



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 16TH OCTOBER, 2012 AT 10.00 AM

MEMBERSHIP

Councillors

S Armitage - Cross Gates and Whinmoor;
K Bruce - Rothwell;
N Buckley - Alwoodley;
R Charlwood - Moortown;
R Downes - Otley and Yeadon;
J Dunn - Ardsley and Robin Hood;
B Gettings - Morley North;
T Hanley - Bramley and Stanningley;
G Hussain - Roundhay;
G Hyde - Killingbeck and Seacroft;
A Khan - Burmantofts and Richmond Hill;
P Latty - Guiseley and Rawdon;
B Selby - Killingbeck and Seacroft;
C Townsley - Horsforth;
G Wilkinson - Wetherby;

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

Helen Gray
247 4355

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19 -20 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the last meeting held on 14th August 2012 as a correct record</p> <p>(Copy attached)</p>	1 - 8
7			<p>LARGE CASINO - AMENDMENT TO ADVISORY PANEL MEMBERSHIP</p> <p>To consider the report of the Head of Licensing and Registration advising the Committee of an amendment required to the membership of the Advisory Panel and seeking approval for the change</p> <p>(Report attached)</p>	9 - 12

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p data-bbox="675 181 1410 286">REVISED TRAINING REQUIREMENTS FOR ALL HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER APPLICANTS</p> <p data-bbox="675 331 1369 544">To consider the report of the Head of Licensing and Registration setting out the results of consultation on revised training requirements for Hackney Carriage and Private Hire driver applicants and outlining proposals for delivery of the training</p> <p data-bbox="675 589 927 622">(Report attached)</p>	13 - 36
9			<p data-bbox="675 689 1401 869">INTRODUCTION OF THREE YEARLY CRIMINAL RECORDS BUREAU CHECKS ON HACKNEY CARRIAGE & PRIVATE HIRE DRIVERS AND PRIVATE HIRE OPERATORS - RESULTS OF PUBLIC CONSULTATION</p> <p data-bbox="675 913 1398 1093">To consider the report of the Head of Licensing and Registration setting out the results of the public consultation on proposals to introduce three yearly CRB checks on Hackney Carriage drivers, Private Hire drivers and Private Hire Operators</p> <p data-bbox="675 1137 927 1171">(Report attached)</p>	37 - 54
10			<p data-bbox="675 1234 1345 1447">TAXI & PRIVATE HIRE LICENSING POLICY REVIEW - RESULTS OF PUBLIC CONSULTATION FOR THE APPLICATION PROCESS, MEDICAL EXEMPTION POLICY, STRETCHED LIMOUSINE GROUP 1 POLICY REVIEW</p> <p data-bbox="675 1491 1398 1704">To consider the report of the Head of Licensing and Registration on the results of the public consultation undertaken in respect of the review of Taxi and Private Hire policies relating to the application process, medical exemptions and stretched limousines</p> <p data-bbox="675 1749 927 1783">(Report attached)</p>	55 - 76

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11			<p>HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S PETITION FOR EQUAL RIGHTS AND ALLEGED UNLAWFUL APPLICATION OF IMMEDIATE SUSPENSION POWERS</p> <p>To consider the report of the City Solicitor setting out draft guidelines on immediate suspension powers for Members consideration prior to consultation with the Hackney Carriage and Private Hire trades on the guidelines.</p> <p>(Report attached)</p>	77 - 84
12			<p>WORK PROGRAMME</p> <p>To note the contents of the Licensing Work Programme</p> <p>(Copy attached)</p>	85 - 88
13			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 13th November 2012 at 10:00 am</p>	

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Agenda Item 6

Licensing Committee

Tuesday, 14th August, 2012

PRESENT: Councillor S Armitage in the Chair

Councillors N Buckley, R Charlwood,
R Downes, B Gettings, T Hanley,
G Hussain, G Hyde, A Khan and
C Townsley

- 40 Exempt Information - Possible Exclusion of the Press and Public**
RESOLVED – That the public be excluded from the meeting during the consideration of the following parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated in Appendix A to the report referred to in Minute No.49 under the terms of Access to Information Procedure Rule 10.4(3) and on the grounds that several businesses are identified within the Appendix and open discussions on the contents could be prejudicial to their business interests. As a result, withholding the information within appendix A was considered to outweigh the public interest benefit of its release
- 41 Late Items**
No formal late items of business were added to the agenda; however the Committee was in receipt of the following documents which were tabled at the meeting
Agenda item 8 Petition for Equal Rights – a revised table showing cases where the use of powers to immediately suspend have been considered (minute 46 refers)
Agenda item 11 Leeds Festival – a copy of the most up to date schedule of amendments made to the Event Management Plan (minute 49 refers)
- 42 Declaration of Disclosable Pecuniary and other Interests**
There were no declarations of interest
- 43 Apologies for Absence**
Apologies for absence were received from Councillors Bruce, Dunn, P Latty, Selby and Wilkinson
- 44 Minutes**
RESOLVED – That the minutes of the meeting held 24th July 29012 be agreed as a correct record
- 45 Law Commission Consultation Paper "Reforming the law of Taxi and Private Hire Services" - Draft response for approval**
Further to minute 19 of the meeting held on 26th June 2012 when Members had initially discussed the Law Commission consultation paper "Reforming the law of Taxi & Private Hire Services", the Head of Licensing and Registration

submitted a further report setting out the Council's draft response for approval. The document reflected comments made by the Committee at the June meeting and had been sent to all Members of Council for further comments. Officers highlighted further revisions made since receipt of comments from Councillor R Lewis, Executive Member for Development & the Economy and from LCC Transport Policy Section.

The Committee noted that the Councils wish to retain local conditions was now reiterated throughout the document and further discussed the response to Provisional proposal 27 (private hire services would not be subject to standards except those related to safety...). Clarification was provided that if minimum standards were introduced without retaining the facility for additional local conditions, the ability for the Council to require English comprehension testing would be lost. The draft response aimed to reflect the Committee's wish to retain English comprehension testing, in the interests of public safety, to ensure that passengers felt safe, that they were understood and charged appropriately. Members requested that the response to 27 should be amended to reflect the clarification

RESOLVED – That the contents of the discussions be noted and that approval be given to the draft response as set out in appendix A of the report and, subject to the requested amendment being made to the response to 27, officers be authorised to submit the response on behalf of the Council to the Law Commission by the given deadline of 10 September 2012

46 Hackney Carriage and Private Hire Driver's Petition for Equal Rights and alleged unlawful application of Immediate Suspension Powers

Further to minute 32a) of the meeting held 24 July 2012 when the Committee noted receipt of petition submitted by Mr Kabear Hussain of Alpha Hire and Hackney Welfare Society, the City Solicitor and the Chief Officer, Democratic & Central Services, submitted a joint report advising Members of the issues raised in the petition. In brief, the petition requested the Council consider passing an 'Equality Resolution' in respect of certain licensing decisions taken by officers of the Taxi & Private Hire Licensing Section under the terms of the delegated decision making process.

Members noted that the concern expressed in the petition was that the provision was being used incorrectly by Leeds City Council officers. Furthermore, the petition suggested that it should only be used where there had been a conviction, an ongoing police investigation or prosecution against the driver for an indictable only offence. Members also noted the contents of the letter accompanying the petition.

The report presented information to assist Members' consideration of how to respond to the petition, particularly in respect of the provisions within Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976 which allows the suspension or revocation of a licence with immediate effect on public safety grounds. This statutory provision was inserted into the legislation by the Road Traffic Act 2006 effective from 17 March 2007. Officers highlighted the general reasons for revocation and suspension as set out in section 61 of the 1976 Act as being:

- that the driver has since the grant of the licence been convicted of an offence involving dishonesty, indecency or violence or
- been convicted of an offence under or failed to comply with the provisions of the Act of 1847 or of the 1976 Act or
- for any other reasonable cause. Case Law has held that any other reasonable cause covers matters short of a conviction.

The new powers provided through the RTA 2006 were clarified as being:

- section 61 (2A) provides that suspension/revocation normally takes effect after 21 days. A driver may make an appeal against the action during that time and continue to operate until that appeal is dealt with. The Notice that must always be given to the driver sets out the reasons for suspension
- section 61 (2B) provides that *'if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.'*

A revised schedule showing the number (23) and nature of driver suspensions between 1 January and 16 August 2012 was tabled at the meeting. Officers addressed the specific wording in the resolution proposed by Mr Hussain, particularly the term "indictable only offence" and the impact the resolution would have, if adopted, on reducing the powers used by the authority to address public safety issues.

Officers clarified that S61(2B) gave wide discretion to a decision maker and did not limit the decision maker to considering charges or criminal convictions alone, but importantly, the clause did ensure that the reason for suspension was directly linked to upholding public safety. Officers provided an example where there had been sufficient cause for concern about a driver, but a legal case was not pursued due to the status of a witness who could corroborate an allegation, in such a case the police had supported LCC in the use of immediate suspension powers because of the seriousness of the concerns – and that decision in this circumstance had been upheld by the Court at a subsequent appeal.

Officers referred to the proposal to draft guidance on the use of the powers for Members approval. It was also suggested that a wider discussion on Members' views of public safety would inform the proposed guidance document with the intention that the guidance would be made publicly available.

The Committee discussed the following matters with officers:
 the decision making process undertaken by officers prior to a suspension and/or revocation being made and the follow up process undertaken after an immediate suspension made under 61(2B)
investigations - the process undertaken by LCC to investigate allegations made against a driver, the evidence required to an allegation, and the course of redress available to a driver through the Magistrates Court. It was noted that the opportunity for a driver to respond to an allegation been built into the investigative process

Appeals - The detail of the 23 suspensions listed in the report could be provided to Councillors if required and the Committee requested further information on the number of appeals lodged by drivers against the immediate suspension of their licence, including the detail of the outcome of those cases reasonable cause - the concerns over the use of the term "for any other reasonable cause." Clarification was provided that this term related to the suspensions given on notice. Officers reassured the Committee that "reasonable cause" was not the evidential test for the issue of an immediate suspension

Monitoring – the Committee noted the suggestion that the use of powers of immediate suspension of drivers should be monitored in the future

Consultation – Members agreed that there was a need to take the view the whole driver community through consultation and noted the comment highlighting the fact that the petition represented 250 of the 6000 drivers in Leeds

Equality screening – One Member referred to the letter accompanying the petition which referred to equality for Muslim drivers and commented that this suggested direct or indirect discrimination of that group of drivers. In response to a query about gathering ethnic monitoring statistics, officers confirmed that such statistics were not gathered as ethnicity/culture did not feature in the application for a drivers licence. The Committee supported that approach. Officers involved in the decision making process stated that, in the cases of immediate suspensions referred to them for review, there had been no evidence of discrimination of a specific ethnic or cultural group.

Members also received information on the equality and diversity screening referred to in the report and noted that officers were required to identify any implications for various minority groups and assess whether any decision which is proposed to be taken by them would have any serious implications for those groups, and if so, officers would have to consider how to mitigate the effect of those implications

Perception – Members discussed the perception of the TPHL service expressed by some groups within the PH and HC trade and it was acknowledged that some sectors were dissatisfied. The Committee were assured that work was being done to address this. Members noted that the development and publication of a guidance document in respect of the use of the powers to immediately suspend a driver would go some way to address the concerns of some of the trade

The Committee, having discussed the request at length, and several other matters arising

RESOLVED –

- a) Not to accept the proposal set out in the petition submitted by Mr K Hussain of the Alpha Hire and Hackney Welfare Society which requests the Council to consider passing a resolution

‘ that in the determination of whether to suspend or revoke the licence of a HACKNEY CARRIAGE driver under its powers in the Local Government (Miscellaneous) Provisions Act 1976, Section 61 (2B), such determination to revoke a licence with immediate effect shall only be undertaken if there has been a conviction, an ongoing police investigation, or prosecution against the driver for an indictable only offence’.

as the proposed resolution does not reflect the legal position and unduly

- restricts the powers of the council
- b) To direct officers to prepare draft guidelines on the use of the powers of immediate suspension for consideration by the Licensing Committee at its October meeting prior to consultation with HC and PH trades on the guidelines
 - c) To request a full review be undertaken of the existing Policy and processes and that a report be presented in due course setting out the findings of the review for discussion, to include wider discussions on the issues of public safety in respect of the PH and HC trade

47 Revisions to the Code of Practice for determining Licensing Matters

The Committee considered the report of the City Solicitor on changes made to the Code of Practice for the Determination of Licensing Matters made by the Standards and Conduct Committee following the introduction of the new standards regime on 1 July 2012. The revised code was attached as Appendix 1 to the report and the Licensing Committee was requested to review the Code of Practice to ensure it remained fit for purpose and to report back to the next available meeting of the Standards and Conduct Committee.

Officers highlighted the main revisions as being the removal of the reference to personal prejudice or interest and the inclusion of reference to disclosable pecuniary interest instead; the inclusion of the new definition of predetermination and revisions to the section relating to the monitoring of the Code. Officers also highlighted that it would be beneficial to maintain the current consistency of approach with the Code of Practice for the determination of Planning Matters and any comments made by the Committee would be fed into discussions on the planning code.

Members, in their review of the Code, considered that the Code should be retained as part of the Council's conduct framework as it had particular value in regulating the Committees' decision making process

RESOLVED –

- a) To note that no further amendments to the Code of Practice were required by the Licensing Committee
- b) To note the contents of the revised Code of Practice for the determination of Licensing Matters which is now in force
- c) To note that officers would now report the Committees' continued support of the Code to the Standards and Conduct Committee meeting scheduled for October 2012

48 Entertainment Licensing Section - Enforcement and Liaison Team Enforcement Activity Update (April to June 2012)

The Head of Licensing and Registration submitted a report providing an overview of the activities undertaken by the Entertainment Licensing Liaison and Enforcement Team during the second quarter of 2012.

The report detailed formal operations undertaken by the Team and Members discussed the following matters with the Principal Liaison & Enforcement Officer:

Metal theft – the work undertaken to deter unlicensed scrap metal dealers. The suggestion that scrap metal business premises and storage facilities should be monitored following the issue of a licence was noted and officers agreed to further consider this in conjunction with LCC Planning Services

Proceeds of Crime – the successful outcome of a joint operation undertaken with West Yorkshire Trading Standards and Kirklees POCA Team to pursue and prosecute an individual trading an unlicensed sex shop and counterfeit dvds from a domestic property and the assets seized under the provisions of the Proceeds of Crime Act amounting to £55,000 and £5,000 costs awarded to Leeds City Council

Grassroots – the value of sharing information at a strategic level at the newly established partner meetings, which now included the Leeds NHS Trust. It was important to note that Accident & Emergency statistics shared with LCC and WYP enabled the agencies and responsible authorities to more accurately identify hotspots for violent incidents in the city centre and target resources effectively

Pubwatch – officers reported the Pubwatch Website was due to be officially launched on 16th August 2012 which would enable licensees and agencies to share and highlight information for the licensed trade

Temporary Event Notices – one Member raised a concern relating to the TEN application process, citing a recent case for reference, and the nature of communications sent to an applicant. Officers agreed that this individual case would be discussed directly with the Councillor and a further report would be brought to Committee in due course as the basis for discussion on the TEN application process.

The Committee welcomed the information contained within the presentation and expressed their thanks and support for the work undertaken by the Enforcement Team.

RESOLVED - That the contents of the report be noted and

- a) To note that a further report on the work of the Liaison & Enforcement Team covering the period 1 July to 31 December 2012 will be presented at an appropriate Committee meeting
- b) To note that the requested report on the Temporary Event Notice process will be presented in due course.

49 Leeds Festival 2012

The Head of Licensing and Registration submitted a report on the progress of the multi agency meetings and the Event Management Plan for the Leeds Festival 2012, scheduled to be held within the grounds of Bramham Park from Friday 24 August to Sunday 26 August 2012.

Officers presented an update on the outcome of the most recent multi agency meeting held on 9 August 2012, particularly in respect of the impact of likely attendance figures on camping; car parking and vehicular access arrangements. A schedule of further revisions made to the Event Management Plan was tabled at the meeting.

RESOLVED –

- a) That authority be delegated to the Head of Licensing and Registration to approve the Event Management Plan prior to the start of the event; and

- b) That authority be delegated to the Head of Licensing and Registration to approve any minor amendments to the Event Management Plan, as necessary, prior to the start of the event.
- c) To note that, should the Event Management Plan be subject to amendment without the relevant agency consent, or be of a nature which officers consider may impact on the licensing objectives, then the Event Management Plan will be brought back before the Licensing Committee prior to the event taking place.

50 Licensing Work Programme

RESOLVED – That the contents of the Licensing Work Programme, with the additions made at this meeting, be noted

51 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next meeting as 11th September 2012

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Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 16th October 2012

Subject: Large Casino – Amendment to Advisory Panel Membership

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The Gambling Act 2005 provided Leeds City Council with the opportunity to grant a large casino premises licence under a two stage process which will determine a licence on the basis of greatest benefit to the city.
2. In order to assist with the process Licensing Committee agreed in principal to appoint an Advisory Panel to provide a detailed appraisal of each of the stage 2 applications and Licensing Committee approved the Advisory Panel membership on 24th July 2012.
3. Due to a unforeseen circumstances one member of the advisory panel has had to withdraw and a replacement has been found and is presented today for approval.

Recommendations

4. That Licensing Committee considers the contents of the report and approve the amendment to the membership of the advisory panel.
5. That Licensing Committee delegates the responsibility for approval of any further changes to the membership to the Head of Licensing and Registration.

1.0 Purpose of this report

- 1.1 This report advises of a change to the Advisory Panel membership and seeks approval for this change.
- 1.2 This report also requests that Licensing Committee delegates any future amendments to the Head of Licensing and Registration.

2.0 Background information

- 2.1 The Gambling Act 2005 changed the legislation governing the licensing of casinos significantly. Under the Act seventeen new casino licences were to be granted, each of which to be significantly larger than existing casinos.
- 2.2 Since 2008 the council has been preparing the two stage process under which it will determine which large casino application will provide the best benefit to the city. This work has included updating the Gambling Act 2005 Statement of Licensing Policy and producing a detailed application pack which included the methodology to be used at both stages of the process. This work was completed in January 2012.

3.0 Main issues

- 3.1 At its meeting in October 2011, Members decided to use an Advisory Panel to evaluate the Stage 2 applications, undertake negotiations and provide Licensing Committee with an evaluation report before it meets to determine which application provides the greatest benefit to the city.
- 3.2 At its meeting in January 2012, Members gave final approval to the Stage 2 process, including the general roles required on the Advisory Panel.
- 3.3 At its meeting in July 2012, Members gave approval for the membership of the Advisory Panel.
- 3.4 However, unforeseen circumstances have required that Dianne Lyons, Chief Executive of the Citizens Advise Bureau, who was to be the Social, Equality and Health Advisor to withdraw her services from the Advisory Panel.
- 3.5 Reverend Dr Philip Bee, the Churches Regional Officer CRC for Yorkshire and the Humber has offered to fulfil this role on the Advisory Panel and permission is sought to replace Dianne Lyons with Reverend Dr Philip Bee as soon as possible.
- 3.6 As the evaluation process is just about to start, it is important to minimise any delay, approval is sought from Members to delegate the decision on the approval of any further replacement members to the Head of Licensing and Registration.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The use of the Advisory Panel was widely consulted upon during the update to the Gambling Policy and the subsequent application pack consultation.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The Gambling Act Statement of Licensing Policy underwent an Equality, Diversity, Integration and Community Cohesion Impact Assessment in June 2010. In addition the large casino insert into the Gambling Policy underwent Impact Screening in October 2011.

4.3 Council Policies and City Priorities

- 4.3.1 In addition to considering the report provided by the Advisory Panel, Members will also consider the council's Gambling Act 2005 Statement of Licensing Policy which was approved in January 2012.

4.4 Resources and Value for Money

- 4.4.1 The use of an Advisory Panel provides a level of assurance that the proposed development is credible and deliverable which reduces the risk of Members determining in favour of an application which does not provide the benefits expected.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Advisory Panel includes the use of external legal advisors who will provide independent legal advice to the Advisory Panel. The council's Legal Services will provide advice to the Licensing Committee.
- 4.5.2 The information provided in the Stage 2 applications will be held confidentially as is required by the Gambling Act 2005. The information provided will be commercially sensitive and therefore only those involved in the evaluation and determination processes will have access to the stage 2 applications.

4.6 Risk Management

- 4.6.1 Licensing Committee could decide not to approve the amended membership of the Advisory Panel. This would lead to delays in the evaluation process while a suitable replacement be sought.

5 Conclusions

- 5.1 Licensing Committee approved the membership of the Advisory Panel in July 2012 but one member has had to withdraw her services and a replacement has been sought.

6 Recommendations

- 6.1 That Licensing Committee considers the contents of the report and approve the amendment to the membership of the advisory panel.
- 6.2 That Licensing Committee delegates the responsibility for approval of any further changes to the membership to the Head of Licensing and Registration.

Background Papers

None



Report author: John Mulcahy
Tel: 39 51877

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 16 October 2012

Subject: Revised Training Requirements for all Hackney Carriage & Private Hire driver applicants

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. At its meeting in June 2012, the Licensing Committee withdrew the requirement for all existing Hackney Carriage and Private Hire drivers and applicants to achieve the NVQ/VRQ qualification for road transport passenger skills. The committee also accepted the recommendations of the NVQ/VRQ working group and asked officers to carry out a public consultation on proposals for an alternative course to be delivered in-house for new applicants only.

2. Since that decision was made, it has become apparent that some funding is once again available for the NVQ/VRQ, but it is uncertain how long this funding will last.

3. This paper includes the results of the consultation and makes proposals for two main alternatives for delivering an in-house training package, with further proposals that should applicants wish to achieve the NVQ/VRQ instead of the in-house course, that be accepted as an alternative qualification, and that existing drivers would only need to attend the new in-house course in the event of a substantiated complaint or conditions breach.

Recommendations

4. That the completion of an in-house course as set out at appendix A be adopted as a pre-condition for Hackney Carriage and Private Hire drivers prior to grant of a licence.

5. That this in-house course is provided by the Council's Transport Services.
6. The cost of the training and testing program is met by those applying for a Hackney Carriage or Private Hire driver licence and those referred for remedial training who are existing licence holders.
7. The requirement to undertake the in-house training program would apply to those applicants whose application is received after 31 January 2013.
8. Existing drivers would only need to attend the new in-house course in the event of a substantiated complaint or conditions breach.
9. Applicants who had already attained the NVQ/VRQ, or can demonstrate they are studying towards achieving the NVQ/VRQ would be exempt from the requirement to undertake the new course. Those studying towards the NVQ/VRQ would have until the date of renewal of their licence to complete the course, otherwise will have to attend the in-house course at the next available opportunity.
10. A Leeds City Council certificate of achievement will be awarded to successful applicants on completion of the in-house course.

1 Purpose of this report

- 1.1 To enable Members to discuss the results of the public consultation and options for delivering an in-house training program.
- 1.2 For Members to consider whether the NVQ/VRQ should continue to be accepted as an alternative qualification to completing the new in-house course.

2 Background information

- 2.1 Following a report to the Licensing & Regulatory Panel in September 2008 all drivers were required to undertake NVQ/VRQ assessment within the first year of their Hackney Carriage or Private Hire driver licence as a prerequisite to the renewal of that licence.
- 2.2 A Working Group was established to review the requirement when it became apparent that funding for the NVQ/VRQ had been reduced and drivers were encountering difficulties securing a fully funded course to attend.
- 2.3 In June 2012 the Licensing Committee decided to withdraw the requirement to undertake the NVQ/VRQ assessment following the recommendations of the Working Group. The removal of funding and the relatively high cost of the NVQ/VRQ were the reasons why the condition was reviewed and changed by Committee. The committee also asked officers to conduct a full public consultation on proposals to put in place a new in-house course to replace the NVQ/VRQ assessment.
- 2.4 The elements of the NVQ/VRQ programme considered by the Working Group to be essential from the recognised national qualification are set out at Appendix A.

Licensing Committee agreed that any in-house course would need to cover these elements.

3 Main issues

- 3.1 The results of the consultation are detailed in section 4.1 of this report and attached at appendices B and C. Appendix B summarises the responses we received through the council's public consultation portal, TalkingPoint. Appendix C details responses we received via correspondence.
- 3.2 Training and testing of applicants is currently undertaken within the Taxi & Private Hire Licensing Section in the form of a one day course which is a full time post for a Service Development Officer.
- 3.3 If the current training and testing regime was expanded to include the elements listed at appendix A, this would necessitate the employment of an additional SO2 Service Development Officer and C2 administrative assistant to service the course. The cost of these additional posts is £50,857 per annum. The council receives, on average, 643 new applications per annum. Therefore cost to new applicants would be £79 which is the cost of the additional posts shared across the average number of new applicants.
- 3.4 Officers have also consulted with the council's Transport Services section, who currently provide in-house training for disability awareness for new hackney carriage drivers. Transport Services have said they can enhance their existing training to include the elements at appendix A. New hackney carriage driver applicants currently pay £40 to attend the disability awareness course and this fee would increase to £55 to cover the additional elements in appendix A. This represents an increase of £15 per hackney carriage driver. As private hire drivers do not currently receive the disability awareness training (except on request where they drive a wheelchair accessible private hire vehicle) this would be a new fee of £55 for those drivers. If Transport Services provided the in-house course it would remove the need for Taxi and Private Hire Licensing to recruit additional staff and would be a cheaper cost to all drivers.
- 3.5 Whilst carrying out the consultation officers were informed that some funding had once again been made available for NVQ/VRQ places. It is unclear how long this funding will last, but it does present an opportunity for some applicants to obtain a nationally recognised qualification at no cost to themselves. The in-house course, although covering all the elements listed at appendix A and providing a certificate of achievement, will not provide a nationally recognised qualification. Officers recommend that if a new applicant can provide evidence that they have enrolled on a NVQ/VRQ qualification for road transport passenger skills that includes all the elements listed at appendix A, they be exempt from attending the in-house course and the NVQ/VRQ certificate is accepted as an alternative. Evidence required would be a letter from the training provider confirming the applicant had been enrolled on the course. It would be the applicant's responsibility to source, secure funding/payment and complete the course.
- 3.6 It is recognised that some new applicants may already hold the NVQ/VRQ accreditation. Existing NVQ/VRQ qualifications will only be accepted if they are no

older than 5 years. If the NVQ/VRQ qualification is over 5 years old new applicants will need to either attend another NVQ/VRQ course or the council's in-house course.

- 3.7 If a new applicant fails to achieve the NVQ/VRQ before the first renewal of their licence, they will be required to attend the next available in-house course at their own expense.
- 3.8 Officers also recommend that where there has been either a conditions breach or a substantiated complaint has been received regarding an existing driver, that officers can refer the driver to attend the in-house course at their own expense for remedial training.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Full public consultation was carried out from 5 July 2012 to 5 October 2012. Details of the results of the consultation are attached at appendices B and C. Appendix B summarises the responses we received through the council's public consultation portal, TalkingPoint. Appendix C details responses we received via correspondence.
- 4.1.2 In summary the vast majority of the public strongly agreed with the requirement for training and testing for applicants. Members of the trade who responded to the consultation also generally agreed with the proposals, but were cautious about the additional costs any in-house training would bring to new applicants. It was felt that any additional costs would need to be as low as possible and fully justified.
- 4.1.3 There was also a concern raised regarding applicants whose standard of English comprehension may not be sufficient to attend and understand the new in-house course. Members are reminded that as part of the current application process all applicants are assessed for their English comprehension skills and courses are offered to those applicants that fail to achieve the minimum requirements agreed by the Licensing Committee.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality and Diversity Screening Assessment was undertaken. It is available as a background document.

4.3 Council Policies and City Priorities

- 4.3.1 A primary function of the Licensing Committee is to meet its statutory obligations in respect of public safety and to ensure that all drivers are "fit and proper" to hold a licence. That in turn contributes to safer communities and the well being of the city by providing a safer and more professional licensed driver. These proposals strengthen the controls in place to help increase public safety and ensure drivers are fit and proper to hold a licence.

4.4 Resources and Value for Money

- 4.4.1 The Taxi & Private Hire Licensing Section is self financing and must off-set any costs to the trades (in this case, new applicants, or those affected by recommendation 6.4). In that sense the 'value of money' test is in the Section managing its own finances but also ensuring proportionality in setting costs.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Licensing Committee is exercising its powers under the scheme of delegation in respect of the Local Government (Miscellaneous Provisions) Act 1976 by considering what proportionate pre-conditions it might place on the Hackney Carriage and Private Hire drivers prior to grant or renewal of a licence.

4.6 Risk Management

- 4.6.1 There is always a risk of challenge by way of Judicial Review at point of approval or when applied to an individual.

5 Conclusions

- 5.1 That the public consultation has given members of the public and the trade a full opportunity to express their opinion so that a fully informed decision can be taken by the Licensing Committee.

6 Recommendations

- 6.1 That the completion of an in-house course as set out at appendix A be adopted as a pre-condition for Hackney Carriage and Private Hire drivers prior to grant of a licence.
- 6.2 That this in-house course is provided by the Council's Transport Services.
- 6.3 The cost of the training and testing program is met by those applying for a Hackney Carriage or Private Hire driver licence and those referred for remedial training who are existing licence holders.
- 6.4 The requirement to undertake the in-house training program would apply to those applicants whose application is received after 31 January 2013.
- 6.5 Existing drivers would only need to attend the new in-house course in the event of a substantiated complaint or conditions breach.
- 6.6 Applicants who had already attained the NVQ/VRQ, or can demonstrate they are studying towards achieving the NVQ/VRQ would be exempt from the requirement to undertake the new course. Those studying towards the NVQ/VRQ would have until the date of renewal of their licence to complete the course, otherwise will have to attend the in-house course at the next available opportunity.
- 6.7 A Leeds City Council certificate of achievement will be awarded to successful applicants on completion of the in-house course.

7 Background documents

'Train to Gain' information document 'The NVQ system – who does what'

Equality and Diversity Screening Assessment

Hackney Carriage and Private Hire Driver Applicant Training and Testing Assessment Areas

Health and Safety – Passengers and Self	Specific Areas Covered	Testing method T & T + Training & Test GD +P = Group Discussion & participation
	Health & safety in the taxi and private hire work environment	GD+P
	Road safety when driving passenger in a taxi or private hire vehicle	T & T
	Road Traffic Acts – accident reporting	T & T
	Personal alarms and panic switches to base	GD+P
	Personal radio, private line contact	GD+P
	Security cameras and their privacy laws	GD+P
	Dataheads/GPS	GD+P
	Safety guards and screens	GD+P
	Limit the money carried	GD+P
	Four door security lock	GD+P
	Take in information by continually scanning the environment and using that information to plan a response	GD+P
	Fire Regulations	T & T

Hackney Carriage and Private Hire Driver Applicant Training and Testing Assessment Areas

Professional customer service and equality	Specific Areas Covered	Testing method T & T + Training & Test GD +P = Group Discussion & participation
	Maintaining punctuality, Honesty and truthfulness, Professional relationships	GD+P
	Providing safety and security for vulnerable customers	GD+P
	Corporate client accounts	GD+P
	Drive with care and consideration	GD+P
	Disability Discrimination Act 1995	T & T
	Race Relations Act 1976	T & T
	Health Act 2006	T & T
	Age	GD+P
	Race	GD+P
	Religious	GD+P
	Sexual orientation	GD+P
	Nationality	GD+P
	Gender and gender reassignment	GD+P
	Disability	GD+P
	Refusing a fare based on own personal prejudice	GD+P
	Refusing a fare without justification	GD+P
	Refusing a fare because of a persons disability	GD+P
	Making it unreasonably difficult or impossible for a customer to make use of any such service	GD+P
	Providing a service which is on inferior terms to that on offer to other members of the public	GD+P

Hackney Carriage and Private Hire Driver Applicant Training and Testing Assessment Areas

Customers who require assistance could include: Mobility, ambulant disabled and Hearing loss Blindness or partially sighted Physical injury Learning difficulties Disfigurement	GD+P
Health Act 2006	T & T
Satellite navigation	GD+P
Using maps and navigational aids	T & T
Transporting hospital goods under contract	GD+P
Transporting blood bank items between NHS locations	GD+P
Musical instruments	GD+P
Maintaining punctuality at stops and destinations	GD+P
Maintaining a communications link	GD+P + T & T
Knowing essential contact names and phone numbers	GD+P

Hackney Carriage and Private Hire Driver Applicant Training and Testing Assessment Areas

Local Authority Conditions	Specific Areas Covered	Testing method T & T + Training & Test GD +P = Group Discussion & participation
	Being a fit and proper person	GD+P
	Driver's licence	T & T
	Vehicle licence	T & T
	Group 2 medical examinations	GD+P
	Hire and reward insurance – public and private hire	T & T
	Misconduct, including inappropriate language or behaviour	GD+P
	Obstructing Authorised Officers	T & T
	Over charging	T & T
	Taxi – A licensed Hackney Carriage vehicle	T & T
	Residential nuisance – parking, use of horns etc	T & T

Hackney Carriage and Private Hire Driver Applicant Training and Testing Assessment Areas

National Legislation	Specific Areas Covered	Testing method T & T + Training & Test GD +P = Group Discussion & participation
	Local Government (Miscellaneous Provisions) Act 1976	T & T
	Town Police Clauses Act 1847	T & T
	Construction & Use regulations	T & T
	Data Protection Act	T & T

Hackney Carriage and Private Hire Driver Applicant Training and Testing Assessment Areas

Taxi & private hire vehicle maintenance and safety inspections	Specific Areas Covered	Testing method T & T + Training & Test GD +P = Group Discussion & participation
	Construction & Use Regulations	T & T
	Maintenance & safety checks	GD+P

Training Consultation: Talking Point Questionnaire

1. Are you a regular user of taxis and/ or a private hire service?	
Yes 113 75.8%	No 36 24.2%

2. Do you feel it is important that the taxi and private hire trade is operated in a professional manner?	
Yes 149 100.0%	No 0 0%

3. Do you feel it is important that all standards of safety and comfort are satisfied by the taxi and private hire trade?	
Yes 148 99.3%	No 1 0.7%

4. Do you think that taxi and private hire licence holders should undertake training which will enhance their knowledge in key areas such as customer service, maintaining a professional image, dealing with special needs, such as disability, understanding health and safety requirements and taxi and private hire regulations?				
Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
113 75.8%	29 19.5%	3 2.0%	3 2.0%	1 0.7%

5. Due to a lack of Government funding, it is no longer a mandatory requirement for all licence holders to achieve a NVQ Level 2 in Road Passenger Vehicle Driving (Hackney Carriage and Private Hire Vehicles) whilst this consultation is underway. To what standard do you think licensed drivers should be trained?		
To a nationally recognised standard	To a standard determined locally	Training not required
113 75.8%	30 20.1%	6 4%

6. Do you think it should be mandatory that all licence holders undergo training that is appropriate to their trade?				
Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
112 75.2%	29 19.5%	2 1.3%	5 3.4%	1 0.7%

7. Do you think it is acceptable that licence holders pay to undertake training and/ or attain qualifications?				
Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
58 38.9%	56 37.6%	10 6.7%	19 12.8%	6 4%

8. Please add any further comments you wish to be considered:
1. Any job related training is vital as it will allow the candidate an insight into their job and how to improve or do better.
2. drivers earn more than enough to pay for their course / training
3. I think that a national standard should be adhered to as depending on which firm is used depends on the level of service that is received.
4. Standards of Taxi Enforcement also need to be looked at.
5. A taxi was sent to collect my father for his visit to the day care centre. the driver made not effort to ensure that another pserson was secure with their seat belt in the front and asked the passengers did they know where to take themthey both suffered from dementia. Not good.
6. On the occasions I have used taxis I have been appalled at the standard of driving. Drivers have driven over the speed limit, gone through red lights at traffic lights, swapped lanes erratically
7. it is up to council to pay for NVQ but they all should have clean cars and speak English
8. Would the CRB checks still be applicable under the Protection of Freedoms Act 2012?
9. I feel taxi and private hire drivers should undergo training like any other job. This will give the customers more confidence is using. The qualifications should be paid for like other qualifications or possible means tested or payment plan. I don't use taxis or private hire often but when I have in the past, I have on occasions felt unsafe as the driver appeared scruffy and unkempt, spoke little English. If I knew drivers had trained in various areas including customer services, it would give me more confidence to use.
10. This exercise offers a much-needed opportunity to address standards within the private hire licensed trade in Leeds. There are a number of issues I feel require action, including but not limited to: low standard of driving (speeding / jumping red lights / mobile phone use etc), internal condition / cleanliness of vehicles, drivers with poor personal hygiene and presentational standards / potentially inflammatory opinions, playing of loud music whilst carrying fares, etc. At the moment it seems as though just anyone can become a taxi driver whereas I think access to the trade needs to be much more tightly controlled.
11. Drivers should be trained to a good standard for both driving & customer care. They are often in a position of trust with vulnerable people & should be checked & licensed to be classed as skilled workers as many other professionals are. Anyone can jump in a car & charge for a journey - not everyone is capable or willing to do it in a responsible way. It would weed out the irresponsible ones!
12. The training should cover all those elements listed in the preceding questions but there also needs to be training in the geography of Leeds - some drivers cannot find

/ do not know where even the main arterial roads are!
13. There should be standards set for the personal hygiene and cleanliness expectations for taxi drivers and their vehicles. I have been in taxis where the vehicles have been dirty and the taxi drivers have stunk of body odour and bad breath!!
14. I work for LCC and carry out training for Taxi's & private hire drivers, most of the drivers are hard working drivers and trying to earn a living so I feel that any training that they receive should be free.
15. LGV drivers have a requirement to undertake training at their expense; I see difference in the case of private hire or hackney carriages. The driver should be required to meet the costs of training before being granted a licence,
16. Most other sectors working with all aspect of safety would not be allowed to work without a qualification of a national standard.
17. I have found Leeds taxi drivers to be amongst some of the most unprofessional in the UK and try to avoid using them if I can. Their driving is dangerous and they have no perception of road safety. I would even question whether some are actually licensed to drive. I believe that standard training / qualification is required and that those wishing to drive taxis of any description should be required to undertake (and pay) for this.
18. Some drivers are very rude, store things in their boots so you can't fit your shopping in, talk inappropriately to female passengers, so I would imagine training would only improve things.
19. Training for a driver is two fold one to ensure that they are delivering a professional service and secondly it trains them to recognise the danger signs of potential passengers that could create problems and for me the main issue with taxi staff in Leeds is that a too high a percentage are just rude and ill-mannered.
20. As with all trades, training is a requirement. When you use a taxi/private hire, the lack of any real formal training is apparent. Customer service in particular is very poor. Also, I personally would like to see that all taxi/private hire drivers have to pass the advanced motoring course. In years past they were all courteous to a tee. These days a driver will not even come to the door, they sit in the car and hit a horn in what I can only perceive as ignorance. I now only use a select few taxis who have customer service and whose drivers speak and understand English. After all this is a service we pay for. You would not go back to a restaurant with very rude staff, so why the same with a taxi. It is about time that there were strict enforced laws covering all aspects of taxi/private hire driving.
21. I have regularly used one particular taxi company and occasionally been in the car when the speed limit has been exceeded particularly late at night. In my opinion some taxi drivers due not driver with due care. Often the cars need a good clean.
22. if drivers want to do that trade then there is a price to pay I feel that drivers should be stopped more a random also cars inspected
23. I'm a road accident analyst for LCC. Would it be feasible to have a requirement that drivers wear a seat belt? I know they are exempt in law but since 2005 there have been 2 taxi drivers killed having been thrown from their vehicles during a collision, I've not looked at other injury severities but I suspect they could be reduced if drivers buckled up to. It would set a good example to passengers and their families too.
24. Extremely important that taxi drivers not only have qualifications in customer relations, but also additional qualifications with regards to road safety

25. I think that ALL taxi drivers should have a standard uniform which can be identified by service users. They can purchase based on the same terms as school uniforms. I think uniforms set good standards and readily identifiable.
26. Clients need to be confident, that when they take a taxi they are looked after in a safe and professional manor and that they will be treated with dignity and respect. Covert monitoring of taxi drivers needs to take place to ensure compliance. (Boss undercover).
27. Drivers should have the basic knowledge of how to deal with passengers. There is no real need for additional training.
28. Requirement for drivers to know the areas they work in, as it seems they are dependent on Sat Navs - there is no impetus to have individual knowledge any more.
29. There should be some standards that need to be adhered to. As a paying customer I expect the driver to be polite, speak English, and know where he is going and to pay attention to personal hygiene. I expect the car to be clean inside and properly maintained outside.
30. I have experienced appalling driving ability amongst minicab drivers plus a lack of respect for the law. It is very important to get rid of drivers who endanger their passengers and other road users. There should be stringent training before drivers are allowed to hold a licence and "mystery shopper" type checks on minicab firms operating in Leeds.
31. The standards of driving by some private hire drivers leaves a lot to be desired. Their use of speedometers, mirrors and indicators are amongst the greatest faults. Development of lane discipline and observation skills of the road ahead would also benefit other road users. The seating position (slumped) of some cannot assist in these aspects of driving. Observation of traffic signals and road signs, parking correctly when picking up or setting down fares would also improve their image. When parked, awaiting the call to a fare, the engine and headlights should be switched off. Leeds should expect professional standards of driving from professional drivers.
32. Generally my experience of taxi private hire drivers has been positive; the main area of weakness is knowledge of the local area and over reliance on sat Navs.
33. I feel that the area in most need of improvement is for people with disabilities. I run a group for adults with disabilities and they are treated shockingly buy some private hire and Hackney Carriages. For example being charged extra, being taken the long way round in order for the driver to charge a higher fee, the loading and unloading of wheelchair users is patchy with some being brilliant to others who refuse to load or don't strap them in, also I have had occasions where drivers have refused to take wheelchair passengers. Alongside better training for drivers with regards to this LCC should take responsibility, as they have granted the licence, when people are complaining as so far any complaints from disabled people I know have not been followed up in the main by LCC and they have been told to report it to the company who do not do anything about it. LCC should introduce a monitoring system for compliments/complaints for these vulnerable members of society.
34. Like any profession, especially those that are public facing it's important to implement quality controls to maintain acceptable standards and clearer procedures for complaining about unacceptable conduct/behaviour.
35. I think that taxi /private hire should undertake relevant training and keep their skills updated with regular updates
36. I hold a PCV licence and had to pay for my own training Medicals and Driver

CPC if people wish to drive as a job then yes they should pay at least something towards and the company you are employed by should make a contribution towards the training and continuing education
37. As a driver I also think that Taxi Drivers should also have to be retested on their driving ability as they always seem to the road users who do not seem to follow the highway code, park illegally and cause problems for other road users.
38. We need to feel safe using this form of transport and that is not always the case
39. Many roles require employees to be educated and/or trained to a minimum standard - sometimes this in the form of in-house training but sometimes it is up to the individual to obtain, and pay for, their education and/or training. Why should taxi drivers be exempt from this?
40. Taxi drivers should hold a higher form of driving license (advanced license) as, effectively, they are professional drivers. Other sectors are governed by licensing (gas fitters/electricians etc...) so why aren't taxi drivers? Some of the driving standards I see of taxi drivers are absolutely appalling!
41. Only too often do taxi drivers not know the local areas and since the introduction of sat nav this seems to have become very low priority, although sat nav can give an indication to the journey route this can not be solely relied upon as often goes a longer route than anyone with local knowledge especially when roadworks are occurring
42. This should be a no brainer. I had to pay upwards of Â£3000 to become qualified as a Google reseller. Why should people in other industries differ?
43 Taxi drivers are working with members of the public; they should have some basic training around equality and diversity, communication and customer service.
44. If taxi drivers want to be taxi drivers then either they or the firm that work for should pay to keep there knowledge an qualifications up to date for the safety of all passengers and customers that use their services
45. I feel that anyone working professionally as a driver, taxi or otherwise would benefit from taking specific training. It improves the services of various businesses and would make the public more willing to travel via public transport.
46. Whilst it is important that we have people who have been trained adequately I do not see how we can ask them to foot the bill for all of this given that training is expensive, and is not a well paid job, and that they have no earning capacity whilst they are training.
47. I think the general standard of taxi drivers in Leeds is good. However, you do sometimes get drivers who speak limited English or don't know the 'land' marks of Leeds let alone the actual streets. Occasionally the general personal hygiene is also brought into question.
48. DRIVERS NEED TO BE ABLE TO UNDERSTAND ENGLISH AND SPEAK ENGLISH THAT CAN BE UNDERSTOOD
49. I have been in several taxis recently where seat belts have not been fitted or working. Drivers sometimes talk on mobile phones whilst driving with no hands free kits in situ. I have had to talk to drivers about this and complain. Some drivers have got very annoyed with me. Surely public safety should be paramount importance
50. Hackney Cab Drivers should not have to Pay for a Qualification that the Council make Mandatory, especially when they have been working in the job for several \years, Only new Cab drivers should be aware that if they choose to do the job there will be Mandatory Training which they have to pay for,
51. I think if taxi drivers want to push up standards and take a pride in there job as a

profession, that it isn't unreasonable that minimum standard are set and that taxi drivers invest in their own training in order to achieve this. Central to this should be a customer service ethos coupled with wanting to provide good services.
52. I feel that all drivers should be trained. I am also concerned that some drivers do not appear to have an adequate grasp of English. If they cannot speak the operating language how can they read it or understand varying road signs, converse with customers appropriately etc. Colour or Race is not an issue but the ability to understand the basic language of the society in which you are working is. I have become increasingly aware of this problem with some drivers especially at night
53. there should be a minimum acceptable service standard for all operators, and be fined if they are late, especially in the dark nights, and even more so where there are single ladies and children waiting for them to turn up and receive excuse after excuse
54. I feel that when booking a black and white taxi for a wheelchair user the waiting time is too long and sometimes are told you will have to wait until there is one in that area? The fair seems to be more as well? Are you charged for getting in and out of taxi? Some drivers don't use the ramps? Just tilt the chair backwards. So training is important.
55. as people are vulnerable a lot of the time some training will give confidence in the trade
56. Disability Act Awareness and training is very important, especially in the use of adaptive equipment such as wheelchair safety, blind dogs etc
57. All taxi/private hire drivers should have the appropriate training. My daughter has experienced some very dangerous situations when dealing with private hire drivers. This included a disagreement with a price where the taxi driver drove off whilst she was trying to lift her son out of the car. Luckily she kept hold of his hand and his only injury was a bump on his head from the fall.
58. I feel that drivers should have a CRB every 12 months and as for further training the should pay a fee
59. a regular training session for competency should be undertaken on a two/three year review
60. Nurses have to pay a fee to stay on their professional register - why not do something similar with cab drivers, with the fee covering council run mandatory training sessions and continuing professional development
61. Taxi licensing and running costs are high and bring a lot of revenue to the council. Training should be provided by council or operators
62. Taxi drivers are in a position of trust dealing with the public and should be trained
63. Although I only use taxi/private hire services occasionally, my last few experiences have been poor in customer care.
64. To be honest, the standard of private hire drivers in particular is appalling. Very little geographical knowledge and poor basic English. They really are a complete embarrassment. The Taxi drivers are better but standards have still dropped over the years.
65. I feel strongly that taxi drivers undertake customer service skills and training as some drivers lack this in a very big way. I am an ex lady Taxi Driver who was complimented on good customer service
66. The training/qualifications should not be profit making if the cost is carried by the trader.
67. I currently live in leeds9 and I am shocked by the standard of driving by private

hire drivers they break traffic regulations consistently ignore other road users, park on zigzag lines and double yellow lines and in the middle of the road if I used my car like that I would be stopped by the police in no time yet these guys and some black and white drivers do it without any care for other people it has got to the point now in Leeds that I am thinking of putting a camera in my car and recording driving like this then reporting it to the police I think that if any of them do get prosecuted for traffic offences they should have their licence suspended I also think that as a licensing authority you should be doing a lot more checks on these drivers before they are responsible for killing somebody

68. Other trades must pay for appropriate training and professional qualifications, electricians, gas fitters, plumbers, ICT specialists etc. I see no reason to exempt hackney carriage and private hire drivers. Revenues raise from this could be used to prevent unlicensed drivers plying illegally for hire and putting the public at risk.

69. I sometimes use a taxi to get to work and have noticed that sometimes they will start to go on different routes that take longer until I correct them however a lot of the time when I do; I receive a cold response back as if I am telling the driver how to do his job. I ensure I agree on a fee when I call up the firm as I have been charged different amounts for the same journey, also sometimes when I have called a taxi after a night out a few times the driver has asked me if I would like to go somewhere with him. Just because I am a lone woman in his car. This is completely unacceptable a taxi firm is a service that people are willing to pay for. You should be made to feel comfortable and safe and be taken to your journey without fear, also the driver should have full knowledge of prices too charge and the area they work in. Also it wouldn't hurt to clean the inside of cabs once in a while. I do however understand that some customers can be abusive but that's evident in most jobs, so that's no excuse for the above issues.

70. Other people pay for courses and training to become trained in their profession. Taxi drivers are responsible for their customer's safety, comfort; journey etc whilst they are in their vehicles so should have the relevant training to ensure their safety.

71. Language should be one of the training criteria. Too many drivers are unable to speak English to a sufficient standard.

72. Funding should be provided by the individuals employer.

73. I have been in Taxis where there is a language barrier or silence because they are chatting to family members on a mobile phone (Hand held) not a professional service. There should be a basic standard

74. It is important that all taxi drivers have a good knowledge of both verbal and written English. Not use mobile phones when driving passengers, be more helpful with luggage or shopping.

75. I feel that drivers in the Leeds area should have a more detailed knowledge of the city as it has been my experience they do not always know where they are going!

76. Driver training is essential, running red lights, no indication, pulling across lanes, reckless driving. insurance certificate should be displayed in the car

77. I have never had any problems with either private hire or hackney cab drivers in Leeds. Therefore, I think mandatory training is a waste of time and money, and would put off prospective drivers. In-house training by the companies involved should be adequate for this need, and not something forced upon them by this ever-nannying state.

78. Full training for all drivers that deal with the vulnerable, even if they're drunk on a Friday night

79. The public sector deserves to be safe in Taxi's and a recognised local qualification should be attained.
80. My mother is disabled and there is a huge difference in the level of service received from taxi drivers - I feel they should help disabled people in and out of the taxi and this should be part of the training
81. Taxis are a part of leeds that visitors and residents of leeds use daily however a large number of these drivers are unprofessional in their approach to the point you wouldn't believe they had any type of licence at all, this activity requires regulating in a much better and robust way for the better of the city
82. Common sense is all you need. and perhaps some element of H&S
83. For SEO individuals paying for training may be sometimes difficult, but a system of 'loans' might be one way to encourage them to train and pay back
84. all taxi drivers should complete road safety courses and a driving test as most private hire drivers do not seem to care about other road users safety
85. Drivers are often professional drivers who rely on driving for their income. They should have to meet some standards and as they are self employed surely the cost of the training would be tax deductible?
86. Monitoring needs to back up training. I have recently had drivers holding conversations with relatives on hands free mobiles and missing turns and lights! Drivers personal issues should not put me at risk of an accident or make me late for an appointment (about 30% of my recent trips what was rare is now becoming frequent).
87. All taxi drivers should be CRB checked internationally and prevented from driving if they have any previous or current sexual convictions for the safety of their passengers.
88. There seem to be an ever growing number of taxis in Leeds and I have been the passenger of some who appear not to adhere to any road regulations e.g. speed, use of indicators etc. I would wholeheartedly support mandatory training with those wishing to drive taxi's being responsible for payment of such training.
89. I think it would be good to train them in manners too. I've had a couple of instances where inappropriate language and hand gestures have been used.
90. Private hire drivers are professional drivers, therefore no reason for them to obtain an additional qualification to confirm this...

Training Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
<p>Profound Services</p>	<p>At Profound Services we were heavily involved in the driver training for not only NVQ but VRQ. Since the funding changed at the turn of last academic year it has been a lot harder to fund the NVQ/VRQ. In the North East we have successfully been running employment route ways in assisting people with the funded VRQ training and also we have gained funding to pay for new drivers badges and any costs a new driver may incur as part of the badge process.</p> <p>At the moment we are trying to consult with taxi companies in Leeds and the Yorkshire area to gauge where the vacancies are to promote this across all of the local job centres to get new trained drivers in Leeds and surrounding areas as this has been a huge success in the North East at the moment out of people who have gone through our training over 65% have signed off benefits and are now working.</p>	<p>The decision to withdraw the requirement to attain an NVQ/VRQ was taken by the Licensing Committee in June 2012.</p> <p>It was also the decision of the Licensing Committee that officers put forward proposals for an in-house training package.</p>	<p>None.</p>

Councillor Colin Campbell	<p>I would strongly support the continuation of the above training and its requirement for the provision of a licence. I believe the cost should be born by the applicant. This would be similar to HGV drivers and given that the qualification bestows financial gain to the applicant should not be funded by the public.</p>	<p>The decision to withdraw the requirement to attain an NVQ/VRQ was taken by the Licensing Committee in June 2012.</p> <p>Comments regarding the cost to be borne by the applicant have been noted.</p>	None.
CableCom	<p>I am pleased to reiterate that CableCom has access to funding for the above taxi qualification. There are a number of funding streams available to existing or aspiring taxi drivers in the next academic year. This course closely resembles the NVQ in content; both in knowledge requirements and competency and is fully funded. This would enable existing or new taxi drivers to obtain a nationally recognised qualification. I would appreciate your thoughts on this opportunity to continue offering a fully accredited qualification via Leeds City Council.</p>	<p>The decision to withdraw the requirement to attain an NVQ/VRQ was taken by the Licensing Committee in June 2012.</p> <p>It was also the decision of the Licensing Committee that officers put forward proposals for an in-house training package.</p>	Officers recommend that if the NVQ/VRQ has already been achieved, this would negate the requirement to undertake any in-house training.

Private Hire Driver	I am absolutely disgusted, but not surprised the licensing committee has decided to withdraw the requirement for the NVQ VRQ, was it frightened of been called racist by the Asian drivers. I'm a driver at SJK and all our drivers passed their NVQ VRQ because we made it a requirement of working for SJK. You are just enabling the flyby night drivers who pirate in the city centre and headingley that you say you want to stop. Well reinstate the requirement for the NVQ VRQ and you will be half way there if you don't you are just reinforcing the general view you talk the talk but don't walk the walk.	It is unfortunate that circumstances changed regarding the funding. New drivers to the trade may continue to work towards the qualifications where funding is available and the in-house training will be mandatory to being granted a licence.	Officers recommend that if the NVQ/ VRQ has already been achieved, this would negate the requirement to undertake any in-house training.
Hackney Carriage Association	In the past all NVQ and VRQ have not been paid for by the drivers concerned who have taken the courses. The problem is that if VLE conduct in house training for new applicants it seems that you cannot work for free. I would love to think that all new Hackney Carriage will get the service free, however I somehow don't think so. In this case I believe we have no alternative .	New drivers to the trade may continue to work towards the qualifications where funding is available.	Officers recommend that if the NVQ/ VRQ has already been achieved, this would negate the requirement to undertake any in-house training.

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Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 16 October 2012

Subject: Introduction of three yearly Criminal Records Bureau checks on Hackney Carriage & Private Hire Drivers and Private Hire Operators – Results of Public Consultation

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. Currently the Taxi & Private Hire Section conducts a Criminal Records Bureau (CRB) Disclosure on all drivers at the point of application and may also require existing licensed drivers to undertake a CRB disclosure in other circumstances. There is no policy in place to direct that additional CRB disclosures be required during the lifetime of a licence.

2. Department of Transport (DfT) best practice guidance of March 2010 states it would be best practice for disclosures to be sought every 3 years in respect of licensed drivers and it is this guidance that is now being brought forward for Elected Members to consider.

3. In June 2012, the Licensing Committee asked officers to carry out a public consultation on proposals to introduce three yearly Criminal Records Bureau checks on Taxi & Private Hire Drivers and Private Hire Operators. The results of that consultation and officer recommendations are included in this report for Members consideration and discussion.

4. During the public consultation, officers became aware of a new online scheme being introduced by the Criminal Records Bureau. From early 2013 (exact date yet to be confirmed by CRB) a new annual online update service will be introduced. This means that once the initial CRB has been completed, an individual can apply to be registered

for annual updates. This has the potential for reducing costs to drivers significantly and avoiding the need for the section to recruit additional staff to process three yearly CRB checks.

Recommendations

5. That a decision to implement more regular CRB checks be deferred until more information on the new online process is available. A further report will be presented to Licensing Committee in April 2013.

1 Purpose of this report

- 1.1 To inform Members of the outcome of the public consultation.
- 1.2 For Members to consider officer recommendations for the introduction of three yearly CRB disclosures, the potential financial impact upon licence holders and the potential resource implications for the section.
- 1.3 For Members to consider the information regarding the proposed introduction of a new annual online CRB process and the potential resource and costs savings this could bring to the council and drivers.

2 Background information

- 2.1 Since 2000 the Taxi & Private Hire Licensing Section has conducted CRB checks on all applicants. Prior to that checks were conducted by the West Yorkshire Police.
- 2.2 The information in a CRB disclosure is vital in the decision making process to ensure the Council meets its statutory requirement to ensure all drivers are a fit and proper person.
- 2.3 During the life time of a licence the Council can require a Private Hire driver by way of a condition placed upon their licence to undertake CRB vetting but such a condition cannot be placed upon a Hackney Carriage driver licence due to legislative shortfalls. The intention of this condition on a Private Hire driver was to deal with emerging issues relating to an individual driver and not a specific policy. For Hackney Carriage drivers the CRB vetting would be a requirement of the renewal process.
- 2.4 DfT best practice guidance is reproduced below:

“It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.”

3 Main issues

- 3.1 The introduction of a three yearly CRB vetting procedure in line with best practice guidance would contribute to reducing risk of the travelling public and increasing public safety.

- 3.2 Additionally, the Council's Internal Audit team have identified that the introduction of such a policy would have safety and compliance benefits (see 4.6.1).
- 3.3 If the Council processed the 3-yearly CRB disclosures in-house there would be an additional cost to licensed drivers in every third year of a licence due to the administrative process that would need to be in place. This would consist of the arranging of appointments, conducting interviews and dealing with the subsequent administrative issues. This process could not be managed within the existing staffing structure and would require additional resources.
- 3.4 The additional cost to an individual driver would be £68 which is the cost of a CRB application (£47) plus the administration cost of 2 additional staff (£21). This additional cost would be charged every three years when a driver's CRB is due and prior to the renewal of the existing licence. A full breakdown of these costs is attached at appendix A.
- 3.5 During the public consultation, officers became aware of an alternative online scheme being introduced by the Criminal Records Bureau. From early 2013 (exact date yet to be confirmed by CRB), a yearly online update service will be introduced. This means that once the initial CRB has been done, an individual can apply to be registered for annual updates. They must do this within 14 days of their initial disclosure being issued.
- 3.6 The council is currently liaising with the CRB to determine if the council can register on behalf of the driver and recover the fee at a later date. This would enable the council to enter the online registration number and instantly check for any convictions, etc, added to the individual's record. The cost has not been finalised but it is anticipated that this would be approximately £10 per year. This new system gives the council the potential to check as many times as was necessary in that one year period.
- 3.7 If the council cannot register on the driver's behalf, this process is reliant on the driver registering themselves every year. In this situation officers would recommend that a new condition be created that the council will not renew a driver's licence unless they have registered. Also, the update will only show the council if something has been added to the record, not any of the details. At this stage we would need to call in the driver to undertake a full CRB again. However, the cost of an additional full CRB would only be required if the driver's online record showed a new conviction, etc. The majority of drivers would only have to pay the annual registration fee.
- 3.8 There is also the potential that if an individual has already undergone a CRB with another employer and registered for the online update service, the council can use the registration number to check their record without the requirement to undertake two separate CRBs. In section 4.1 of this report we received feedback to the consultation that individuals working in the security industry already have an enhanced check done every three years and were concerned about the additional costs of further checks with the council. This online check has potential to alleviate this concern.
- 3.9 As the additional costs were a significant area of concern raised by the trade during the consultation and the online facility has the potential to address this and reduce

the need for additional resources for the section to administer regular CRB checks, officers recommend that a decision regarding the introduction of three yearly CRB checks be deferred until more information on the new online scheme is available for consideration in 2013. Officers recommend that a further report return to committee in April 2013 when details of the new online scheme should be available and whether any additional resource is required to administer it.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Full public consultation was carried out between 5 July 2012 and 5 October 2012. The results of the consultation are included at appendices B and C. Appendix B summarises the responses we received through the council's public consultation portal, TalkingPoint. Appendix C details responses we received via correspondence.
- 4.1.2 In summary there was very strong support for regular CRB checks for drivers from both the public and the trade. As indicated earlier in this report, the trade raised significant concerns regarding the additional cost regular CRB checks would create for drivers and duplication that already exists within the existing CRB scheme for drivers with other professions requiring the need for a CRB check. Officers recommend that the proposed online facility being introduced by the Criminal Records Bureau will address these concerns, and a decision to implement more regular CRB checks be deferred until more information on the new online process is available.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality and Diversity Screening Assessment was undertaken before the consultation process and is available as a background document.

4.3 Council Policies and City Priorities

- 4.3.1 Best practice guidance suggests that the adoption of this proposal will contribute to safeguarding communities and child safeguarding matters and there are areas that are closely associated to the role of Taxi & Private Hire drivers.

4.4 Resources and Value for Money

- 4.4.1 The cost of additional resource requirements would have to be met by the existing trade on the adoption of the policy in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Local Government (Miscellaneous Provisions) Act 1976, Section 51 deals with the granting of a licence to a Private Hire driver. Section (1) (a) requires that the Council must be satisfied the applicant is a 'fit and proper' person.
- 4.5.2 Similarly, in respect of Hackney carriage drivers the 'fit and proper person' test is applied at Section 59 (1) (a).

- 4.5.3 The 'fit and proper test' applies not only at the point of first application but also at any renewal and it is proportionate for the Council to apply a means of checking that suitability, using CRB checks at reasonable periods. DfT best practice guidance suggests this should be every three years. This time period is supported by the council's Internal Audit team.

4.6 Risk Management

- 4.6.1 Members are reminded of the comments of an Internal Audit review of the Section completed in February 2012: -

“...To comply with current best practice guidance, the Taxi and Private Hire Licensing section should require CRB disclosures to be renewed every three years, in addition to the requirement for new applicants. Those drivers who have not completed a disclosure in the last three years should be checked as a matter of priority.

“Guidance should be developed which clarifies the CRB disclosure process in respect of drivers. This should include:

- Frequency of undertaking the checks;
- Action to be taken on receipt of an unsatisfactory disclosure; and
- Retention of documentation (in line with the CRB Code of Practice).

“The implementation of this recommendation should ensure that LCC are aware of convictions committed after a licence has been granted and give improved assurance that only “fit and proper” persons are licence holders.”

5 Conclusions

- 5.1 There are strong reasons for the introduction of three yearly CRB checks as indicated by the DfT and the council could be at risk if the guidance is not followed.
- 5.2 The adoption of this policy does meet the Council's statutory requirement to ensure drivers are “fit and proper” in a proportionate manner.
- 5.3 Any additional cost has to be met by the licence holders as and when a CRB is required. These additional costs could be minimised by use of the new online facility being implemented by the Criminal Records Bureaux in 2013.
- 5.4 Officers recommend that a decision to implement three yearly CRB disclosures is deferred until more information about the new online scheme is available early next year. A further report can be brought to Members for a decision in April 2013 when details of the new scheme should be available.
- 5.5 If approved by the Licensing Committee the final policy proposal will need to be referred to Executive Board for approval.

6 Recommendations

- 6.1 That a decision to implement more regular CRB checks be deferred until more information on the new online process is available. A further report will be presented to Licensing Committee in April 2013.

7 Background documents

Department of Transport report entitled Taxi and Private Hire Vehicle Licensing: Best Practice Guidance at :-

<http://assets.dft.gov.uk/publications/taxi-private-hire-licensing/taxi-private-hire-licensing-guide.pdf>

Council's Internal Audit Report of Taxi and Private Hire Licensing dated February 2012
Equality Impact Screening Assessment

Cost of processing CRBs in-house under existing system

Current number of licensed hackney carriage and private hire drivers is 4,893

Split over three years is 1,631 additional CRB disclosures per year

This is a significant volume of additional work that could not be absorbed within existing resources. Two officers would be required to administer, check and process this number of additional CRB applications per year. This equates to 7 CRB disclosures each day, allowing time for annual leave, etc. Each application takes 1 hour to process on average. This would require an additional two officers and the work would be rotated around all the existing staff, so all Licensing Officers spent a period of time processing CRB renewals.

2 x B1 Licensing Officer costs £33,660

Costs of additional staff per CRB disclosure: -

$$£33,660 / 1,631 = £20.64 \text{ admin charge per CRB disclosure}$$

Current fee charged by CRB per disclosure is £47

Total costs per disclosure for each driver: -

$$£47 \text{ (CRB fee)} + £21 \text{ (admin fee)} = £68$$

The current fee charged by the section for CRB disclosures carried out as part of the application process is £60, so this would represent an increase of £8 per CRB disclosure required. This increase would be applied across all CRB disclosures required for whatever purpose (new application, 3-year refresh, etc).

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CRB Consultation: Talking Point Questionnaire

1. Are you a regular user of taxis and/ or a private hire service?	
Yes 131 83.4%	No 26 16.6%

2. Do you feel it is important that members of the taxi and private hire trade undertake an enhanced CRB disclosure to determine if they are a fit and proper person to carry passengers?	
Yes 149 95.5%	No 7 4.5%

3. A CRB is currently undertaken at the point of application to become a licensed driver. Do you feel it is important that a further CRB is undertaken during the lifetime of the licence?	
Yes 144 92.3%	No 12 7.7%

4. Do you think that taxi and private hire licence holders should undertake a further CRB:			
Every Year	Every 3 Years	Every 5 Years	No Opinion
58 37.4%	69 44.5%	17 11%	4 2.6%

5. Please add any further comments you wish to be considered:
1. If a driver is of good character and has no issues with honesty and integrity during their day to day business, there should be no need for further CRB checks. However if not trustworthy they should not hold a licence in the first instance and licence should be immediately revoked, never mind doing another CRB.
2. Taxi firm should pay for the CRB check
3. it is a must for CRB check every 3 years
4. It is important to feel safe when travelling in a taxi so I think it should be mandatory for them to be checked regularly.
5. We need to be sure our taxi drivers are properly licensed and managed and also that the vehicles are MOT`d and 100% roadworthy. We also need to ensure our drivers speak and understand the English language
6. it is just extra burden and expense on taxi driver who are already struggling with the increase of fuel prices and councils fees so please don't take the piss and don't change anything
7. instead of putting extra burden on taxi driver it would be nice if council can give some reduction in licences renewal fees to driver because they are already struggling with high increase in fuel insurance prices
8. the taxi drivers also need to be given a comfort of safety whilst carrying out their

duties
9. I have teenage daughters who tell me that they sometimes feel uncomfortable in some taxis. On one occasion my daughter was asked to engage in sexual discussion with a male driver. This was reported to the police.
10. If you use taxis after a night out you can be in a vulnerable state and should be able to trust the taxi driver
11. If the status is checked every year then this should incentives good behaviour and driving standards.
12. I think lone females travelling in taxi or private hire will feel more comfortable knowing the drivers have a valid CRB disclosure. The general CRB checks are undertaking three yearly however, I feel in this instance to have them yearly would be more appropriate so any issues can be picked up and dealt with much quicker.
13. CRB renewal frequency should be in line with LCC policy for it's own staff i.e. every 3 years
14. Any work that involves contact with the general public often in a vulnerable state should be regulated i.e. CRB
15. They should be CRB checked every 5 years but also in between when applying for jobs with a new company.
16. I think there should also be able to check these drivers don't have a drink problem when they are driving other paying passengers around.
17. hard time for taxi driver coz of high fuel price and insurance that's why extra burden on them leave them alone and don't put extra cost on them
18. DRIVING LICENSES AND PASSPORTS TO BE CHECKED ANNUALLY
19. Given the poor standard of driving skills displayed by some drivers it might also be a good idea to ask them to their driving re-assessed every three years
20. There should be stringent checks to ensure that the person is who they say there are and especially in the case of Asian taxi drivers that they are not using numerous names and each others driving licenses and identities!
21. I believe Taxi cabs should be maintained and repaired by a National Garage who would be responsible to adhere to all current and relevant Quality Standards for maintenance and vehicle repair. This would also be applicable to all public transport i.e. buses, coaches, mini buses etc and would prevent backstreet cowboy repairs being carried out on public vehicles.
22. My daughters use taxis regularly and I assumed taxi drivers were subject to regular CRB checks. As an auditor for the council I have an annual CRB check and feel this by comparison is so unnecessary. The council would be better spending money on taxi drivers who are trusted with driving lone women at night.
23. The five year option may work if there is a legal duty on the licence holder to disclose convictions within a determined time frame, this would allow for action by the licensing authority without the need to rely upon a CRB check. Any failure to comply MUST be an automatic revoking of a licence in this case.
24. Owners of Private Hire vehicles should also be subjected to the same checks
25. Important to know who is transporting us and if they have relevant records
26. Given that some taxi firms are used to transport children and vulnerable adults I feel that it is important that CRB checks are part of wider employment checks.
27. You are putting trust in complete strangers, to get you safely from one destination to another, so it would be reassuring to know that they are being checked out on a regular basis
28. The importance of having confidence in the integrity of a taxi service is very

important for the city of Leeds and its future as a bad reputation for this service area will stop visitors coming to our city
29. CRB checks are needed as there are a lot of vulnerable young /old people use the services and people with mental health issues bare in mind its out of date as fast as its filled in as a crime could happen within the time of next up to date CRB
30. Very important that CRBs are repeated regularly. Current council policy (for staff that are working with children or vulnerable adults) is that enhanced CRB checks should be repeated every 3 years as a safeguard. This should be at least the same for taxi drivers as they may very well be required to transport children or vulnerable adults.
31. Please make sure that the drivers are fluent in speaking English, I feel that some of the drivers have no clue of the language. Also I would suggest that the drivers go through training more rigorously.
32. There is not much wrong as things stand but obviously any improvements (that are practical without impeding the drivers from doing their job) would be welcome.
33. Checks should be retrospective so that ALL drivers are cleared as of now.
34. Annual checks should me made to protect the vulnerable members of the public who use of the taxi service
35. Once every five years. is enough for a taxi driver.
36. I would feel much safer as a female travelling alone in a taxi
37. I feel this is really important - that passengers - especially young women feel that they can get into a car and know the person driving them has been checked. How will you decide if someone is not to be given a Licence if they have a criminal record? Would have been useful to let public decide what types of crimes - so a list of different offences could have been useful - then let the public have a view of those excluded. E.g. any violent crime should be excluded.
38. I have experienced minicab rides where the driving was extremely poor and possibly dangerous. I think that there should be more monitoring of driving ability.
39. The drivers should have to sit more driving test, yearly possibly because the standard of some drivers can be poor to say the least
40. Make a survey which actually takes into account previous questions - I answered stating that I did not think further CRB checks after the initial check were required and therefore the following question of how often should the "re-check" occur was actually a pointless question which should have been skipped!
41. As taxi drivers have access to vulnerable young people and adults and the ability to form relationships with these people, For the protection and well being of both children and young people and vulnerable adults it's important that CRB checks are carried out at least as regularly as in other services where employees have access to young people or vulnerable adults (every 3 yrs) and that only taxi companies with drivers who can evidence this should be on an approved supplier list for LCC use.
42. Support staff (i.e. those whom receive sensitive information) I believe should be included.
43. The initial check is useful on the first application; however I feel that the applicant should have a yearly check. This would highlight any criminal activity over the lifetime of the licence.
44. I work in Children's Services and a large part of my role involves 'face-to-face' contact with young people - I expect to be, and am, subject to undertaking an enhanced CRB check every 1-2 years. Many taxi drivers are involved in daily school runs as well as more general work with adults so this should be the case for them

too.
45. The checks should be in line with Leeds City Council policy - every three years.
46. As anyone who deals with the public, quite often on a one to one basis, then CRB regular checks are crucial to make the people of Leeds and anywhere else, to feel absolutely safe
47. Regular vehicle checks should be introduced too. not just the normal MOT as these vehicles are used much more and some I have been in would not pass
48. I think they should be every year as a CRB check only provides a snapshot, ensuring they are done regularly will help to ensure members of the public are kept safe.
49. I feel that making further CRB checks to taxi and professional hire drivers is an extremely important measure to ensure the safety of passengers, pedestrians and other drivers.
50. How do you effectively screen people who apply for a license from countries which do not participate in the screening process?
51. I am sure I am not the only person who has had an experience where I have been frightened by the taxi driver, either through aggression or sexual harassment. Taxi companies should also take complaints about their drivers more seriously.
52. Full CRB should be carried out every year. Taxi and private hire drivers are carrying people in their vehicles on a regular basis who are and could be vulnerable.
53. Review of the laws of the road. Following correct speeds.
54. There should be an ability to take licenses from drivers when they are reported to licensing team for bad driving techniques
55. I feel that is important that taxi staff do have regular CRB checks and this gives further re-assurance to the customer. Also vehicles should be checked before license is given for seat belts etc as these are sometimes not fitted or indeed working safely
56. My son takes taxis on a very regular basis, earlier this year a local taxi driver attempted to steal the contents of his wallet when my son was paying his fare at the end of the journey. The taxi driver was threatening and physical, my son attempted to get out of the car, the driver reversed and ran him over. He sustained a severe breaks in his arm, has lost the full use of his left hand. He was unable to work for several months, suffering now from depression. There is CCTV footage of the incident and two witness statements. This driver is pleading not guilty and so my son will also have to go to court in November. I use taxis on a very occasional basis and now will not travel alone in a taxi. In my local area taxi drivers seem to drive very fast, cut in front of cars, race the traffic lights and do not seem to considerate of other road users or pedestrians.
57. CRB checks should be undertaken in line with the guidance from the Home Office.
58. I think it is important that taxi drivers are of good character and that any
59. I think it is important that any person that provides a service to the public should have a CRB check. It is important for the safety & well being of their passengers
60. The reason I feel that CRB's should be done annually is because 3 - 5 years is too long between CRB checks as any conviction could happen in this period.
61. I use the same company when ever we need a taxi and it is an important position of trust - I have built up a relationship with this company. CRB's would make me feel safer.
62. Taxi drivers are regularly placed in a position of trust with vulnerable members of

the public travelling alone. I suggest regular and on-going checks should be a matter of course and central to holding a licence.
63. Most professions that are involved in public activities require regular CAB If a driver committed a serious offence that could be detrimental to public safety whilst he was applying for a license then this would not show on CRB however it would on the next one and I feel that a one year period is long enough to for this to occur
64. considering the state some people are in, and the fact that children are able to be using this service a CRB is important
65. Enhanced CRB's should be for everyone who has access to the public/children and pensioners. More so when vulnerable members of society are alone with a taxi driver.
66. That it should be taken every 3/4 years
67. In answering this survey, I have considered the views of my three teenage daughters. It would be a little more reassuring for me to think that those that are likely to be alone on a one on one basis with anyone should first be vetted to ensure safety of passengers, with continued vetting while ever they wish to continue to carry out their role
68. Taxi drivers are in a position of trust working late at night and often with vulnerable clients and as such should be checked regularly.
69. Taxis are used regularly by young people and as a parent I want to be assured that every step has been taken by the relevant authorities to ensure the safety of vulnerable young people when they get into a taxi with a stranger, often late at night. Therefore stringent checks on driver's capability to drive (i.e. valid clean UK driving license), and integrity as far as it is possible to check, are extremely important to me.
70. CRB should be regularly reviewed. If someone is convicted of sexual predatory behaviour then its no good waiting 3 years to find out
71. Taxi livery and condition of the comfort and cleanliness of the car and the driver
72. I think that Private hire drivers should be CRB checked at regular intervals and also that they should be visited by mystery visitors to check on the standard of driving, knowledge of their area, and the standard of customer care
73. and training need to be giving and speaking English
74. Public sector workers are required to complete CRB checks every 3 years why not taxi drivers?
75. The main point is that you feel safe when you get into a taxi. Even if it is a firm that you trust or use regularly. You pay for a service and you want to feel you can use this service without fear, or intimidation.
76. Essential so even vulnerable people can use taxis with safety
77. I use taxis infrequently because I am nervous about travelling with someone who barely speaks due to little command of English. Begs the point How did they pass a driving test? Also they continually chat on a mobile phone to family members. They should not be outside the law.
78. We have to trust drivers with venerable people, including children, young, drunk persons, physically and mentally ill persons. So we need to feel assured that the drivers are trustworthy
79. It should be mandatory that all private hire vehicles have CCTV installed for the protection of passengers and taxi drivers
80. Before a taxi driver is able to commence their role, the person should go through a CRB in order for the public to feel safer, and to know the taxi driver is at least suitable for the role. They are providing a service to the public, just as much as

employees of Leeds City Council are.

81. You are responsible for the safety of the public in taxis, private hire cars and a CRB is only the start. You also have to stop private hire drivers from sharing their badges. I have had 2 this week that were using someone else's badge. If you don't believe me, Ask anyone? They also take advantage of drunk and vulnerable individuals at weekends. Be brave and challenge this situation instead of pretending it doesn't happen.

82. This should be extended to other areas too, York and Barnsley

83. It is important to check that these drivers who we trust are actually worthy of that trust. People can be vulnerable in taxis especially when intoxicated.

84. I need to know that the driver of my taxi has not committed any type of criminal offence especially a sexual offence

85. It is essential that these checks are carried out so that the people of Leeds can be assured that they are travelling safely.

86. It is important that passengers (particularly lone females) feel safe in the knowledge that their driver can be trusted.

87. As long as each case is carefully considered when a disclosure is revealed, bearing in mind the rehabilitation of offenders then a CRB check is useful.

88. I think there should be monitoring of whether or not firms actually carry out the current regulations of asking for CRB checks. My local company regularly has new drivers who have just come to this country. Getting a CRB check for them would be difficult. I doubt that the company adhere to the regulations and ask for one before allowing the drivers to work.

89. If a person is convicted of crime that can affect his performance at the job or dealing with public then he should be dismissed. A hard working and hard pressed driver having to pay inflated fuel, insurance and licence renewal fees should not be made to pay every 3 years.

CRB Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
Executive Hire Operator	We would support such an amendment.	Noted.	No Change.
Private Hire Driver	<p>As a law abiding private hire driver, I have no problem with the council doing a CRB check every year if they wish, but i do have a problem if I have to pay for it. School teachers have to have regular CRB checks but they are not charged for them so do the check as often as you wish, but don't make a struggling private hire driver pay even more. We are been squeezed tighter & tighter all the time, more licences issued, fuel prices rising insurance costs spiralling to make us pay extra will send most legitimate drivers out of the trade.</p>	<p>In many instances employers pay for CRB checks where they are required for their employees.</p> <p>Leeds City Council is not the employer of the Taxi and/ or Private Hire drivers.</p> <p>The current renewal fee for both drivers and vehicles is £115. This equates to £0.32 per day.</p>	No change.

Anonymous	<p>I work for the security industry and have an enhanced CRB disclosure done every 3 years any way. It will not be financially viable for an individual like myself also working as a driver to have 2 enhanced CRB disclosures done in one year.</p> <p>Alternatively I might have one CRB done in one year for one organisation and another in the next year for the other organisation resulting in my CRB disclosure carried out too early not to mention leaving one out of pocket. The cost of enhanced CRB disclosures are generally paid by the organisations schools, hospitals etc. To levy this cost on the applicant would be unfair.</p>	<p>Leeds City Council is aware of an online facility being developed which may negate the need for two disclosures being carried out in one year.</p> <p>In many instances employers pay for CRB checks where they are required for their employees.</p> <p>Leeds City Council is not the employer of the Taxi and/ or Private Hire drivers.</p> <p>The current renewal fee for both drivers and vehicles is £115. This equates to £0.32 per day.</p>	<p>Further investigations to be undertaken to understand the CRB timescales.</p> <p>To review the policy as and when any changes are implemented by the CRB.</p>
Resident	<p>I think the public should know if a taxi & private hire driver has been checked by LCC. & the police and the dates should be on your badge and displayed on the dash or windscreen of the car .. Not around your neck where no one can see it anyway !! .. Maybe a good idea !</p>	<p>Drivers are encouraged to display their badges in clear view of their passengers.</p>	<p>No change proposed.</p>

<p>Hackney Carriage Association</p>	<p>I think the 3 years CRB check is a good idea. Most of our contracts do actually ask if our drivers have had regular CRB checks. I also believe that when taxi drivers are dealing with the public, particularly vulnerable people it is imperative that drivers are regularly checked. I may be wrong but do the council staff also have to be regular checked under the 3 year rule for CRB? With this in mind is there any way that our trade could have a special discounted rate, I believe council employees do get some sort of discount. We have to take in mind that if there are over a thousand Hackney Carriage props and drivers and near to 5000 private hire drivers. it would be appropriate to ask for some sort of discounted price for these drivers. The price at the moment is around £70ish. Any discount would be well worth considering for our trade if we are to consider the new proposals.</p>	<p>Yes, those Leeds City Council staff who come into contact with children and vulnerable adults do undertake a CRB every 3 years.</p> <p>There is no discount applied.</p> <p>The Taxi and Private Hire Licensing Section will endeavour to apply a reasonable cost purely to cover our administration of the process.</p>	<p>No change proposed.</p>
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Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 16 October 2012

Subject: **Taxi and Private Hire Licensing Policy Review – Results of Public Consultation for the application process, the medical exemption policy, stretched limousine conditions (driver, operator & vehicle) and private hire driver conditions**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. Licensing Committee asked officers to carry out a review of existing taxi and private hire licensing policies. This review was broken down into three distinct groups of policies. The first group of policies has now completed its public consultation.
2. Results of the consultation are attached for Members' consideration and discussion before determining whether any changes are required to the policies.

Recommendations

3. That there be no change to the current application process and that the next time the process is reviewed will be in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.
4. That there be no change to the existing medical exemption policy and that the next time the policy is reviewed will be in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.
5. That there be no change to the existing stretched limousine conditions (driver, operator & vehicle) and that the next time the conditions are reviewed will be in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.

6. That the proposed changes to the private hire driver conditions as detailed in appendix C be agreed and approved as a significant operational delegated decision..

1 Purpose of this report

- 1.1 For Members to consider the results of the public consultation.
- 1.2 For Members to determine whether any change is required to existing policies.

2 Background information

- 2.1 All council policies should be subject to regular review, to ensure they remain appropriate in response to changes in legislation, best practice, council priorities or circumstances and remain fit for purpose.
- 2.2 Licensing Committee asked officers to carry out a review of all existing taxi and private hire licensing policies. This review was broken down into three distinct groups of policies as follows: -
- Group 1 (the subject of this report): the application process, the medical exemption policy, stretched limousine conditions (driver, operator & vehicle) and private hire driver conditions.
 - Group 2: Private hire vehicle conditions including wheelchair accessible vehicles, vehicle age criteria, livery signs and markings; Hackney carriage vehicle conditions including wheelchair accessible vehicles, vehicle age criteria, livery signs and markings; Hackney carriage byelaws; plying for hire policy; executive private hire conditions.
 - Group 3: Private hire operator conditions; private hire vehicle proprietor including rental companies; convictions criteria.
- 2.3 The first group of policies has now completed its second round of public consultation and the results of that consultation are included in this report for Members' consideration before determining whether any change is required to the existing policies. Group 2 and Group 3 will be reported to a future meeting of Licensing Committee.

3 Main issues

3.1 The application process

- 3.1.1 The results of the first public consultation in 2011 are attached at appendix A. The results of the second public consultation in 2012 and officer comments in response are included in appendix B.
- 3.1.2 Officers recommend there be no change to the existing process and it next be reviewed in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.

3.2 The medical exemption policy

3.2.3 The results of the first public consultation in 2011 are attached at appendix A. The results of the second public consultation in 2012 and officer comments in response are included in appendix B.

3.2.4 Officers recommend there be no change to the existing policy and it next be reviewed in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.

3.3 Stretched limousine conditions (driver, operator & vehicle)

3.3.5 The results of the 2011 consultation are attached at Appendix A. There were no further comments received in response to the second public consultation in 2012 and officers have no recommendations for changes to the existing policy.

3.3.6 Officers therefore recommend there be no change to the existing policy and the conditions next be reviewed in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.

3.4 Private hire driver conditions

3.4.1 The proposed changes to the existing conditions are attached at appendix C. Changes are highlighted in green text. The results of the first public consultation in 2011 are attached at appendix A. The results of the second public consultation in 2012 and officer comments in response are included in appendix B.

3.4.2 Officers recommend that the proposed changes detailed in appendix C are agreed and the conditions next be reviewed in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.

4 **Corporate Considerations**

4.1 **Consultation and Engagement**

4.1.3 The first consultation was carried out in 2011. Results of this consultation were used to inform any proposals for change for each of the policies. A further consultation period ran from 18 May 2012 to 13 July 2012 on these proposals. The results are attached at appendices A, B and D as indicated earlier in this report.

4.2 **Equality and Diversity / Cohesion and Integration**

4.2.1 A full equality and cohesion screening has taken place on each of the policies and are available as background documents.

4.3 Council policies and City Priorities

4.3.1 Taxi and private hire licensing policies support the following elements of the Vision for Leeds: -

- Leeds' economy will be prosperous and sustainable, specifically high quality accessible, affordable and reliable public transport and making Leeds a lower carbon city;
- Leeds' communities will be successful, specifically that there are more community-led businesses that meet local needs; and
- Best City for Children, specifically helping ensure children are safe from harm.

4.3.2 Taxi and private hire licensing policies also support the following City Priorities: -

- Best City for Business, specifically improving journey times and the reliability of public transport and improve the environment through reduced carbon emissions; and
- Best City for Communities, specifically reduce crime levels and their impact across Leeds.

4.4 Resources and value for money

4.4.1 The only changes recommended in this report are minor changes to the private hire driver conditions which do not create any additional resource requirements or costs.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Local Government (Miscellaneous Provisions) Act 1976 gives the council authority to determine policy and conditions for hackney carriage and private hire drivers, proprietors and operators.

4.6 Risk Management

4.6.1 There is always a risk of challenge by way of Judicial Review at point of approval or when applied to an individual.

5 Conclusions

5.1 That a full and thorough public consultation has been carried out on these policies which has been properly considered before any changes considered.

6 Recommendations

6.1 That there be no change to the current application process and that the next time the process is reviewed will be in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.

- 6.2 That there be no change to the existing medical exemption policy and that the next time the policy is reviewed will be in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.
- 6.3 That there be no change to the existing stretched limousine conditions (driver, operator & vehicle) and that the next time the conditions are reviewed will be in 2017 and every 5 years thereafter, unless any change in circumstances requires the policy to be reviewed at an earlier date.
- 6.4 That the proposed changes to the private hire driver conditions as detailed in appendix C be agreed and approved as a significant operational delegated decision.

7 Background documents¹

- 7.1 Local Government (Miscellaneous Provisions) Act 1976
- 7.2 Equality and Cohesion Screening Assessments

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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Throughout 2011 the Taxi and Private Hire Licensing Section undertook a review of all policies and Conditions which apply to the Hackney Carriage and Private Hire trade.

The initial review of the following policies has now been completed and is open for further consultation.

1. The Application Process for new applicants to both the Hackney Carriage and Private Hire trade.

This review covered the following areas which are pre-requisites to the granting of a Hackney Carriage and Private Hire Driver Licence;

- **Driving Standards Agency (DSA) test**

The DSA test is structured by the DSA particularly for Taxi and Private Hire drivers.

No comments and/ or observations were received as part of the review.

Proposed Recommendations: Subject to any further feedback being raised, the Section will probably recommend that there be no change to the requirement to undertake a DSA test.

- **Group II Medical**

Feedback was received indicating that the Group II Medical was an unnecessary cost in times of austerity and that a 'doctor's note' to provide proof of fitness should be accepted.

The Sections response to this is that the Group II Medical policy is driven by public safety and best practice. Whilst the Council understands and sympathises with the trade in the current economic climate, the position remains that public safety may come at a price. Although it may be of small comfort to drivers, these costs can be offset in HMRC submissions. There is also a potential benefit to drivers in having to undertake a thorough medical examination.

There was reference in the discussions at the time of introducing the policy that it was most likely to adversely affect Asian drivers because of strong medical evidence of links to type 2 diabetes. This point was considered to support the intentions of the policy.

A 'doctors note' is not strong evidence of health to the extent that a Group II Medical is. A further point raised in discussions prior to the formal approval by the then Licensing and Regulatory Panel was that many drivers worked long hours, or had other occupations, and the added hours were considered as a further reason to adapt the policy beyond the acceptance of best practice guidance.

The most recent [best practice guidance](#), December 2011, does not change the principles that were considered by the Council at that time.

The following is an excerpt from the 'At a glance Guide to the current Medical Standards of Fitness to Drive' guide issued by the Drivers Medical Group, DVLA, Swansea in December 2011;

Taxi Licensing*

The House of Commons Transport Select Committee on Taxis and Private Hire Vehicles recommended in February 1995 that taxi licence applicants should pass a medical examination before such a licence could be granted.

Responsibility for determining the standards, including medical requirements, to be applied to taxi drivers, over and above the driver licensing requirements, rests with the Transport for London in the Metropolitan area and the Local Authority in all other areas. Current best practice advice is contained in a booklet 'Fitness to Drive': A Guide for Health Professionals published on behalf of the Department by the Royal Society of Medicine Press Limited (RSM) in 2006. This recommended that the Group 2 medical standards applied by DVLA in relation to bus and lorry drivers, should also be applied by local authorities to taxi drivers.

There is a statutory background to an individuals 'fitness to drive' within various Acts of Parliament but the Council is dependant on an individual knowing of an adverse medical condition or the reporting of it to the Licensing Authority (Leeds City Council).

** Caveat: The advice of the Panels on the interpretation of EC and UK legislation, and its appropriate application, is made within the context of driver licensing and the DVLA process. It is for others to decide whether or how those recommendations should be interpreted for their own areas of interest, in the knowledge of specific circumstances.*

The Council also has a statutory responsibility to ensure that a licensed driver, or applicant, remains a 'fit and proper' person which includes their medical fitness.

Proposed Recommendations: Subject to any further feedback being raised, the Section will probably recommend that there be no change to the requirement to undertake a Group II Medical.

- **English Comprehension Testing**

Feedback was received which was in agreement with the requirement for English Comprehension testing. A comment from a member of the public was received that it is occasionally difficult to communicate with licensed drivers where English is not their first language.

English Comprehension testing was introduced in 2007 for all new applicants to the trade by the then Licensing and Regulatory Panel as it is important that drivers' literacy and numeracy levels are adequate to meet or exceed the requirements of the role they play in transport services. For example, it is essential that drivers can communicate easily with a wide range of people, often in difficult or challenging situations, make emergency phone calls, respond to information or instructions given by radio, read street signage, give information about their vehicles, complete accident report forms, register change of vehicle ownership, use simple maps and street plans. Some spoken communication with passengers is likely to take place while the driver is concentrating on the roads, with little face-to-face interaction.

New applicants must pass the English comprehension test before they attend the knowledge tests associated with local Conditions upon a licence and geography. The test identifies applicants who do not have the appropriate literacy and numeracy skills, and enables them to undertake training and improve their skills before continuing with their application for a drivers licence.

Proposed Recommendations: Subject to any further feedback being raised, the Section will probably recommend that there be no change to the requirement to undertake English Comprehension testing.

- **CRB Vetting**

No comments and/ or observations were received as part of the review.

The role of a licensed driver brings them into contact with vulnerable groups such as the infirm, elderly, mentally ill and young people under the age of 18. To protect these vulnerable client groups the Taxi and Private Hire Licensing Section checks for the existence and content of any criminal record.

A Standard disclosure contains details of any spent and unspent convictions, as well as cautions, reprimands and warnings, recorded by the police centrally. Additionally, enhanced disclosures may contain non-convicted information from local Police records which a Chief Police Officer thinks may be relevant in connection with the matter in question. Licence applications are currently subject to an Enhanced Disclosure.

Proposed Recommendations: Subject to any further feedback being raised, the Section will probably recommend that the requirement for an Enhanced Disclosure at the point of application will

be retained, with any changes to the administration of that process being directed by the CRB e.g. a greater requirement on the validity of identification documents.

(Further information: In line with Best Practice guidelines, it is proposed to introduce 3 yearly vetting but that is subject to a report being presented to the Licensing Committee for consideration. This will take place later in 2012.)

- **Local Knowledge Testing**

No comments and/ or observations were received as part of the review.

Private Hire - a comprehensive pre-entry testing system was introduced in 2009; this was complemented by the NVQ in Road Passenger Transport, the requirement of which is due before the Licensing Committee in June 2012 for further consideration. The outcome of this may bring about further development of the training and testing element; potentially with additional focus on disability training, customer care and other key elements catered for in the NVQ/ BTEC.

Hackney Carriage – the Local Knowledge test is restricted to routes within Leeds. Whilst there may be changes with the introduction of new technology within the testing, in essence the test will remain the same. However, apart from MIDAS disability testing there is no other formal testing regime for Hackney Carriage drivers.

Proposed Recommendations: At present the Section is recommending that there be no changes to the current Private Hire Local Knowledge testing regime other than those that may be directed by the Licensing Committee.

Moving forward, Officers intend to propose a more comprehensive training and testing regime to more broadly reflect the knowledge required of both legislation and customer service. Any changes will be consulted upon fully within their own right.

2. Medical Exemptions Policy

Feedback was received requesting that the Taxi and Private Hire Licensing Section remains reasonable and understanding to drivers medical conditions.

The Equality Act 2010 means that employers and service providers must make 'reasonable adjustments' or changes to take account of the needs of disabled employees and customers.

Leeds City Council is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. Taxis and Private Hire vehicles are a vital link in the transport chain. It is important that people who use wheelchairs or guide, hearing or other assistance dogs can have confidence that drivers will accept them and their wheelchair or assistance dog and carry them at no extra charge.

In some circumstances a driver of a designated Taxi or Private Hire vehicle may be unable to fulfil the requirements of the Equality Act 2010 for medical reasons, either short or longer term. The Act allows licensing authorities to exempt drivers from the duties to assist passengers if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for them to comply with the duties.

The existing policy takes this into account.

Proposed Recommendations: Subject to any further feedback being raised, the Section will probably recommend that there be no changes to the Medical Exemptions process, other than those administrative changes which may be required to ensure the referral to the preferred Occupational Health provider is as straightforward as possible for licensed drivers.

3. Stretched Limousine Private Hire Driver, Vehicle and Operator Conditions

No comments and/ or observations were received as part of the review.

All licences issued by the Council in connection with the driving and operation of Private Hire Stretched Limousine vehicles are in accordance with the provisions of the 1976 Act. Drivers, Operators and Proprietors should be familiar with this Act, the provisions of the Town Police Clauses Act and the Disability Discrimination Act affecting Private Hire licences.

Proposed Recommendations: Subject to any further feedback being raised, the Section will probably recommend that there be no change to the Stretched Limousine Conditions.

Date of consultation closure: 13 July 2012

Group 1 Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
1. The Application Process			
<p>GMB on behalf of the GMB Professional Drivers Association (Leeds)</p>	<p>Group II Medical: Following a full consultation with GMB members employed in the private hire industry in Leeds we wish to respond as follows.</p> <p>We fundamentally object to this policy as our members feel that it is another unnecessary cost to drivers at this time of severe austerity.</p> <p>Drivers currently have a class 2 medical every five years but for drivers over forty-five years of age the examination is every single year at the same £80 cost.</p> <p>The group 2 medical test is not necessary for private hire drivers; the financial costs are unbearable at a time when many of our members earn less than the minimum wage. It costs £80 for a class 2 medical test, this cost is borne by the individual driver,</p>	<p>Licensing Committee agreed to the introduction of the Group 2 medical in line with the same requirement for other public transport providers.</p> <p>It is still considered proportionate and necessary to ensure the safety of the traveling public.</p>	<p>No change.</p>

	<p>when costs are added up to include car tax, insurance, fuel, company weekly rent and all the licensing fees and taxes then many of our members in Leeds earn less than £6 per hour.</p> <p>Our members believe that it would be sufficient to obtain a doctors note in order to provide proof of fitness, this would reduce the cost significantly and satisfy the criteria regarding the safety of passengers.</p>		
Resident	<p>I would agree with the proposals set out in the consultation. I particular note the new(?) requirement for a certain standard of English speaking to be achieved by new drivers. I have personally experienced a number of drivers with whom it has proved almost impossible to communicate because they lacked even basic English - even to the point of having great difficulty communicating the name of a street. As a standard English speaker, with no strong accent I find that is incredible!</p>	<p>The English comprehension test was introduced by the Licensing Committee previously and continues to be a pre-application requirement.</p> <p>Any drivers who have substantiated complaints regarding their English comprehension can be referred to attend the test.</p>	No change

2. Medical Exemptions Process			
The JTC (Joint Trade Council)	<p>We do not have a serious response to this policy, other than to ask VLE to remain at all times reasonable, and understanding to the drivers medical conditions, should he or she find themselves in an unfortunate position of being unable to carry out these duties as a wheelchair Hackney Carriage driver.</p> <p>There are times when drivers may be unable to either carry out these duties due to medical problems. All we ask is that as stated above the VLE Dept remains reasonable.</p>	The existing policy allows all drivers to apply for an exemption should there be a temporary change to their medical fitness.	No change.
3. Private hire driver conditions			
Resident	<p>1) in my experience speeding is almost universal. I am not sure what the Council can do about it, but if you take a look at Kirstall Road or Burley Road on any night you will see private hire drivers speeding at 40 mph plus all the time. My personal record is to be in the back of a car that exceeded 50mph on Kirkstall Road close to the YTV studios!</p>	<p>Comments regarding speeding in these areas have been referred to the enforcement team who will liaise with the police on the matter.</p> <p>Both hackney carriage and private hire driver applicants are required to take a geographical knowledge test.</p>	No change.

	<p>2) I also experience drivers whose knowledge of the geography of the city is poor - to the extent that on one occasion I had personally to direct a driver to Boar Lane in the centre of the city! He admitted that it was his first week in the city! Again I don't know what can be done about this - I guess asking them to pass 'The Knowledge' (like London Cabbies) might be a bit much!</p>		
Resident	<p>As a Weetwood Resident I can say that I find the parking of taxis on the road outside 'The Three Horse Shoes' Pub To be a real nuisance. They park on double yellow lines there, in the evening, thus blocking Weetwood Lane at the point where it meets the Otley Road. They also do the same outside Bryan's Fish and Chip Restaurant.</p>	<p>Comments passed to the enforcement team for further investigation who will liaise with the council's parking services team on the matter</p>	No change
Resident	<p>There is no part in the conditions that requires a driver to return to the off street parking at the base after completing a booked fare, however in the operator conditions there is a section where operators should ensure</p>	<p>Further legal advice would be required before making such a change to the conditions, and a further period of consultation required before any change is implemented. It is felt that this proposal should be considered</p>	No change

	<p>that the off street parking is used.</p> <p>Propose any amendment to add a condition that drivers should return to the off street parking at the private hire company after they have completed a booked fare.</p>	<p>alongside the review of the private hire operator's conditions which will consider the use of off street parking and the responsibilities of the operator to ensure private hire vehicles are parked correctly when not responding to a booking.</p>	
Police Inspector	<p>re: paragraph 10, can include something like:</p> <p>"Drivers must not convey passengers who they suspect are engaged in criminal activities, transporting stolen goods or Drugs, and are under a moral obligation to report suspicious incidents they come across in their communities, to the local police".</p>	<p>Awareness campaigns are run to advise drivers what they should do if they suspect their vehicle is being booked for an illegal activity. The section is currently running a human trafficking awareness campaign for drivers.</p>	No change
The JTC (Joint Trade Council)	<p>Any Private Hire driver parking on a Hackney Carriage rank should suffer a heavy fine or suffer a period of suspension for one year of their license.</p> <p>All Private Hire drivers/Cars must return to their designated base on completion of each specific job. This would alleviate the problem</p>	<p>Further legal advice would be required before making such a change to the conditions, and a further period of consultation required before any change is implemented. It is felt that this proposal should be considered alongside the review of the private hire operator's conditions which will consider</p>	No change

	of Private Hire drivers/cars illegally waiting in town either on taxi ranks or parking on unauthorised parking areas.	the use of off street parking and the responsibilities of the operator to ensure private hire vehicles are parked correctly when not responding to a booking.	
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SECTION 1

STANDARD CONDITIONS ATTACHED TO A PRIVATE HIRE DRIVERS LICENCE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1976 PART 2

All licences in connection with the driving and operation of Private Hire vehicles are issued by the Council in accordance with the provisions of the 1976 Act. Drivers and Operators should be familiar with this Act, the provisions of the Town Police Clauses Act and the Equality Act 2010 affecting Private Hire licences. The Health and Safety at Work Act has particular meaning Private Hire Drivers. ¹ (There are explanatory notes at the end of these Conditions.)

The following Conditions apply to all licensed Private Hire drivers. In certain circumstances additional appropriate Conditions may be attached to an individual licence which could be set out as an addendum to Section 1 or by way of a formal notice served upon the licence holder concerned.

The Council informs of changes to its Conditions and policy by publicising the changes in a variety of ways. It is the responsibility of the licence holder to be familiar with those changes and seek appropriate advice and guidance if in doubt. Additional copies can be obtained, free of charge, by visiting the Taxi and Private Hire Licensing office, or downloading from the website or requesting a copy be sent by post. It is also a Condition of the a Private Hire Operators licence that a copy is available for viewing.

Councillors have considered carefully the following Conditions and emphasise that they are essential requirements of the role. Failure to observe may lead to immediate suspension of the driver and vehicle licences and consideration of licence revocation and prosecution

Beyond actual regulatory acts, the Council is alert to public expectations of passenger care and comfort and it is not unreasonable to insist that all fare paying passengers are treated with respect and courtesy.

1. DRIVER LICENCES

Each driver shall deliver to his employing operator the licence to drive a Private Hire vehicle. The employing Operator shall be responsible for the safe custody of the driving licence during the period of employment and shall return it to the City Council at the request of an Authorised Officer

2. CHANGE OF OPERATOR

A licensed driver must inform the Section immediately in writing and in any case not more than 72 hours after the event if he / she changes Operator. It is essential to the enforcement ability of the Council and public safety issues that there is strict adherence to this Condition.

3. CHANGE OF ADDRESS

The driver shall notify the Council in writing of any change of address during the period of the licence within seven days of such change taking place.

4. MEDICAL CIRCUMSTANCES

(a) A licensed driver must notify the Council in writing, within 72 hours, of any changes to his / her medical circumstances. These circumstances are defined as those where it is the duty of the licence holder to notify DVLA of any medical condition which may affect safe driving or where their General Practitioner has advised them not to drive (Reference Direct.gov website, Health conditions that could affect your driving).

(b) A licensed driver must comply with the request of an Authorised Officer of the Council to undertake a medical examination with their General Practitioner or consultant or the Council's authorised Occupation Health representative to satisfy the Council that they are fit to safely undertake public transport duties. The driver must supply an original copy of that medical opinion to the Council. The Authorised Officer may suspend the licence if not satisfied that the Condition set out here is not being complied with within a reasonable timescale, or that the medical condition of the licensed driver is such that the licence should be suspended in any case, or that the medical condition appears to be such that it is in the interest of safety to suspend the licence

(c) DISABILITY DISCRIMINATION

Every licensed driver must conform to the requirements of the Equality Act 2010, and associated legislation. If a licensed driver requires exemption from the equality requirements they should apply to the licensing office for the Council policy and follow its approved procedure. This is the case even where a temporary exemption is required.²

5. REQUIREMENTS TO REPORT CONVICTIONS & ASSOCIATED INCIDENTS³

- (a) Any of the following events must be reported in writing to the Taxi & Private Licensing office within 72 hours during the currency of a licence giving full details:-
- (a) any conviction or finding of guilt (criminal or driving matter);
 - (b) any caution (issued by the Police or any other agency);
 - (c) issue of any Magistrate's Court summons against them;
 - (d) issue of any fixed penalty notice for any matter;
 - (e) any harassment or other form of warning or order within the criminal law including Anti-Social Behaviour Orders or similar;
 - (f) their arrest for any offence (whether or not charged)
- (b) When required a licensed driver will undertake enhanced Criminal Records Bureau (CRB) vetting at his/her own expense and within a timescale set by the Council. Such a requirement may be on the basis of the Council's responsibility to ensure continued public safety and monitor licensed drivers.⁴

6. ENGLISH LANGUAGE, LITERACY & NUMERACY TESTING⁵

REQUIREMENT TO UNDERTAKE ENGLISH LANGUAGE LITERACY AND NUMERACY TESTING

Where there is a reasonable cause to believe that there is a need to assess a licence holders English language literacy and numeracy skills because of a substantiated complaint, or an expressed concern from an identified person, an Authorised Officer may require, in writing, a licensed driver to undertake such testing at his/her own expense. A reasonable time scale up to 3 months will be set for the test to be successfully undertaken at a place designated by the Council. If unsuccessful, or if there is a failure to attend, the licence of the driver may be suspended and consideration given to its revocation

7. TRAINING TO EXPECTED STANDARDS OF SERVICE AND SAFETY⁶

- (a) During the lifetime of a drivers licence, an Authorised Officer of the Council may require a licence holder to undertake reasonable and appropriate training to meet these expectations and requirements. Such a requirement would be in writing. A reasonable time scale of up to 3 months will be set for the training to be successfully undertaken at a place designated by the Council. If there is a refusal or failure to attend, or the licensed driver does not meaningfully participate in the training or attain the training accreditation the licence may be suspended and consideration given to its revocation. The cost of such training will be borne by the licence holder.
- (b) The driver of any wheelchair accessible vehicle must undertake appropriate training set by the Council to ensure that passengers are handled and conveyed safely.

8. DRIVER BADGES

Each driver shall at all times, when driving a licensed private hire vehicle display the driver's badge issued by the Council, in a prominent place on the outer clothing at the front of the upper body. A replacement badge may be issued on application in return for the prescribed fee. The badges issued by the Council shall remain the property of the Council and must be returned to the Council immediately the licence is suspended, revoked or becomes invalid for any reason.

9. CONDUCT OF DRIVER

The driver shall:-

- (a) Alight from the vehicle and provide reasonable assistance with passengers' luggage and ensure its safe storage within the vehicle
- (b) Where a passenger has an obvious or apparent disability, the driver shall alight from the vehicle, offer assistance and ensure the passenger is seated safely in the vehicle before commencing the journey
- (c) Ensure that any disabled aid, wheelchair or assistance dog is appropriately and safely stored or accommodated within the vehicle⁷
- (d) On arrival at the pick up point of a booked journey, use the Operators 'ring back' system or radio the Operator base to enable the customer to be informed of the booked vehicles arrival⁸

- (e) At the conclusion of a journey the driver shall similarly offer all reasonable assistance to passengers leaving the vehicle and assist them with luggage or any disability aids or wheelchair
- (f) Particular care must be taken with unaccompanied children and vulnerable adults. Drivers should ensure that children and vulnerable adults leave the vehicle directly onto the kerb and immediately outside their destination. **In respect of passengers with significant visual impairment who are taken to hospitals or other medical establishments, personal guidance and assistance should be given to ensure that they arrive at an appropriate place of contact i.e. a reception desk.**
- (g) At all times be clean and respectable in his/her dress and person and behave in a civil and orderly manner. ⁹
- (h) Take all reasonable steps to ensure safety of passengers conveyed in, entering or alighting from the vehicle driven by him / her.
- (i) Not without the express consent of the hirer drink or eat in the vehicle.
- (j) Not smoke at any time within the licensed vehicle, or allow any other person to do so, or adjacent to it, which results in smoke entering the vehicle.
- (k) Not without the express consent of the hirer, play any radio or sound reproducing instrument or equipment in the vehicle other than for the purpose of sending or receiving messages in connection with the operation of the vehicle which may only be by way of the Operators radio or data head linked to the Operators dispatch system.
- (l) At no time cause or permit the noise emitted by any radio or other previously mentioned equipment. In the vehicle which he / she is driving, to be a source of nuisance to any person, whether inside or outside the vehicle.
- (m) Not use a mobile telephone unless in emergency circumstances e.g. a '999' call. It must not be used for social calls or for the purpose of recording a booking which the Operator has not despatched.
- (n) Not record, or cause to be recorded in the Operators booking system any hiring they have undertaken, are undertaking, or considering undertaking which was not despatched by the Operator. Any such attempt to circumvent the relevant legislation in order to give the appearance that a journey was lawfully pre-booked will be considered as a serious breach of primary legislation and Conditions and may result in the suspension and revocation of the drivers licence.
- (o) Other than satellite navigation information not display any moving images and not have any other form of visual display screen fitted to the licensed vehicle.

10. PASSENGERS

- (a) The driver shall not convey or permit to be conveyed in a private hire vehicle a greater number of persons than that prescribed in the licence for the vehicle.
- (b) The driver shall not allow there to be conveyed in the front of a private hire vehicles any child below the age of ten years:
- (c) The driver shall not without the consent of the hirer of the vehicle convey or permit to be conveyed any other person in that vehicle.

11. PROMPT ATTENDANCE

- (a) The driver of the Private Hire vehicle shall, if he is aware that the vehicle has been hired to be in attendance at an appointed time and place, or he has otherwise been instructed by the operator or proprietor of the vehicle to be in attendance at an appointed time and place, punctually attend at that appointed time and place, unless delayed or prevented by sufficient cause.
- (b) The driver shall immediately report to the Operator such delay.¹⁰

12. FARE TO BE DEMANDED & ISSUING OF RECEIPTS

- (a) The driver shall not demand from any hirer of a Private Hire vehicle a fare in excess of any previously agreed for that hiring between the hirer and the operator, or the hirer and the driver. If the vehicle is fitted with a tariff meter and there has been no previous agreement as to the fare, the driver shall not demand from any hirer a fare in excess of that shown on the face of the meter
- (b) The driver will supply the hirer, or one of the party accompanying the hirer, upon request and free of charge, a formal receipt for the cost of the journey. The information to be included on the receipt is: - The name of the Operator, the date & time of the hiring, the drivers licence badge number, the cost of the journey and signature and printed name of the driver.

13. LOST PROPERTY

- (a) Any property or articles of any description left in a Private Hire vehicle by a passenger shall forthwith, and in any event not later than 72 hours, be delivered to the Police Station for the area which the Licensed Operator is based. Appropriate enquiries should be made by the driver to return the property to the owner, but nevertheless must be lodged with the Police, in line with the stated time scales in this Condition. A record of the property receipt should be retained for a period of 6 months by the driver whose responsibility it was to take care of the property when found.

14. ANIMALS

The driver shall not convey in the Private Hire vehicle any animal belonging to or in the custody of himself or the Proprietor or Operator of the vehicle.

EXPLANATORY NOTES

1. HEALTH AND SAFETY OF PASSENGERS (DUTY OF CARE) – EXPLANATORY NOTE

Most people will be aware that employers have a duty of care to their employees, but the Health and Safety at Work Act, 1974, goes further. Part 1, Section 3 (2) states “it shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not exposed to risks to their health and safety”. Operators, drivers and Proprietors are advised that a failure to safeguard passengers could have serious implications for the licence holder, and the licence.

2. A serious view will be taken of any discriminatory behaviour. This may lead to the prosecution of the driver and suspension or revocation of the licence.

3. MEANING OF CONVICTIONS – EXPLANATORY NOTE

How criminal allegations are finalised by law enforcement agencies has significantly changed since the Act setting out the legislation and Conditions for Private Hire licensing was introduced. There are now a variety of disposal methods for sentencing which have been introduced in recent years. Many of these do not necessitate the alleged offender appearing before the courts to be sentenced. Formal ‘Cautions’, either a simple caution, a conditional caution or a street caution, within Home Office guide lines and relevant Acts of Parliament are more frequently used in appropriate cases and ‘Fixed Penalty Fines’ can be issued for a range of criminal offences. There are also a variety of constraining orders issued by the Courts (Criminal and Civil) intended to control the behaviour of individuals. All these disposal methods have a common thread to actual convictions and are indicative of an individual’s behaviour. These may be considered by the Council to consider the suitability of a licensed driver to continue to hold a licence. Similarly, the issue of summonses or the arrest and release on bail, with or without charge, can indicate there has been an event which may cause the Council to review the suitability of a licensed driver to continue to hold a licence. Each case will be considered on its own merits. Because of the public safety issues involved in private hire work the Council has been exempted from the provisions of the Rehabilitation of Offenders Act, 1976.

4. This may be by way of random CRB vetting, or where the Council has received intelligence or information or as part of an approved policy.

5. Concern has been expressed by Elected Members, the public, Private Hire Licence holders and Officers about the ability of some licensed drivers to speak and understand English to a desirable standard, as well as possessing basic literacy and numeracy skills. The Council has resolved that there should be a minimum standard of English comprehension and which is set at UK Citizenship standard (ESOL Entry level3). Appropriate assessments were designed, overseen and evaluated by Thomas Danby Leeds College, Trade representatives and the Councils Equality Team and are now carried out on behalf of the Council by an approved provider.

There was no previous testing undertaken by the Council and Members have determined that the new testing procedure will apply to all new applicants, but only to existing licensed drivers in the circumstances where there is a reasonable cause (A new applicant is a person who has not held a licence previously with this Council or whose previous licence expired, was revoked or where the Council refused to renew.)

6. Legislation effecting the provision of public transport has undergone significant change, (for example, Disability Discrimination, the Equality Act 2010, Health & Safety, road safety bills) and there are increased expectations within society that a service will be delivered professionally and fairly to all. Many of these issues do in fact have serious consequences for drivers within the criminal law, but it is also important to the Council that its values and principles are displayed by licensed drivers. They should conduct themselves in a way that reflects positively on the licensing policy of the Council and benefits those passengers using private hire transport.

7. Assistance dogs must be carried with the passenger at all times. Drivers must follow the advice of the passenger as to the exact position to best suit their needs.

8. Do not use the horn to alert a customer on arrival. Besides being an offence it causes significant residential and environmental nuisance. Offenders will be required to undertake appropriate training and a knowledge test at their own expense.
9. Drivers need to be conscious of concerns that women or children might have about being alone with someone they do not know or only have limited knowledge of. It is very important when involved in conversations with passengers that drivers do not ask personal questions. It is wholly inappropriate and unacceptable that questions are asked about a passenger's private life or personal relationships, especially women or children.
10. Having entered in a private hire contract there is an obligation on the Operator & driver to fulfil that contract. Late attendance could result in the hirer missing an important event or travel link and might result in significant compensation being awarded against you. It may also create an unacceptable risk to vulnerable people.

SHOULD YOU FEEL AGGRIEVED BY ANY OF THE CONDITIONS IN THIS LICENCE THEN YOU HAVE THE RIGHT OF APPEAL TO THE MAGISTRATES COURT WITHIN 21 DAYS FROM THE DATE WHEN THIS LICENCE WAS SERVED UPON YOU.

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Agenda Item:

Originator: Gill Marshall

Tel: 247 8822

Report of the City Solicitor

To: Licensing Committee

Date: 16 October 2012

Subject: **Hackney Carriage and Private Hire Driver's Petition for Equal Rights and Alleged unlawful application of Immediate Suspension Powers.**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of Main Issues

- 1 On 14 August 2012 the Licensing Committee considered a petition from the Alpha Hire and Hackney Welfare Society requesting that the council pass a resolution relating to the use of immediate suspension and revocation powers for drivers under s61(2B) Local Government (Miscellaneous Provisions) Act 1976.
- 2 Members resolved to reject the petition but to request that officers prepare draft guidelines on the use of immediate suspension powers for consideration by the Committee. This report presents the draft guidelines for consideration and comment.
- 3 Members further resolved that a full review be undertaken of the existing policy and processes and that a report be presented in due course setting out the findings of the review for discussion, to include wider discussions on the issues of public safety in respect of the PH and HC trade. That review will be commenced later.

Recommendations

- 4 That Members consider the attached draft guidelines and provide their comments before consultation is undertaken with the trade.

1. Purpose of this Report

- 1.1 This report provides draft guidelines on immediate suspension powers for Members to consider prior to trade consultation. These draft guidelines were requested by Members when considering, but ultimately rejecting, a petition for an equality resolution signed by a proportion of licensed drivers.

2. Background Information

- 2.1 Members will recall that that the petition requested that

‘This council resolves that in the determination of whether to suspend or revoke the licence of a HACKNEY CARRIAGE driver under its powers in the Local Government (Miscellaneous) Provisions Act 1976, Section 61 (2B), such determination to revoke a licence with immediate effect shall only be undertaken if there has been a conviction, an ongoing police investigation, or prosecution against the driver for an indictable only offence’.

- 2.2 The statutory provision giving rise to the concern of the signatories is Section 61(2B) of the Local Government (Miscellaneous) Provisions Act 1976. This provision was inserted into the legislation by the Road Traffic Act 2006 effective from 17 March 2007. That section provides that

‘ if it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.’

The general powers of revocation and suspension are set out in section 61 of the Act summarized below and the reference to subsection (2) (a) is to the notice that must always be given to the driver setting out the reasons for suspension.

- 2.3 Prior to this section coming into force the position was that a suspension or revocation decision did not take effect for 21 days. It could be appealed to the Magistrates Court. The effect of the appeal was to stay the decision which would not then come into effect until the appeal had been heard. Concern was expressed nationally that outside London drivers were allowed to continue working through that period even though they may pose a risk of danger to the public. Under the new provisions, where it is in the interest of public safety to do so, the suspension can take immediate effect and will remain in place until the appeal is heard. This brought the rest of the country into line with the legislation applicable in London.
- 2.4 Members resolved to reject the petition as the proposed resolution did not reflect the legal position and unduly restricts the powers of the council but to direct officers to prepare draft guidelines on the use of the powers of immediate suspension for consideration by the Licensing Committee at its October meeting prior to consultation with HC and PH trades on the guidelines and to request a full review be undertaken of the existing Policy and processes and that a report be presented in due course setting out the findings of the review for discussion, to include wider discussions on the issues of public safety in respect of the PH and HC trade.

3. Main Issues

- 3.1 Draft Guidelines on the use of immediate suspension and revocation powers are attached as **Appendix 1**. These guidelines reflect the legal position as outlined in the report of August 2012 in that the trigger for use of the power is the interests of public safety rather than the offence or allegation in question.
- 3.2 A series of examples is given in the guidelines of situations in which the powers may be exercised. These examples reflect previous decisions of the council as to what impacts on public safety as well as drawing on examples given by the Minister when discussing the powers in Parliament and the Transport for London Guidelines referred to in the petition.

4. Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Members will be aware that the proposed guidelines are to be the subject of trade consultation prior to being approved.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The draft guidelines have been subject to equality screening.

4.3 Council policies and City Priorities

- 4.3.1 The guidelines take account of city priorities relating to transport and crime and disorder.

4.4 Resources and value for money

- 4.4.1 There are no resource implications arising from this report.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 No implications

4.6 Risk Management

- 4.6.1 No implications

5. Conclusions

- 5.1 That Members consider the attached draft guidelines and provide comments and feedback prior to consultation with the trade.

6 Recommendations

- 6.1 That Members consider the attached draft guidelines and provide comments and feedback prior to consultation with the trade.

7 Background documents¹

- 7.1 The Local Government (Miscellaneous Provisions) Act 1976 Section 61 as amended by the Road Safety Act 2006
- 7.2 Records of Parliamentary Debate – Hansard 9 October 2006 Column 55 and 56 – Speech of the Minister Dr Ladyman.
- 7.3 Transport for London guidelines on immediate suspension powers.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

GUIDANCE ON IMMEDIATE SUSPENSION AND REVOCATION

Legislation

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds.

- (a) That he has since the grant of the licence
 - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this of this Act; or
- (b) Any other reasonable cause.

Section 61(2) goes on to provide that a suspension or revocation normally takes effect at the end of the period of 21 days beginning on the day on which notice is given to the driver but;

If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice give to the driver includes the statement that this is so and an explanation why then the suspension or revocation takes immediate effect when the notice is given.

These provisions (setting out when the decision takes effect) were inserted by the Road Safety Act 2006.

Guidance on decision making – Suspensions and Revocations generally

Section 61 requires the licensing authority to make a finding on the balance of probabilities that that the grounds set out in the legislation are made out.

In Section 61(1)(a)(i) the offence in question must *involve* dishonesty, indecency or violence. Dishonesty, indecency or violence must be part of the commission of the criminal offence for this subsection to apply but it is not necessary for the offence to be one of dishonesty, indecency or violence.

Section 61(1)(b) allows suspension or revocation (or refusal to renew) for any other reasonable cause. No further definition is give of reasonable cause within the legislation and ultimately the question is a matter for the discretion of the decision maker.

Guidance is given in a number of cases from which the following principles can be drawn.

- The decision maker is entitled to take into account hearsay evidence.¹
- The fact that no criminal case is pursued against the driver is a relevant factor that can be outweighed by other evidence.²

¹ McCool v Rushcliffe Borough Council (1998)

² McCool v Rushcliffe Borough Council (1998)

- The burden of proof is on the applicant to establish that he is a fit and proper person to hold the licence.³
- Once the driver has established a case that he is a fit and proper person, the evidential burden shifts to the Local Authority to rebut the case put forward by the driver. Rebuttal does not require the decision maker to prove that a person is not a fit and proper person and nor does pursuing that argument amount to double jeopardy.
- They would not have good reason to question or doubt the applicant's case if the evidence amounts to assertions shown to be ill founded gossip or rumour or for any other evidence which a reasonable and fair minded decision maker acting in good faith with proper regard to the interests of the public and the applicant would not think it right to rely on.⁴

The discretion under this Section is wide and is not restricted to convictions for criminal offences nor is proof required to the criminal standard.

The taxi licensing regime is clearly and expressly in place to protect members of the public travelling in taxi and private hire vehicles.

There are issues which undermine that protection which amount to criminal offences in their own right but there are other issues which have significance for the protection of the travelling public where a criminal offence might not have been committed or proved.

Immediate suspension or revocation

Both standard and immediate suspensions require the decision maker to consider the same matters, i.e. whether there has been a relevant conviction or "any other reasonable cause".

A suspension or revocation can only take immediate effect *in the interests of public safety* there must be an additional consideration. That means the decision maker should consider whether there is a clear connection between the incidents alleged and the safety of the travelling public which justifies taking this additional step, given that it can deprive a driver of his livelihood pending an appeal.

However there are no further limits or restrictions on the decision maker's exercise of judgment or discretion providing a proper judgment is made weighing up the evidence available.

There is no requirement in the legislation limiting this power to cases where there has been a conviction for a criminal offence nor that any alleged incident or offence is 'serious'.

The decision must be taken in the interests of public safety and should be fair, reasonable, proportionate and in accordance with human rights and natural justice principles.

The Council has a published policy relating to new applications for drivers licenses by those with criminal convictions. That policy allocates points to convictions in terms of their seriousness and how long ago the convictions occurred. The council will have regard to that policy when considering whether an offence, allegation or complaint should be considered as warranting immediate suspension in the public interest. This will be judged against all the

³ R v Maidstone Crown Court ex parte Olson (1992)

⁴ McCool v Rushcliffe Borough Council (1998)

circumstances of the case, including any admissions or denials made and any other relevant evidence.

Examples of situations where immediate suspension or revocation might be warranted include:

- Allegations of violence against a passenger or person wishing to travel.
- Allegations of indecency including sexual assault and rape against a passenger or person wishing to travel.
- Allegations that the driver is unfit to drive as a result of being under the influence of drugs or alcohol.
- Admitted sexual contact with a passenger in the vehicle
- Allegations of dishonesty relating to use of the vehicle such as attempting to pervert the course of justice in relation to a road traffic accident, fraudulent use of tax or insurance documentation, knowingly driving an uninsured vehicle to convey members of the travelling public.
- Allegations of dangerous driving or driving without due care and attention thereby endangering the safety of passengers and other road users

Each case must be decided on its own facts and any examples given in this guidance are only illustrative. Each case must be considered on its own merits and the powers should be exercised in a consistent and reasonable manner having regard to the facts of the case and the risk posed to the public.

Any decision to suspend or revoke a licence should never be taken lightly. However, the licensing system is designed to protect the public and it would be wrong not to suspend or revoke where such course of action is clearly appropriate on the facts of an individual case. If there is any doubt whatsoever as to the driver's suitability to hold a licence as a fit and proper person serious consideration must be given to refusal, revocation or suspension.

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LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 08/10/12 (hg)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			
TPHL Policy Review – ongoing review of the policies/conditions	Review timetable was agreed Feb 11, they will return to Committee at the conclusion of the necessary consultation period (to include driver licences nationality & immigration status checks)	D Broster (Sept 2011 – Jan 2012)	DP
Sexual Entertainment Venues – policy review	Review of the Statement of Licensing Policy for Sexual Entertainment Venues	S Holden (Oct 2013)	DP
Temporary Event Notices	To receive a report on the TEN application process	J Mulcahy	PM
Powers to suspend driver licences	Review of the process used to suspend driver licences and review of the Policy. Guidance on the use of powers to suspend to be drafted in due course	J Mulcahy (Oct/Nov 2012)	RP DP

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: FRIDAY 25 MAY 2012 held. Annual Gov arrangements/s182 Guidance/Policy WG/SEV Training			
Meeting date: 26 JUNE 2012 HELD NVQ/VRG/Law Commission consultation/CRB renewals/GA2005 Policy/Harehills DPPO			
Meeting date: 24 JULY 2012 HELD WYP presentation/appeals outcomes/SEV & LA2003 policy review WGs/Casino Advisory Panel			
Meeting date: 14 AUGUST 2012 HELD Code of Practice/Enforcement & liaison update/response to Alpha petition/Law Commission Consultation/Leeds Festival 2012			
Meeting date: 11 SEPTEMBER 2012 - CANCELLED			
Meeting date: 16 OCTOBER 2012			
Large Casino	Large Casino - Amendment to the Advisory Panel Membership.	S Holden	
CRB renewals	Report on outcome of consultation regular renewals of CRBs for Licence Holders	Martino dePlacido/John Mulcahy	DP
NVQ/VRQs for drivers	Report on outcome of consultation on review ongoing/arising from the recommendations of the Working Group	Martino dePlacido/John Mulcahy	RP
Group 1 Policy	Report on the Group 1 Policy review	John Mulcahy	RP
Guidance on HC PH suspension process	Report on draft guidance for consideration of immediate suspensions for HC PH driver	G Marshall	RP

LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 08/10/12 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 13 NOVEMBER 2012			
Large Casino	To receive an update on the progress of the Large Casino	S Holden	PM/RP
Leeds Festival	To receive an update on the de-briefing following the multi agency Leeds Festival 2012	S Holder	B
SEV's	To receive and update on the work of the SEV Working Group and report on the consultation process	S Holden	PM/RP
PH policies (Chauffeur & exec vehicles)	Outcome of consultation undertaken	J Mulcahy/K Coldwell	PM
Meeting date: 18 DECEMBER 2012			
Meeting date: 15 JANUARY 2013			
LA 2003	To receive an update on the work undertaken by the Licensing Act 2003 Working Group	S Holden	PM/RP
Meeting date: 12 FEBRUARY 2013			
Enforcement & Liaison	Update on the work of the Entertainment Licensing Enforcement & Liaison Section	S Kennedy	B
City Centre Policing Update	Discussion on city centre premises, licensing and policing	WYP	B
Large Casino	To receive an update on the progress of the Large Casino	S Holden	PM/RP
TRAINING	TRAINING SESSION ON THE LARGE CASINO		
Meeting date: 12 MARCH 2013			
Large Casino	To receive an update on the progress of the Large Casino	S Holden	PM/RP
SEV's	To receive an update on the work of the SEV Working Group and report on the consultation process	S Holden	PM/RP
PROPOSED Meeting date: 18, 19 & 20th MARCH 2013 – ADDITIONAL FULL COMMITTEE MEETINGS			

LICENSING COMMITTEE WORK PROGRAMME 2012/13- LAST UPDATED 08/10/12 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Large Casino	Additional Committee meetings to determine the Large Casino applications		
PROPOSED Meeting date: 25 MARCH 2013 – ADDITIONAL FULL COMMITTEE MEETING			
Large Casino	Additional Committee meeting to announce the decision of the Committee in respect of the Large Casino applications		
Meeting date: 9 APRIL 2013			
Meeting date: 14 MAY 2013			

Key:

RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

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