



Name of meeting: Licensing and Safety Committee

Date: Wednesday 2nd March 2022

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 1st April 2021.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the <u>Council’s Forward Plan (key decisions and private reports)?</u>	Key Decision –No Private Report/Private Appendix –No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 18.02.22 Eamonn Croston – 17.02.22 Julie Muscroft - 18.02.22
Cabinet member portfolio	Councillor Will Simpson

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 purposes 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 1st April 2021.

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.

2.2 The legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and this process involves a detailed examination of their entire character to make a judgement as to their fitness and suitability. If an applicant cannot satisfy the Authority that they are a fit and proper person, then legislation dictates a licence must NOT be granted.

2.3 These are the principles that guide officers when making decisions in relation to application for hackney carriage and private hire licences. Each case is decided on its own merits, in line with the Council's hackney carriage and private hire licensing policy and considering all relevant factors. Relevant factors include, previous convictions, cautions, complaints, failures to comply with licence conditions, and time periods that have elapsed since these were committed, this list is not exhaustive.

2.4 The challenges of the changes the pandemic has forced over the last two years have proved that the licensing service is adaptable to change.

2.5 Throughout the pandemic and all the changes to restrictions both nationally and at a local level the team have continued to maintain service delivery. In August 2021 we introduced our service standards, these standards clearly set out what an applicant can expect from the licensing service when applying for a driver's licence, a vehicle licence or an operator's licence. A copy of the standards can be found at appendix 1.

2.6 Monitoring of the standards commenced in October 2021. The following table shows how the service is performing against those standards

	January - February 2022				
	No. Processed	In Target	%	Out of Target	%
Drivers	182	178	98	4	2
Vehicles	244	236	97	8	3
Operators	20	20	100	0	0

	October - December 2021				
	No. Processed	In Target	%	Out of Target	%
Drivers	422	409	97	13	3
Vehicles	585	445	76	140	24
Operators	23	23	100	0	0

2.7 It has been widely publicised that the pandemic has had a negative effect on the taxi and private hire trade due to the restrictions placed on the country, resulting in the need for the services provided to drop, some of the things the council have put in place to aid the licence holders are: -

- Grant scheme – The council offered two grant payments totalling £1000 to all drivers.
- Vehicle Age Limits – Due to the increased cost of purchasing vehicles and the financial effects the pandemic has had under delegated authority vehicles reaching the upper age limits of 10/12 years from first registration have been permitted to renew the licence for a further 12 months. This will apply to all vehicles reaching the upper age limit up to 30th September 2022 or until the new vehicle policy takes effect, whichever date comes first.

2.8 Department for Transport (DfT) Guidance – Policy Consultation

Following the publication of the Statutory Standards issued by the DfT the licensing safety committee on Wednesday 4th August 2021 members agreed to commence a consultation on the changes identified in our current hackney carriage and private hire licensing policy. Appendix 2 reminds Members of what those proposed changes are.

To maximise the opportunity for more people to respond to the survey the decision was taken to extend the consultation for a second time; and the consultation is now due to end on 30th March 2022.

Extending the consultation is also an opportunity to clarify an apparent misconception that the licensing service are consulting on a change to its fitness and suitability policy.

Officers would like to re-assure Members and the trade that this is not the case. The existing fitness and suitability policy, adopted by the Licensing and

Safety Committee in June 2019, already meets the minimum standards set out by the Department of Transport; and therefore, no changes were required.

2.9 HM Revenue and Customs (HMRC)

From 04th April 2022 HMRC have introduced a new legal requirement for all Hackney Carriage / Private Hire Drivers and Licensed Operators to ensure that all new applicants are aware of their tax responsibilities and that licence holders upon renewal have completed a tax check. This is covered in more detail in the second report on this agenda.

2.10 Online DBS and Update Service

From 1st March 2022 the licensing service is changing the way in which DBS applications are completed, with a requirement for all licensees to sign up to the online update service.

Correspondence has been sent to all licenced drivers including a step-by-step guide. The step-by-step guide for the applicants can be found at appendix 3.

2.11 The pandemic caused applications for new driver and vehicles licences to cease, leaving a total of 76 applicants' part of the way through the application process.

2.12 Since July 2021 we have been guiding these 76 people through the process. Out of these 76 we have issued licenses to 33, there are 13 awaiting the DBS certificates to be returned. There are currently 30 applicants who need to book onto the additional sessions theory training and test. All 30 have had the opportunity to book on previous sessions but have either failed the test or have been unable to attend the sessions offered.

2.13 The number of hackney carriage and private hire licences in force as of 19th January 2022 are set out in the table below: -

Type	No.
Hackney Carriage Vehicles	204
Dual Drivers Licence	2502
Private Hire Operators	114
Private Hire Vehicles	1667
Total	4487

2.14 The following table sets out the number of private hire / hackney carriage applications processed by the service between 1st April 2021 and 30th

September 2021, the second and third columns cover the same period from 2019 and 2020.

Licence Type	Application Type	2021	2020	2019
Hackney Carriage Vehicle	Renewal	128	88	95
Dual Drivers Licence	New	59	4	225
	Renewal	1102	886	1076
Private Hire Operator	New	19	7	8
	Renewal	54	36	40
Private Hire Vehicle	New	285	102	236
	Renewal	1108	882	876
Total		2755	2005	2556

2.15 In relation to vehicle testing, Fleet services have continued testing throughout the pandemic to ensure the licensed vehicles within Kirklees are safe for the travelling public. The tables below show the numbers of tests taken from May 2021 to December 2021.

George Street Testing Station								
	May	June	July	Aug	Sept	Oct	Nov	Dec
Number of Tests	153	171	121	86	109	74	129	92
Passed Initial Test 2021	109	115	90	58	73	51	94	64
Failed Initial Test 2021	44	56	31	28	36	23	35	28
% Passed	71%	67%	74%	67%	78%	69%	73%	70%
% Failed	29%	33%	26%	33%	22%	31%	27%	30%

Vine Street Testing Station								
	May	June	July	Aug	Sept	Oct	Nov	Dec
Number of Tests	43	49	78	82	97	100	55	55
Passed Initial Test 2021	39	43	72	77	87	86	51	46
Failed Initial Test 2021	4	6	6	5	10	14	4	9
% Passed	91%	88%	92%	94%	90%	86%	93%	84%
% Failed	9%	12%	8%	6%	10%	14%	7%	16%

Vine Street & George Street Combined

	May	June	July	Aug	Sept	Oct	Nov	Dec
Total No. Tests	196	220	199	168	206	174	184	147
Total Passed 2021	148	158	162	135	106	137	145	110
Total Failed 2021	48	62	37	33	46	37	39	37
Total % Passed	76%	72%	81%	80%	78%	79%	79%	75%
Total % Failed	24%	28%	19%	20%	22%	21%	21%	25%

Licensing Act 2003

2.16 Hospitality businesses throughout the pandemic were faced with the most restrictions being placed upon them, as we now see a full relaxation of measures, we will hopefully see an increase in applications in this area again.

2.17 During the pandemic the Government introduced the Business and Planning Act 2020 to help hospitality businesses continue to operate during the restrictions imposed. The two areas that were relaxed through this were to the pavement licence regime and to allow for all alcohol 'on' sales premises to also operate alcohol 'off' sales. This temporary Act has been extended until 30th September 2022 to aid hospitality businesses in their recovery.

2.18 Despite everything, the service has continued to see applications for new premises licences. The following table sets out the number of applications processed by the service between 1st April 2021 and 30th September 2021 and the other columns are the equivalent for the same periods in 2019 and 2020.

Application Type	2021	2020	2019
New	23	25	39
Full Variation	4	6	3
Minor Variation	9	6	9
Transfer	24	33	47
Review	1	1	10
Temporary Event Notices	220	37	435
Total	281	108	543

2.19 The following application were considered by the Licensing Panel between 1st April 2021 and 31st December 2021 –

Application Type	Premises	Outcome
New	Blue Convenience Store, Dewsbury	Granted with Conditions

New	Three Fiends, Meltham, Holmfirth	Deferred
Review	Polski Sklep, Deswbury	Revoked
New	Three Fiends Meltham, Holmfirth	Granted with Conditions
New	Empire House, Slaithwaite, Huddersfield	Granted with Conditions
New	Cockley Woodland Weddings, Grange Moor	Granted with Conditions Refused – recorded music between 23:00 – 00:00
New	Hooley House LTD, Holmfirth	Granted with conditions
New	Jensens, Crosland Moor, Huddersfield	Granted

2.20 Throughout the difficulties the pandemic has caused the whole of the public protection team have worked hard to maintain the services they provide and working more flexibly can be a positive way to work.

2.21 In the next twelve months we hope to see a steady increase in the numbers of applications we receive when the Country steadily recovers from the effects of the pandemic.

2.22 Ask for Angela

The Licensing Service is currently also working in partnership with the Community Safety team to promote the ‘Ask for Angela’ campaign. Information packs will be distributed to licensed venues throughout Kirklees, its aim is to help people, particularly women, feel safer whilst out socialising.

‘Ask for Angela’ is a very simple, yet effective, scheme to reduce or prevent sexual violence and vulnerability.

Anyone who feels threatened, unsafe or finds themselves in a frightening situation can approach staff within the licensed premises and ask for ‘Angela’, this code word will alert the member of staff that the person needs assistance.

The information packs being distributed offers information and guidance to the venues to share with their staff with examples of what they should do when approached for assistance.

The ‘Ask for Angela’ scheme is supported by local authorities across West Yorkshire, national Pub Watch and West Yorkshire Police.

2.23 Licensing Group Liaison Meeting

The last twelve months has also seen the introduction of the licensing group liaison meetings.

The aim of the meetings is to bring together all the responsible authorities and other key partners with the aim of problem solving and collaborative working on cases that may span over several service areas to identify who should act at the point of contact and who is best placed to take enforcement action where required. This has assisted in relation to the avoidance of unnecessary contact and duplication of work throughout the authority.

Staffing within the Licensing Service

2.24 Over the last twelve months we have seen several staff within the licensing service leave to pursue careers in other areas within the Council.

2.25 This has resulted in the service having to recruit a new Business Support Manager and 2 business support officers. The service is also looking to the future and recruiting an apprentice into the service with a view to offering training and development opportunities for the successful candidate.

2.26 As a result of one licensing officer being successful in obtaining a Senior Licensing Office role, and another officer moving out of the service, we are also recruiting for two Licensing Officers, with those officers expecting to be in position in the coming week. This will enable us to offer a more proactive approach to our licensing enforcement and compliance duties.

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 specific 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 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 under both the Licensing Act 2003 and the Gambling Act 2005 to uphold the licensing objectives, namely the protection of Children from Harm.

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

Legal

The principal legislation that governs the areas within the report are: -

Hackney carriage and private hire -The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

The Statutory Guidance produced by the Department for Transport titled 'Statutory Taxi & Private Hire Vehicle Standards' states –

“There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and, in some cases, perpetrated by the trade and the number of sexual crimes which involve taxi and private hire drivers.”

“The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.”

Taxi and private hire vehicle licensing in England and Wales is undertaken by Licensing Authorities, who 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 taxi and private hire trade. Councils who follow the best practice guidance will meet or communicate regularly with licensing committees and officers from neighbouring Council's to ensure critical information is shared and that there are consistent and robust decision-making processes.

Licensing Act 2003

“Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act.”

“The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken. The licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

However, the legislation supports a number of other key aims and purposes. They are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.”

4. Next steps and timelines

- 4.1 Not applicable – Information report only

5. Officer recommendations and reasons

- 5.1 Members are asked to note the report

6. Cabinet Portfolio Holder's recommendations

6.1 Not applicable

7. Contact officer

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Group Leader – Licensing
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8. Background Papers and History of Decisions

8.1 Not applicable

9. Service Director responsible

Kathrine Armitage
Service Director – Environment and Climate Change
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Appendix 1

Private Hire and Hackney Carriage Licensing Service Standards

When an application is submitted via email or online through the new online application system it may take up to three working days for the email / online form to be allocated to an officer to check the form and documents. The timescales shown below will commence after the third day from the date the email / online application was received.

Process	Expected Timescale (working days)	Comments
New driver application	10 working days *This will be following receipt of the DBS certificate. DBS's can take up to 12 weeks to be returned.	Prior to submission of an application to become a new driver an applicant will be required to complete and pass all of the training modules. An application will be returned to an applicant if they have not produced all of the required documentation to evidence all training requirements have

		been completed and passed at the time of submission.
Driver renewal application	10 working days *This timescale relates to applications that do not require a DBS and until all applicants have signed up to the online DBS service. The DBS may take up to 12 weeks to be returned	An application will be returned to an applicant if not complete/valid and with the required documents. It is advised that an application be submitted 12 weeks prior to the expiry of the licence.
New vehicle application	5 working days	Prior to submission of an application the vehicle will be required to have a compliance test at one of the council's testing stations. The application is required to be complete/valid and all required documents submitted. Failure to submit a complete application will result in the application being returned to the applicant.
Vehicle renewal application	5 working days	An application will be returned to an applicant if not complete/valid and with the required documents. Prior to renewal the vehicle will be required to pass the council's compliance test at one of the Council's testing stations. The compliance test can be carried out up to a month prior to the expiry of the licence and it is advised that a renewal application be submitted no later than two weeks prior to the expiry of the licence.
Vehicle transfer application	5 working days	The application is required to be complete/valid, and all required documents submitted. Failure to submit a complete application will result in the application being returned to the applicant.
New private hire operator application	10 working days *This will be following receipt of the DBS certificate (where	The application is required to be complete/valid, and all required documents submitted. Failure to submit a

	required). DBS's can take up to 12 weeks to be returned.	complete application will result in the application being returned to the applicant.
Private hire operator renewal application	<p>10 working days</p> <p>*This will be following receipt of the DBS certificate (where required). DBS's can take up to 12 weeks to be returned.</p>	<p>The application is required to be complete/valid, and all required documents submitted. Failure to submit a complete application will result in the application being returned to the applicant.</p> <p>It is advised that the renewal application be submitted up to 12 weeks prior to expiry.</p>
Driver Training	2 to 4 weeks	<p>All new driver applicants are required to undertake and pass driver training and testing modules prior to the submission of their application. You can expect to get an appointment within 2 to 4 weeks of contacting the test providers.</p> <p>This timescale will be regularly reviewed to ensure the length of time it takes to get an appointment is not exceeding the expected timescales.</p>
Vehicle Compliance Test	2 Weeks	<p>All new vehicles are required to pass a vehicle compliance test, and once licenced this test is an annual requirement. The average waiting time for an appointment is 1 to 2 weeks. This timescale will be regularly reviewed to ensure the length of time it takes to get an appointment is not exceeding the expected timescales.</p> <p>Although the test cannot be carried out over a month in advance you are advised to contact the Council's transport service in order to book your appointment 4 to 6 weeks prior to the expiry of your licence to ensure that your vehicle passes its compliance test and allows enough time for the licensing service to process your application.</p>

***Renewal Applications only – Failure to submit the application completed with all of the required documents in a timely manner may result in licence’s expiring prior to renewal applications being processed. The applicant will not be licenced at this time and will be unable to work.**

***DBS Applications – The DBS is carried out by the DBS service, any delay in the return of DBS certificates to the applicants will need to be addressed by the applicant directly with the DBS service. The Council has no control over this third-party process.**

Appendix 2

Overview of Policy Amendments in relation to DfT Guidance

Guidance requirements/recommendations	Compliant or policy addition/amendment
Authorities should produce a cohesive policy document	Existing policy compliant
Duration of licence – 3 years driver, 5 years operator	Existing policy complaint
Whistleblowing	Corporate policy in relation to whistleblowing
Online DBS update service	Existing policy compliant
Maintaining close links with police	Compliant
Licensee Self Reporting – notification to authority within 48 hrs	Amendment to Driver conditions to reflect this
Referrals to DBS	Added to policy (page 19)
Feedback to police	Added to policy (page 19)
Sharing information with other authorities and applicant required to disclose if they have had application refused, revoked or suspended by another licensing authority	Already compliant
Multi Agency Safeguarding Hub - MASH	Compliant
Overseas convictions	Existing policy partially complaint slight amendment

	to wording (pages 17 and 20)
Regulatory Framework, decision making, recommended convictions policy	Existing policy partially compliant, addressed in report
Safeguarding training	Existing policy compliant
English test requirement	Existing policy complaint
Vehicle proprietors requiring DBS	Added to policy (Page 23)
Stretch Limousines	Although no specific policy we do licence them, addressed in report
CCTV	No current policy – addressed in report
Licensed Operators and Staff requiring annual DBS	Addition to 4.8 of policy to add requirement for staff and amendment to condition 7 of operator conditions
Operator to keep register of staff	Addition to policy 4.14 (Page 36) and amendment to condition 7 of operator conditions.
Joint Enforcement	Already have agreement in place with ther WY authorities (inc York) – compliant
Record of bookings	Slight amendment to requirements para 4.11 (pages 34 and 35) in policy and amendment to existing condition 5 of operator conditions

Appendix 3

Step by Step guide to the DBS application process

Step 1

You apply to the Licensing Service to renew your licence and you require a DBS.

Step 2

Licensing service creates an online application and takes the payment of £56.

Step 3

You receive an email with a username and log in details. You then log into your application, enter in your personal details, and state which forms of ID (Passport, Driving Licence, Utility Bill etc) you will be providing for your ID check and submit your ID information.

Step 4

You receive an email to download your unique barcode.

Also included in the email is a list of which Post Offices you can attend to have your ID documents checked.

Step 5

You attend the post office (must be on the list provided in the email). At the post office you show your barcode and the relevant ID documents and pay the Post Office a one-off fee of £12.75

Step 6

You log back into your application and complete the declaration and consents.

Step 7

Your DBS will be sent to you in the post, once received you produce it to the Licensing service.

Step 8

You then subscribe to the DBS update service; this will be a mandatory requirement.

Failure to sign up to the online update service will result in you having to start the process again at your own cost and may also result in the suspension of your Licence.