt the statutory standards
2. Reject the statutory standards, including the reason for the decision to deviate from the guidance

The Committee voted as follows:

All Committee members voted for option 1

Question 4

Do you agree that where an applicant has spent an extended period of three or more continuous months outside of the UK, the applicant should be required where possible, to provide criminal records information or a 'certificate of good character' from the country in which they have resided?

The Committee was informed that the officer recommendation is to keep the existing requirement at six month. The reason for this recommendation is that considering local circumstances, many licence holders in Kirklees are from Black and Minority Ethnic (BAME) backgrounds, and knowledge and experience shows that a large proportion visit family abroad for an extended period. The requirements would be too onerous and have a detrimental impact on this community.

In response to the consultation 228 respondents, 54%, did not agree with the three-month requirement, 165 respondents, 39%, did agree, and 31 respondents, 7% did not know.

The Committee made comments and asked questions as follows:

- Under which authority of the country being visited will the Licensing Service accept a letter of good character or judgement, and who will translate the letter once it has been received in Kirklees?
- Is this policy the same for bus drivers, train drivers or is it just for taxi drivers?
- Is there a document that could be downloaded that the taxi driver could present to the authority in the country they are visiting, that could be filled in by the police officer/authority as this would make it easier?

Options:

1. To adopt the statutory standards
2. Keep existing policy, including the reason for the decision to deviate from the statutory guidance
3. Set own timescale based on the results of the consultation, including the reason for the decision to deviate from the statutory guidance

All Committee members voted for option 1

Question 5

Do you agree that all vehicle proprietors who do not hold a valid hackney carriage/private hire drivers' badge, should complete a basic disclosure from the Disclosing & Barring Service (DBS) at first application and check required annually for the duration of the vehicle licence?

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There were 285 respondents, 68% who said yes, 100 respondents 25% said no and 33 respondents 8% said they did not know.

The officer recommendation is that the Committee adopt the requirement of the statutory standard, to consider whether the applicant or licence holder with a conviction for offences, other than those relating to driving, meet the 'fit and proper' threshold.

Options:

1. To adopt the statutory standards
2. Keep the existing policy where vehicle proprietors do not require a DBS, including the reason for the decision to deviate from the guidance
3. Adopt the standard but set a time period based on the results of the consultation including the reason for the decision to deviate from the guidance

The Committee made comments and asked questions as follows:

- Can the officers provide some context as to why they feel it is necessary to implement this policy, and what impact does the vehicle owner have on the taxi trade when they are not directly involved with the public?
 - Potentially a company can have a number of directors, would each director named on the company require a DBS check?

The Committee members voted as follows:

- To adopt the statutory standards - 1
- Keep the existing policy where vehicle proprietors do not require a DBS, including the reason for the decision to deviate from the guidance – 6
- To adopt the standard but set a time period of checks being conducted every three years – 4

The Committees decision to deviate from the guidance, is that these individuals are not directly involved with driving the taxi, the taxi trade, or members of the general public, and requiring them to undertake a DBS is onerous and not effective for the stated aims.

Question 6

Do you agree that all ancillary staff that work at private hire operator bases and have access to booking records should be required to complete an annual DBS check?

The Committee was informed that operator base staff have access to personal and sensitive information, such as when people are on holiday, where they work, their address and where their children go to school. It is important that operators are carrying out suitable checks on their employees to ensure that personal information is safeguarded, therefore the officer recommendation is that the Committee adopts the proposed standard.

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The summary of the responses from the consultation, is that 276 respondents, 66% agreed that people who work within an operator base, that are not licensed should be required to complete an annual DBS check. The responsibility would be with the licensed operator, and not the Licensing Service to ensure that employees have a basic check. 276 respondents, 66% said they agree, 106 respondents, 25% said they do not agree, and 38 respondents, 9% said they did not know.

Options:

1. Adopt the statutory standard
2. Keep the existing policy which does not require ancillary staff that work at private hire operator bases and have access to booking records to complete an annual DBS check, including the reason for the decision to deviate from the guidance
3. Adopt the standard but set a different timescale for the frequency of requirement for the staff to have a DBS completed based on results of the consultation, including the reason for the decision to deviate from the guidance

The Committee made comments and asked questions as follows:

- Are you aware if operators are currently carrying out DBS checks on their employees?

All Committee members voted for option 1

Question 7

Do you agree that private hire operators should keep a register of all staff that take bookings or dispatch vehicles, including confirmation that they have completed an annual DBS check and that they provide their policy on employing sex offenders, for those persons on the register?

This question follows on from question 6 and the officer recommendation is that the Committee adopts the proposes standard.

The response from the consultation is 302 respondents, 71% agree, 86 respondents 20% do not agree and 35 respondents, 8% did not know.

The Committee made comments and asked questions as follows:

- Can it be put on public record that officers have agreed to ensure that templates and adequate support will be provided as many of these operators are small enterprises and it might be a large cost burden
 - Most private hire operators in North Kirklees are using call centres abroad, how will the DBS affect those staff

Options:

1. Adopt the statutory standard
2. Keep the existing policy which does not require private hire operators to keep a register of all staff that take bookings or dispatch vehicles, including

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confirmation that they have completed a DBS check or to provide a policy on employing sex offenders, for those persons on the register, including the reason for the decision to deviate for guidance

All Committee members voted for option 1

Question 8

Do you agree with the proposed changes to the condition in relation to the recording of bookings by private hire operators?

Considering the results of the consultation it is recommended by officers that the changes are adopted in accordance with the standards. The Committee was asked to note that one of the proposed changes is that 'the full name of the hirer and the contact number be used to make the booking. One of the key concerns from the consultation, was it is not always possible to get a full name and therefore if the Committee is minded, it could remove the word 'full' from the proposals.

The results from the consultation in relation to this question is that 66% agreed, 21% did not agree and 13% did not know.

Options:

1. Adopt the changes to the existing requirements in accordance with the standards
2. Keep the existing requirements, including the reason for the decision to deviate from the guidance
3. Adopt the changes in part

The Committee made comments and asked questions as follows:

- Can you explain the rational for why these changes are being proposed?

All Committee members voted for option 3

Question 9

Do you agree that there are local circumstances that indicate the installation of CCTV would have either a positive or adverse effect on the safety of taxi and private hire vehicle users?

The Committee was advised that the results of the consultation indicated that 63% said it would have a positive effect, 21% said it would have an adverse effect, and 16% were unsure. The officer recommendation is that the Committee instruct officers to carry out further work/engagement to determine if there is a mandatory need for CCTV within vehicle policy; or whether it could be voluntary with a standard they would have to comply with.

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The Committee made comments and asked questions as follows:

- CCTV safeguards not only the passengers but also the drivers. How much does it cost to install CCTV in a motor vehicle?
- Taxi drivers are working alone often at night and are vulnerable and can be dealing with people who are intoxicated, this is an excellent suggestion and officers should be mandated to work with the industry groups to work out the best solution that protects everybody
- If CCTV is fitted, there are issues around data control and some taxi drivers use their vehicles for personal use, how will this impact on their families? There is more work to be done, including what is happening in other areas, is there good practice that could be shared?
- Rather than mandate it, could the council encourage drivers to install CCTV?

Options:

1. If a local need is indicated based on the results of the consultation, instruct officers to carry out further work on establishing whether there is a need for a CCTV policy to be implemented with a more detailed report to be brought to members in due course
2. Decide there is no local need for a specific CCTV policy within Kirklees as the current position is that if a vehicle proprietor chooses to install CCTV within their vehicle it is their choice and it is neither supported nor discouraged by the authority.

All Committee members voted for option 1

Question 10

Do you agree that the council should have a specific policy in relation to stretch limousines?

In response to the consultation, 50% of the respondents, were in favour of a policy, 33% did not know and 17% said no. As there is currently nothing specific to stretch limousines, officers are recommending that the Committee instruct officers to develop a specific policy and present it at future committee meeting for consideration. These vehicles are heavily modified, and the service would always ask for an Individual Vehicle Approval or a 'Certificate of Compliance' to show that modifications have been carried out and it is safe to be on the road.

The Committee made comments and asked questions as follows:

- Does the existing policy prejudice limousines in any way or are they working well?

All Committee members voted for option 1

Question 11

Do you agree that the decision making should stay delegated to the Group Leader for Licensing?

The responses from the consultation, 50% said no they did not want it to stay with the Group Leader, 35% said yes, they do, and 15% said they did not know. The Committee was informed that the Department for Transport recommends that decision making should be the responsibility of a panel of suitably trained elected members. The result of the consultation shows that many respondents do not agree that decision making should be the sole responsibility of one person. Ms Goldsmith informed the Committee that at this time it is difficult to provide more options and more work is needed to investigate possible options for decision making going forward. In addition, any changes to decision making would require a change to the constitution.

The recommendation by officers is that the Committee instruct officers to investigate possible options relating to decision making, and the implications for those options and present a more detailed report to a future committee meeting.

The Committee made comments and asked questions as follows:

- The current system in place works well and rather than mandating any additional work it should be allowed to carry on
- Having one person making decisions, gives that person too much power and there are potentially a number of ways such decisions could be made. 1) go back to the old system where the decision was made by a panel of councillors, 2) a panel made up of councillors and other representatives, whether lawyers, trade unions and 3), if it is initially kept with officers, have a similar set up to planning where, if a ward member disagrees or thinks a policy has been applied incorrectly, it can be brought a committee. There does need to be change it is disproportionate for one person to hold that amount of power
- The previous system where decisions were made by a panel of councillors worked well, and the reason for the change of policy to let officers make the decision is unclear
- It is important to ensure that Kirklees is not out of step with the rest of West Yorkshire

The Committee members voted as follows:

- That officers investigate possible options relating to decision making and the implications for those options and present a more detailed report to a future committee meeting – 8
- Keep the current system where the decision is made by the Group Leader Licensing - 3

RESOLVED

Question 1

Do you agree that licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence?

RESOLVED:

that the Department for Transport Statutory Taxi and Private Hire Vehicle Standard be adopted

Question 2

Do you agree that if the Licensing authority make a decision to refuse or revoke a licence due to an individual being thought to be a risk of harm to a child or vulnerable adult this matter should be referred to the DBS?

RESOLVED:

that the Department for Transport Statutory Taxi and Private Hire Vehicle Standard be adopted

Question 3

If action is taken by the council as a result of information being received from the police, do you agree that the information should be then fed back to the police?

RESOLVED:

that the Department for Transport Statutory Taxi and Private Hire Vehicle Standard be adopted

Question 4

Do you agree that where an applicant has spent an extended period of three or more continuous months outside of the UK the applicant should be required, where possible to provide criminal records information or a 'certificate of good character' from the country in which they have resided?

RESOLVED:

that the existing policy requirement of six months remain in place

Question 5

Do you agree that all vehicle proprietors who do NOT hold a valid hackney carriage / private hire drivers' badge should complete a basic disclosure from the DBS (Disclosure Barring Service) at first application and a check required annually for the duration of the vehicle licence?

RESOLVED:

that the existing policy where vehicle proprietors do not require a DBS check remain in place

Question 6

Do you agree that all ancillary staff that work at private hire operator bases and have access to booking records should be required to complete an annual DBS check?

RESOLVED:

that the Department for Transport Statutory Taxi and Private Hire Vehicle Standard be adopted

Question 7

Do you agree that private hire operators should keep a register of all staff that take bookings or dispatch vehicles, including confirmation that they have completed an annual DBS check and that they provide their policy on employing ex-offenders, for those persons on the register?

RESOLVED:

that the Department for Transport Statutory Taxi and Private Hire Vehicle Standard be adopted

Question 8

Do you agree with the proposed changes to the condition in relation to the recording of bookings by private hire operators?

RESOLVED:

that the Department for Transport Statutory Taxi and Private Hire Vehicle Standard be adopted in part removing the requirement for “full” in relation to the name of the hirer

Question 9

Do you agree that there are local circumstances that indicate the installation of CCTV would have either a positive or adverse effect on the safety of taxi and private hire vehicle users?

RESOLVED:

that officers undertake further work/engagement to establish the need for a CCTV policy within Kirklees and submit a report for consideration at a future meeting of the Licensing and Safety Committee

Question 10

Do you agree that the council should have a specific policy in relation to stretch limousines?

RESOLVED:

that officers develop a specific policy in relation to stretch limousines and submit it for consideration at a future meeting of the Licensing and Safety Committee

Question 11

Do you agree that the decision making should stay delegated to the Group Leader for Licensing?

RESOLVED:

that officers undertake further work to investigate the possible options relating to decision making and prepare a detailed report and submit it for consideration at a future meeting of the Licensing and Safety Committee

11

Review of Suitability Policy

The Committee was informed that the purpose of the report is to inform members of the concerns raised by some ward councillors, trade representatives, and GMB Union regarding the Council's current policy on determining the fitness and suitability to hold a private hire and hackney carriage licence. The Committee is being asked to consider whether as a result of those concerns, a review of the policy should be undertaken and the scope of the review.

The Committee was advised that in June 2019, to support the council in exercising its functions under the Hackney Carriage and Private Hire licence under the Local Government Miscellaneous Provision Act 1976, a robust fitness and suitability policy was adopted by the Licensing and Safety Committee.

The policy provides a sets of standards that all new applicants and existing licence holders are measured against. The aim of the policy and standards, is to ensure that public safety is not compromised while also providing guidance to a licence holder and decision maker on the criteria considered when determining whether applicants, and existing licence holders on renewal, are fit and proper to hold a licence.

At the committee meeting on 2nd March 2022, officers presented a report which provided details of decisions made under the policy. There was a general consensus that the policy was being applied in line with the Committees intentions and the decisions being made under the policy were right and appropriate. The Committee felt it was important that the public had sight of the decisions being made, as this would provide reassurance that the policy was being applied fairly and the public were being protected.

At the meeting, officers informed the Committee that those raising concerns were advised to use the consultation process for the DfT statutory standards, to outline their concerns, and that those concerns would be presented at a future Licensing and Safety Committee meeting. Only nine responses were received via the consultation process regarding reviewing the suitability policy. Officers advised that they are aware of the concerns being raised.

The current fitness and suitability policy is a policy of the committee, and as such only the Licensing and Safety Committee can decide whether a review is required,

Licensing and Safety Committee - 6 July 2022

and to determine the scope of that review. For example, does the whole policy need reviewing or specific sections. In deciding if a review is required, the Committee's primary concern should be the safety of the travelling public, and others who may be impacted by the private hire and hackney carriage trades.

The Committee was reminded that the policy was adopted in August 2019, and a periodic review is not an unreasonable request.

The Committee made comments and asked questions as follows:

- Since the policy was adopted in 2019, there has been a lot of criticism, not only from the trade and the trade unions, but also from elected members stating that the policy does not take into account equality legislation, and those views cannot be ignored
- It states that the policy should be reviewed between three and five years, therefore rather than reviewing specific parts it would be more prudent to review the whole policy
- There are concerns raised by taxi drivers that if they acquire 7 penalty points, the equivalent of two camera flashes, they are automatically banned from driving taxis

Mr Williams asked the Committee to provide a steer on the areas of focus for the review.

The Committee suggested the following areas to be included in the review:

- an initial starting point would be to address the concerns specifically raised by the trade, trade unions and ward councillors
- the minor motoring issue would be another area to be looked at as this appears to be contentious
- the number of points a driver receives before being banned from driving is seven, bus and train drivers do not have the same restrictions placed upon them, this should be looked at
- when reviewing the policy, consideration should be given to the rights and welfare of the drivers
- explore parity with others in the transport sector, ie bus and train drivers
- benchmarking with other local authorities and nationally on issues such as the number of points before a driving ban
-

RESOLVED:

That

- a) a review of Private Hire and Hackney Statement of Fitness and Suitability Policy be undertaken
- b) Officer be formally thanked for the work they have undertaken in preparing and presenting reports to the Committee

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KIRKLEES COUNCIL				
COUNCIL/CABINET/COMMITTEE MEETINGS ETC				
DECLARATION OF INTERESTS				
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: Wednesday 5th October 2022

Title of report: Hackney Carriage Fare Increase

Purpose of report: For members to consider and resolve a new fare card for the Hackney Carriage Vehicles

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 <u>Council's Forward Plan (key decisions and private reports)?</u>	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>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 26.09.2022 Eamonn Croston – 22.09.2022 Julie Muscoft – 22.09.2022
Cabinet member portfolio	Councillor Will Simpson

Electoral wards affected: ALL

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes, there is no personal data contained in this report.

1. Summary

- 1.1 The purpose of this report is, as a result of a request from the Hackney Carriage Association, for Members to carry out a review of the hackney carriage fare tariff.

2. Information required to take a decision

- 2.1 Hackney Carriage fares, the fares paid by the travelling public, are set by the Local Authority.
- 2.2 The power to set fares, and the process which must be followed, are contained within Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') and is a discretionary power.
- 2.3 Across the country Local Authorities approach their power to set fares differently, some will routinely commence the process of reviewing their fares without prompt from the trade themselves. Others, including Kirklees, await a formal request from the trade before starting the process of reviewing fares.
- 2.4 On 23rd February 2022 trade representatives for the hackney carriage association submitted an emailed request to the licensing service, following a vote of the hackney carriage vehicle proprietors, for an increase in the hackney carriage fares.
- 2.5 The request submitted was for all tariffs to have a £1 increase on start price and that for tariff 2 and 4 to commence at 8pm instead of 10pm.
- 2.6 The tariffs at the time of the request are attached at **Appendix 1**
- 2.7 Accepting the request, and in accordance with the Act, the service formally consulted on increasing the hackney carriage fares in line with the request from the trade. The service also wrote to all hackney carriage proprietors and emailed trade representatives.
- 2.8 The consultation ended on 31st March 2022, which resulted in 18 responses, including one petition, and one response from a member of the public, a summary of the responses are as follows: -
- 7 individuals were in favour of the fare increase
 - 10 individuals were against the fare increase and proposed alternatives
 - 1 petition signed by 92 licence holders against the fare increase proposing an alternative.
- 2.9 Although the power to amend fares is discretionary, once a review has been carried out and changes consulted upon the process must be completed and a decision taken. That decision could be that no changes are made.

- 2.10 The Act dictates that where objections are received, and not withdrawn they must be considered, and that any changes to the fares, come into effect within two months from the date of the end of the consultation.
- 2.11 Due to the number of objections, and differing views put forward by the trade, the decision was taken under delegated authority by the Strategic Director for Environment and Climate Change. The decision was to, as a temporary measure, implement the fares as consulted on and to commence an engagement exercise with the vehicle proprietors. The current temporary fare card can be found at **Appendix 2**. Therefore, in summary, the current fares are as follows:

Tariff	Start Price	10p	Waiting Time	Times
Tariff 1	£3.50	120 yards	10p per 24 seconds	6am – 8pm
Tariff 2	£4.00	98 yards	10p per 24 seconds	8pm – 6am
Tariff 3	£4.00	100 yards	10p per 24 seconds	6am – 8pm
Tariff 4	£4.50	86 yards	10p per 24 seconds	8pm – 6am

- 2.12 On 17th June 2022 a further consultation letter was circulated to all the hackney carriage vehicle proprietors, a copy of this letter can be found at **Appendix 3**.
- 2.13 The letter contains 8 proposals; these were proposals put forward by the trade during the first formal consultation with a request for the vehicle proprietor to pick their favoured proposal.
- 2.14 The council received 57 responses: -
- Proposal 1 = 17
 - Proposal 2 = 33
 - Proposal 3 = 0
 - Proposal 4 = 0
 - Proposal 5 = 0
 - Proposal 6 = 1
 - Proposal 7 = 0
 - Proposal 8 = 0
 - In addition, one respondent ticked both proposal 2 and proposal 4 and one respondent ticked all the proposals.
- 2.15 The service has now formally consulted a second time in relation to proposal 2 which, from the informal engagement, was supported by the majority of those consulted. That proposals were as follows: -

Tariff	Start Price	10p	Waiting Time	Times
Tariff 1	£3.50	105 yards	10p per 24 seconds	6am – 8pm
Tariff 2	£4.00	80 yards	10p per 24 seconds	8pm – 6am
Tariff 3	£5.50	70 yards	10p per 24 seconds	6am – 8pm
Tariff 4	£6.00	60 yards	10p per 24 seconds	8pm – 6am

2.16 The second consultation ended on Thursday 18th August 2022. A total of 4 representations have been received, 1 representation is in support of the proposed fare increase, 3 are objections to the proposed fare increase. These representations can be found at **Appendix 4**.

2.17 Therefore, members are asked to consider the objections and come to a decision about the proposed fare increase.

3. Implications for the Council

3.1 Working with People

One of the licensing services key priorities is to ensure the standards across the private hire and hackney carriage trade in Kirklees are high to protect the travelling public. We want people to be transported safely, to know they are protected from harm and that they experience a high quality, clean, sustainable, and green environment, as well as a good customer experience.

3.2 Working with Partners

In developing its policies and delivering its service the licensing service works with a number of partners including (not exclusively) Kirklees Safeguarding Children's and Adults boards, West Yorkshire Police, Public Health, Environmental Health, Overview and Scrutiny committee, the Community Safety Partnership and the other West Yorkshire Licensing Authorities (Inc. York)

3.3 Place Based Working

There is no specific impact in the context of this report. However, reviewing policies and procedures enables the service to examine the way in which it interacts and engages with licence holders, residents and communities.

3.4 Climate Change and Air Quality

There is no impact in relation to climate change and air quality in this report.

3.5 Improving outcomes for children

The Council has a duty to protect the travelling public and specifically safeguard the vulnerable, which includes the safeguarding of children travelling in licensed vehicles and for the purposes of school transport.

3.6 Financial Implications of people living or working in Kirklees

A high proportion of the hackney carriage vehicle proprietors are residents of Kirklees and an increase in the cost of living, i.e. the increased fuel costs, will be having a detrimental effect on the income of those persons driving the hackney carriage vehicles. Increasing the tariff will support proprietors to receive a fair return for the fares they undertake.

An increase in the fares of the hackney carriage vehicles will have an impact on the service users within Kirklees who are also likely to be residents of Kirklees as each journey will cost correspondingly more as the fare increases.

3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Legal

No concerns regarding any legal issues arising.

Human Resources

There are no human resource issues related to this report.

4 Next steps and timelines

- 4.1 Members are asked to consider the proposed fare increase taking into consideration the representations received, shown at **Appendix 4**.
- 4.2 Consideration must be given to the representations and any changes to the fare must come into effect two months from the date of the end of the consultation.

5 Officer recommendations and reasons

- 5.1 Members are asked to consider the 3 options:
 - i. Increase the fare based on the proposal consulted upon, proposal 2
 - ii. Amend the proposed fare following consideration of the representations submitted
 - iii. Keep the fares as they are set at present, following the initial request from the trade

6 Cabinet Portfolio Holder's recommendations

Councillor Will Simpson has no additional comments.

7 Contact officer

Fiona Goldsmith
Public Protection Group Leader – Licensing

01484 221000(ext 79921) or Fiona.goldsmith@kirklees.gov.uk

8 Background Papers and History of Decisions

None

9 Service Director responsible

Katherine Armitage
Service Director – Climate Change and Environment
Tel: 01484 221000
Email: Katherine.armitage@kirklees.gov.uk

Appendix 1



FARES FOR HACKNEY CARRIAGES (inclusive of VAT) from 18th August 2016

The following rates shall apply unless, at the start of hiring: **A FARE FOR THE JOURNEY IS AGREED BETWEEN HIRER AND DRIVER.**

THE TAXI METER WILL BE USED ON ALL JOURNEYS WITHIN KIRKLEES.

TARIFF 1	For hirings between 6am & 10pm if the distance does not exceed 600 yds or 120 sec. (or a combination of parts of such distance or time) For each additional 120 yds	£2.50 10p	TARIFF 2	For hirings between 10pm & 6am, if the distance does not exceed 600 yds or 146.9 sec. (or a combination of parts of such distance or time) For each additional 98 yards	£3.00 10p
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OTHER CHARGES: Waiting time is included in the tariff at a rate of 10p for each completed 24 second period. Luggage carried outside the passenger compartment 5p per item.

SURCHARGE: For hirings on Bank and Public Holidays Tariff 2, except for the following: Christmas and New Year. For the period between 6am on 24th December and 6am on 27th December and from 6pm on 31st

December to 6am on 2nd January, a supplement of £2 per journey may be added to Tariff 2, any such charge must be shown as an extra and incorporated on the meter.

SOILING CHARGE: A reasonable charge may be levied for restoration costs should you soil or damage this vehicle. The proprietor reserves the right to take civil action where necessary.

THIS TARIFF CARD TO BE CLEARLY DISPLAYED ON THE INTERNAL SIDE WINDOW AT ALL TIMES

COMPLAINTS/COMPLIMENTS RELATING TO THE DRIVER OR VEHICLE SHOULD BE MADE TO:

The Taxi Licensing Office Tel: (01484) 456 868

LICENCE NUMBER



FARES FOR HACKNEY CARRIAGES (inclusive of VAT) from 18th August 2016

The following rates shall apply unless, at the start of hiring: **A FARE FOR THE JOURNEY IS AGREED BETWEEN HIRER AND DRIVER.**

THE TAXI METER WILL BE USED ON ALL JOURNEYS WITHIN KIRKLEES.

TARIFF 1	For hirings between 6am & 10pm if the distance does not exceed 600 yds or 120 sec. (or a combination of parts of such distance or time) For each additional 120 yds	£2.50 10p	TARIFF 3	For hirings between 6am & 10pm, (including one surcharge of 50p per journey when carrying more than 4 passengers) If the distance does not exceed 600 yds or 144 sec (or a combination of parts of such distance or time) For each additional 100 yards	£3.00 10p
TARIFF 2	For hirings between 10pm & 6am, if the distance does not exceed 600 yds or 146.9 sec. (or a combination of parts of such distance or time) For each additional 98 yards	£3.00 10p	TARIFF 4	For hirings between 10pm & 6am, (including one surcharge of 50p per journey when carrying more than 4 passengers) If the distance does not exceed 600 yds or 167 sec (or a combination of parts of such distance or time) For each additional 86 yards	£3.50 10p

OTHER CHARGES: Waiting time is included in the tariff at a rate of 10p for each completed 24 second period. Luggage carried outside the passenger compartment 5p per item.

SURCHARGE: For hirings on Bank and Public Holidays Tariff 2 will apply to 4 seat vehicles, Tariff 4 will apply to vehicles with more than 4 seats except for the following: Christmas and New Year. For the period between 6am on 24th December and 6am on 27th December and from 6pm on 31st December to 6am on 2nd January,

a supplement of £2 per journey may be added to Tariff 2 and Tariff 4 as appropriate, any such charge must be shown as an extra and incorporated on the meter.

SOILING CHARGE: A reasonable charge may be levied for restoration costs should you soil or damage this vehicle. The proprietor reserves the right to take civil action where necessary.

THIS TARIFF CARD TO BE CLEARLY DISPLAYED ON THE INTERNAL SIDE WINDOW AT ALL TIMES

COMPLAINTS/COMPLIMENTS RELATING TO THE DRIVER OR VEHICLE SHOULD BE MADE TO:

The Taxi Licensing Office Tel: (01484) 456 868

LICENCE NUMBER

Appendix 2



FARES FOR HACKNEY CARRIAGES

(inclusive of VAT) from 16th June 2022

The following rates shall apply unless, at the start of hiring: **A FARE FOR THE JOURNEY IS AGREED BETWEEN HIRER AND DRIVER.**

THE TAXI METER WILL BE USED ON ALL JOURNEYS WITHIN KIRKLEES.

TARIFF 1	For hirings between 6am & 8pm if the distance does not exceed 600 yds or 120 sec. (or a combination of parts of such distance or time) For each additional 120 yds	£3.50 10p
TARIFF 2	For hirings between 8pm & 6am, if the distance does not exceed 600 yds or 146.9 sec. (or a combination of parts of such distance or time) For each additional 98 yards	£4.00 10p

OTHER CHARGES: Waiting time is included in the tariff at a rate of 10p for each completed 24 second period. Luggage carried outside the passenger compartment 5p per item.

SURCHARGE: For hirings on Bank and Public Holidays Tariff 2, except for the following: Christmas and New Year. For the period between 6am on 24th December and 6am on 27th December and from 6pm on 31st

December to 6am on 2nd January, a supplement of £2 per journey may be added to Tariff 2, any such charge must be shown as an extra and incorporated on the meter.

SOILING CHARGE: A reasonable charge may be levied for restoration costs should you soil or damage this vehicle. The proprietor reserves the right to take civil action where necessary.

THIS TARIFF CARD TO BE CLEARLY DISPLAYED ON THE INTERNAL SIDE WINDOW AT ALL TIMES
COMPLAINTS/COMPLIMENTS RELATING TO THE DRIVER OR VEHICLE SHOULD BE MADE TO:

The Taxi Licensing Office Tel: (01484) 456 868

LICENCE NUMBER



FARES FOR HACKNEY CARRIAGES

(inclusive of VAT) from 16th June 2022

The following rates shall apply unless, at the start of hiring: **A FARE FOR THE JOURNEY IS AGREED BETWEEN HIRER AND DRIVER.**

THE TAXI METER WILL BE USED ON ALL JOURNEYS WITHIN KIRKLEES.

TARIFF 1	For hirings between 6am & 8pm if the distance does not exceed 600 yds or 120 sec. (or a combination of parts of such distance or time) For each additional 120 yds	£3.50 10p
TARIFF 2	For hirings between 8pm & 6am, if the distance does not exceed 600 yds or 146.9 sec. (or a combination of parts of such distance or time) For each additional 98 yards	£4.00 10p
TARIFF 3	For hirings between 6am & 8pm, (including one surcharge of 50p per journey when carrying more than 4 passengers) If the distance does not exceed 600 yds or 144 sec (or a combination of parts of such distance or time) For each additional 100 yards	£4.00 10p
TARIFF 4	For hirings between 8pm & 6am, (including one surcharge of 50p per journey when carrying more than 4 passengers) If the distance does not exceed 600 yds or 167 sec (or a combination of parts of such distance or time) For each additional 86 yards	£4.50 10p

OTHER CHARGES: Waiting time is included in the tariff at a rate of 10p for each completed 24 second period. Luggage carried outside the passenger compartment 5p per item.

SURCHARGE: For hirings on Bank and Public Holidays Tariff 2 will apply to 4 seat vehicles, Tariff 4 will apply to vehicles with more than 4 seats except for the following: Christmas and New Year. For the period between 6am on 24th December and 6am on 27th December and from 6pm on 31st December to 6am on 2nd January,

a supplement of £2 per journey may be added to Tariff 2 and Tariff 4 as appropriate, any such charge must be shown as an extra and incorporated on the meter.

SOILING CHARGE: A reasonable charge may be levied for restoration costs should you soil or damage this vehicle. The proprietor reserves the right to take civil action where necessary.

THIS TARIFF CARD TO BE CLEARLY DISPLAYED ON THE INTERNAL SIDE WINDOW AT ALL TIMES
COMPLAINTS/COMPLIMENTS RELATING TO THE DRIVER OR VEHICLE SHOULD BE MADE TO:

The Taxi Licensing Office Tel: (01484) 456 868

LICENCE NUMBER

Appendix 3



Kirklees Council
Licensing Service
PO Box 1720
Huddersfield
HD1 6LG
Tel: 01484 221000
Website: www.kirklees.gov.uk
E-mail - licensing@kirklees.gov.uk

Our Ref:

Dear Licence Holder,

HACKENY CARRIAGE TARIFF INCREASE 2022

I am writing to you following the recent consultation into the proposed increase of the hackney carriage fares.

In March you received a letter notifying you that the trade representatives had submitted a request to the licensing service to increase the fees. The request was:

The current start prices and times are as follows: -

Tariff	Start Price	Times
Tariff 1	£2.50	6am – 10pm
Tariff 2	£3.00	10pm – 6am
Tariff 3	£3.00	6am – 10pm
Tariff 4	£3.50	10pm – 6am

The requested increase are as follows: -

Tariff	Start Price	Times
Tariff 1	£3.50	6am – 8pm
Tariff 2	£4.00	8pm – 6am
Tariff 3	£4.00	6am – 8pm
Tariff 4	£4.50	8pm – 6am

From the table above you can see there has been a £1 increase in the start prices across all the tariffs and, the times have changed on Tariff 2 and Tariff 4 from 10pm to 8pm as requested. The times have also had to be amended for Tariff 1 and Tariff 3 so there is not overlap of the times.

The consultation period was from Thursday 17th March 2022 and ended at midnight on Thursday 31st March 2022.

During this period, the licensing service received 18 responses and one petition to the consultation. Due to the number of objections and alternative proposals put forward the decision has been taken to implement the fare increased proposed as an interim measure, this will take effect immediately.

It is recognised that the cost of fuel is still going up and we would like to engage further with you to find an agreed alternative proposal. Once this has been established the licensing service will then consult on the agreed proposal.

The reason for this decision is that it will take time to engage and consult to find a proposal that the majority agrees on and implementing the initial proposal will be an increase from the existing tariff during the process.

We are aware that this is a difficult time for the trade, given increases in fuel prices and the 'cost of living crisis' may result in less fee paying passengers, however, we want to make sure that the tariff increases are right for you all, in line with a consensus view. We will complete the informal engagement and consultation as soon as possible. We anticipate that the final changes will be agreed by Autumn 2022.

Attached to this letter are all the proposals submitted to the licensing service, please take the time to read each proposal carefully. Once you have considered them please either return the slip at the bottom of the page or alternatively email licensing at licenisng@kirklees.gov.uk with your proposed option no later than 15th July 2022

Yours sincerely



Fiona Goldsmith
Group Leader – Licensing

Objection 1: -

Good afternoon licensing

Hope your well?

I'm wanting to put in an objection to the new tariffs proposed.

I'd like to thank licensing first for assisting our trade during these difficult times due to the cost of living, fuel increases and other cost which has crippled our trade just as we have started to get back to some sort of normality.

Licensing gave us a go ahead for our current fares which was a pound increase on all tariffs and also tariffs 2/4 to start at 8pm. We have been using these tariffs now for over a month and so.

The feedback I'm getting from drivers is that this increase is enough at the moment. Both drivers and our customers are happy.

The customers I've picked up and spoken too are also very happy with paying the current fare, but they have also said if it increases anymore, they would have to think twice before getting our taxis.

See we are in a delicate situation here, who would not like a price increase? Yet we need to balance it between keeping customers and also keeping earning a decent wage.

As a taxi driver of a hackney carriage 6-seater. I would not be comfortable charging the new proposed rates of tariff 3/4.

For example, on a night picking up 6 people from train station £6 start but by the time I got to ring road lights it would be roughly showing £8 (yards reduced too) and we still classed as being in town canter, I just can't justify that at all.

I've spoken to a lot of our hackney carriage trade and again I must stress that the current fares are ideal and working for the trade.

Fiona has said in future we would be discussing with the trade about the hackney carriage fares every year, I see this as a great idea as previously we have had fare increases after years.

I really hope you take my objection in to consideration

If you would like to discuss further, please contact me.

Objection 2: -

Good evening

Id like to put in a objection to the new proposed fares.

I believe the new fare proposed will effect our trade massively as the cost of living effects everyone including our customers.

If these fares go ahead we will lose alot of customers which we cant afford.

The temporary fares which were given to us are perfect for our trade.

Objection 3: -

Good evening

I would like to object to the fare proposal being consulted as it seems to be unfair to the paying customers.

The cost of living is going up. We're all getting hit somewhere and to a greater or lesser extent, people can afford it or not afford it but a lot of families are getting squeezed and that's very apparent when reading the news. The working wage is not going up in line with the cost of living. It would be unfair and an added burden on customers as well as drivers if after the price increase we lose business. We have to be careful not to "price ourselves" out of the competitive market as people have choices, such as private hire and Uber.

The interim fare structure is fair and has worked well and as fuel prices are dropping I would suggest to keep the interim fare and on a later date decide if any alternations are required to the fare.

Support 1: -

To whom it may concern

I would like to represent my proposal. I vote for the increased proposal and not the current prices.

I agree with the tariff increases yards reduced with the adjusted timings.



Name of meeting: Licensing and Safety Committee

Date: Wednesday 5th October 2022

Title of report: Driver training policy

Purpose of report: The purpose of the report is to advise members of a minor change to the existing driver training policy and the proposed introduction of a fast-track application process for new driver applicants.

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 <u>Council's Forward Plan (key decisions and private reports)?</u>	Key Decision – No Private Report/Private Appendix –No
The Decision - Is it eligible for call in by Scrutiny?	No
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 26.09.22 Eamonn Croston – 22.09.22 Julie Muscroft - 21.09.22
Cabinet member portfolio	Councillor Will Simpson

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes there is no personal information contained in this report.

1. Summary

1.1 This purpose of this report is to update Members about a temporary change to the existing driver training policy that was made under delegated authority, by the Strategic Director for Environment and Climate Change; and to ask Members to make that temporary change permanent.

1.2 The purpose of this report is to also update Members on the proposal to introduce a fast-track application process for new applicants.

2. Information required to take a decision

2.1 At the meeting of the Licensing and Safety committee on 11th June 2019 members were presented with a report to introduce a new driver training policy. A copy of the policy approved by members adopted on 1st August 2019 can be found at **Appendix 1**.

2.2 Due to the pandemic new driver applications were stopped, when the service re-opened to new driver applications post pandemic the new driver training policy requirements commenced.

2.3 One of the requirements the policy is for all new driver applicants to pass an ESOL Entry 3 English Test in speaking, reading, and listening.

2.4 Demand for new driver applications has seen a steady increase over the months since the service reopened to new applicants and the service were being approached by applicants who have existing English or other qualifications that are at Entry 3 level or above. Applicants with the aforementioned qualifications were finding it difficult to book on for the ESOL qualification and therefore delays were being introduced and a bottleneck created.

2.5 As a result, a decision was taken under delegated authority by the Strategic Director for Environment and Climate Change to make a temporary change to existing policy and the requirement to take and pass the English test. The temporary change implemented was if an applicant produces evidence that they had undertaken a qualification at Entry 3 level or above, in the form of a certificate, and that the qualification has been achieved in the UK then they are permitted to pass to the next stage of the application process which is the Theory and knowledge training and test.

2.6 This decision has enabled applicants to pass through the application process much quicker and with less expense, without compromising the standards set by members.

2.7 Officers are now asking Members to amend the policy on a permanent basis so as to allow applicants who can produce evidence that they have a qualification at entry 3 level or above achieved in the UK to not be required to undertake the ESOL English Assessment.

2.8 In addition the licensing service is proposing the introduction of a new fast track application process for those applicants who want to get through new badge application process quickly. There will be an additional cost to the applicant which will be calculated during the review of the fees which will be presented to members at the Licensing and Safety Committee in December, with a view to commencing the new process on 1st April 2023.

2.9 To help facilitate the fast-track process the service are looking at options to recruit a dedicated training officer who will sit in the Licensing Team and who will deliver the theory training/test and knowledge test and English test assessments in house. There will be group sessions put on throughout the year for new applicants, and those who wish to fast track through the process will be able to pay for one-to-one sessions with the training officer to progress through the application process at a faster rate.

2.10 The aims and objectives of this is to provide an efficient and flexible approach to our customer service, without compromising on the high standards set or the safety of the travelling public.

3. Implications for the Council

3.1 Working with People

One of the Licensing Services key priorities is to ensure that there is a raising of standards across the hackney carriage and private hire trades in order to protect the travelling public; and to ensure people are transported safely and protected from harm but in Kirklees and across West Yorkshire; and that people in Kirklees experience a high quality, clean, sustainable and green environment, as well as improve the customer experience.

The driver training policy is a key aspect in this, while also providing a flexible customer journey for the applicants.

3.2 Working with Partners

In developing its policies, the licensing service works with a number of partners including, Kirklees Safeguarding Adults and Children's Boards, West Yorkshire Police, Public Health, Environmental Health, Community Safety Partnership, other West Yorkshire Authorities (including York) and the hackney carriage and private hire trades, as well as many others.

3.3 Place Based Working

Having a robust but flexible driver training policy will ensure that the travelling public across the whole of the Kirklees district and within the wider region feel safe and give them the knowledge that our licensed drivers all meet the standards as set out in our policy.

3.4 Climate Change and Air Quality

There is no specific impact in the context of this report.

3.5 Improving outcomes for children

The Council wants to ensure that children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm. The Council has a duty to protect the travelling public and safeguard children travelling in licensed vehicles and for the purposes of school transport. The respective working groups will enable the licensing service and the trade to improve safeguarding and address any issues relating to such.

3.6 Financial Implications of people living or working in Kirklees

A high proportion of new applicants are residents of Kirklees, the relaxation of the requirement to undertake the English test for those who have qualifications that match or are above that of Entry 3 means they will not have the additional cost of having to undertake the English Test.

In addition the introduction of the fast-track application process, although more costly, will enable new applicants to get their licence quicker and will be able to commence working.

3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Legal

The proposed changes to the processes ought not increase any legal risks to the service or to Kirklees.

Financial

There will be additional administrative costs in implementing the two changes. However, these will be marginal and recoverable by the comprehensive fee review and/or the introduction of a new fee for 'fast track' applications.

Human Resources

There is an intention to recruit a dedicated officer to implement the changes to the training and fast track elements of this policy.

4. Next steps and timelines

4.1 If members agree to the proposed amendment to the driver training policy to make permanent the temporary change to the requirement that all applicants must undertake the English test then the service will continue to accept certificates or evidence of qualifications at Entry 3 level or above.

4.2 The fast-track process for new applicants will be introduced on 1st April 2023 once the service have recruited an in house training officer and set the fee which will be brought to members at a future meeting.

5. Officer recommendations and reasons

5.1 Members are recommended to: -

- Note the report.
- Agree to make permanent the temporary change in policy that If an applicant produces evidence that they had undertaken a qualification at Entry 3 level or above, in the form of a certificate, and that the qualification has been achieved in the UK then they are permitted to pass to the next stage of the application process which is the Theory and knowledge training and test.
- Agree to the proposed fast-track application process and ask officers to bring a report back to the licensing and safety committee with further details about the timescales and fees.

6. Cabinet Portfolio Holder's recommendations

Councillor Will Simpson has no additional comments.

7. Contact officer

Fiona Goldsmith
Public Protection Group Leader – Licensing

01484 221000 (ext 79921) or Fiona.goldsmith@kirklees.gov.uk

8. Background Papers and History of Decisions

[summary report template \(kirklees.gov.uk\)](#)

9. Service Director responsible

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HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER TRAINING POLICY

INTRODUCTION

Calderdale, Leeds, Kirklees, Wakefield, and York all recognise that the role of Hackney Carriage and Private Hire Drivers is a professional one. Hackney Carriage and Private Hire Drivers transport our most vulnerable persons and are often the first point of contact for visitors to each of the authorities.

The reason for this policy is to ensure that the travelling public within West Yorkshire West Yorkshire and York can be confident that the drivers licensed by each authority have been trained to the highest standard and to a standard which is consistent across the West Yorkshire and York region.

We will ensure that all applicants wishing to train as Hackney Carriage or Private Hire Drivers will know that the requirements will be the same for whichever authority they choose to apply to.

1. REQUIREMENTS

The requirements that all new applicants will have to undertake are:

- An Advanced Taxi driving test
- An English test
 - ESOL Entry 3 in Speaking, Listening and Reading
- Local knowledge test
 - Local Tourism and routes to places within the authority for which you are applying
 - Local Conditions/policies/bylaws
- Regulatory framework (Legislation) of the private hire and hackney carriage industry and test
 - Local Government (Miscellaneous) Provisions Act 1976
 - Town Police Clauses Act 1847
 - Highways Act 1980
- Professional standards training and test:
 - Health and safety (Personal Safety/Passenger Safety)
 - Professional customer service (Assisting Customers)
 - Fares
 - How to drive safely and efficiently
 - Providing a safe and legal vehicle
 - Transport parcels, luggage and other items
- Safeguarding training and test:
 - Adults safeguarding
 - Children safeguarding
 - Vulnerable passengers
- Equalities/disability training and test
 - Wheelchair users

- Users with assistance dogs
- Elderly passengers
- Recognising non visible disability
- Practical wheelchair course (for all drivers of wheelchair accessible vehicles)

2. TESTING

Advanced Taxi Driving Test	Practical Assessment (any providers recognised by each authority will be acceptable)
An English Test	Practical Assessment, ESOL Entry 3 in Speaking, Reading and Listening
Local Knowledge Test	Requirement to achieve a pass rate specified by the authority that you are applying to. (will have questions specific to each area and cannot be transferred)
Regulatory Framework of the Hackney Carriage and Private Hire Industry and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Professional Standards Training and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Safeguarding Training and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Equalities/Disability Training and Test	Requirement to achieve a 80% pass rate (these questions will cover the same topics for all authorities)
Practical Wheelchair Course (for all Drivers of Wheelchair Accessible Vehicles)	Practical Assessment

You will be required to carry out the training specified by the authority in which you are applying and each authority will have different approved providers and/or approved methods for delivering the training and testing procedure. However, it will cover the above requirements to the same standard. Costs at each authority may vary for each aspect of the training.

Where a module has a test associated with it, there will be, within that test, certain questions that an applicant must answer correctly. If an applicant fails to answer these questions correctly, then the test will be classed as a fail, irrespective of whether the pass mark has been achieved or not.

All new applicants will be required to complete and pass the training programme.

The aspects of the training shown in section 3 of the policy will have to be carried out by all existing drivers prior to the renewal of their application. New drivers must have completed all training within the twelve month period following the submission date of their application.

If the module requires the training material to be given in advance; this will be provided either by the local authority or the training provider when you confirm your booking onto the course.

The training must be completed before an application will be accepted.

3. REFRESHER TRAINING

Once completed (by new applicants or at renewal), there will be a number of the modules which will require refresher training every three years, to ensure that all current drivers remain up to date with current industry legislation and practice, these will be:-

- Regulatory Framework of the Private Hire Industry
- Professional Standards Training
- Safeguarding Training
- Equalities/Disability Training
- Practical Wheelchair Course (for all Drivers of Wheelchair Accessible Vehicles)
- Any other training, such as any legislation changes

4. OTHER REASONS FOR HAVING TO COMPLETE MODULES

There may be occasion for the licensing authority to require an existing licensed driver to complete and pass one or more of the training modules. This may be the result of a substantiated complaint, for example, about the standard of English, the standard of driving, the standard of customer care, attitude of the driver (this list is not exhaustive) or if the licensing authority believes that a driver's standard of driving or behaviour falls below the standards required.

The West Yorkshire Authorities including York firmly believes that safe, suitable and professional trained Hackney carriage and Private Hire drivers are an asset to the West Yorkshire and York region as a whole. We wish to set standards on a par or above that of our neighbouring regions to ensure the safety of the travelling public within our region.

Name of meeting: Licensing and Safety Committee

Date: Wednesday 5th October 2022

Title of report: Review of Hackney Carriage and Private Hire Statement of Fitness and Suitability Policy

Purpose of report: The purpose of the report is to seek approval from members to commence on a consultation in relation to the proposed changes to the Council's current suitability policy following its 3-year review.

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 <u>Council's Forward Plan (key decisions and private reports)</u>?	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>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 26.09.22 Eamonn Croston – 22.09.22 Julie Mushcroft – 22.09.22
Cabinet member portfolio	Councillor Will Simpson

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes – there is no personal data contained in this report.

1. Summary

1.1 The purpose of the report is to seek members approval to commence a consultation following the three-year review of the Hackney Carriage and Private Hire Statement of Fitness and Suitability Policy. See **Appendix 1** for the draft amended Statement of Fitness and Suitability Policy.

2. Information required to take a decision

2.1 At the meeting of the Committee the 6 July 2022, officers presented a report to members outlining concerns being raised about the Council's statement of fitness and suitability in relation to the licensing of private hire / hackney carriage drivers.

2.2 Officers informed Members that it was normal practice for a policy to be reviewed every three to five years, and as the current fitness and suitability policy had been in place since Aug 2019, it may be an appropriate time to review that policy.

2.3 Members agreed and instructed officers to look at the concerns being raised and review the policy.

2.4 Officers have worked closely with the Council's Corporate Policy team to look at the policy and what, if any, changes can / need to be made.

2.5 Following that review officers are now able to present the proposed revisions to the policy. A copy of the proposed revised policy is at **Appendix 1**.

2.6 While the wording of some sections has changed then main change is to the minor traffic convictions. Having considered the concerns raised over this section, officers feel the revision strikes the right balance between protecting the public and addressing the concerns raised.

3. Implications for the Council

3.1 Working with People

The residents of Kirklees need to be confident that the policies and procedures relating to the licensing of the private hire and hackney carriage trade are robust and that the protection of the public is at the heart of all policy matters and decision making.

Having a suitability policy that sets a high standard is part of the process to ensure that public confidence can be achieved.

3.2 Working with Partners

The licensing service work closely with partners both within the Authority, such as Environmental Health, Planning, Public Health etc, and also external partners, such as other West Yorkshire Authorities, Trade Representatives, West Yorkshire Police and ensure that all views are taken into account.

3.3 Place Based Working

There is no impact in the context of this report.

3.4 Climate Change and Air Quality

There is no impact in the context of this report.

3.5 Improving outcomes for children

The Council wants to ensure that children have the best start in life and to ensure that the people of Kirklees feel safe and are protected from harm.

The Council has a duty to protect the travelling public and safeguard children in licensed vehicles, and more specifically, for the purposes of home to school transport.

3.6 Financial Implications of people living or working in Kirklees

There are no financial implications for people living or working in Kirklees.

3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Legal

No significant concerns.

Finance

There are no direct financial implications in the context of this report. However, should members be minded agreeing to consult on the proposed changes there will be cost implications in relation to officer time and other associated costs involved in carrying out a consultation.

Integrated Impact Assessment

An Integrated Impact Assessment was completed as part of the initial adoption of the suitability policy and can be seen at **Appendix 2**.

If members resolve to carry out the consultation in relation to the proposed changes or other changes the Integrated Impact Assessment will also be reviewed and updated.

4. Next steps and timelines

4.1 For members to consider the proposed and take a decision on whether to instruct officers to carry out a consultation on the draft proposed changes.

4.2 For members to consider the length of time the consultation should be held for; it is usually for a consultation to be carried out over a three-month period.

5. Officer recommendations and reasons

It is recommended that members instruct officers to commence a three-month consultation in relation to the proposed changes shown in the draft fitness and suitability policy shown at **Appendix 1**.

Options: -

- I. Instruct officers to commence a three-month consultation in relation to the proposed changes shown at Appendix 1.
- II. Suggest any further amendments to the draft policy, shown at Appendix 1, and instruct officers to commence a three-month consultation.
- III. Agree not to implement any of the proposed changes or conduct a consultation and keep the policy as existing as adopted in August 2019.

6. Cabinet Portfolio Holder's recommendations

Councillor Will Simpson has no additional comments.

7. Contact Officer

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8. Background Papers and History of Decisions

Adoption of current policy [Agenda for Licensing and Safety Committee on Wednesday 13th March 2019, 10.00 am | Kirklees Council](#)

9. Service Director responsible

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Kirklees Licensing

A policy on determining the suitability of Applicants and Licensees as Drivers in Taxi and Private Hire Licensing



A Policy on determining the suitability of Applicants and Licensees as Drivers in Taxi & Private hire licensing.

Introduction

1. The West Yorkshire and York licensing authorities, which consists of Bradford, Calderdale, Leeds, Kirklees, Wakefield and York, recognises that the role of Hackney Carriage and Private Hire Drivers is a professional one. Hackney Carriage and Private Hire Drivers transport our most vulnerable persons and are often the first point of contact for visitors to each authority.
- ~~2. The reason for this policy is to ensure that the travelling public within West Yorkshire and York can be confident that the drivers licensed by each authority are suitable for this role, that the standards applied are consistent across each Authority area and that the requirements will be the same for whichever authority they choose to apply to.~~
2. The reason for this policy is to ensure that the travelling public within West Yorkshire and York can be confident that the drivers licensed are suitable for this role and vehicles licensed are fit for purpose. Where possible policies will be consistent throughout West Yorkshire and York, but subject to specific conditions of each authority.
3. It is a function of the Council to issue Hackney Carriage and Private Hire licences under the Local Government Miscellaneous Provisions Act 1976.
4. The overriding requirement of the Council when carrying out this function is the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. The aim of this policy is to ensure that public safety is not compromised.
5. The Council must ensure that applicants/licence holders are and remain fit and proper to hold a licence. This policy will apply to all new applicant and to existing licensees on renewal. This requirement is contained within Sections 51 & 59 of the Local Government Miscellaneous Provisions Act 1976.
6. This policy categorises the types of issues including, crime and driving convictions that form part of the “fit & proper” test to facilitate the assessment of the potential risk to the public. As part of this assessment the Council is concerned to ensure that
 - An individual does not pose a threat to the public.
 - The Council's obligations to safeguard children and vulnerable adults are met.
 - The public are protected from dishonest persons.
7. The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi

services. The Council does **not** have to strike a balance between the driver's right to work and the public's right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration. **The impact on a person's family of losing/not obtaining a licence is not a relevant consideration and is not part of the fit and proper consideration.**

8. Taxis are used by almost everyone, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated. A taxi driver has significant power over a passenger who places themselves, and their personal safety, in the driver's hands.
9. As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes of actions taken by the Police, other agencies and the Civil Courts. **Other agencies may include (this list is not exhaustive), other licensing authorities, DVS (Driver and Vehicle Standards Agency), other Local Authority/Government departments or agencies.**
10. Reference to convictions in this policy also includes **official** cautions, warnings, **and** reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information. These must be reported to the Council in the format and timescales stated in the relevant policy. In addition, any circumstances relating to the licensee is potentially relevant if it is relevant to their safety and suitability to hold a licence. **The reason for this is so that the Licensing authority has as much information as possible in order for an informed decision to be taken.**
11. Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) will be taken into account by the Council. In addition, complaints where there was no police involvement will also be considered, **this will not automatically result in action being taken against the driver should the complaint be found to be vexatious, false or lacking in evidence.**
12. In the case of a new applicant who has been charged with any offences and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn.
13. In all cases, the Council will consider a conviction or behaviour and what weight should be attached to it, and each case will be decided on its own merits and in line with this policy.
14. The licensing process places a duty on the Council to protect the public. Therefore, it is essential that those seeking a living as a driver meet the required standards. As previous offending and other behaviour can be considered as a predictor in determining future behaviour, it is important that the Council considers all relevant factors including previous convictions, cautions, complaints, failures to comply with licence conditions, and the time

elapsed since these were committed.

Applying the Guidance

15. One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is fit & proper to hold a hackney carriage or private hire driver's licence. **There are an extremely wide set of circumstances that the policy must cover so may not cover ever specific circumstance but can be used as a guideline for both prospective applicants and existing licence holders as well as the officers are making a decision. All officers involved in the decision-making process are suitably trained and deemed competent by the Authority and have a duty to ensure that the travelling public can be confident that the drivers licensed by the authority are suitable.**
16. When determining whether or not a person is "fit & proper" to become or remain a licensed driver each case will be decided on its own merits and the Council shall only depart from this Policy in exceptional circumstances.
- ~~17. There must be clear and compelling reasons for the Council to depart from this policy. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered exceptional circumstances nor will the impact of losing (or not being granted) a licence on the applicant and/or his family.~~
17. **There must be clear and compelling reasons to depart from this policy and the reasons for departure must be justified. As each case is decided on its own individual merits, it is difficult to outline circumstances where a departure from the policy would meet that justification. However, the following are examples of what would not, under normal circumstances be classed as exceptional circumstances, albeit they are still relevant factors and will therefore be taking into account: -**
 - **The otherwise good character of a driver / applicant**
 - **A clean driving record**
 - **Absence of knowledge of wrongdoing**
18. The granting of a licence places an individual in a unique position of trust and they are expected to act with integrity and demonstrate conduct befitting of the trust placed in them. For this reason, whilst it is possible for an applicant or existing licence holder to have convictions that individually comply with the policy, the overall offending history and conduct of the applicant/licence holder will be considered. Appropriate weight will be applied where a series of convictions/incidents have been incurred over a period of time.

19. The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If, **at any time during the duration of a licence**, an existing licence holder's conduct **is found to be such that they no longer meet** ~~falls short of~~ the "fit and proper" standard of behaviour ~~at any time~~, their licence will be revoked. **Each case will be considered on its own merits and any licence holder who is aggrieved by a decision to refuse, suspend or revoke a licence has the right of appeal to the Magistrates Court.**
20. Where a licence would normally be granted after an elapsed period, there may be circumstances where the elapsed period will be extended.
21. Any foreign offence disclosed by the applicant/licence holder or revealed on an enhanced Disclosure & Barring Service Disclosure will be dealt with in line with this Policy.
22. Any concerns, issues, incidents or convictions/offences not covered by this Policy will not prevent the Council from taking them into account. **Every circumstance is different, and each case will be considered on its own merits and any decision taken is taken by an officer who is suitably trained and deemed competent by the Authority.**

Disclosure and Barring Service

23. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that **ALL** convictions (including minor motoring convictions and **all** fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale.
24. The Council conducts enhanced disclosures from the Disclosure and Barring Service ("DBS") of any applicant for a drivers licence. Applicants will be required to obtain an enhanced disclosure at their expense and to subscribe to the Disclosure and Barring Update Service.
25. Any information contained in the Enhanced DBS Certificate that identifies an individual as not suitable to work with children or vulnerable adults will normally be refused.
26. The Council is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations. **All complaints are recorded**

on the Council's database and document management systems and will remain on file for the duration the licence holder keeps their licence and will be disposed of in line with the council's retention schedule.

27. In determining safety and suitability the Council is entitled to take into account all matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their entire character including, but not limited to, their attitude and temperament. **Any person aggrieved by a decision taken has the right of appeal to the Magistrates Court.**
28. Any applicant who has resided outside the UK for any period longer than 6 months within the preceding 3 years will be required to produce a certificate of good conduct dated in the last 3 months which details any convictions or cautions recorded against the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. Alternatively you may be required to produce a Statutory Declaration dated in the last 3 months.
29. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a "fit and proper person" to hold a licence. Therefore, the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside the UK. A failure to report such convictions, cautions, warnings, reprimands, **all** fixed penalties, arrests, and summonses will be given significant weighting.
30. Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the "fit and proper" test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would have prevented them from being granted a licence will lead to the licence being revoked. **All persons aggrieved by the decision of the council have the right of appeal to the Magistrates Court.**
31. Any dishonesty by any applicant or other person acting on the applicant's behalf which occurs in any part of the application process will result in a licence being refused, or if already granted, revoked and may result in prosecution.
32. An applicant must hold a full DVLA driver's licence, have the right to remain and work in the UK and be a "fit and proper" person.
33. Under the Local Government (Miscellaneous Provisions) Act 1976 section 57, the Council has the power to require an applicant to provide:

"such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions

should be attached to such licence.”

The provision of this information can help to satisfy the Council that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of “fit and proper” and “safety and suitability” go beyond this. There is the character of the person to be considered as well.

34. The character of the applicant in its entirety is the paramount consideration when considering whether they should be licensed. The Council is not imposing an additional punishment in relation to previous convictions or behaviours. The information available to them is used to make an informed decision as to whether or not the applicant is a safe and suitable person.
35. The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour. **Each case will be considered on its own merits.**
36. Licensees are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
37. There are those who seek to take advantage of vulnerable people by providing services they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. The Council expects licensees to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers must feel able to check that the person offering a service is entitled to do so. Licensees must be willing to demonstrate that they are entitled to provide the service offered by, for example, showing their badge. Any applicant or licensee who does not comply with the requirements set out in this paragraph will not meet the “fit and proper” test.

Criminal Convictions

38. The Council considers that a period of time must elapse after a crime before a person can no longer be considered to be at risk of re-offending. The timescales set out in Table A are to reduce the risk to the public to an acceptable level.
39. In relation to single convictions Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a

fine was imposed) before a licence will be granted. **Table B sets out the Councils position in relation to minor motoring offences.**

40. The Council will look at the entirety of the individual and in some cases the suitability will not be determined simply by a specified period of time having elapsed following a conviction or the completion of a sentence. The time periods are a relevant and weighty consideration but they are not the only determining factor.
41. In addition to the nature of the offence or other behaviour, the Council will also consider the quantity of matters and the period of time over which they were committed. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
42. This policy does not replace the Council's duty to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by this policy the Council must consider the matter from first principles and determine the fitness of the individual.
43. Once a licence has been granted there is a continuing requirement on the part of the licensee to maintain their safety and suitability to meet the "fit and proper" test.
44. Some offences on their own are serious enough for a licence not to be granted and these identified Table A. In the case of an existing licence "refused" in the Table means "revoked".
45. Applicants and licensees should be aware that where they have been convicted of a crime which has resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.
46. Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological or financial abuse.
47. The Council will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any "barred" list. Existing licensees who are placed on the Sex Offenders Register or on any "barred" list will have their licence revoked.

Driving Convictions

48. Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a

conviction. Fixed penalties and community resolutions will also be considered in the same way as convictions.

49. Road Safety is a major priority to the Council. A taxi driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in their vehicle. As those passengers may be alone, and may also be vulnerable, any driving convictions or unacceptable behaviour whilst driving will weigh heavily against a licence being granted or retained.
50. Taxi drivers are professional drivers charged with the responsibility of carrying the public. Any motoring convictions demonstrate a lack of professionalism and will be considered seriously. Whilst it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action taken against an existing licence, subsequent convictions would indicate that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Decision and Right of Appeal

51. Where the Council is minded to refuse an application or suspend or revoke an existing licence in line with this policy the applicant or existing licence holder will be informed and be given an opportunity to provide any additional written evidence in support of their application or retention of their licence.
52. The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion. **The representative is able to ask for the meeting to be adjourned if they feel the applicant or existing licence holder is in need of a break, further clarification, a legal representative or an interpreter.**
53. The Applicant or existing licence holder will be notified in writing of the Council's final decision.
54. Any person whose application is refused or licence suspended or revoked by the Council has a right of appeal to the Magistrates' Court. An Appeal must be lodged within 21 days of the decision at the appropriate Magistrates' Court. Appeal rights are contained in Section 77 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II) and Section 300 of the Public Health Act 1936.

TABLE A

Offence	Period Elapsed
Crimes resulting in death of another person or was intended to cause the death or serious injury to another person.	No period is thought sufficient to have elapsed and the application will be refused.
Exploitation – any crimes involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victims were adults or children including, for example: slavery, child sexual exploitation, grooming, psychological, emotional, or financial abuse.	No period is thought sufficient to have elapsed and the application will be refused.
Offences involving violence (including arson, riot, terrorism offences, harassment, common assault & criminal damage) or connected with any offence of violence.	10 years
Possession of a weapon or any other weapon related offence.	7 years
Sex and indecency offences – any offence involving or connected with illegal sexual activity or any form of indecency.	No period is thought sufficient to have elapsed and the application will be refused.
Dishonesty – any offence of dishonesty, or any offence where dishonesty is an element of the offence.	7 years
Drugs supply – any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply.	10 years
Drugs use – any conviction for possession of drugs or related to possession of drugs.	5 years

Discrimination – any conviction involving or connected with discrimination in any form.	7 years
Drink driving/driving under the influence of drugs.	7 years
Driving whilst using a hand-held telephone or other device.	5 years
Major traffic or vehicle related offences – offences not covered under minor traffic or vehicle related offences and also any offence which resulted in injury to a person or damage to any property (including vehicles), driving without insurance or any offence relating to motor insurance.	7 years
Hackney carriage and private hire offences. This relates specifically to any offence listed in the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and any other legislation that may be brought in relating to Hackney Carriage and Private Hire Licensing.	7 years
Vehicle use offences, for example being carried in vehicle without the owner's consent.	7 years.

Table B

<u>Minor Traffic Offences</u>
<p>Minor traffic or vehicle offences do not include offences involving: -</p> <ul style="list-style-type: none"> • Loss of life • Driving whilst under the influence of drink or drugs • Driving whilst using a handheld telephone or device • No insurance • Offences which have resulted in injury to any person or damage to any property (including vehicles) <p>1. A licence will not normally be granted for new applicants where the minor motoring offences have resulted in 9 or more points being endorsed on their DVLA driving licence. Where an applicant has 7 or 8 current points on their DVLA driving licence, in exceptional circumstances, an application may be</p>

granted subject to the applicant completing an additional driver safety assessment as deemed appropriate by the Licensing Authority.

2. For existing licensed drivers where the minor motoring offence(s) has resulted in 6 or less penalty points being endorsed on their DVLA driving licence and fail to notify the licensing authority a warning and advise letter will be issued.
3. Where, as a result of minor traffic or vehicle offences, an existing driver has 7 or 8 penalty points endorsed on their DVLA driving licence they will be required to pass a practical 'hackney carriage / private hire' driving test using one of the Council's approved testers and at their own cost. The driver will be given 3 opportunities to pass the test, failure to pass on the third attempt will result in a review of their hackney carriage / private hire drivers licence and it is likely that they will no longer be considered a 'fit and proper' person to hold a licence.
4. Where as a result of minor traffic or vehicle offences an existing driver obtains 9 or more penalty points on their DVLA driving licence, and has (this list is not exhaustive): -
 - Previously been required to attend and pass a 'hackney carriage / private hire' practical driving test, or
 - There are other compounding factors such as failure to declare any of the minor traffic convictions in question, in accordance with the conditions attached to the licence, or
 - Has received a warning for minor motoring convictions, or
 - Any other convictions, or
 - Any other detrimental information recorded against them, i.e. complaints from members of the public about their standard or driving or attitude, etc.

Consideration will be given for the revocation of their licence unless there are any exceptional circumstances as to why revocation should not take place. Each case will be considered on its own merits.

In all other cases where a driver obtains 9 or more penalty points on their DVLA driving licence, and none of the above applies, consideration will be given to send the driver on a 'hackney carriage / private hire' practical driving test, at the cost of the driver and they will receive a final written warning that will remain on their file. Failure to pass the driven test first time, will normally result in the licence being revoked.

5. MS90 Offences – Offences under Section 172 of the Road Traffic Act 1988 – Failure to give information as to identity of driver, will be classed as a minor traffic offence, unless of the balance of probabilities, there is evidence to show the failure to give information was an intentional act to evade points being endorsed on the licence. Where such evidence exists, the offence will be classed as a major traffic offence.

When making the decision on the suitability of a driver who has committed an MS90 offence, the licensing authority will also take into account the underlying offence for which the MS90 was triggered.

A guide to equality Impact Assessments (EIAs)

What are Equality Impact Assessments (EIAs)?

- EIAs are a **tool to help you analyse and make more considered decisions** about changes to service delivery, policy and practice. An EIA will help you to identify how specific communities of interest may be affected by decisions and to consider any potential discriminatory impact on people with **protected characteristics**.
- EIAs can also help to improve or promote equality by encouraging you to **identify ways to remove barriers and improve participation** for people with a protected characteristic.

Why do we need to do Equality Impact Assessments (EIAs)?

- Although not a mandatory requirement, EIAs provide important **evidence** of how we have considered the implications of service and policy changes and demonstrate how we have met our legal Public Sector Equality Duty (Equality Act 2010).
- The three main elements of the **Public Sector Equality Duty** are:
 - ✓ Eliminating discrimination
 - ✓ Promoting equality of opportunity
 - ✓ Fostering good relations
- In fulfilling our Public Sector Equality Duty we must ensure that we demonstrate that we have followed a number of key **principles** (based on previous case law):
 - ✓ Knowledge
 - ✓ Timeliness
 - ✓ Real consideration
 - ✓ Sufficient information
 - ✓ No delegation
 - ✓ Review
 - ✓ Proper record keeping

- We need to provide evidence that we have given **due regard to any potential discriminatory impact on people with protected characteristics** in shaping policy, in delivering and making changes to services, and in relation to our own employees.
- We must always consider whether a service change, decision or policy could have a discriminatory impact on people with protected characteristics, not just any impact that is the same as it would be for everyone else.
- The EIA tool allows us to **capture, demonstrate and publish our rationale** of how we have considered our communities and legal responsibilities under the Public Sector Equality Duty and is our main way of providing the evidence needed.
- **But above all, EIAs are about understanding and meeting the needs of local people and supporting us to deliver our vision for Kirklees.**

When do we need to do Equality Impact Assessments (EIAs)?

- Whenever you plan to **change, introduce or remove** a service, activity or policy.
- At the **VERY BEGINNING** of any process of:
 - ✓ Budget setting
 - ✓ Service review (including changes to employment practice)
 - ✓ Planning new projects and work programmes
 - ✓ Policy development and review
 - ✓ Procurement or commissioning activity

Who should do it?

- Overall responsibility for EIAs lies at a **service** level. A lead officer should be appointed from the service area that is making a proposal and all decisions should be approved by the senior management team in that service.
- Those directly affected (partners, stakeholders, voluntary groups, communities, equality groups etc) should be engaged with as part of the process.

How should we do it?

- Our EIA process has two stages:
Stage 1 - initial screening assessment
Stage 2 - further assessment and evidence

EIA STAGE 1 – SCREENING TOOL (initial assessment)

The purpose of this screening tool is to help you consider the potential impact of your proposal at an early stage.

Please give details of your service/lead officer then complete sections 1-3:

- 1) What is your proposal?
- 2) What level of impact do you think your proposal will have?
- 3) How are you using advice and evidence/intelligence to help you?

You will then receive your stage 1 assessment score and advice on what to do what next.

Directorate:	Senior Officer responsible for policy/service:
Environment Service	Wendy Blakeley
Service:	Lead Officer responsible for EIA:
Public Protection	Samantha Lawton and Russell Williams
Specific Service Area/Policy:	Date of EIA (Stage 1):
Licensing (Taxi's)	29/05/2019

1) WHAT IS YOUR PROPOSAL?	Please select YES or NO
To introduce a service, activity or policy (i.e. start doing something)	YES
To remove a service, activity or policy (i.e. stop doing something)	NO
To reduce a service or activity (i.e. do less of something)	NO
To increase a service or activity (i.e. do more of something)	NO
To change a service, activity or policy (i.e. redesign it)	YES
To start charging for (or increase the charge for) a service or activity (i.e. ask people to pay for or to pay more for something)	YES
<p>Please briefly outline your proposal and the overall aims/purpose of making this change:</p> <p>Introduce a new and revised convictions policy developed with the other West Yorkshire and York Council authorities and a new West Yorkshire driver training policy. The West Yorkshire developed policies have been supported by West Yorkshire Combined Authority and the local regional authorities to ensure the draft policy has been developed and the changes introduced so as to ensure the public can be confident the service is meeting its safeguarding duties, ensuring it is not compromising passenger safety and deliver a much better service for our customers. The purpose and vision of the changes is to ensure there is a raising of standards and skills amongst taxi drivers in order to protect the travelling public; and ensure people across West Yorkshire are transported safely and protected from harm. This will enhance the workforce and ensure that as a licensing authority we are taking our responsibilities against child sexual exploitation and safeguarding extremely seriously and putting appropriate measures in place.</p>	

2) WHAT LEVEL OF IMPACT DO YOU THINK YOUR PROPOSAL WILL HAVE ON...		Level of Impact
		Please select from drop down
Kirklees employees within this service/directorate? (overall)		Very Positive
Kirklees residents living in a specific ward/local area?		Positive
Please tell us which area/ward will be affected:		All Wards
Residents across Kirklees? (i.e. most/all local people)		Very Positive
Existing service users ?		Negative
Each of the following protected characteristic groups ?		Please select from drop down
<i>(Think about how your proposal might affect, either positively or negatively, any individuals/communities. Please consider the impact for both employees and residents - within these protected characteristic groups).</i>		
...age	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Negative
...disability	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...gender reassignment	What impact is there on Kirklees employees /internal working practices?	Neutral

	What impact is there on Kirklees residents /external service delivery?	Neutral
...marriage/ civil partnership	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...pregnancy & maternity	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...race	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Not Known
...religion & belief	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...sex	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral
...sexual orientation	What impact is there on Kirklees employees /internal working practices?	Neutral
	What impact is there on Kirklees residents /external service delivery?	Neutral

3) HOW ARE YOU USING ADVICE AND EVIDENCE/INTELLIGENCE TO HELP YOU?		Please select YES or NO
Have you taken any specialist advice linked to your proposal? (Legal, HR etc)?		YES
Do you have any evidence/intelligence to support your assessment (in section 2) of the impact of your proposal on...	...employees?	NO
	...Kirklees residents?	NO
	...service users?	YES
	...any protected characteristic groups?	YES
<p>do you have any evidence/intelligence to support your assessment (in section 2) of the impact of your proposal on:- Although the licensing service do not routinely collect information on a person's ethnicity, experience and day to day dealings with the private hire and hackney carriage trades show the vast majority of private hire and hackney carriage licence holders are from a minority ethnic background, where english may not be their first language. In additon, the age of licence holders ranges from those in their early 20's up to and beyond retirement age.</p>		
		Please select from drop down
To what extent do you feel you are able to mitigate any potential negative impact of your proposal on the different groups of people outlined in section 2?		TO SOME EXTENT
To what extent do you feel you have considered your Public Sector Equality Duty?		FULLY

STAGE 1 ASSESSMENT

IMPACT	RISK
Based on scoring of 1) and 2)	Based on scoring of 2) and 3)
1	7
SCORE (calculated) Max = - / + 32	SCORE (calculated) Max risk = - / + 40

You need to move on to complete a Stage 2 assessment if:

The final Impact score is negative and or the Risk score is negative.

Go back



Name of meeting: Licensing and Safety Committee

Date: Wednesday 5th October 2022

Title of report: Decision Making - Hackney Carriage and Private Hire Licensing

Purpose of report: For members to consider and resolve a decision-making process relating to the hackney carriage and private hire licensing service.

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 <u>Council's Forward Plan (key decisions and private reports)?</u>	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>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 26.09.22 Eamonn Croston – 22.09.2022 Julie Muscoft – 22.09.2022
Cabinet member portfolio	Councillor Will Simpson

Electoral wards affected: ALL

Ward councillors consulted: None

Public or private: Public

Has GDPR been considered? Yes, there is no personal data contained in this report.

1. Summary

1.1 This report is a result of the consultation for the Department for Transport's Statutory Standards, specifically relating to decision making for the Hackney Carriage and Private Hire Service.

2. Information required to take a decision

2.1 Currently decision making for hackney carriage and private hire licensing is delegated to the Group Leader – Licensing.

2.2 The guidance issued by the Department for Transport recommends that decision making should be the responsibility of a panel of suitably trained elected members.

2.2 The results of the consultation showed that many respondents agreed that decision making should not be the sole responsibility of one person.

2.3 A number of the comments received back from the consultation also suggested that other persons should be a part of the decision-making process, such as:

- Trade Representatives
- Through consultation with the drivers and by calling a meeting
- A group of leaders
- DVLA
- The private hire operator the driver works for

However, to involve any of the above would not be an option due to the sensitive and personal information that disclosed and would be breach of GDPR. Ultimately, it is for the Licensing Authority to make the decision and officers currently take account of information taken from some if not all of these sources.

2.4 At the meeting of the Licensing and Safety Committee on Wednesday 6th July 2022 members instructed officers to investigate possible options relating to decision making and the implications for those options and present a more detailed report.

2.5 A number of options for decision making have been identified from the consultation responses received, these options including pros and cons, can be found at appendix one. The options identified are:

- A Members Panel
- An Officer Panel
- Decisions to remain with the Group Leader for Licensing

2.6 **Appendix 1** provides more detail on how each option would work in practice and the risks and benefits of each option.

3. Implications for the Council

3.1 Working with People

One of the licensing services key priorities is to ensure the standards across the private hire and hackney carriage trade in Kirklees are high to protect the travelling public. We want people to be transported safely, to know they are protected from harm and that they experience a high quality, clean, sustainable and green environment, as well as a good customer experience.

3.2 Working with Partners

In developing its policies and delivering its service the licensing service works with a number of partners including (not exclusively) Kirklees Safeguarding Children's and Adults boards, West Yorkshire Police, Public Health, Environmental Health, Overview and Scrutiny committee, the Community Safety Partnership and the other West Yorkshire Licensing Authorities (Inc. York)

3.3 Place Based Working

There is no specific impact in the context of this report. However, reviewing policies and procedures enables the service to examine the way in which it interacts and engages with licence holders, residents and communities.

3.4 Climate Change and Air Quality

There is no impact in relation to climate change and air quality in this report.

3.5 Improving outcomes for children

The Council has a duty to protect the travelling public and specifically safeguard the vulnerable, which includes the safeguarding of children travelling in licensed vehicles and for the purposes of school transport.

3.6 Financial Implications of people living or working in Kirklees

The decision-making process can result in a licence holder having their licence suspended or revoked. Although some licence holders reside outside the authority, most licence holders live and operate in Kirklees.

In addition, if members are minded to resolve that either a panel of officers or members will make decisions in relation to hackney carriage and private

hire licensing matters will result in a fee review to cover the cost through the fees paid by the licence holders.

3.7 Other (eg Legal/Financial or Human Resources) Consultees and their opinions

Legal

No significant concerns.

Human Resources

A change to the decision making to a panel of officers or members will place an additional administrative and human resource burden on the authority and this will be recovered through a review of the licensing fees.

Financial

It should be noted that any additional administration of either member or officers' panels will have some consequential costs for the authority. Potentially, room bookings, additional officer time etc. However, these costs can be recouped in changes to the Licensing Fees, there may be unforeseen additional administrative costs – these are not considered to be significant.

4. Next steps and timelines

4.1 Members are asked to make a decision about the hackney carriage and private hire decision making responsibility.

4.2 Members are reminded, the standards recommend that decision making should be the responsibility of a panel of suitably trained Councillors.

4.3 If members are minded to deviate from the statutory guidance they are reminded that they are required to provide reasons why are not adopting the guidance.

4.4 Following the decision by members if it is decided that decision making will be the responsibility of a panel of suitably trained Councillors then further work will be required as there will need to be a formal change made to the Council's constitution.

4.5 If members make the decision that the responsibility of decision making were to fall to a panel of officers there will be no requirement for a full change to the constitution.

4.6 It is proposed that if members are minded to agree for decision making to be undertaken by a member or officer panel that this will come into effect on 1st April 2023 as new processes, procedures and resources will be required to facilitate the changes.

4.6 If members decide that the responsibility of decision making is to remain with the Group Leader for licensing a full review will be carried out of the

current process to ensure that the applicant is provided with an opportunity to address the decision maker before the decision is made which will align with the principles of natural justice.

5. Officer recommendations and reasons

5.1 Members are asked to consider the following three options and take a decision on how decision making in relation to private hire and hackney carriage licensing should be undertaken from 1st April 2023: -

1. A members panel,
2. An Officer panel,
3. Remain with the Group Leader for licensing

5.2 If members are minded to deviate from the statutory guidance issued by the Department for Transport it is recommended that members introduce an officer panel.

6. Cabinet Portfolio Holder's recommendations

Councillor Will Simpson has no additional comments.

7. Contact officer

Fiona Goldsmith
Public Protection Group Leader – Licensing

01484 221000(ext 79921) or Fiona.goldsmith@kirklees.gov.uk

8. Background Papers and History of Decisions

[Agenda for Licensing and Safety Committee on Thursday 17th December 2020, 10.00 am | Kirklees Council](#)

[Agenda for Licensing and Safety Committee on Tuesday 20th July 2021, 10.00 am | Kirklees Council](#)

[Agenda for Licensing and Safety Committee on Wednesday 6th July 2022, 10.00 am | Kirklees Council](#)

9. Service Director responsible

Katherine Armitage
Service Director – Climate Change and Environment
Tel: 01484 221000
Email: Katherine.armitage@kirklees.gov.uk

Decision Making Options

1. Members Panel

Benefits	Risks
Level of Impartiality	Delays in decision making in particular around existing licence holders
Addresses concerns raised as part of the consultation on DfT standards	Increased cost (to be borne by licence holder / applicant)
Complies with DfT Standards	Lobbying of Members by licence holders and applicants
	Increased resources required – Licensing, Legal, Governance, meeting room
	Out of step with other WY authorities

Process

Step	Process	Comments
1	<ul style="list-style-type: none"> • Issue comes to light <ul style="list-style-type: none"> ○ Does issue fall within F&P policy Y / N – if yes then step 2 if no then ○ Does licence holder have history that, along with current issue, calls into question their F&P Y / N – if yes then step 2 . if no then investigate issue in isolation and take appropriate action i.e warning, N.F.A 	Issue comes to light via – <ul style="list-style-type: none"> • DBS, • Complaint, • Self-Declaration, • DVLA check, • Enforcement activity, • Other
2.	<ul style="list-style-type: none"> • Officer investigates the issue <ul style="list-style-type: none"> ○ Gather evidence ○ Speak to third parties i.e complainant, police, other agencies ○ Inform licence holder of the issue at hand ○ Prepare to interview licence holder ○ Invite licence holder for interview ○ Hold interview and inform licence holder of next steps ○ Next steps <ul style="list-style-type: none"> ▪ Prepare report for Group Leader to sign off and agree recommendations. 	<ul style="list-style-type: none"> • Recorded interview – not PACE • Option to have someone attend – can be none legal • Present information on issue and evidence collated • Opportunity for licence holder to respond and offer their side of the events • Question licence holder further • Summarise

	<ul style="list-style-type: none"> ▪ Report follows Governance sign off procedure {TBC} 	<ul style="list-style-type: none"> • Outline next steps
3.	<ul style="list-style-type: none"> • Licence holder invited to attend panel 	<ul style="list-style-type: none"> • Advised to obtain own legal advice, advised can be accompanied by legal representation or friend. Advise if person who accompanies them is a friend panel needs to agree they can speak on their behalf. • Need to send order of proceedings with invite. Order of Proceedings to be confirmed
4.	<ul style="list-style-type: none"> • Member Panel Hearing <ul style="list-style-type: none"> ○ Licence holder attends at allotted time, ○ Chair opens the hearing, ○ Officer outlines reason for attendance as detailed in the report and what recommendations are and reason why. ○ Licence holder offers explanation ○ Questions can be asked by panel, officers or licence holder. ○ Members debate in private and then inform licence holder of decision and right of appeal if appropriate. 	<ul style="list-style-type: none"> • Panel Members and officers can question licence holder / applicant. • Verbal decision given in the hearing, with full reasons and then followed by formal letter.

2. Officer Panel

Benefits	Risks
Impartiality	Delays in decision making in particular around existing licence holders
Addresses some, but not all of the issues raised as a result of the consultation on DfT standards	Cost (to be borne by licence holder / applicant)
	Does not comply with DfT Standards
	Out of step with other WY authorities
	Licensing, Legal, meeting room

Process

Step	Process	Comments
1	<ul style="list-style-type: none"> Issue comes to light <ul style="list-style-type: none"> Does issue fall within policy Y / N – if yes then step 2 if no then Does licence holder have history that, along with current issue, calls into question their fitness to hold a licence Y / N – if yes then step 2 . if no then investigate issue in isolation and take appropriate action i.e warning, N.F.A 	Issue comes to light via – <ul style="list-style-type: none"> DBS, Complaint, Self-Declaration, DVLA check, Enforcement activity, Other
2.	<ul style="list-style-type: none"> Officer investigates the issue <ul style="list-style-type: none"> Gather evidence Speak to third parties i.e complainant, police, other agencies Inform licence holder of the issue at hand Prepare to interview licence holder Invite licence holder for interview Hold interview and inform licence holder of next steps Next steps <ul style="list-style-type: none"> Prepare report for officer panel. 	<ul style="list-style-type: none"> Recorded interview – not PACE Option to have someone attend – can be none legal Present information on issue and evidence collated Opportunity for licence holder to respond and offer their side of the events Question licence holder further Summarise Outline next steps
3.	<ul style="list-style-type: none"> Licence holder invited to attend officer panel 	<ul style="list-style-type: none"> Advised to obtain own legal advice, advised can bring legal representation with them or a friend. Advise if person who accompanies them is

		a friend panel needs to agree they can speak on their behalf.
4.	<ul style="list-style-type: none"> • Officer Panel Hearing <ul style="list-style-type: none"> ○ Licence holder attends at allotted time, ○ Chair opens the hearing, ○ Officer outlines reason for attendance as detailed in the report and makes clear what recommendations are and reason why. ○ Licence holder offers explanation ○ Questions can be asked by panel, officers, or licence holder. ○ Members debate in private and then inform licence holder of decision and right of appeal if appropriate. 	<ul style="list-style-type: none"> • Panel Members and officers can question licence holder / applicant. • Verbal decision given in the hearing, with full reasons and then followed by formal letter within 5 working days.

3. Decisions stay at Group Leader Level

Benefits	Risks
Impartiality	Perception of impartiality – although there is impartiality in the decision making the perception is that it isn't impartial
Decision made in a timely manner	Does not address the concerns raised as a result of the consultation on DfT standards.
Reduced cost	
In line with other WY authorities	

Step	Process	Comments
1	<ul style="list-style-type: none"> Issue comes to light <ul style="list-style-type: none"> Does issue fall within policy Y / N – if yes then step 2 if no then Does licence holder have history that, along with current issue, calls into question their fitness and suitability Y / N – if yes then step 2 . if no then investigate issue in isolation and take appropriate action i.e warning, N.F.A 	Issue comes to light via – <ul style="list-style-type: none"> DBS, Complaint, Self-Declaration, DVLA check, Enforcement activity, Other
2.	<ul style="list-style-type: none"> Officer investigates the issue <ul style="list-style-type: none"> Gather evidence Speak to third parties i.e complainant, police, other agencies Inform licence holder of the issue at hand Prepare to interview licence holder Invite licence holder for interview Hold interview and inform licence holder of next steps Next steps <ul style="list-style-type: none"> Prepare report for Group leader. 	<ul style="list-style-type: none"> Recorded interview – not PACE Option to have someone attend – can be none legal Present information on issue and evidence collated Opportunity for licence holder to respond and offer their side of the events Question licence holder further if required Summarise Outline next steps
3.	<ul style="list-style-type: none"> Group Leader makes decision <ul style="list-style-type: none"> All relevant facts considered Circumstances considered, including account given by licence holder during interview 	

	<ul style="list-style-type: none"> ○ Issues, circumstances and facts compared against policy ○ Consider any exceptional circumstances. ○ Inform licence holder / applicant in writing of decision and reasons. 	
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