

# Public Document Pack



**Service Director – Legal, Governance and  
Commissioning**

**Julie Muscroft**

Governance and Commissioning

PO Box 1720

Huddersfield

HD1 9EL

**Tel:** 01484 221000

Please ask for: Jenny Bryce-Chan

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

Tuesday 24 January 2023

## 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 1 February 2023**.

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", on a light-colored background.

**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 - 10

To approve the minutes of the meeting of the Committee held on the 5<sup>th</sup> October 2022.

---

**3: Interests**

11 - 12

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: Licensing Services Update**

13 - 26

The purpose of the report is to inform Members of the activities undertaken to discharge the Council's licensing functions from 1<sup>st</sup> April 2022 to 30<sup>th</sup> September 2022.

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

---

**8: Decision Making - Hackney Carriage and Private Hire**

27 - 48

The purpose of the 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, Tel: 01484 221000

---

**9: Terms of Reference for Hackney Carriage and Private Hire Association Meetings**

49 - 68

The purpose of the report is to seek Members approval for the updated Terms of Reference for Hackney Carriage and Private Hire Associations.

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

---

This page is intentionally left blank

Contact Officer: Jenny Bryce-Chan

## KIRKLEES COUNCIL

### LICENSING AND SAFETY COMMITTEE

**Wednesday 5th October 2022**

Present: Councillor Amanda Pinnock (Chair)  
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 Michael Watson  
Councillor Paola Antonia Davies  
Councillor Andrew Marchington

In attendance: David Stickley, Senior Legal Officer  
Fiona Goldsmith, Public Protection Group Leader  
Martin Wood, Head of Public Protection

**12 Membership of the Committee**

No subs were in attendance at the meeting.

**13 Minutes of Previous Meeting**

The minutes of the meeting held on the 6 July 2022 be amended as follows:

- 1) In relation to item 9, the Committee is asked to note that work with the Information Governance Team is still ongoing, and an update will be provided at a future committee meeting.
- 2) In relation to agenda item 10, question 10, to replace 'all committee members voted for option 1' with, that officers develop a specific policy in relation to stretch limousines and submit it for consideration at a future meeting of the Licensing & Safety Committee.

**14 Interests**

No interests were declared.

**15 Admission of the Public**

All agenda items were considered in public session.

## Licensing and Safety Committee - 5 October 2022

### 16 Deputations/Petitions

No deputations or petitions were received.

### 17 Public Question Time

No public questions were asked.

### 18 Hackney Carriage Fares

The Licensing & Safety Committee (Committee) considered a report which outlined the proposal to resolve a new fare card for the Hackney Carriage vehicles.

Fiona Goldsmith, Group Leader Licensing, advised the Committee that in February 2022, a request was received from the Hackney Carriage Association to carry out a review of the Hackney Carriage fare tariff. The request submitted was for all tariffs to have a £1 increase on the start price and that tariffs 2 and 4 commenced at 8pm instead of 10pm, as shown below:

The current start prices and times:

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:

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

The Licensing Service formally consulted on increasing the Hackney Carriage fares and also wrote to all Hackney Carriage proprietors and emailed Trade Representatives. The consultation ended on 31<sup>st</sup> March 2022, and 18 responses were received, which were 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.

The Committee was informed that due to the number of objections, and differing views put forward by the trade, a decision was taken under delegated authority by the Strategic Directors for Environment and Climate Change, to temporarily implement the fares consulted on, and commence an engagement exercise with the vehicle proprietors.

On the 17<sup>th</sup> June 2022, a letter was circulated to all the Hackney Carriage vehicle proprietors containing eight proposals put forward by the trade during the first formal consultation, and requested that vehicle proprietors select their favoured proposal.



## Licensing and Safety Committee - 5 October 2022

The eight proposals were shown / presented to members during the committee meeting.

The Committee was further advised that the Licensing Service received 57 responses out of the 224 Hackney Carriage vehicle licenses, summarised as follows:

- 17 in favour of proposal 1
- 33 in favour of proposal 2,
- 0 in favour of proposals 3, 4, 5, 7, 8
- 1 in favour of proposal 6
- One respondent ticked both proposal 2 and 4 and one respondent ticked all the proposals.

The Licensing department formally consulted a second time in relation to proposal 2, which was supported by the majority of those consulted. The proposal was 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

The second consultation ended on 18<sup>th</sup> August 2022 and four representations were received, as follows:

Objection 1 - that the temporary measures in place were ok, and that the Committee consider this a delicate situation regarding the balance of keeping customers happy and earning a decent wage. The objector was not happy with tariff 3 and 4 and made no reference in relation to the reduction in yardage.

Objection 2 - that the proposal to increase fares would affect the trade in relation to the cost of living and losing customers.

Objection 3 - also referred to the cost of living and the unfairness of adding additional burdens onto customers, and that the interim fare should be kept.

Support 1 - voted for the increased proposal and agreed with the reduction in yardage and with the adjusted timings.

Fiona Goldsmith further advised the Committee that agreement had been sought with the Trade Representatives, and a review of the fares would be a set agenda item each year at the Hackney Carriage Trade Association meeting.

The Committee noted the cost of inflation to drivers, and suggested it would be useful to understand in more detail the balance between making a living, and the cost to customers, particularly in relation to the impact on the cost of journeys, increased fuel costs and data on earnings.

Representatives of the trade advised the Committee that the temporary structure was working well for both drivers and customers, and that it was important not to burden customers to a point where they were unable to afford taxis, which could result in a loss of trade and jobs.

**RESOLVED:**

- a) that the fares remain as they are currently set.
- b) that further information be provided at the next review in relation to cost implications to the trade.
- c) that a review of the fares be a standard agenda item annually for the Hackney Carriage Trade Association meetings, with an option for the trade to call a review sooner should circumstances change significantly.

**19 Driver Training Policy**

The Licensing and Safety Committee (Committee) was asked to consider a report containing a temporary change to the existing driver training policy which introduced a fast-track application process for new applicants.

Fiona Goldsmith advised the Committee that the driver training policy was adopted on the 1<sup>st</sup> August 2019, however, due to the pandemic, new driver applications were ceased.

The service re-opened to new driver applications in October 2021, and one of the requirements of the policy was that all new driver applicants were required to pass an English for Speakers of Other Languages (ESOL) entry level 3 English test, in speaking, reading, and listening. In January 2022, the Licensing Service saw an increase in the number of applications being received and noted there were a number of new applicants who had an existing qualification equal to entry level 3 or above.

The Committee was informed that applicants who already had existing qualifications were finding it difficult to book onto an ESOL course which caused delays and bottlenecks to occur. 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 the existing policy and the requirement to pass the English test.

The temporary change implemented was that if an applicant produced evidence of an entry level 3 qualification or above, in the form of a certificate, and that the qualification had been achieved in the UK, then they were permitted to progress to the next stage of the application process which was a theory and knowledge test. This would enable applicants to pass through the application process much quicker and saved them financially, whilst maintaining an efficient and flexible approach for drivers.

## Licensing and Safety Committee - 5 October 2022

The Committee was also informed, that in addition to the new fast-track application process, the service was also looking to recruit a dedicated training officer, to deliver the training in house, with an option for one-to-one sessions.

### RESOLVED:

- 1) that the report be noted.
- 2) that 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 progress to the next stage of the application process which is the theory and knowledge training and test”, be made permanent.
- 3) that the fast-track application process for new applicants be adopted and that officers bring back further details of the fast-track system for consideration at a future meeting of the Licensing and Safety Committee.

### 20 **Review of Hackney Carriage and Private Hire Statement of Fitness and Suitability Policy**

The Licensing and Safety Committee (Committee) considered a report seeking approval to commence a consultation following a three-year review of the Hackney Carriage and Private Hire Statement of Fitness and Suitability policy.

Fiona Goldsmith, Group Leader Licensing, reminded the Committee that at the Licensing and Safety Committee meeting held on the 6<sup>th</sup> July 2022, officers presented a report outlining concerns in relation to the Council’s statement of fitness and suitability policy relating to the licensing of Private Hire and Hackney Carriage drivers. The Committee resolved that officers be instructed to look at the concerns being raised and review the Private Hire and Hackney Statement of Fitness and Suitability Policy.

Fiona Goldsmith directed the Committee to appendix 1 of the report, which highlighted the proposed revisions to the policy, drawing the Committee’s attention to the main change to the policy, which was in relation to minor traffic convictions, as detailed below:

Minor traffic or vehicle offences do not include offences involving: -

- 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)

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

## Licensing and Safety Committee - 5 October 2022

- 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.

The Committee was advised that consideration will be given to the revocation of a licence unless there are any exceptional circumstances as to why revocation should not take place, however, 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. This test will be at the cost of the driver, and they will receive a final written warning that will remain on their file. Failure to pass the test first time, will normally result in the licence being revoked.

MS90 Offences – Offences under Section 172 of the Road Traffic Act 1988 – Failure to give information as to the identity of a driver, will be classed as a minor traffic offence, unless on 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.

## Licensing and Safety Committee - 5 October 2022

In response to the information presented, the Committee asked a number of questions, including the following:

- What percentage of drivers have convictions?
- What was the number of drivers within Kirklees who have 12 points or more?
- Why a 7-point review threshold?
- Why was the onus on drivers to notify the Service of any conviction?

A representative of GMB advised of a system that would notify the Licensing Service directly of any convictions received by licence holders and commented that as the licence was held for a 3-year term, this provided a loophole for dishonest drivers.

In response, Fiona Goldsmith acknowledged that the 3-year license could be a loophole for dishonest drivers, however, the policy would strengthen the decision making around licenses.

The Committee acknowledged that the aim of the policy was to reinforce the standards in Kirklees.

### **RESOLVED:**

- 1) that officers commence a three-month consultation on the proposed changes as outlined in the appended report.

**21**

### **Decision Making - Hackney Carriage and Private Hire Licensing**

The Committee considered a report which outlined the result of the consultation undertaken for the Department for Transport Statutory (DfT) Standards, specifically relating to decision making for the Hackney Carriage and Private Hire Service.

Fiona Goldsmith reminded the Committee that at the Licensing and Safety Committee meeting held on the 6<sup>th</sup> July 2022, the Committee instructed officers to investigate possible options relating to decision making and the implications of those options, and present a more detailed report to the Committee.

The Committee was advised that currently, decision making for Hackney Carriage and Private Hire licensing is delegated to the Group Leader, Licensing. The guidance issued by the Department for Transport recommends that decision making should be the responsibility of a panel of suitably trained elected members. If the Committee chooses to deviate from the guidance, they are required to provide a clear reason for doing so.

Fiona Goldsmith, advised that the results of the consultation showed that many respondents agreed that decision making should not be the sole responsibility of one person, and a number of options had been identified from the consultation responses received, which were as follows:

- 1) A Members Panel
- 2) An Officer Panel
- 3) Decision to remain with the Group Leader for Licensing.

## Licensing and Safety Committee - 5 October 2022

The Committee was referred to appendix 1 of the report, Fiona Goldsmith outlined each process and the risks and benefits associated, as detailed below:

### Option 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

### Option 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

### Option 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	

## Licensing and Safety Committee - 5 October 2022

Fiona Goldsmith further advised that if options 1 or 2 was to be agreed by the Committee, the process would take effect from April 2023, to allow for processes and procedures to be put in place. If option 3 was to be agreed, there would be a full review of the current process to ensure the applicant was provided with an opportunity to address the decision maker before the decision is made.

In response to the information presented, the Committee made comments and asked a number of questions, including the following:

- What is the process across other West Yorkshire Councils?
- If DfT guidelines are not adopted, what are the consequences?
- If the decision-making stays with the Group Leader, is there an option for an appeal to be heard before members before appealing to the magistrates?
- How many decisions have gone to appeal?
- If a member panel was decided, what training would be provided?
- The current process is working, and the quality of decisions are still of a high quality. If a licence holder thinks the decision is wrong, they can go before the courts.
- Would it be sensible to have the Chair of the Panel involved in the decision making?
- There were issues previously with some of the decisions made by Member Panels, which is currently not the case, which would indicate the current system is working.
- An alternative option that could be considered is a decision-making panel consisting of officers and members, have officers explored this option?

Councillor Homewood put forward a proposal that officers investigate alternative options including having decision making panels which incorporates both members and officers. This proposal was seconded by Councillor Sokhal.

The committee members voted as follows:

Option 1 - A Members Panel – 1

Option 2 - An Officer Panel – 0

Option 3 - Decisions to remain with the Group Leader for Licensing - 4

Option 4 - That officers investigate and explore different options relating to how Members can be involved in the decision-making process - 7

### **RESOLVED:**

- 1) that decisions remain with the Group Leader for Licensing, and for officers to undertake further work to investigate other possible options that would incorporate members in the decision making and bring this back for consideration at a future meeting of the Licensing and Safety Committee.

This page is intentionally left blank



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

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

## NOTES

### Disclosable Pecuniary Interests

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

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

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

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

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

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

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

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

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

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

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

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



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

**Date:** Wednesday 1<sup>st</sup> February 2023

**Title of report:** Licensing Service – Update Report

**Purpose of report:** The purpose of the report is to inform members of the activities undertaken to discharge the Council’s licensing functions from 1<sup>st</sup> April 2022 to 30<sup>th</sup> September 2022.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? Decisions having a particularly significant effect on a single ward may also be treated as if they were key decisions.</b>	<b>No</b>
<b>Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)?</u></b>	<b>Key Decision – No</b> <b>Private Report/Private Appendix – No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not Applicable</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Colin Parr – 23.01.2023</b>  <b>Eamonn Croston – 20.01.2023</b>  <b>Julie Muscroft - 17.01.2023</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Will Simpson</b>

**Electoral wards affected:** All

**Ward councillors consulted:** None

**Public or private:** Public

**Has GDPR been considered?** Yes – any personal data has been redacted for the purpose of this report.

## 1. Summary

1.1 this report is to provide members of the Licensing and Safety Committee with an update on the activities undertaken by the Council's Licensing Service from 1<sup>st</sup> April 2022 to 30<sup>th</sup> September 2022 and a general service update.

## 2. Information required to take a decision

### Hackney Carriage and Private Hire Licensing

2.1 The overriding aim of the licensing service, when carrying out its functions relating to the licensing of hackney carriage and private hire drivers, vehicle proprietors and operators, is the safety of the travelling public and others who use (or can be affected by) hackney carriage and private hire services.

### Current Licence Numbers

2.2 The number of hackney carriage and private hire licence in force as of 13<sup>th</sup> December 2022 are set out in the table below: -

Type	No.
Hackney Carriage Vehicles	208
Dual Drivers Licence	2,643
Private Hire Operators	145
Private Hire Vehicles	1,952
Total	4,948

2.3 The following table set out the number of private hire / hackney carriage applications processed by the service between 1<sup>st</sup> April 2022 and 30<sup>th</sup> September 2022.

Licence Type	Application Type	2022	2021	2020
Hackney Carriage Vehicle	New/Renewal	137	126	118
Dual Drivers Licence	New	57	45	4
	Renewal	698	866	888
Private Hire Operator	New	26	17	8
	Renewal	29	35	36
	New	242	235	110

Private Hire Vehicle	Renewal	843	840	881
Total		2,032	2,164	2,045

2.4 Members will note that there are less driver renewal applications, this is due to the move to three-year licences rather than annual renewals.

### Vehicle Testing

2.5 In relation to vehicle testing, the tables below show the numbers of tests taken from April 2022 to September 2022.

<b>George Street Testing Station</b>						
	April 2022	May 2022	June 2022	July 2022	Aug 2022	Sept 2022
Number of Tests	134	104	89	149	122	127
Passed Initial Test	82	73	47	101	93	87
Failed Initial Test	52	31	42	48	29	40
% Passed	61%	70%	53%	68%	76%	69%
% Failed	39%	30%	47%	32%	24%	31%

<b>Vine Street Testing Station</b>						
	April 2022	May 2022	June 2022	July 2022	Aug 2022	Sept 2022
Number of Tests	56	85	97	91	77	97
Passed Initial Test	49	77	80	75	65	86
Failed Initial Test	7	8	17	16	12	11
% Passed	87%	91%	82%	82%	84%	89%
% Failed	13%	9%	18%	18%	16%	11%

<b>Vine Street &amp; George Street Combined</b>						
	April 2022	May 2022	June 2022	July 2022	Aug 2022	Sept 2022
Total No. Tests	190	189	186	240	199	224
Total Passed	131	150	127	176	158	173
Total Failed	59	39	59	64	41	51
Total % Passed	69%	79%	68%	73%	79%	77%
Total % Failed	31%	21%	32%	27%	21%	23%

### Fitness and Suitability Policy Consultation

2.6 In November 2022 the service commenced a three-month consultation following the review of the fitness and suitability policy. The consultation is

due to end on 15<sup>th</sup> February 2023, a report will be brought back to members with the results of the consultation, for a decision.

2.7 You can view the draft policy and comment on the consultation by submitting your answers to the survey, which can be accessed online at: <https://online1.snapsurveys.com/kirklees-policy>

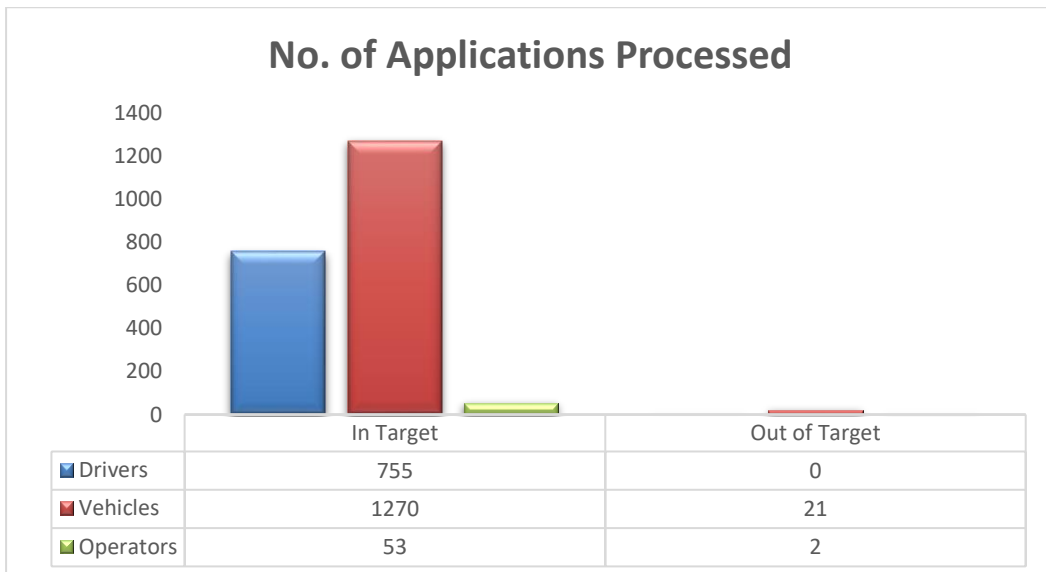
Alternatively, you can scan the QR code here to be taken directly to this site:

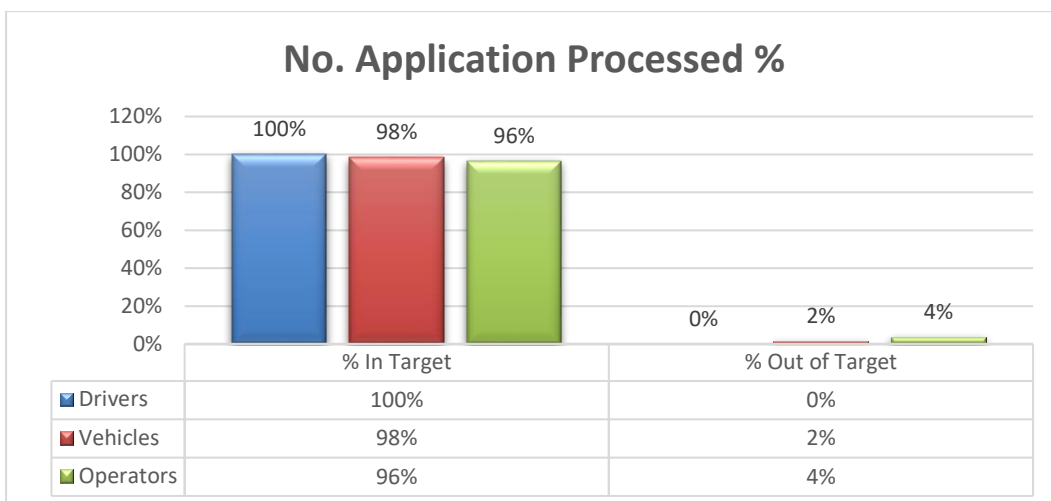


### Service Standards

2.8 In August 2021, we introduced our service standards and monitoring of these standards commenced in October 2021. The following tables show how the service has been performing against those standards:

	April - September 2022				
	No. Processed	In Target	%	Out of Target	%
Drivers	755	755	100%	0	0%
Vehicles	1291	1270	98%	21	2%
Operators	55	53	96%	2	4%





2.9 Below are the previous 6 months service standards figures for comparison:

	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	0.0%

	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	0

### Delegated Decisions

2.10 At the Licensing and Safety Committee held on 2<sup>nd</sup> March 2022 members were presented, in a private session, details in relation to the decisions that have been taken since the adoption of the fitness and suitability policy in August 2019. Members requested that officers bring back a report that could be made public with the decisions that had been made under the policy.

2.11 At the Licensing and Safety Committee held on 6<sup>th</sup> July 2022 members were presented with a report informing them that officers had been working with colleagues in Information Governance on how the information could be presented without breaching the Council's duties under General Data Protection Regulation (GDPR), however, it was found to be more challenging than first anticipated, and it was not possible to find a format at that meeting which achieved the wishes of the Committee while maintaining the Council's duties under GDPR.

2.12 The service has now found an acceptable way to present the information without compromising its duties under GDPR, therefore, the table below shows the decisions that have been taken in the period between 1<sup>st</sup> April 2022 and 30<sup>th</sup> September 2022.

<b><u>Offence/Issue</u></b>	<b><u>Decisions and Reasons</u></b>
1. Crimes resulting in death of another person or was intended to cause the death or serious injury to another person.	N/A
2. 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.	N/A
3. Offences involving violence (including arson, riot, terrorism offences, harassment, common assault & criminal damage) or connected with any offence of violence.	1. New Driver applicant: - Violence conviction less than 10 years old. Failure to declare conviction on application and provided no circumstances for decision maker to deviate from policy. Decision – Refuse application
4. Possession of a weapon or any other weapon related offence.	N/A
5. Sex and indecency offences – any offence involving or connected with illegal sexual activity or any form of indecency.	N/A
6. Dishonesty – any offence of dishonesty, or any	N/A



offence where dishonesty is an element of the offence.	
7. 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.	N/A
8. Drugs use – any conviction for possession of drugs or related to possession of drugs.	N/A
9. Discrimination – any conviction involving or connected with discrimination in any form.	N/A
10. Drink driving/driving under the influence of drugs.	N/A
11. Driving whilst using a hand-held telephone or other device.	N/A
12. Minor traffic or vehicle related offences – offences which <u>do not involve</u> loss of life, driving under the influence of drink or drugs, driving whilst using a handheld telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence	<ol style="list-style-type: none"> <li>1. New Driver Applicant: - 7 penalty points on DVLA driving licence. Decision – Retake practical driving test and if passes issue licence with warning letter.</li> <li>2. Existing Driver: - 9 points on DVLA driving licence, failure to notify authority and failure to declare points on renewal application. Previous history of points on licence, Simple Caution issued previously for an offence and dishonesty in interview. Decision – Revoke licence</li> <li>3. Existing Driver: - 9 points on DVLA driving licence, did declare points, showed remorse and clear history as a licenced driver for 35 years. Decision – Issue renewal with warning and requirement to undertake and pass driving test in 3 months.</li> </ol>

	<p>4. Existing Driver: - 9 points on DVLA driving licence, failure to declare the points, clear history. Decision – Warning letter and requirement to undertake driving test within 3 months</p> <p>5. Existing Driver: - 9 points on DVLA driving licence. Decision – Issue warning letter and undertake driving test.</p> <p>6. Existing Driver: - TT99 DVLA Driving licence driving ban Decision - Revoke</p>
<p>13. 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.</p>	<p>1. Existing Driver: - 6 points for no insurance, clear history 20 years as a driver, remorseful in interview, reasons given for consideration of the decision maker. Decision – Final warning issued and licence renewed.</p>
<p>14. Hackney carriage and private hire offences.</p>	<p>N/A</p>
<p>15. Vehicle use offences, for example being carried in vehicle without the owner’s consent.</p>	<p>N/A</p>
<p>16. General standard of behaviour/repeat complaints regarding attitude/driving standard and any other reason they may be deemed not ‘fit and proper’ to hold/continue to hold a hackney carriage/private</p>	<p>N/A</p>

hire driver's licence and not resulting in conviction.
--

## **Licensing Act 2003 and General Licensing**

2.13 The following table sets out the number of Licensing Act applications processed by the service between 1<sup>st</sup> April 2022 and 30<sup>th</sup> September 2022, and the other columns are the equivalent for the same periods in 2021 and 2020.

<b>Application Type</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>
New	21	24	28
Full Variation	4	4	6
Minor Variation	10	9	6
Transfer	37	24	33
Temporary Event Notices	334	220	37
Total	406	281	110

2.14 The following applications were considered by the Licensing Panel between 1<sup>st</sup> April 2022 and 30<sup>th</sup> September 2022.

<b>Application Type</b>	<b>Premises</b>	<b>Outcome</b>
Grant of Premises Licence	European Mini Market, 59 Blacker Road, Birkby, Huddersfield	Granted with Conditions
Full Variation of Premises Licence	Playworld, 140 Westbourne Road, Huddersfield	Granted with Conditions
Grant of Premises Licence	Batley Superstore, 91 Commercial Street, Batley	Granted
Full Variation of Premises Licence	Woodman Inn, 6 Hartley Street, Dewsbury	Granted
Review of Premises Licence	Rio Foods, 229A Bradford Road, Fartown, Huddersfield	Licence Revoked

### **Total Number of applications received**

2.15 The licensing service deal with a wide range of applications:

- Licensing Act 2003
- Gambling Act 2005
- Hackney Carriage and Private Hire
- Street Trading
- Street Activities
- Charitable Collections

- Sex Shops and Sexual Entertainment Venues
- Hypnotists
- Scrap Metal Site and Collections
- Pavement Licences
- Literature Distribution

2.16 In the period between 1<sup>st</sup> April 2022 and 30<sup>th</sup> September 2022, the service received a total of 2,906 applications. In the previous 6-month period, between 1<sup>st</sup> October 2021 and 31<sup>st</sup> March 2022 the service received a total of 2,836 applications.

#### Revised Guidance issued under Section 182 of the Licensing Act 2003

2.14 In December 2022 the Government issued the revised guidance under Section 182 of the Licensing Act, in brief the changes are as follows: -

- In terms of right to work entitlement, the revised guidance substantially changed at 4.21 onwards.
- Strengthening the advice to persons operating an alcohol delivery service to suggest the “should” (previously “may”) consider contacting their licensing authority under paragraph 3.10.
- There is a new section on “Closure Notices” at paragraph 4.83.
- Clarifying that Home Office Immigration Enforcement is not responsible for clubs (para 6.11).
- Updates to TENs statutory limits (para 7.15).
- Clarifying that there is no right of appeal in respect of the late TENs following objection by the police or EHOs (para 7.34).
- Clarifying that full variations should be used to “vary **substantially** the premises to which the licence relates” at paragraph 8.76.
- Paragraph 10.5 added clarification that operating schedules should be converted to conditions which must be “appropriate and proportionate for the promotion of the licensing objectives”.
- Inclusion of the “Agent of Change” principle in 14.66.
- Removal of “Annex A – Documents which demonstrate entitlement to work in the UK”.

#### West Yorkshire Joint Services - Trading Standards

2.14 The licensing team and the police licensing officers based with the service work closely with Trading Standards. Visits to premises are conducted when intelligence has been gathered by Trading Standards to suggest there is the sale of illicit tobacco at a premises.

2.15 While not every premises visited is licensed, it is important that members are aware that trading standards do work in partnership with the service and enforcement action is taken.

2.16 In July 2022 visits were carried out at three premises in Huddersfield and South Kirklees. During this 2,673 x20 packets of cigarettes, 35 x50g pouches of hand rolling tobacco, 799 disposable vapes, and 38 items of counterfeit clothing were seized.

2.17 In September 2022 visits were carried out at three premises in Dewsbury, North Kirklees. During this 1,215 x20 packets of cigarettes, 436 x50g pouches of hand rolling tobacco, in addition, quantities of shisha tobacco, disposable vapes, and a vehicle were also seized.

### Staffing within the Licensing Service and Enforcement Activity

2.18 Licensing Officers undertake proactive enforcement activity outside normal working hours. This can vary from, licensed vehicle checks, licensed operator base checks, licensed driver checks, premises licence compliance checks, gambling premises compliance checks, etc.

2.19 Between 1<sup>st</sup> April 2022 and 30<sup>th</sup> September 2022 officers carried out 29 out of hours proactive enforcement duties, which is an average of 5 per month.

2.20 The service is working on ways to better record the proactive enforcement activity to report this to members for future committees.

2.21 As part of our role to keep the public safe we have worked with the Police in an undercover test purchase operation relating to Child Sexual Exploitation (CSE). Two plain clothed male police officers accompanied a lone young female to a hotel and engaged in discussions of a sexual nature whilst travelling to the hotel in hackney carriage / private hire vehicles, also making it clear the young female was underage. Four of the five hackney carriage / private hire drivers who transported the young female and male adults failed to report any concerns about the young female. All four drivers have been required undertaken mandatory CSE training delivered by the licensing service and the police. Feedback from the drivers was that they found the training positive and informative.

2.22 In the coming months the service will also be carrying out additional test purchasing operations for private hire and hackney carriage licensing in relation to the Equalities Act and Child Sexual Exploitation.

2.23 The service are currently recruiting into two posts one business support officer, following the departure of one member of staff and one Licensing Officer, following the original post holder being successfully appointed as a Senior Licensing Officer.

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

### **3.1 Working with People**

One of the key priorities for the licensing service is to ensure the safety of the public.

### **3.2 Working with Partners**

In developing policies and procedures, the licensing service works with a number of partners, including, Kirklees Safeguarding Children's Board, West Yorkshire Police, Environmental Health, The Community Safety Partnership, West Yorkshire Joint Services, the other West Yorkshire Authorities (Including York) and many other partners.

### **3.3 Place Based Working**

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

### **3.4 Climate Change and Air Quality**

There are no implications in relation to climate change and air quality in this paper.

### **3.5 Improving outcomes for children**

The Council wants to ensure that children in Kirklees 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. We also have a duty both under the Licensing Act 2003 and the Gambling Act 2005 to uphold the licensing objectives, namely the protection of children from harm.

### **3.6 Financial Implications for the people living or working in Kirklees**

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

### **3.7 Other (eg Integrated Impact Assessment (IIA)/Legal/Financial or Human Resources) Consultees and their opinions**

#### Integrated Impact Assessment

All licensing policies for the service are accompanied with an Integrated Impact Assessment.

#### Legal

No legal issues.

#### Human Resources

The only human resource implication contained in this report relates to the recruitment of staff into vacant posts within the service.

#### **4. Consultation**

4.1 This is an information only report and no consultation has been undertaken.

#### **5. Engagement**

5.1 This is an information only report and no engagement has been undertaken.

#### **6. Next steps and timelines**

6.1 Not applicable – Information only report.

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

7.1 Members are asked to note the report

#### **8. Cabinet Portfolio Holder's recommendations**

8.1 Councillor Will Simpson has noted the report

#### **9. Contact officer**

Fiona Goldsmith – Group Leader Licensing

Tel: 01484221000

Email: [Fiona.goldsmith@kirklees.gov.uk](mailto:Fiona.goldsmith@kirklees.gov.uk)

#### **10. Background Papers and History of Decisions**

<https://democracy.kirklees.gov.uk/documents/s46841/Service Update - LSC July 22.pdf>

#### **11. Service Director responsible**

Katherine Armitage

Service Director – Environment and Climate Change

Tel: 01484 221000

Email: [Katherine.armitage@kirklees.gov.uk](mailto:Katherine.armitage@kirklees.gov.uk)

This page is intentionally left blank





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

**Date:** Wednesday 1<sup>st</sup> February 2023

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

**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	Colin Parr – 23.01.2023
Is it also signed off by the Service Director for Finance?	Eamonn Croston – 20.01.2023
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Julie Muscoft – 17.01.2023
Cabinet member <a href="#">portfolio</a>	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 6<sup>th</sup> 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 At the meeting of the Licensing and Safety Committee on Wednesday 5<sup>th</sup> October 2022 several options for decision making were presented to members. The options identified were:

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

2.6 Members resolved that decisions should remain with the Group Leader for Licensing and instructed officers to undertake further work to investigate

other possible options that could incorporate members into the decision making and bring a report back to a future meeting of the Licensing and Safety Committee.

2.7 Therefore, options identified for members to consider are:

- A members panel
- An officer panel
- Decisions to remain with the Group Leader for Licensing
- A hybrid panel with both officer and member involvement

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

2.7 Governance have been consulted about the proposed options, due to the possibility of member involvement in decision making and have confirmed they will provide governance support to a committee where Members are decision makers.

### **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 several 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 Deviation from the standards is permitted so long as licensing authorities “have regard” to it when exercising their functions. These functions include developing, implementing, and reviewing taxi and private hire vehicle licensing regimes. Therefore, if members deviate from the statutory guidance, you 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 there will need to be a formal change made to the Council's constitution. It is proposed that this will come into effect on 1<sup>st</sup> October 2023 to allow for processes, procedures and resources be put in place and to ensure elected members who sit on the Licensing and Safety committee have completed sufficient training to be able to make decisions and be consistent in their decision making as there may be a requirement for decision maker to attend court to defend their decision.

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. It is proposed that this will come into effect on 1<sup>st</sup> October 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 of the process has been carried out which aligns with the principles of natural justice and can be seen at Appendix 1. The two universal principles of natural justice are:

- Hear both sides; and
- No person shall be a judge in their own case

4.7 If members resolve that the responsibility of decision making be a hybrid panel including members and officers, this will require a change to the Council's constitution. It is proposed that this will come into effect on 1<sup>st</sup> October 2023 to allow for processes, procedures and resources be put in place and to ensure all elected members who will be involved in decision making have completed sufficient training to be able to make decisions and be consistent in their decision making as there may be a requirement for the decision makers to attend court to defend their decision.

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

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

1. A members panel – from October 2023
2. An officer panel – from October 2023
3. Remain with the Group Leader for licensing – to continue
4. A hybrid member and officer panel – from October 2023

5.2 If members resolve to agree option 4, a hybrid member and officer panel, they are then asked to consider the level of member involvement in the panel: -

1. The chair of the licensing and safety committee
2. One trained member of the licensing and safety committee
3. Another level of member involvement in the panel

5.3 If members resolve to agree option 4, a hybrid member and officer panel, they are then asked to consider who would chair the meetings: -

1. The Group Leader for Licensing
2. The Chair of the Licensing and Safety Committee or other member who is in attendance

5.4 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. An officer panel will provide a robust approach to decision making which will address some of the concerns being raised by the trade about one person being the sole decision maker.

## **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](mailto: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](mailto:Katherine.armitage@kirklees.gov.uk)



**Decision Making Options**1. Members Panel

<b>Benefits</b>	<b>Risks</b>
Degree of Impartiality	Is likely to cause delays in decision making, this will negatively impact both the new applicants who will have to wait for a decision regarding their application and those existing licence holders who will have to wait for an outcome of an investigation.
Will address some of the concerns raised as part of the consultation on the DfT standards	Staffing resource implications, all panels will be required to have minutes taken by Governance officers and published, legal officer support, licensing officers and the requirement for a meeting room.
Will be compliant with the recommendation in the DfT standards	Increased costs which would be borne by the licence holder / applicant



	Lobbying of members by licence holder and applicants, many applicants will be residents in Kirklees.
	To return to a member panel will take us out of step with other West Yorkshire Licensing Authorities whose decision making is the responsibility of officers not members.
	The decision was previously taken to change from members decisions to streamline, simplify and ensure consistency in decision making was achieved. The current policy was adopted for this purpose. A change back to a member panel will also require a change to the Council's constitution.
	Training ALL members to a suitable standard to comply with the requirements of the DfT standards.
	Consistency in decision making – if members only sit on panel once a year or the members of the panels change all the time there will likely be an inconsistent approach in the decision making and level of knowledge and training.

## Process

Step	Process	Comments
1.	<p><u>Issue comes to light either with new applicant or existing licence holder</u></p> <ul style="list-style-type: none"> <li>• Does the issue fall within policy Y / N – if yes then move to step 2 if no then: -</li> <li>• If an existing licence holder, do they have a history that, along with the current issue calls into question their fitness and suitability to hold a licence Y / N – if yes then step 2, if no then: -</li> <li>• Investigate issue in isolation and take appropriate actions, i.e. warning letter, verbal warning or no further action.</li> </ul>	<p>Issues come to light via multiple sources:</p> <ul style="list-style-type: none"> <li>• DBS</li> <li>• Complaint</li> <li>• Self-Declaration</li> <li>• DVLA check</li> <li>• Enforcement Activity</li> <li>• Checks with other licensing authorities</li> <li>• Other</li> </ul>
2.	<p><u>Officer Investigates the Issue</u></p> <ul style="list-style-type: none"> <li>• Gathers evidence</li> <li>• Speaks to third parties, i.e. complainant, police, other agencies</li> <li>• Informs licence holder / applicant of the issue at hand</li> <li>• Prepares to interview licence holder</li> <li>• Invites licence holder / applicant for interview in writing</li> <li>• Holds interview and informs licence holder of next steps</li> <li>• Prepares report for Group Leader to sign off and agree recommendations</li> <li>• Report follows Governance sign off procedure (TBC)</li> </ul>	<ul style="list-style-type: none"> <li>• Recorded interview – not PACE</li> <li>• Option to have someone present - does not have to be legal</li> <li>• Present information on issue and evidence collated</li> <li>• Opportunity for licence holder to respond and offer their version of events</li> <li>• Question licence holder further</li> <li>• Summarise</li> <li>• Outline next steps</li> </ul>

<p><b>3.</b></p>	<p><u>Licence Holder invited to attend member panel</u></p> <ul style="list-style-type: none"> <li>• Letter sent to Licence holder / applicant detailing time/date/place and include order of proceedings</li> </ul>	<ul style="list-style-type: none"> <li>• Advised to obtain own legal advice, advised can be accompanied by legal representation or friend, advise if person who accompanies them is a friend, then panel need to agree if they can speak on their behalf</li> <li>• Need to send order of proceedings with invite. Order of proceedings need to be confirmed.</li> </ul>
<p><b>4.</b></p>	<p><u>Member Panel Hearing</u></p> <ul style="list-style-type: none"> <li>• Licence holder / applicant attends</li> <li>• Chair opens hearing</li> <li>• Officer outlines case</li> <li>• Licence holder / applicant given opportunity to address panel</li> <li>• Licence holder / applicant offers any explanations required</li> <li>• Questions can be asked by panel to officers or licence holder / applicant</li> <li>• Members debate in private with legal and governance officer present and make the decision</li> <li>• Licence holder / applicant verbally advised of decision and right of appeal with summary of reasons and decision</li> <li>• Decision letter sent within 5 working days formally detailing the decisions and reasons for the decision and commencing the 21-day appeal timescale.</li> </ul>	<ul style="list-style-type: none"> <li>• Member panel can ask questions of both licensing officer and licence holder / applicant</li> <li>• Licence holder / applicant can provide any information to the officer panel to support their case</li> </ul>

## 2. Officer Panel

<b>Benefits</b>	<b>Risks</b>
Impartiality	Is likely to cause delays in decision making, this will negatively impact both the new applicants who will have to wait for a decision regarding their application and those existing licence holders who will have to wait for an outcome of an investigation.
Addresses some of the issues raised because of the consultation on the DfT statutory standards	Staffing resource implications, there will be a requirement for staff to source meeting rooms and take minutes. This will also be resource intensive for those officers who sit on the panel and legal.
Would not require a change to the Council's constitution	Increased costs which would be borne by the licence holder / applicant
	Does not comply with DfT standards, members will be required to give due regard to the standards and have reasons why we have departed from them.

## Process

Step	Process	Comments
1.	<p><u>Issue comes to light either with new applicant or existing licence holder</u></p> <ul style="list-style-type: none"> <li>• Does the issue fall within policy Y / N – if yes then move to step 2 if no then: -</li> <li>• If an existing licence holder, do they have a history that, along with the current issue calls into question their fitness and suitability to hold a licence Y / N – if yes then step 2, if no then: -</li> <li>• Investigate issue in isolation and take appropriate actions, i.e. warning letter, verbal warning or no further action.</li> </ul>	<p>Issues come to light via multiple sources:</p> <ul style="list-style-type: none"> <li>• DBS</li> <li>• Complaint</li> <li>• Self-Declaration</li> <li>• DVLA check</li> <li>• Enforcement Activity</li> <li>• Checks with other licensing authorities</li> <li>• Other</li> </ul>
2.	<p><u>Officer Investigates the Issue</u></p> <ul style="list-style-type: none"> <li>• Gathers evidence</li> <li>• Speaks to third parties, i.e. complainant, police, other agencies</li> <li>• Informs licence holder / applicant of the issue at hand</li> <li>• Prepares to interview licence holder</li> <li>• Invites licence holder / applicant for interview in writing</li> <li>• Holds interview and informs licence holder of next steps</li> <li>• Prepares report for Officer panel</li> </ul>	<ul style="list-style-type: none"> <li>• Recorded interview – not PACE</li> <li>• Option to have someone present - does not have to be legal</li> <li>• Present information on issue and evidence collated</li> <li>• Opportunity for licence holder to respond and offer their version of events</li> <li>• Question licence holder further</li> <li>• Summarise</li> <li>• Outline next steps</li> </ul>
3.	<p><u>Licence Holder invited to attend officer panel</u></p>	<ul style="list-style-type: none"> <li>• Advised to obtain own legal advice, advised can be accompanied by legal</li> </ul>

	<ul style="list-style-type: none"> <li>• Letter sent to licence holder / applicant detailing time/date/place and include order of proceedings</li> </ul>	<p>representation or friend, advise if person who accompanies them is a friend, then panel need to agree if they can speak on their behalf</p> <ul style="list-style-type: none"> <li>• Need to send order of proceedings with invite. Order of proceedings need to be confirmed.</li> </ul>
4.	<p><u>Officer Panel Hearing</u></p> <ul style="list-style-type: none"> <li>• Licence holder / applicant attends</li> <li>• Chair opens hearing</li> <li>• Officer outlines case</li> <li>• Licence holder / applicant given opportunity to address panel</li> <li>• Licence holder / applicant offers any explanations required</li> <li>• Questions can be asked by panel to officers or applicant/licence holder</li> <li>• Panel debates in private</li> <li>• Licence holder / applicant verbally advised of decision and right of appeal with summary of reasons and decision</li> <li>• Decision letter sent within 5 working days formally detailing the decisions and reasons for the decision and commencing the 21-day appeal timescale.</li> </ul>	<ul style="list-style-type: none"> <li>• Officer panel can ask questions of both licensing officer and licence holder / applicant</li> <li>• Licence holder / applicant can provide any information to the officer panel to support their case</li> </ul>

3. Decisions stay at Group Leader Level

Benefits	Risks
Impartiality of the decision maker	There is a perception from the licensed trade that there isn't impartiality
Decisions made in a timely manner	Does not address the concerns raised following the consultation on the DfT standards
Reduction in cost to the trade	Does not comply with DfT standards, members will be required to give due regard to the standards and have reasons why we have departed from them.
Is in line with the other West Yorkshire Licensing Authorities	
Consistency in decision making	

**Process**

Step	Process	Comments

<p>1.</p>	<p><u>Issue comes to light either with new applicant or existing licence holder</u></p> <ul style="list-style-type: none"> <li>• Does the issue fall within policy Y / N – if yes then move to step 2 if no then: -</li> <li>• If an existing licence holder, do they have a history that, along with the current issue calls into question their fitness and suitability to hold a licence Y / N – if yes then step 2, if no then: -</li> <li>• Investigate issue in isolation and take appropriate actions, i.e. warning letter, verbal warning or no further action.</li> </ul>	<p>Issues come to light via multiple sources:</p> <ul style="list-style-type: none"> <li>• DBS</li> <li>• Complaint</li> <li>• Self-Declaration</li> <li>• DVLA check</li> <li>• Enforcement Activity</li> <li>• Checks with other licensing authorities</li> <li>• Other</li> </ul>
<p>2.</p>	<p><u>Officer Investigates the Issue</u></p> <ul style="list-style-type: none"> <li>• Gathers evidence</li> <li>• Speaks to third parties, i.e. complainant, police, other agencies</li> <li>• Informs licence holder / applicant of the issue at hand</li> <li>• Prepares to interview licence holder</li> <li>• Invites licence holder / applicant for interview in writing</li> <li>• Holds interview and informs licence holder of next steps</li> <li>• Prepares report for group leader</li> </ul>	<ul style="list-style-type: none"> <li>• Recorded interview – not PACE</li> <li>• Option to have someone present - does not have to be legal</li> <li>• Present information on issue and evidence collated</li> <li>• Opportunity for licence holder to respond and offer their version of events</li> <li>• Question licence holder further</li> <li>• Summarise</li> <li>• Outline next steps</li> </ul>
<p>3.</p>	<p><u>Licence Holder invited to attend a meeting with the group leader</u></p> <ul style="list-style-type: none"> <li>• Letter sent to applicant/licence holder detailing time/date/place</li> </ul>	<ul style="list-style-type: none"> <li>• Advised to obtain own legal advice, advised can be accompanied by legal representation or friend, advise if person who accompanies them is a friend, then panel need to agree if they can speak on their behalf</li> </ul>



		<ul style="list-style-type: none"> <li>• Advised they will be permitted 10 minutes to address the group leader</li> </ul>
4.	<p><u>Meeting with Group Leader</u></p> <ul style="list-style-type: none"> <li>• Licence holder / applicant attends</li> <li>• Licensing Officer outlines case</li> <li>• Licence holder / applicant given opportunity to address group leader for 10 minutes</li> <li>• Licence holder / applicant offers any explanations required</li> <li>• Questions can be asked by group leader to applicant/licence holder</li> <li>• Decision not given on the day</li> <li>• Decision letter sent within 5 working days formally detailing the decisions and reasons for the decision and commencing the 21-day appeal timescale.</li> </ul>	<ul style="list-style-type: none"> <li>• Group leader can ask questions of both licensing officer and licence holder / applicant</li> <li>• Licence holder / applicant can provide any information to the group leader to support their case</li> </ul>

4. Hybrid Panel – Including Officers and Members

Benefits	Risks
Impartiality	Is likely to cause delays in decision making, this will negatively impact both the new applicants who will have to wait for a decision regarding their application and those existing licence holders who will have to wait for an outcome of an investigation.
Addresses some of the issues raised because of the consultation on the DfT statutory standards	Staffing resource implications, all panels will be required to have minutes taken by Governance officers and published, legal officer support, licensing officers and the requirement for a meeting room.
Will be partially compliant with the recommendation in the DfT standards	Increased costs which would be borne by the licence holder / applicant
	It will take us out of step with other West Yorkshire Licensing Authorities whose decision making is the responsibility of officers not members.

	Member involvement would require a change to the Council's constitution.
--	--

## Process

Step	Process	Comments
1.	<p><u>Issue comes to light either with new applicant or existing licence holder</u></p> <ul style="list-style-type: none"> <li>• Does the issue fall within policy Y / N – if yes then move to step 2 if no then: -</li> <li>• If an existing licence holder, do they have a history that, along with the current issue calls into question their fitness and suitability to hold a licence Y / N – if yes then step 2, if no then: -</li> <li>• Investigate issue in isolation and take appropriate actions, i.e. warning letter, verbal warning or no further action.</li> </ul>	<p>Issues come to light via multiple sources:</p> <ul style="list-style-type: none"> <li>• DBS</li> <li>• Complaint</li> <li>• Self-Declaration</li> <li>• DVLA check</li> <li>• Enforcement Activity</li> <li>• Checks with other licensing authorities</li> <li>• Other</li> </ul>

2.	<p><u>Officer Investigates the Issue</u></p> <ul style="list-style-type: none"> <li>• Gathers evidence</li> <li>• Speaks to third parties, i.e. complainant, police, other agencies</li> <li>• Informs licence holder / applicant of the issue at hand</li> <li>• Prepares to interview licence holder</li> <li>• Invites licence holder / applicant for interview in writing</li> <li>• Holds interview and informs licence holder of next steps</li> <li>• Prepares report for group leader</li> </ul>	<ul style="list-style-type: none"> <li>• Recorded interview – not PACE</li> <li>• Option to have someone present - does not have to be legal</li> <li>• Present information on issue and evidence collated</li> <li>• Opportunity for licence holder to respond and offer their version of events</li> <li>• Question licence holder further</li> <li>• Summarise</li> <li>• Outline next steps</li> </ul>
3.	<p><u>Licence Holder invited to attend a meeting with the hybrid panel</u></p> <ul style="list-style-type: none"> <li>• Letter sent to applicant/licence holder detailing time/date/place</li> </ul>	<ul style="list-style-type: none"> <li>• Advised to obtain own legal advice, advised can be accompanied by legal representation or friend, advise if person who accompanies them is a friend, then panel need to agree if they can speak on their behalf</li> <li>• Advised they will be permitted 10 minutes to address the panel</li> </ul>
4.	<p><u>Hybrid Panel Hearing</u></p> <ul style="list-style-type: none"> <li>• Licence holder / applicant attends</li> <li>• Chair (TBC) opens hearing</li> <li>• Officer outlines case</li> <li>• Licence holder / applicant given opportunity to address panel</li> <li>• Licence holder / applicant offers any explanations required</li> <li>• Questions can be asked by panel to officers or applicant/licence holder</li> </ul>	<ul style="list-style-type: none"> <li>• Panel can ask questions of both licensing officer and licence holder / applicant</li> <li>• Licence holder / applicant can provide any information to the panel to support their case</li> </ul>

	<ul style="list-style-type: none"><li>• Panel debates in private</li><li>• Licence holder / applicant verbally advised of decision and right of appeal with summary of reasons and decision</li><li>• Decision letter sent within 5 working days formally detailing the decisions and reasons for the decision and commencing the 21-day appeal timescale</li></ul>	
--	---	--

This page is intentionally left blank



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

**Date:** Wednesday 1<sup>st</sup> February 2023

**Title of report:** Hackney Carriage and Private Hire Association’s Terms of Reference

**Purpose of report:** The purpose of the report is to seek members approval for the updated ‘terms of reference’ for hackney carriage and private hire associations.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>No</b>
<b>Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)?</u></b>	<b>Key Decision –No</b> <b>Private Report/Private Appendix –No</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>No</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Colin Parr – 23.01.2023</b>
<b>Is it also signed off by the Service Director for Finance?</b>	<b>Eamonn Croston – 20.01.2023</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Julie Muscroft - 17.01.2023</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Councillor Will Simpson</b>

**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 report seeks members of the Licensing and Safety Committee approval of the proposed terms of reference for hackney carriage and private hire association meetings, shown at **Appendix 1**.

## 2. Information required to take a decision

### Background

2.1 At the meeting of the Licensing and Safety committee on 17<sup>th</sup> December 2020, a report was presented to members informing them that the Licensing Service would be introducing more formal and structured association meetings with the trade.

2.2 Previously it was agreed that due to the differences between the hackney carriage and private hire trades, the meetings be separated into a hackney carriage working group and a private hire working group to enable a more focused means of engaging with the trades.

2.3 The meetings are chaired by the Licensing service and do not have member involvement. However, the Chair of the Licensing and Safety does attend the meetings as a spectator and as a supportive role. Adopting this approach ensures that there is a level of separation between the decision-making body, 'the Committee', and any policy issues / suggested changes that may be raised at the meetings.

2.4 On 17<sup>th</sup> December members were asked to endorse and approve the terms of reference as shown at **Appendix 2**.

2.5 The licensing service has successfully established regular hackney carriage working groups/meetings, however, and previously take up from the private hire trade was low. Work has been ongoing to encourage the private hire trade to engage with the meetings. At the beginning of November, we held the first successful private hire trade association meeting and would like to ensure that these remain. It is felt that if there is a more detailed narrative relating the terms of reference for the meetings, engagement may be more achievable with both the hackney carriage and private hire trades.

2.6 The service worked with the hackney carriage association to produce the proposed terms of reference, shown at **Appendix 1**. The terms of reference goes into more detail about what the Council expects from the trade but also what the trade can expect from the council.

2.7 Members will note in the terms of reference document at appendix 1 that currently it is proposed that the decision about the status of a trade representative in the event their behaviour is deemed unacceptable will be considered by the Chair of the Licensing and Safety Committee and the Head of Public Protection. However, members are asked to consider whether this is clear enough or whether more detail should be included, the additional detail is as follows:

If the normal standards of behaviour as set out in this Policy are not followed by a trade representative at any time, i.e. during trade meetings, during day to day communications either in person or in writing or during supportive duties of members of the trade, the Licensing Authority will consider the removal of the individual or, in the case of a collective behaviour, of an association from being trade representatives/associations.



In most circumstances it is expected that minor breaches of the standards of behaviour set out in this policy can be dealt with informally between the Licensing Authority and the individuals concerned. However, repeated breaches of the standards or significant breaches, such as violent or aggressive behaviour and/or derogatory or abusive comments, will result in the removal of the privileges of being a trade representative or association. The following procedure will be followed where possible:

- At the time of the breach an officer from the licensing authority will inform the individual(s) that the standards of behaviour have fallen short of the expectations and give an opportunity for the behaviour to be modified informally.
- In the case of repeated breaches or a serious breach of the expected standards of behaviour – a warning letter will be sent to the individual(s) or association setting out the situation, asking for behaviour to be modified and warning that if the behaviour continues then the individual(s) will be removed from being a trade representative or the association no longer being recognised as such.
- If following a warning letter there are further breaches of the standards of behaviour the licensing authority will consider the removal of the trade representative or association.
- Following a decision of the licensing authority the individual or association will be notified in writing and the members of the trade represented by those individuals or association will be notified. The Licensing and Safety Committee will be notified of any decision at the next committee meeting.

If any trade representative or association has any complaints against the behaviour of an officer of the licensing authority it is expected that they follow the Council's complaint procedure which can be found at <https://www.kirklees.gov.uk/beta/contact-the-council/complaints-procedure.aspx>

2.8 The terms of reference have also been circulated to the newly established private hire association members and trade unions, namely, GMB, Unison and Unite for comments. GMB responded by stating that they have for some time now been promoting the GMB charter and this should be considered in line with any terms of reference to ensure there is no conflict. GMB have also been working on a constitution for private hire drivers and have provided a draft document for consideration. These documents can be found at Appendix 3 and 4.

2.9 Officers would also like to ask members to clarify the level of member involvement within the association meetings, the chair of the committee does attend, however, officers have received requests from ward councillors who do not sit on the licensing and safety committee to attend the meetings.

### **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 respective working groups will enable the licensing service and the trade to meet these priorities.

### **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 (inc York) and the hackney carriage and private hire trades, as well as many others.

### **3.3 Place Based Working**

The proposed terms of reference are part of an ongoing review of how the service interacts, engages, and shares information with key stakeholders, such as licence holders, residents, and local communities.

### **3.4 Climate Change and Air Quality**

There is no specific impact in the context of this report, however, the working groups will enable the licensing service, the Council's climate change team and the trade to look at any changes that may need to be made in relation to vehicle licensing and its impact on climate change and air quality.

### **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**

There is no specific impact on the financial implications for people living or working in Kirklees in this report.

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

#### Legal

The principal legislation for hackney carriage and private hire licensing is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The purpose of taxi licensing is detailed in the Department for Transport "Taxi and Private Hire Licensing Best Practice Guidance" which states: "The aim of the local authority licensing of the taxi and private hire vehicle (PHV) trades is to protect the public".

Taxi and private hire vehicle licensing in England and Wales is undertaken by licensing authorities, which have the responsibility for ensuring that the public travel in safe, well-

maintained vehicles driven by competent drivers; as well as providing a fair and reasonable service for the hackney carriage and private hire vehicle trade. Council's following best practice will meet or communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistent and robust approach in decision making.

#### Financial

The only financial implications are in relation to the cost of officer time in preparing for, co-ordinating, chairing and minuting the meetings.

#### Human Resources

The co-ordination and chairing of the association meetings does impact resources within the service.

### **4. Next steps and timelines**

4.1 If members endorse the terms of reference officers will ensure that this are put into practice as soon as practicable.

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

5.1 Members are recommended to –

- Note the report.
- Approve the proposed terms of reference at **Appendix 1**.
- Approve the proposed terms of reference at **Appendix 1** and add the addition of Section 2.7 of the report.
- Consider the charter provided by the union GMB shown at **Appendix 3** to ensure there is no conflict with the proposed terms of reference.
- Consider the GMB and Leeds Constitution shown at **Appendix 4** and decide whether to instruct officers to liaise with GMB and Leeds and other West Yorkshire authorities to try and standardise across the region.
- Delegate to officers to make any changes to the Terms of Reference in future in conjunction with the Chair of the Licensing and Safety Committee.
- Provide officers with a decision regarding member involvement at the association meetings, it is recommended that members of the committee agree to members, other than the chair of the licensing and safety committee, only being permitted to attend the association meetings at the explicit request of the trade and for observatory purposes only.

### **6. Cabinet Portfolio Holder's recommendations**

Councillor Will Simpson supports the proposal on how officers engage with the licensed trade.

### **7. Contact officer**

Fiona Goldsmith  
Public Protection Group Leader – Licensing

01484 221000(ext 79921) or [Fiona.goldsmith@kirklees.gov.uk](mailto:Fiona.goldsmith@kirklees.gov.uk)

## **8. Background Papers and History of Decisions**

[3. Trade Engagement - LS Report 171220.pdf \(kirklees.gov.uk\)](#)

## **9. Service Director responsible**

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

## Hackney Carriage / Private Hire Trade Representatives Terms of Reference

### Trade Representatives – Kirklees Council working together with Hackney Carriage / Private Hire Trade Representatives

What are the benefits of being a trade representative?

1. You will have direct access to senior managers within the service
2. You will have access to information before it is shared with the public or wider with the trade, for example, plans of proposed developments within the authority.
3. You can help to build and maintain a good working relationship with the licensing service and the Council as a whole.
4. You can speak on behalf of the trade on the issues that really matter to you.

### Role of the Trade Representatives: -

- To share the views, concerns, and ideas from the licensed trade.
- To understand the reasons behind council policies and procedures and to act as a link between the trade and the licensing department.
- To strengthen communication and feedback between key organisations and user groups (eg, West Yorkshire Police, or other groups)
- Help members of the trade with disciplinary or grievance issues including having meetings with those members of the trade and/or attending meetings with the trade members about their individual cases.
- Discussing issues that affect the trade.
- Supporting and advising members on workplace issues.
- Being responsible for collecting and collating views from the trade and reporting them accurately to licensing (including views which might not agree with the trade reps personal view).
- Assist licensing to get information out to the trade in a timely manner, for example, issues affecting the trade agendas for the meetings will be sent out a week before the meeting.
- Meet with licensing to find solutions to workplace issues.
- Provide members with information, advice, and guidance about work-related problems
- Campaign on issues that affect the trade.
- To always act in a confidential way, not sharing personal information of people being represented outside of communication with the Licensing Authority.
- Be willing to attend occasional training/advice sessions which might help the rep to better understand processes and become a more effective representative for others in the trade.

### Role of the Licensing Service

- Co-ordinate meetings
- Facilitate relevant Council Officers / partner organisations to attend meetings to address matters.
- The licensing service recognises that a number of trade representatives have religious, community and work commitments and will look to arrange meetings at a time convenient to maximise all representative's participation.
- Meetings will be held at different venues across the council area to try to ensure equality in being able to attend.
- Collate the agenda and minutes and circulate 7 days prior to the association meeting.
- Communicate information to the trade associations.

- Listen to concerns and where possible find a solution that is acceptable to all parties (this may not be possible for all concerns).
- To seriously consider the concerns of the trade, but also be aware of government legislation and local policy and the standards that taxi users can reasonably anticipate
- To be able to explain and justify the reasons for decisions and policies.
- Use the meeting to facilitate conversation and engagement surrounding policy changes, both new policies and reviews of policy.

Kirklees Council recognises that the Hackney Carriage trade and the Private Hire Trade have different expectations and requirements, therefore, hackney carriage and private hire association meetings will be held separately. These meetings will be held quarterly (4 times a year) unless additional topic specific meetings are required.

Everyone involved will respect each other's position and behave politely, professionally, and constructively to find a joint solution (where possible) to any problems.

Trade meetings are expected to be carried out in a professional and business-like manner. Abusive or disruptive behaviour, such as shouting, pointing, swearing etc, will not be tolerated as this disrupts the purpose of the meeting and does not best serve the wider trade.

#### Procedure to appoint Associations

There can be more than one association for both hackney carriage and private hire.

A 'Trade Association' should be an organised group representing a number of individual members of the trade and should, for example, have a chair who is effectively leading the association and a number of other roles, such as deputy chair, secretary, treasurer and other members as needed. It is anticipated that 'Trade Associations' will be unincorporated associations, advice on the setting up and running of unincorporated associations can be widely found on the internet.

1. An election is held by the trade to elect a chair and a dedicated team, i.e. deputy chair, secretary and treasurer.
2. Once elected the chair is to inform licensing of the members of the association, including names and contact details for the trade representatives.
3. The association will provide details about how they hold the elections, provide a list of those trade members who they are acting for and on behalf of and evidence how they pass the information down to the trade.
4. An election is carried out every 5 years if requested by most of the trade.
5. The Chairperson can appoint trade representatives as and when needed, notifying licensing of any changes.
6. There will be a dedicated team of no more than 4 members per association who will deal directly with the licensing service and only the current association members can hold discussions on topics and make decisions on behalf of the trade when required.
7. The licensing service can require the removal of a trade representative or chairperson if their behaviour is unacceptable, and the association will not be recognised if any member does not meet the behaviour standards as set out.

N.B. if money is to change hands i.e. through membership fees or fees for advocacy, if there is any payment for association services even if this is subscriptions – there must be a treasurer and annual accounts should be provided if requested. It is also recommended that minutes or notes of Association Meetings are kept and made available if required to Licensing – this is to ensure that vital liaison between members of the trade, their association and the Licensing Service can be documented, and we can ensure the association is doing its job.

## Individual Trade Representatives

It is accepted that there may be individuals who wish to represent their trade colleagues as a sole representative. Therefore, if an individual wishes to become a sole trade representative may do so, however, they will be required to be proposed and seconded by Kirklees Licensed Drivers/Operators and they will then be required to provide a list of those persons they are representing. The minimum number of people they must represent to be eligible is ten (10) members of the trade.

## Communication

Communication between recognised trade representatives and officers and vice versa will be done in a polite, courteous, and respectful manner.

Communication must not be accusatory or defamatory in its nature. Any such comments will not be tolerated, and the person will be asked to apologise and withdraw the comment, whether in person or in writing. Consideration will be given to removing them as a recognised trade representative.

Where officers breach this policy, the Council has a formal complaints procedure that can be followed, further information can be found at [Complain to the council | Kirklees Council](#)

Where a recognised trade representative breaches the policy consideration will be given, to removing them as a recognised trade representative.

The decision about the status of a trade representative in the event their behaviour is deemed unacceptable will be considered by the Chair of the Licensing and Safety Committee and the Head of Public Protection.

Communication includes, but is not limited to – email, telephone, letter, or social media.

### Terms of Reference Hackney Carriage and Private Hire Trade Engagement

#### Hackney Carriage Working Group

- Meeting involving recognised Hackney Carriage Association(s) from Dewsbury and Huddersfield.
- Meetings are to be held quarterly (Suggested).
- The meetings will be subject to a pre-set agenda, including items from the trade.
- No Member involvement as any recommendation would come before Licensing Committee.  
Membership to consist of: -
  - Group Leader – Licensing (Chair),
  - Licensing Service Officers,
  - Police,
  - Fleet Services,
  - Hackney Carriage Associations,
  - GMB,
- Purpose of the meeting is –
  - for officers to provide information on prospective policy changes affecting the hackney trade,
  - for officers to provide information on wider Council policies relevant to the hackney carriage trade,
  - for the associations to feed into prospective policy changes affecting the hackney carriage trade,
  - for the associations to raise and discuss issues affecting the hackney carriage trade,
  - not to discuss individual cases

#### Private Hire Working Group

- Meeting involving private hire operators and recognised private hire driver representatives from Dewsbury and Huddersfield.
- Meetings are to be held quarterly (Suggested).
- The meetings will be subject to a pre-set agenda, including items from the trade.
- No member involvement as any recommendation would come before Licensing Committee.
- Membership to consist of: -
  - Group Leader – Licensing (Chair),
  - Licensing Service Officers,
  - Police,
  - Fleet Services,
  - Private Hire Operators,
  - Recognised Private Hire Driver Representatives,
  - GMB.
- Purpose of the meeting is: -
  - For officers to provide information on prospective policy changes affecting the private hire trade,
  - For officers to provide information on wider Council priorities relevant to the private hire trade,
  - For the operators and driver representatives to feed into prospective policy changes affecting the private hire trade,
  - For the operators and driver representatives to raise and discuss issues affecting the private hire trade,
  - Not to discuss individual cases.





## GMB TAXI & PRIVATE HIRE FAIR LICENSING CHARTER (YORKSHIRE) 2022

There can be no doubt that the Taxi and Private Hire trade has been hit hard by the ongoing Covid Pandemic. Workers in the industry have suffered some of the highest mortality rates of any profession and morale is at an all time low.

Add to this, these *new* changes to licensing policy across the region and we are now seeing drivers in their thousands make the choice to quit the trade. This is weakening our transport infrastructure and leaving our communities with much less choice when it comes to accessing safe and *secure* journeys.

The GMB have campaigned for years for improvements to the terms and conditions of drivers and fought for a greater focus on their welfare and safety.

These people *are* our residents as well as drivers and theirs and their family's financial security and welfare have been an afterthought for far too long.

The legal precedence that the GMB fought for and won regarding driver status in the Uber Case (EAT 2017 & SC 2021) must change the approach that providers and licensing authorities should now take when it comes to developing their policies.

Driver Welfare has been no more than a passing *reference* for far too long and that is why we want local authorities and our regions mayors to support the 6 key asks in our 'Fair' Charter for these drivers and the communities they serve.

Peter Davies  
GMB Senior Organiser

Sue Wood  
GMB Senior Organiser

### GMB YORKSHIRE & NORTH DERBYSHIRE REGION

Regional Secretary: Neil Derrick      General Secretary: Gory Smith

CLIFTON HOUSE, CLIFTON ROAD, BRIGHOUSE, H06 1SL.  
TEL. 0345 337 7777 FAX. 014B4 721222

REGIONAL WEBSITE [www.gmbyorkshire.org.uk](http://www.gmbyorkshire.org.uk)

### UNIONLINE

YOUR TRADE UNION LAW FIRM

0300 333 0303

[www.unionline.co.uk](http://www.unionline.co.uk)

## 1. Driver welfare and safety:

Drivers have suffered from the highest levels of mortality during the COVID-19 pandemic. This tragedy has been compounded by a spate of recent violence against drivers, some of it clearly racially motivated.

To make sure all Drivers have welfare and safety needs addressed, the Licensing Authority should:

- Work with GMB health and safety reps to highlight issues of driver's welfare and safety on a regular basis.
- Coordinate with police, drivers, and union members to highlight violence and racism towards drivers with an aim to stamp it out.

## 2. Working conditions:

All Licensing Policy should have a dedicated focus on providing the best possible working conditions for Drivers. The GMB recently secured clear rights for Drivers in the Uber case (EAT 2017 which was confirmed by the Supreme Court in 2021).

To make sure all Drivers have access to the best working conditions possible the Licensing Authority should:

- **Monitor the working time directive:** This system should **Measure Paid hours** and, if driver status is established, **paid Holidays** to ensure continued compliance.
- **Identify workers:** To successfully establish if a driver is a worker or self-employed, Licensing Authorities should implement the following survey (Appendix A). Note: worker status for the purpose of the working time directive still maintains driver independence and there remains a need to continue self-assessment etc.

## 3. Consultation forums:

Local authorities should establish formal consultation forums for constituted and registered drivers' representative bodies. Trade unions are independent and impartial employment experts who operate entirely in their members interests, they should be considered the benchmark organisations when licensing authorities agree such formal bodies.

**These forums should:**

- Have the ability and authority to call providers to attend when welfare and/or employment issues are raised by any of the 12 recognized attending bodies.
- Act as a formal conduit for all licensing matters relating to driver health and safety.

- Be consulted and able to feed into policy developments with a particular focus on fair work, clean air zones, just transition, vehicle and licence compliance, driver training and trade subsidies.

Local authorities should consider joint consultation with neighbouring local authorities consultation forums too, and have a particular focus on cross border issues that arise out of the use of weaker compliance licensing, where established.

#### **4. Maintaining public trust & improving public safety:**

A programme of training should be agreed and put in place for both driver and operator compliance and designed to improve the trade for the public and those employed within it.

Training sessions should provide drivers with a good understanding of the following areas:

- Licensing law (the basics).
- Dealing with challenging behaviour.
- Conflict resolution.
- Driver & passenger safety.
- Unconscious bias, discrimination & mental health awareness.
- Zero Carbon Transport planning for the future.

#### **5. DisQute resolution:**

Areas of dispute have the potential to stop a local taxi and private hire trade at no notice, formal ballots are not required and so protests, and stoppages can gain momentum very quickly.

**These are often caused by:**

- Lack of clear and consistent communication between the authority and drivers.
- Meaningful consultation around changes.

**These stoppages can be avoided by:**

- Implementing an agreed policy around registering where the areas of dispute arise within a Consultation Forum.
- The creation of a disputes policy and committee should be agreed and communicated by the Consultation Forum and established within its constitution.

## **6. Monitoring and Implementation:**

To monitor the implementation of this charter; officers, councillors and unions should meet initially to devise an implementation plan which should include the following:

- Quarterly meetings between officers, councillors, and unions to assess progress.
- A regular report to the council executive.

### **Appendix (A)**

#### **Areas of interest in determining whether a taxi driver should have worker for the purpose of the Working Time O\***

<b>Operator</b>	<b>Question to be provided by le11al dept)</b>	<b>Answer and evidence</b>
	Does the operator set the level of fares, such that the driver is not permitted to charge more?	
	Are fares paid directly to the operator, from which the driver is subsequently paid by the operator?	
	Are the contract terms under which drivers provide services imposed by the operator, such that the driver has no real scope for negotiation?	
	Does the operator have the ability to control or restrict the driver's choice over which jobs to accept?	
	Does the operator control the information which is provided to the driver?	
	Does the operator monitor the rate of acceptance and/or cancellation of trips by the driver, and impose penalties for cancellation and/or non-acceptance?	
	To what extent does the operator exercise control over how the driver delivers their services? For example, is the driver required to operate under the operator's branding? Are they required to wear uniforms designated by the operator? Are they required to follow routes which have been designated by the operator? Are they required to interact with customers in prescribed ways?	
	Does the operator restrict communications between the driver and customers, such that the drivers are prevented from developing commercial relationships with customers outside of their contractual relationship with the operator?	
	Does the operator deal with customer complaints against drivers, and are they able to impose sanctions against drivers in respect of such complaints?	
	Is the driver required to provide his own personal services to the operator, or can she/he provide a substitute for those services?	

**We, the undersigned, support this GMB Charter.**

## LEEDS PRIVATE HIRE DRIVERS' FORUM CONSTITUTION

This constitution is agreed on 1<sup>st</sup> December 2022 between the Taxi and Private Hire Licensing service of Leeds City Council and the following organisations:

### **GMB Trade Union Leeds Private Hire Drivers Organisation**

Leeds City Council ('the council') recognises those trade and professional associations listed above as representing Private Hire drivers for the purposes of the Taxi and Private Hire Licensing Forums.

The Taxi and Private Hire Licensing service (TPHL) recognises it is beneficial for drivers to join an appropriate trade or professional body. It believes that fully representative organisations lead to good trade relations and therefore encourages drivers to join, although membership is not a condition of the grant of a licence.

### **General Principles**

TPHL and the trade and professional bodies listed above believe that good trade relations are an important factor in achieving the council's objectives and a high-quality passenger service. Cooperation and communication are important features of the relationship between the council and the trade.

The trade and professional bodies listed above recognise the council's responsibility under the relevant legislation to licence and regulate taxi and private hire licensing activities.

TPHL recognises the trade and professional bodies' responsibility to represent the interests and views of their members and to work for improved conditions and standards within the trade.

TPHL and the trade and professional bodies recognise their common interests and concerns and are committed to working together to maintain good relations and to deal with unresolved issues at the earliest opportunity as speedily as possible. Both parties agree to pursue the above objectives by keeping each other fully informed of all relevant matters and consulting on matters of mutual interest with the opportunity to contribute to decisions before they are made.

The mechanisms to achieve the aims and principles of this agreement are:

- Regular forum meetings between the Taxi and Private Hire Licensing Service and the trade and professional associations.
- Individual representation of members.

## 1 Aims of the Forums

Without prejudice to the right of officers and members to make decisions exercising delegated powers and the rights of trade and professional bodies to make representations on their own behalf or through their own organisation, the general objectives of the forum are:

- (a) To provide a regular forum to bring officer and the trade together in joint consultation to discuss matters of mutual concern and maintain an efficient service.
- (b) To discuss items relating to such issues as licensing practices and processes, licensing policies, enforcement and any other relevant aspect of taxi and private hire licensing.
- (c) To discuss the operation of or implementation of previous decisions.

## 2 Membership

The membership of the forum shall be comprised of: -

- Officer Group;
- Trade Group (limited to a maximum of two representatives per recognised trade body or association, names to be notified to the Management Support Officer at TPHL by the secretary or chairman of the trade body or association). In the event of more than two representatives attending the meeting, the secretary or chairman to determine who will attend the meeting and who should leave; and
- Advisors - Either group will have the right to co-opt, in a consultative or advisory capacity only, representatives from other areas affected by an item under discussion who are not represented on the forum. Such advisors shall participate only for the period during which that specific item is under discussion. Such attendees shall be notified to the Management Support Officer at Taxi and Private Hire Licensing before the meeting commences.

## 3 Criteria for Recognition

A Trade or Professional Organisation may apply to the council for recognition under this document by submitting a letter to Taxi and Private Hire Licensing which includes: -

A written constitution which includes details on: **-(GMB rule**

book covers below)

- how a person may seek membership;
- **Has a monthly subscription based membership.**
- how officers who may represent the trade in meetings with the council are appointed or elected and at what frequency; and
- how the organisation seeks view from its members and feeds information from the forum meetings and on current issues and consultations back to them.

And

- A list of current members; and
- A list of elected officers.

The council does not seek to prescribe any of these matters, nor approve a model constitution, but seeks to establish that the applicant is truly able to represent its members and feedback views and issues to and from them.

**An application can be challenged by an existing member of the forum prior to acceptance and any disagreement here must be resolved prior to acceptance.**

Any refusal to recognise a body or association will be given in writing, accompanied by reasons for the refusal. These reasons may include a body or association having too few members, below 50, or lacking evidence of trading successfully for five years or more.

The applicant may then request a hearing before a Licensing Sub Committee who will consider the applicant's case and the reasons for refusal and determine whether to recognise the applicant. Such decision shall be binding on the parties although a fresh application may be made if the reasons for refusal no longer apply.

Once recognised, a trade body or association must submit its constitution, names of chairman and/or secretary, names of officers, and a complete list of members to Taxi and Private Hire Licensing on an annual basis, such as after its annual general meeting. The council reserves the right to remove recognition from any trade association or body which ceases to be representative. Any removal of recognition can be appealed in the same way as an initial refusal. (GMB cannot provide a full list of its members due to GDPR & members preference, but the GMB Officer can provide a letter confirming compliance).

#### **4 Meetings of the Forum**

Meetings of the Taxi and Private forums will take place every four months (or as frequently as business demands). Special meetings may be called as necessary to deal with issues as they arise.

Administrative facilities will be provided by TPHL who will be responsible for:

- Preparation of the agenda and papers for meetings.
- Recording the discussions by way of minutes.
- Publishing and circulating minutes and other agreed documentation.

The forum meetings will be chaired by the Chair of the Licensing Sub-Committee or Manager of the Taxi and Private Hire Licensing service or another appropriate officer.

Agenda items together with supporting papers should be notified to the Management Support Officer at least two weeks before the scheduled meeting. Only urgent items will be considered after this date.

Agenda papers will be sent out at least seven days in advance of meetings. Minutes will be distributed within ten working days of the meeting taking place.

## **5 Quorum**

The forum shall be quorate where there is at least one representative of the Taxi and Private Hire Licensing service and one representative from the trade or professional associations present.

## **6 Avoidance and Resolution of Disputes**

Taxi and Private Hire Licensing and the trade and professional bodies agree that every attempt will be made to resolve issues raised. However, it is exclusively recognised that this constitution is without prejudice to the rights of officers and members to make decisions using delegated powers, of officers to implement decisions already made and the representatives to act in the best interests of their members.

(A dispute resolution / failure to agree procedure has yet to be agreed and could be attached as an appendix).

## **7 Review of the Operation of the Constitution**

The operation of this constitution will be kept under review by both sides. Consideration can be given to the need for any change in the light of experience.

Names of officers signing this constitution:



Name	Organisation

This page is intentionally left blank