

Name of meeting: Licensing and Safety Committee

Date: Wednesday 5th October 2022

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

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

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>?	Key Decision – No Private Report/Private Appendix –No
The Decision - Is it eligible for call in by Scrutiny?	Not Applicable
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Colin Parr – 26.09.22 Eamonn Croston – 22.09.22 Julie Mushcroft – 22.09.22
Cabinet member portfolio	Councillor Will Simpson

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

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

1. Summary

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

2. Information required to take a decision

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

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

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

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

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

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

3. Implications for the Council

3.1 Working with People

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

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

3.2 Working with Partners

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

3.3 Place Based Working

There is no impact in the context of this report.

3.4 Climate Change and Air Quality

There is no impact in the context of this report.

3.5 Improving outcomes for children

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

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

3.6 Financial Implications of people living or working in Kirklees

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

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

Legal

No significant concerns.

Finance

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

Integrated Impact Assessment

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

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

4. Next steps and timelines

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

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

5. Officer recommendations and reasons

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

Options: -

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

6. Cabinet Portfolio Holder's recommendations

Councillor Will Simpson has no additional comments.

7. Contact Officer

Fiona Goldsmith
Public Protection Group Leader – Licensing
01484 221000(ext 79921) or fiona.goldsmith@kirklees.gov.uk

8. Background Papers and History of Decisions

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

9. Service Director responsible

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



Kirklees Licensing

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



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

Introduction

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

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

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

elapsed since these were committed.

Applying the Guidance

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

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

Disclosure and Barring Service

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

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

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

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

should be attached to such licence.”

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

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

Criminal Convictions

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

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

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

Driving Convictions

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

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

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

Decision and Right of Appeal

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

TABLE A

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

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

Table B

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

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

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

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

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

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

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

A guide to equality Impact Assessments (EIAs)

What are Equality Impact Assessments (EIAs)?

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

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

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

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

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

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

Who should do it?

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

How should we do it?

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

EIA STAGE 1 – SCREENING TOOL (initial assessment)

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

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

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

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

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

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

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

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

STAGE 1 ASSESSMENT

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

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

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

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