



Name of meeting: Licensing and Safety Committee

Date: Wednesday 6th July 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 01st October 2021 to 31st March 2022.

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 – 27.06.22 Eamonn Croston – 17.06.22 Julie Muscroft - 21.06.22
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 October 2021 to 31st March 2022.

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 Councils 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.

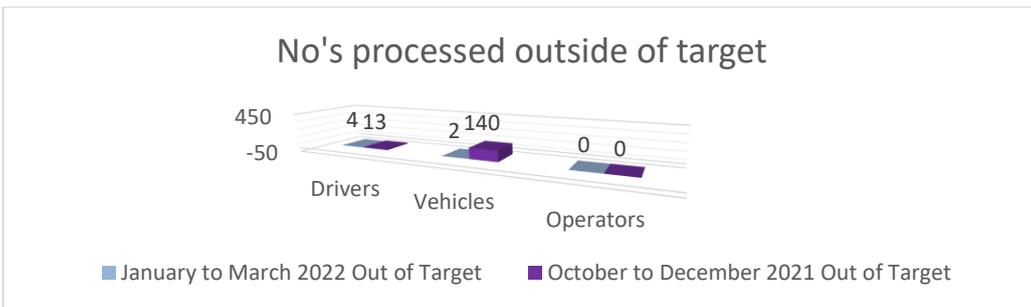
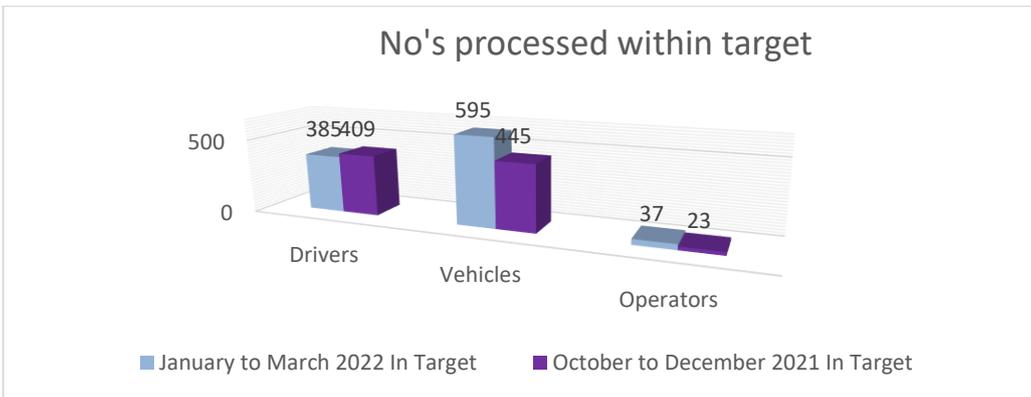
2.4 Due to the reduction of numbers of hackney carriage and private hire licence driver applications we are working to streamline and simplify our processes in order to guide our applicants through the process as quickly and efficiently as possible and will continue to work on improving our service in the coming months and are considering minor changes to the existing driver training policy to enable the service to fulfil this.

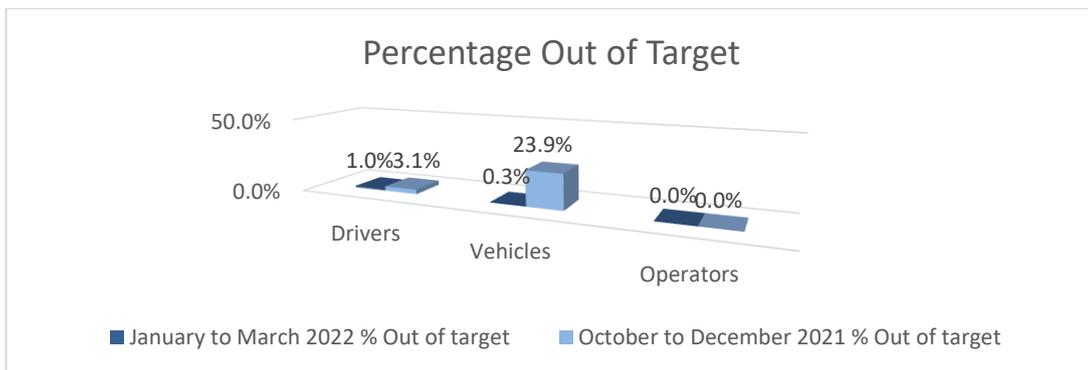
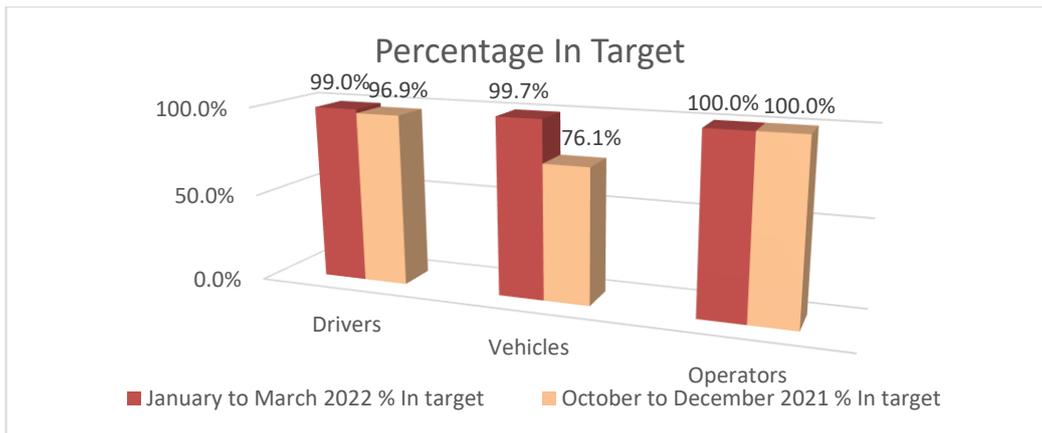
2.5 In August 2021 we introduced our service standards, these standards clearly set out what an applicant can expect from the licensing service when applying for a driver's licence, a vehicle licence or an operator's licence. A copy of the standards is at appendix 1.

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

	January - 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





2.7 Department for Transport (DfT) Guidance – Policy Consultation

Members will, today, be presented with the results of the consultation in relation to the DfT Guidance.

2.8 Taxis and Private Hire vehicles (Disabled Persons) Act 2022

From 28th June the new Taxis and Private Hire Vehicles (Disabled Persons) Act comes into force.

The Act imposes new duties on drivers of vehicles that are not wheelchair-accessible to carry a disabled person and their mobility aid and provide “reasonable assistance”, without charging extra, for example is a wheelchair-user wants to transfer to the passenger seat and store their wheelchair in the boot of the vehicle.

The key changes to existing legislation include:

- Drivers are obliged to carry and provide fair service to all passengers, regardless of impairment, at no extra cost, this is an extension of existing law that will now cover all disabled passengers and imposes a fine of up to £1,000 for drivers who fail in their obligation to provide a fair, accessible service.
- Drivers must provide as much mobility assistance as is reasonably required, including carrying mobility aids. This may involve helping a passenger transfer to the vehicle, folding wheelchairs, adjusting seats,

or any other reasonable modification to ensure the trip is safe and comfortable.

- A new duty in the legislation requires drivers to assist disabled passengers to identify and find the vehicle they have booked, without making any additional charge for doing so. This would be on the condition that the driver is made aware before the start of the journey that the passenger requires assistance to identify or find the vehicle.
- Local authorities must keep a register of licensed wheelchair-accessible hackney carriage and private hire vehicles and must make these accessible to the public.

In relation to the requirement for local authorities to keep a register of licensing wheelchair accessible hackney carriage and private hire vehicles, Kirklees has already been publishing this information on its website for several years.

2.9 Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022

The two main aspects of the act are:

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

What counts as safeguarding and road safety concerns?

This would include information indicating that the person:

- Committed a sexual offence (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- Harassed another person

- Caused physical or psychological harm to another person (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- Committed an offence that involves a risk of causing physical or psychological harm to another person
- Committed an offence under section 165, 168 or 170 of the Equality Act 2010 (regardless of whether the person was charged with, prosecuted for or convicted of the offence)
- Did anything that constitutes unlawful discrimination or victimisation against another person for the purposes of the Equality Act 2010
- Threatened, abused or insulted another person
- Poses a risk to road safety while driving
- May be unsuitable to hold a hackney carriage or private hire driver's licence for other reasons related to the safeguarding of passengers or road safety.

Furthermore, attempting to or conspiring to commit the above offences also constitutes a valid safeguarding or road safety concern.

Uploading information regarding decisions to refuse or revoke licences is already included in our current hackney carriage and private hire licensing policy.

2.10 The number of hackney carriage and private hire licences in force as of 1st June 2022 are set out in the table below: -

Type	No.
Hackney Carriage Vehicles	110
Dual Drivers Licence	2671
Private Hire Operators	131
Private Hire Vehicles	1899
Total	4811

2.11 The following table sets out the number of private hire / hackney carriage applications processed by the service between 1st October 2021 and 31st March 2022, the second and third columns cover the same period from 2019 and 2020.

Licence Type	Application Type	2021/2022	2020/2021	2019/2020
Hackney Carriage Vehicle	New/Renewal	132	132	131

Dual Drivers Licence	New	80	14	165
	Renewal	806	754	867
Private Hire Operator	New	22	29	68
	Renewal	40	26	53
Private Hire Vehicle	New	327	190	460
	Renewal	801	887	769
Total		2,208	2,032	2513

2.12 In relation to vehicle testing, the tables below show the numbers of tests taken from October 2021 to March 2022.

George Street Testing Station						
	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	March 22
Number of Tests	74	129	92	84	99	140
Passed Initial Test	51	94	64	51	69	91
Failed Initial Test	23	35	28	33	30	49
% Passed	69%	73%	70%	61%	70%	65%
% Failed	31%	27%	30%	39%	30%	35%

Vine Street Testing Station						
	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	March 22
Number of Tests	100	55	55	84	60	64
Passed Initial Test	86	51	46	71	53	58
Failed Initial Test	14	4	9	13	7	6
% Passed	86%	93%	84%	85%	88%	73%
% Failed	14%	7%	16%	15%	12%	27%

Vine Street & George Street Combined						
	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	March 22
Total No. Tests	174	184	147	168	159	204
Total Passed	137	145	110	122	122	149
Total Failed	37	39	37	48	37	55
Total % Passed	79%	79%	75%	73%	77%	73%
Total % Failed	21%	21%	25%	27%	23%	27%

2.13 Association Meetings

The licensing service has an established hackney carriage association who we meet with regularly to discuss issues/concerns and to aid out communication with the trade.

Over the coming months we will be working to contact members of the private hire trade to try to establish a private hire association.

Licensing Act 2003 and General Licensing

2.14 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. Currently there is a Bill being proposed in relation to the pavement licence regime to become permanent and there are some slight amendments to the current requirements within the Business and Planning Act, these are:

- Amend the fee councils can charge applicants, increasing it from £100 to £350 for premises which already hold a pavement licence, and £500 for new applicants
- Extend the public consultation period and council determination period from 7 days to 14 days
- Extend the maximum duration of pavement licence from 1 to 2 years. The length of a licence is however at the discretion of the local authority
- Provide that pavement licences can also be amended by the local authority with the consent of the licence holder if it is considered that the conditions on the licence are not being met
- Prohibit a local authority from granting a tables and chairs licence under the old regime (Highways Act 1980) if a pavement licence is capable of being granted under this bill.
- Insert a new Enforcement schedule providing powers to the local authority to remove furniture if a premise is not abiding by its pavement licence conditions and hours.
- In addition, they will also still benefit from deemed planning permission, so they will not need to apply to planning services for the use of the land

However, all those premises that were given off-sales under the Business and Planning Act will revert back to their original licence, so if a premises licence only allows for 'on-sales' they will go back to only being allowed 'on-sales' which means if they are applying for a pavement licence and they are wanting to serve alcohol this will require an application for a full variation of their existing licence. This is a draft bill and is subject to change, members will be updated on our next licensing service update report.

2.15 The following table sets out the number of Licensing Act applications processed by the service between 01st October 2021 and 31st March 2022, and the other columns are the equivalent for the same periods in 2020/2021 and 2019/2020.

Application Type	2021/2022	2020/2021	2019/2020
New	31	38	34
Full Variation	11	5	3
Minor Variation	10	6	14
Transfer	43	39	54
Review	2	2	3
Temporary Event Notices	272	55	317
Total	369	145	425

2.16 The following applications were considered by the Licensing Panel between 1st October 2021 and 31st March 2022 –

Application Type	Premises	Outcome
New	Hooley House LTD, Holmfirth	Granted with conditions
New	Jensens, Crosland Moor, Huddersfield	Granted
Full Variation	Bargain Local 333-335 Leeds Road Huddersfield HD2 1YB	Refused
New	DD8 Hospitality Ltd, T/A Gordon and Franks Coffee House 331 Wakefield Road Denby Dale Huddersfield HD8 8RT	Granted with Conditions

2.17 As you can see from the figures above, we are seeing a gradual increase in numbers of applications that are not far from the numbers of applications we were receiving pre-pandemic.

Total Number of applications received

2.18 As members will be aware the licensing service does not just deal with applications from the hackney carriage and private hire trade or applications under the Licensing Act, we cover a wide range of licensing 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

2.19 In the period between 1st October 2021 and 31st March 2022 the service received a total of 2836 applications.

Staffing within the Licensing Service

2.20 We have successfully recruited a new temporary Senior Licensing Officer who will be with the service for a period of 12 months as a maternity leave cover. We also have two new permanent licensing officers in post within the service.

2.21 Over the next twelve months our licensing officers will be concentrating on a more proactive approach to our licensing enforcement and compliance duties. They will be working in partnership with the police, VOSA, Environmental Health, Parking Services, trading standards, officers from neighbouring authorities to name a few to ensure the Council has a visible targeted approach in the way we undertake our duties.

2.22 The most recent vehicle operation our licensing officers were involved in was on 28th May 2022, in partnership with the police and VOSA, the results are as follows:

- 19 licensed vehicles were checked – 3 hackney Carriage and 16 Private Hire (2 private hire vehicles were licensed by Calderdale Council)
- 8 Vehicle rectification notices were issued, and 2 vehicle licences were suspended, one being one of the vehicles licensed by Calderdale Council.

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 Financial Implications of 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 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 Councillor Will Simpson wants to thank the staff for all their hard work.

7. Contact officer

Fiona Goldsmith
Group Leader – Licensing
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Email: Fiona.goldsmith@kirklees.gov.uk

8. Background Papers and History of Decisions

8.1 [Item 7 Report 1 - Service Update - LSC March 22 FINAL.pdf \(kirklees.gov.uk\)](#)

9. Service Director responsible

Kathrine Armitage
Service Director – Environment and Climate Change
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Email: Kathrine.armitage@kirklees.gov.uk

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	<p>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.</p> <p>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.</p>
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	<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>	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.
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	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

		<p>4 weeks of contacting the test providers. 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.**