

Contact Officer: Jenny Bryce-Chan

KIRKLEES COUNCIL

LICENSING AND SAFETY COMMITTEE

Wednesday 6th July 2022

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

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

Apologies: Councillor David Hall
Councillor Kath Taylor
Councillor Karen Allison

1 Membership of the Committee

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

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

2 Minutes of Previous Meeting

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

3 Interests

No interests were declared.

4 Admission of the Public

All agenda items were considered in public session.

5 Deputations/Petitions

No deputations or petitions were received.

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6 Public Question Time

No public questions were asked.

7 Review of Licensing Policy Statement (Gambling)

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

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

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

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

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

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

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

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RESOLVED:

That

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

8 Licensing Services Update

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

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

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

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

October – December 2021

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

January – March 2022

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

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

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

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

The key changes to existing legislation include:

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

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

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

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

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

The Committee was further advised of the following:

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

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

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

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

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

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

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

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

2019/2020 – 425
2020/2021 – 145

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2021/2022 - 369

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

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

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

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

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

RESOLVED:

That the Licensing Service update report be noted.

9 Delegated Officer Decisions (Licensing)

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

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

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

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

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

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

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

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

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

RESOLVED:

that the Delegated Officer Decision report be noted.

10 Department for Transport – Statutory Taxi and Private Hire Vehicle Standards

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

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

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

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

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

Question 1

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

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

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

Options:

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

The 11 Committee members in attendance voted as follows:

To adopt the statutory standards - 7

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

Abstain - 3

Question 2

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

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

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

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

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

Options:

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

The Committee members voted as follows:

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

Question 3

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

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

Options:

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

The Committee voted as follows:

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All Committee members voted for option 1

Question 4

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

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

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

The Committee made comments and asked questions as follows:

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

Options:

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

All Committee members voted for option 1

Question 5

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

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

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

Options:

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

The Committee made comments and asked questions as follows:

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

The Committee members voted as follows:

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

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

Question 6

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

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

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

Options:

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

The Committee made comments and asked questions as follows:

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

All Committee members voted for option 1

Question 7

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

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

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

The Committee made comments and asked questions as follows:

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

Options:

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

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

All Committee members voted for option 1

Question 8

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

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

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

Options:

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

The Committee made comments and asked questions as follows:

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

All Committee members voted for option 3

Question 9

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

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

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The Committee made comments and asked questions as follows:

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

Options:

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

All Committee members voted for option 1

Question 10

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

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

The Committee made comments and asked questions as follows:

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

All Committee members voted for option 1

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Question 11

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

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

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

The Committee made comments and asked questions as follows:

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

The Committee members voted as follows:

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

RESOLVED

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Question 1

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

RESOLVED:

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

Question 2

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

RESOLVED:

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

Question 3

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

RESOLVED:

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

Question 4

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

RESOLVED:

that the existing policy requirement of six months remain in place

Question 5

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

RESOLVED:

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

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Question 6

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

RESOLVED:

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

Question 7

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

RESOLVED:

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

Question 8

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

RESOLVED:

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

Question 9

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

RESOLVED:

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

Question 10

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

RESOLVED:

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

Question 11

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

RESOLVED:

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

11 Review of Suitability Policy

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

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

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

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

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

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

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

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

The Committee made comments and asked questions as follows:

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

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

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

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

RESOLVED:

That

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