



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 14TH JANUARY, 2014 AT 10.00 AM

MEMBERSHIP

Councillors

K Bruce - Rothwell;
N Buckley - Alwoodley;
R Charlwood (Chair) - Moortown;
R Downes - Otley and Yeadon;
J Dunn - Ardsley and Robin Hood;
B Gettings - Morley North;
T Hanley - Bramley and Stanningley;
M Harland - Kippax and Methley;
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;

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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 15.2 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 15.2, 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 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 13-16 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 17th December 2013</p> <p>(Copy attached)</p>	1 - 6
7			<p>DELEGATED DECISIONS TAKEN BY TAXI AND PRIVATE HIRE LICENSING: 1ST JULY TO 30TH NOVEMBER 2013</p> <p>To consider the report of the Head of Licensing and Registration, which provides details of delegated decisions taken by Taxi and Private Hire Licensing which covers the period 1st July to 30th November 2013.</p> <p>(Report attached)</p>	7 - 14

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>CONVICTIONS CRITERIA - HACKNEY CARRIAGE (HCD) AND PRIVATE HIRE DRIVERS (PHD), PRIVATE HIRE OPERATORS (PHO) AND HACKNEY CARRIAGE PROPRIETORS (HCP)</p> <p>To consider the report of the Head of Licensing and Registration, which sets out proposals to amend the policy in respect of motoring convictions categories for Hackney Carriage Drivers and Operators and also Private Hire Drivers and Operators in particular the proposal for a requirement to undertake appropriate life skills driver development.</p> <p>(Report attached)</p>	15 - 68
9			<p>ENTERTAINMENT LICENSING SECTION - UPDATE REPORT JULY - DECEMBER 2013</p> <p>To consider the report of the Head of Licensing and Registration, which provides details of issues relevant to the Entertainment Licensing Section during the period 1st July to 31st December 2013. The report includes information about licensing reviews, prosecutions, applications and policy development</p> <p>(Report attached)</p>	69 - 80
10			<p>LATE NIGHT LEVY</p> <p>To consider the report of the Head of Licensing and Registration which provides the views of the Executive Board and Scrutiny Board (Resources and Council Services) on the possible introduction of a late night levy.</p> <p>(Report attached)</p>	81 - 88

Item No	Ward/Equal Opportunities	Item Not Open		Page No
11			<p>LICENSING WORK PROGRAMME 2014</p> <p>To note the contents of the Licensing Work Programme for 2014</p> <p>(Report attached)</p>	89 - 92
12			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note that the next meeting will take place on Tuesday 11th February 2014 at 10:00 am in the Civic Hall, Leeds.</p>	

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Agenda Item 6

Licensing Committee

Tuesday, 17th December, 2013

PRESENT: Councillor R Charlwood in the Chair

Councillors K Bruce, N Buckley, R Downes,
J Dunn, B Gettings, T Hanley, M Harland,
G Hussain, G Hyde, A Khan, P Latty,
B Selby and C Townsley

75 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents

76 Exempt Information - Possible Exclusion of the Press and Public

There were no items identified where the press or public would be required to be excluded from the meeting due to the nature of business to be considered

77 Late Items

There were no late items

78 Declaration of Disclosable Pecuniary Interests

There were no declarations of interest.

79 Apologies for Absence

Apologies for absence were received from Councillor G Wilkinson

80 Minutes

RESOLVED – That the minutes of the previous meeting held on 12th November 2013 were accepted as a true and correct record.

81 Review of Private Hire Operator (PHO) Conditions

The Head of Licensing and Registration submitted a report which set out details of a comprehensive review of the Private Hire Operator conditions (PHO). The review would seek to introduce proposals that will contribute to an uplift of service standards and compliance across the operator licensing base and meet arising public safety challenges.

Appended to the report were copies of the following documents for information / comment

- The existing Private Hire Operator Conditions (Appendix 1 refers)

Draft minutes to be approved at the meeting
to be held on Tuesday, 14th January, 2014

- The allocation of licensed Private Hire Vehicles (Appendix 2 refers)
- Consultation and engagement (Appendix 3 refers)

Des Broster, Section Head, Taxi and Private Hire Licensing, presented the report and responded to Members questions and queries.

Detailed discussion ensued on the contents of the report particularly the proposals for consultation on the new Private Hire Operator conditions with specific reference to the following:

- The introduction of more formalised training
- Public complaints and how they are dealt with
- Record of bookings
- Lost property
- Out of Town Hackney Carriages acting as Private Hire Vehicles in this licensing district
- Schedule of drivers

In offering comment Councillor Dunn welcomed the report but highlighted the importance of the trade to engage with each other.

RESOLVED –

- (i) That a three month consultation period be undertaken enabling wider contact with disability groups and partner agencies in respect of the broader issues
- (ii) That in respect of the issue concerning “out of town” Hackney Carriage Vehicles initial consultation be for a one month period with a review period of six months following implementation

82 Introduction of three yearly Disclosure and Barring Service checks on Hackney carriage drivers, private hire drivers, Hackney carriage proprietors and private hire operators

The Head of Licensing and Registration submitted a report which set out details of a proposal to introduce a three yearly Disclosure and Barring Service checks on Hackney Carriage Drivers, Private Hire Drivers, Hackney Carriage Proprietors and Private Hire Operators. The report highlighted the potential impact upon licence holders and resource implications for the Taxi and Private Hire Licensing Section.

Des Broster, Section Head, Taxi and Private Hire Licensing, presented the report and responded to Members questions and queries.

Detailed discussion ensued on the contents of the report which included:

- The potential impact on licence holders
- The resource implications for the Taxi and Private Hire Licensing Section

In offering comment Councillor Bruce welcomed the proposal suggesting that the public needed to be assured that the necessary checks had been undertaken.

Referring to paragraph 3.8 of the submitted report and the indication that additional staffing would be required to undertake the administration processes, the Chair asked if temporary staff could be employed?

In responding Mr Broster said it was unlikely that there'd be any advantage to employing temporary staff, the intention was to keep the situation under review and assign resources accordingly.

In summing up the Chair welcome the report suggesting Members appeared to be supportive of the proposals

RESOLVED –

- (i) That the contents of the report be noted
- (ii) To approve the introduction of three yearly disclosures on all existing licence holders and new applicants to the trade, noting that minor administrative changes may be made, as the policy develops
- (iii) To approve that a DBS check is a re-requisite to the grant or renewal of a Hackney Carriage, Private Hire Driver, Hackney Carriage Proprietor and Private Hire Operator licence

83 Licensing Act 2003 - Statement of Licensing Policy 2014-18

The Head of Licensing and Registration submitted a report which provided the Consultation Report and the Final Statement of Licensing Policy 2014 – 2018 for consideration and review.

Susan Holden, Principal Project Officer, Entertainment Licensing, presented the report and responded to Members questions and queries.

It was reported that 10 responses had been received as a result of the consultation exercise and changes had been made to the Policy as a consequence.

The issues where comments had been received included:

- Alcohol deliveries by fast food outlets and specifically about the protection of children
- Temporary Event Notices
- Cumulative Impact Policies

In offering comment Councillor Dunn suggested that it was disappointing that some Parish Council's had chosen not to comment, for example; establishing their own Policies in certain areas of the city

In summing up the Chair welcomed the report and thanked Members of the Working Group for their efforts.

RESOLVED –

- (i) To note the responses to the public consultation
- (ii) To accept the Consultation Report and the amended Statement of Licensing Policy
- (iii) That the Statement of Licensing Policy 2014 - 2018 and the Consultation Report be referred to Council for final approval

84 Strong Alcohol Schemes

The Head of Licensing and Registration submitted a report which set out details of the progress being made in other Local Authority areas with a voluntary scheme, which work with business to remove high strength, low cost alcohol from sale in areas which are experiencing incidents of alcohol related antisocial behaviour.

Susan Holden, Principal Project Officer, Entertainment Licensing, presented the report and responded to Members questions and queries.

Detailed discussion ensued on the contents of the report which included:

- The outcome of similar initiatives undertaken by other Local Authorities
- The implications to consumers, as a result of excessive consumption of strong alcohol: Health problems, anti-social behaviour, various types of crime and community issues
- Local actions taken by the Police
- Local Alcohol Action Areas

Councillor Selby welcomed the report and in offering comment said it was interesting to see what other local authorities were doing about this issue. He also suggested that the report be referred to the Area Committees to obtain their views on designing a similar scheme for Leeds.

Referring to “street drinkers” Sergeant Shaw, West Yorkshire Police said that Officers on the street had made positive progress in simply talking to people about the possible consequences of excessive consumption of strong alcohol. He also reported that an initiative convincing shops and supermarkets to avoid selling alcohol in single cans had also been seen as a success.

Councillor Hyde said that Members had a good relationship with St Anne’s Shelter and could they be included within the consultation process.

In responding John Kearsley, Chief Officer, Elections, Licensing and Registration said that Officers had recently met with representatives from St Georges Crypt to

seek their views on the proposal and a similar meeting would be held with St Anne's Shelter.

Other suggestions as to who should be included in the consultation were: Street Homeless, Anti-Social Behaviour Team, Home Safety Team, Domestic Violence Unit and the Health Authority

RESOLVED –

- (i) That the contents of the report be noted and welcomed
- (ii) That Officers' be instructed to commence discussions with partners on designing a similar scheme for Leeds to those operating in other UK cities.
- (iii) That the report be referred to all Area Committees to obtain their views on designing a similar scheme in Leeds
- (iv) That a further report providing proposals for the operation of the scheme in Leeds be brought back to a future meeting of this Committee

85 Licensing Work Programme

RESOLVED – That, subject to the inclusion of any additional item of business identified at this meeting, the contents of the Licensing Work Programme be noted

86 Date and time of Next Meeting

RESOLVED – To note that the next meeting will take place on Tuesday, 14th January 2014 at 10.00am in the Civic Hall, Leeds.

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Report author: Kate Coldwell

Tel: 3781563

Report of **Head of Licensing and Registration**

Report to **Licensing Committee**

Date: **14 January 2014**

Subject: **Delegated Decisions taken by Taxi and Private Hire Licensing: 1st July to 30th November 2013**

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 This report updates the previous statistical information that was provided to Members in August 2013 regarding delegated decisions taken by officers at Taxi and Private Hire Licensing.
- 2 This report contains information on decisions taken from 1st July to 30th November 2013.

Recommendations

3. That Members note the information in this report.

1 Purpose of this report

- 1.1 At their meeting in August 2013, Members requested that further update reports regarding delegated decisions taken by officers be produced and submitted to the Licensing Committee on a six monthly basis.

2 Background information

- 2.1 The report in August 2013 gave information on delegated decisions taken from 1st January to 30th June 2013. This report gives information on delegated decisions taken from 1st July to 30th November 2013.

2.2 Information on delegated decisions taken in the first six months of 2013 has been reproduced for comparison purposes.

2.3 All decisions taken are done so with regard to council policy, conditions and application criteria approved by Licensing Committee. A full list is available under Background Documents.

3 Main issues

3.1 Number of Licences

3.1.1 Leeds currently has the following numbers of licences in place: -

- 1008 Hackney Carriage Drivers
- 537 Hackney Carriage Vehicles
- 5016 Private Hire Drivers
- 3842 Private Hire Vehicles
- 84 Private Hire Operators

3.2 Number of Decisions Taken

3.2.2 The application, renewal, refusal, suspension and revocation of licence figures for the first six months of 2013 and 1st July to 30th November 2013 are set out in the table below.

2013	Applications	Refusals	Suspensions	Revocations
Jan - Jun	293	5	52	14
Jul - Nov	271	2	34	4

3.2.3 When considering the above information it is important to note that there is no direct correlation between the number of suspensions and revocations in any one year. For example, the number of licences revoked in any one year will include a proportion which were suspended in the previous year with a final decision being made on revocation in the following year.

3.3 Decisions taken 1st July – 30th November 2013

3.3.1 Between 1st July and 30th November 2013 two licences were refused and four licences were revoked. The reasons for refusal and revocation are set out in the table below.

Categories	Refusals		Revocations	
	Jan - Jun	Jul - Nov	Jan - Jun	Jul - Nov
Dishonesty			1	
Drugs	2			1
Violence	2	1	1	
Sexual	1		5	1
Driving disqualification			1	
Plying for hire		1	3	1
Fail to comply with conditions				1
Fail to disclose convictions			1	
Major motoring convictions			2	
TOTAL	5	2	14	4

3.3.2 In relation to suspensions, 34 drivers have been suspended between 1st July and 30th November 2013. The reasons for suspensions are set out in the table below.

Reason for suspension	Jan - Jun	Jul - Nov
Dishonesty offence	1	2
Drug offence	3	4
Violent offence	3	3
Sexual offence	5	2
Fire arms offence	0	0
Motoring offence	0	1
Driving disqualification	11	1
Plying for Hire	9	13
Fail to comply with conditions	0	1
Fail to disclose convictions	6	1
Inappropriate behaviour	4	1
No right to work in UK	1	0
Medical reason	8	3
DVLA licence expired	1	0
Total	52	34

3.3.4 Members will note that the largest category of suspension for 2013 relate to plying for hire. This illustrates the point that there are few cases which turn solely on the exercise of discretion. Members will also note the number of suspensions relating to offences of violence and dishonesty which directly relate to the 'fit and proper person' test and touch on the key aspect of the licensing scheme namely the safety of the travelling public.

3.4 Complaints Received 1st July – 30th November 2013

3.4.1 So far in 2013, 418 public complaints have been received. The complaint categories are set out in the table below.

Complaint Category		Jan – Jun	Jul - Nov
Driver behaviour	Rudeness	5	10
	Property	2	1
	Disability	3	1
	Over charging	12	11
	Standard of driving	67	64
	Inappropriate behaviour	32	38
	Race Discrimination	0	2
Environmental	Parking nuisance	25	16
	Noise nuisance	2	4
Plying for hire		13	15
Breach of licensing conditions		17	8
Criminal complaint		10	4
Defective vehicle		7	3
Operator		27	16
Unlicensed vehicle		1	0
Unlicensed driver		2	0
Total		225	193

3.4.2 Members will note that the largest categories of complaint relate to standard of driving and inappropriate behaviour. Complaints regarding the standard of driving most commonly relate to the use of mobile phones whilst driving and speeding. In the majority of cases, licensed drivers are given verbal warnings, a record of which is placed on their licensing file. Complaints regarding inappropriate behaviour cover a range of issues from smoking in a licensed vehicle to making inappropriate comments/ actions of a sexual nature.

3.4.3 Each complaint is dealt with on its own merits however complaints regarding racial, sexual or disability discrimination directly relate to the 'fit and proper person' test and touch on the key aspect of the licensing scheme namely the safety of the travelling public.

3.5 Appeals Received 1st July – 30th November 2013

3.5.1 So far in 2013, 35 appeals have been received. The reason for the appeal and the outcome are set out below;

January – June Type of Appeal	Volume	Court	Result
Against conviction	1	LMC	Dismissed
Against conviction and sentence	3	LCC	Dismissed
		LCC	Withdrawn for training no costs against Council
		LCC	Withdrawn
Against refusal	1	LMC	Dismissed
Against revocation	7	LMC	Remain suspended
		LMC	Withdrawn
		LMC	Dismissed x 4
		LMC	Allowed in part
Against sentence	1	LCC	Withdrawn
Against suspension	6	LMC	Dismissed x 2
		LMC	Withdrawn x 3
		LMC	Upheld
Refusal to renew	1	LMC	Dismissed
Total	20		

July – November Type of Appeal	Volume	Court	Result
Against refusal to grant	5	LMC	Dismissed x 3
		LMC	Withdrawn
		LMC	Upheld
Against revocation	3	LCC	Dismissed
		LMC	Dismissed x 2
Against suspension	7	LMC	Dismissed x 4
		LMC	Withdrawn x 2
		LMC	Upheld
Total	15		

4 **Corporate Considerations**

4.1 **Consultation and Engagement**

4.1.3 The information contained in this report has not been the subject of consultation with the trade as it is statistical information only.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Equality and Cohesion Screening Assessments are carried out on the policies agreed at Licensing Committee which are used to inform decision making. These are available as Background Documents.

4.3 Council policies and City Priorities

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the

responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 As this is a statistical report there are no resource or value for money issues to consider.

4.5 Legal Implications, Access to Information and Call In

4.5.1 As this is a statistical report there are no legal implications or access to information issues to consider. This report is not subject to call in.

4.6 Risk Management

4.6.2 The decisions taken by officers can be challenged by appeal through the Magistrates' Court and further appeal to the Crown Court.

5 Conclusions

5.1 That decisions taken by officers have regard to council policy, conditions and criteria approved by Licensing Committee and that every case has been judged proportionately on its own merits.

6 Recommendations

6.1 That Members note the information in this report.

7 Background documents

Taxi and Private Hire Vehicle Licensing: Best Practice Guide – Department for Transport March 2010

Approved Policies: -

- Medical Exemptions
- Plying for Hire

Conditions: -

- Private Hire Driver
- Hackney Carriage Vehicle inc. Wheelchair Accessible Vehicles, Vehicle Age Criteria & Livery, Signs and Markings
- Private Hire Vehicle inc. Wheelchair Accessible Vehicles, Vehicle Age Criteria & Livery, Signs and Markings
- Private Hire Operator

Application Criteria: -

- Driving Standards Agency (DSA) Test
- Group II Medical
- English Comprehension
- Convictions Criteria

- Disclosure and Barring Service Vetting
- Local Knowledge Test
- Private Hire Vehicle proprietors inc rental companies
- Executive Private Hire Driver
- Executive Private Hire Vehicle
- Executive Private Hire Operator
- Stretched Limousine Private Hire Driver
- Stretched Limousine Private Hire Vehicle
- Stretched Limousine Private Hire Operator
- Hackney Carriage Proprietor

Equality and Cohesion Screening Documents

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 14 January 2014

Subject: Convictions criteria – Hackney Carriage (HCD) and Private Hire Drivers (PHD), Private Hire Operators (PHO) and Hackney Carriage Proprietors (HCP)

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. Before granting a PHD, PHO, HCD and HCP licence the Council has a statutory obligation to ensure the applicant is a 'fit and proper' person. That requirement remains with the Council throughout the lifetime of a licence and at the point of renewal.

2. The Council has an existing policy dealing with various aspects of the 'fit and proper' issues, a key part being the 'convictions criteria'; which describes and tries to assess the potential risk to the public and the Council by categorising types of crime and driving convictions.

3. The 'convictions criteria' and driving convictions part of the policy is of long standing and is due for a comprehensive review, not only as a policy review requirement but to bring the policy into line with the new Acts of Parliament and to be more relevant to the dangers and risks facing the public and the Council in today's society.

4. The principles of the existing policy have stood the test of time and have been recognised and appreciated in the Magistrates and Crown Courts as good practice and a clear decision making framework. It also enables an audit trail of the decision making process. It is not intended to change the format but to refresh the information and format, enabling decision makers to deal more effectively with public safety issues in respect of criminal activity and driver behaviour that have become more prevalent.

5. The report offers options for formal driver 'life skills training' in place of sanction in some cases but also seeks to recognise that consistent bad driver behaviour and disqualification from driving reaches a point of unacceptability. Similarly the report asks Members to recognise that offending committed during the course of licensed work should attract greater sanction to those who later reapply than do standard convictions.

Recommendations

6. That Members consider the changes to the convictions criteria.
7. Members consider the amendments to policy in respect of 'motoring convictions' categories and in particular the proposal for a requirement to undertake appropriate life skills driver development.
8. Following consideration by the Members that the report be released for public and trade consultation for a period of three months.

1 Purpose of this report

- 1.1 To identify to Members the current relevant legislation and the public safety benefits in having a clear and defensible policy that meets the statutory obligation for protecting the public and which sets out clear public information and a decision making criteria and process for Members, Officers and the Courts.
- 1.2 It is not the intention to move away from the existing decision making framework within the 'convictions criteria' but instead to make it more relevant to today's public safety risks and changes in legislation. The recommended changes to some types of offences are not only related to legal or public expectations but in some cases Officer experience.
- 1.3 Criminal convictions are dealt with quite distinctly from 'driving convictions' and it is hoped that a simplified way of dealing with driving convictions will result in improved understanding to all, consistency in decision making and improved driving skills.

2 Background information

- 2.1 Prior to granting a PHD, PHO, HCD and HCP licence the Council is obliged by law to ensure the applicant is a 'fit and proper' person. That requirement remains with the Council throughout the lifetime of a licence and at the point of renewal.
- 2.2 Decision making needs to be justified and consistent and the existing policy has met both of those requirements having been tested in the Courts on many occasions. Time has however brought changes to the law and also the requirement for local Authorities to be far more alert to criminal trends and public protection. Crime and safety are issues of national and local importance and despite falling levels of recorded crime in recent years, it remains a primary concern for the people of Leeds
- 2.3 Crime affects the lives of everybody - residents, businesses, visitors, students, commuters and investors alike. Reducing crime and disorder is a key element in improving the quality of life for the citizens of Leeds.

Leeds City council has adopted the essence of partnership working and expresses its values as follows:

The Safer Leeds Partnership is our vision is for people to be able to live without fear for their own safety, or the safety of others. Our overall aim is to secure sustainable reductions in crime and disorder, and to address fear of crime in the Leeds district.

CSP's were set up under Sections 5-7 of the Crime & Disorder Act 1998

CSPs are made up of representatives from the 'responsible authorities', which are the:

- *police*

- *local authorities*
- *fire and rescue authorities*
- *probation service*
- *health*

The responsible authorities work together to protect their local communities from crime and to help people feel safer. They work out how to deal with local issues like antisocial behaviour, drug or alcohol misuse and reoffending. They annually assess local crime priorities and consult partners and the local community about how to deal with them.

This partnership working is the essence of this report and is essential to contributing to the wider community safety.

- 2.4 Some examples of change would be grooming and trafficking of women; the extent of paedophilia; race hate crime; ‘staged road traffic accidents’; sophisticated criminal gangs involved in drugs supply; money laundering with organised criminal gangs needing more and more credible ‘fronts’ to facilitate or mask their crimes.
- 2.5 A local Authority must have a robust policy in place to ensure the statutory requirement of ‘fit and proper’ assessment is met, and whilst this is the same across all of the proposed categories set out later in the report Members may feel there absolutely no room for compromise in the area of sexual offending and relevant information disclosed to the Authority by the Police. Members will be aware that the Councils Safeguarding Policies for children and vulnerable adults are explicit in respect of responsibilities. Similarly race hate crime needs to be recognised as significantly relevant to the licensed services. Licence holders should not be considered as somewhat remote risks to those issues when considering this policy.
- 2.6 A public risk policy also needs to assess driver behaviours and this is an area in need of decision making clarification, possibly utilising training development. Anecdotally, Members will have heard of examples of poor driving standards and at other times complaints about individual examples of thoughtless or deliberately poor driving by some licence holders. Whilst there might be many expressed frustrations at some licensed drivers the context has to be that in reality it is probably a minority of drivers.
- 2.7 As a point of clarification, there are other areas which contribute to the ‘fit and proper’ test but are not part of this report. Those other areas have been relatively recently been approved by the Licensing Committee e.g. DSA test, English literacy and numeracy screening, medicals. This report and its recommendations are complementary to those safeguards.

3 Main issues

3.1 Criminal convictions – general information.

- 3.2 In essence convictions and cautions are the same in respect of culpability, evidence and admission of guilt and this is recognised in the previous policy. The change proposals in this document make it clear that in whatever way a finding of criminal responsibility is recorded against an individual, the policy will allow discretion to be exercised in appropriate cases, as has been the case on numerous occasions with the existing policy. It brings clarity around the issue that the Council can consider not just convictions but all of the Police, other agency and Courts disposal outcomes within the convictions criteria. It also recognises that such criteria cannot accommodate every type of adverse behaviour. In such cases the decision path might be “or any other reasonable cause”, in accordance with primary legislation. Discretion then follows on from that principle with appropriate weighting applied to individual cases.
- 3.3 Since the adoption of the original ‘convictions criteria’ there has been significant reshaping of the criminal law to combat the structures of organised crime and also deal more effectively with a range of issues. Slightly down the scale local crime groups can be sophisticated and confident. Easy access to obtaining a Private Hire driver, Private Hire Operator, Hackney carriage driver or Hackney Carriage proprietor licence provides an unbelievable opportunity for masking criminal activity and is a significant concern for the Police.
- 3.4 It can be a difficult message for Members and Officers to give to applicants, or licence holders affected by the convictions criteria when licences are refused or revoked, but the statutory guidance is quite clear; when making public safety decisions the financial impact on an individual is not the determining fact to take into account, and the public safety risk for all the citizens of Leeds is the key assessment.

The current convictions criteria tables are at **Appendix 1**. The proposals to adjust the conviction criteria is based upon:

- The public expectation of safety and control of risk with the most serious types of crime and sexual offending (particularly category 1).
- Reducing the risk potentially caused by serious criminal offending (particularly category 2).
- The Council can demonstrate its commitment to dealing with race/religious hate crime, gender/sexual orientation and disability offending (category 3).
- Recognition of the opportunities for criminals by being licensed. (particularly category 4).
- The Council needs to contribute to crime partnerships and safety groups to reduce the risk of crime (category 5).
- The Councils obligations to Safeguard Children and vulnerable adults.
- Significant new types of criminal networks are now more recognisable to society.

- Sentencing powers of Courts have increased in some areas recognising the relevance and seriousness of that type of offending.
- The need to refresh and update the policy to today's environment.
- Recognising that some types of crime have undertaken such criminal pre-planning that having trust and being able to professionally interact with them is barely viable.

Reproduced below is an extract from HM Government Serious and Organised Crime - reducing and preventing crime policy. This extract is included in the report to enable Members to more easily visualise the potential links to the licensed trades and add weight to the proposed policy changes later in the report.

“Serious and organised crime is a threat to our national security. It costs the UK at least £24 billion each year. It includes drugs trafficking, human trafficking, organised illegal immigration, high value fraud, counterfeiting, organised acquisitive crimes and cyber crime.

Police and law enforcement agencies estimate that there are around 5,500 organised crime groups operating against the UK, involving around 37,000 individuals.

The new serious and organised crime strategy is based around 4 areas of work:

- *pursue: prosecuting and disrupting people engaged in serious and organised crime*
- *prevent: preventing people from engaging in this activity*
- *protect: increasing protection against serious and organised crime*
- *prepare: reducing the impact of serious and organised crime*

The immediate priority is to prosecute and relentlessly disrupt organised criminals to reduce the threat they pose.”

It is proposed to members that licensing policy should positively contribute to the national and local measures.

- 3.5 For easier policy reference the crime categories have been structured as follows, accompanied by a policy statement.

Change proposal

Category 1 – The most serious types of crime often with sentences of life imprisonment.

It would be only the most exceptional of circumstances that the grant of a licence would be considered for any of these types of convictions. The minimum period of time to have elapsed would generally be **10 years** from the date of conviction, final release or the end date of a suspended prison sentence. This would

normally be the minimum period and there may be circumstances where the Council would continue to resist an application. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

For example: Murder manslaughter, section 18 OAP Act, grievous bodily harm/wounding, kidnapping, false imprisonment, arson and convictions around sexual offending.

Sexual Offences – additional information

The current 'convictions criteria' identifies the very real concerns that existed in the period around 2000 when a series of rapes and sexual assaults took place within the city by bogus 'licensed drivers'. Events over recent years give support to the proposals in this part of the policy in respect of the dangers of sexual offences being committed within the licensed trade, that view being drawn from the national picture of notable criminal cases and also local experience of recorded and proven complaints.

Members will be all too aware of the current issues around trafficking of women, grooming children, paedophilia and sexual exploitation. Much of the terminology has changed and certain types of offences can equally be committed against a man as they can against a woman. The critical issue is that this is a very real threat which rises above all of those other difficult messages and conflicts when dealing with constituents.

Members are reminded of the Councils obligation to safeguarding children and vulnerable adults and how potential access to the vulnerable can be gained as a licence holder through the Councils and transport contracts.

That responsibility is reproduced as follows:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

The links between different types of offending in this category may not always appear immediately evident but in recognising the potential risk for involvement in increasingly serious sexually motivated offending enables a strong policy to be introduced.

The decision making framework can to some extent be de-stabilised by those licensed drivers who do not report convictions in line with the condition upon their licence or make a false declaration at the time of renewal. It can be the case that the criminal offence in question is out of the convictions criteria by the time it is uncovered. By being dishonest the licence holder has evaded the best intentions of the policy.

Change proposal

Members may feel that in such circumstances that the conviction should still be seen as being in breach of the policy and that the 'start date' would become effective from the date the Council first became aware.

Regulated and Controlled Activities

Private hire or Hackney Carriage work might not be included in The Safeguarding Vulnerable Groups Act 2006 but Members will be aware of the types of contact that licensed drivers can have with children or vulnerable adults. The type of information held but not disclosed by relevant bodies including DBS can present difficulties in the decision making process. However, what is known is that an event has occurred and it has resulted in an individual being barred from working with such groups.

The activity concerned night cause concerns for the Council but it has little information to work on. However, the responsibility for demonstrating they are 'fit and proper' person rests with the applicant and the change proposal below might seem the most appropriate way of overcoming the issues.

Change proposal

Where a person is barred from working with children or vulnerable adults the onus to provide all background information and the responsibility to provide additional information to satisfy the Council rests firmly with the applicant.

It would be only the most exceptional of circumstances that a licence would be granted when such a barring from 'controlled or regulated activity is in place.

3.6 Change proposal

Category 2 – High level serious criminal offences usually associated with violence or high value crime.

These are the next most serious types of crime for which significant custodial sentences are available, and, importantly to the Council, those which present significant risk to people or their property. The minimum period of time to have elapsed would generally be **8 years** from the date of conviction, final release or end date of a suspended prison sentence. This would normally be the minimum period and there may be circumstances where the Council would continue to resist an application. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

For example, drugs supply/production, aggravated burglary, robbery, aggravated vehicle taking (causing death), blackmail and any other offence of dishonesty capable of attracting a term of imprisonment exceeding 10 years.

Drugs crime – additional information

When the Local Government (Miscellaneous Provisions) Act 1976 was created it did not define drugs as one of the three recognised types of conviction, most probably on the basis that criminal activity of organisations were not on the radar to the extent they are today and the issues around drug misuse were not as prevalent or as relevant to the licensed trades.

Drugs crime is a major feature of organised crime gangs and there is evidence to show that such organised criminal activity exists in areas of West Yorkshire and that licensed drivers have been involved in the ferrying of drugs, suppliers and drug users to 'supply points'. The existing convictions criteria recognises the dangers to an extent relevant at that time but again, time has moved on and Members may feel that the safeguarding issues and public safety sanction level should be set at a higher point. The basis is that trafficking of drugs now has an established association with the licensed trades and its consequential effects on the City's communities, the image of the city and the trades should be addressed within the licensing safety policy.

A licensed taxi or Private Hire driver is an ideal carrier for such activity, either in isolation or with affiliations to organised crime. The personal use of drugs is an event that can overlap into driving time and Members may feel that risk should be minimised by these control measures on drug misuse.

3.7 Change proposal

Category 3 – Racially or religiously aggravated crime.

Some offences across a range of criminal convictions attract stronger sentences when the offence is racially motivated or the act is intended to stir up racial hatred or where there is possession of racially flammable material. Without minimising any crime of that nature, this category deals with the most serious crime in that offending profile. The minimum period of time to have elapsed would generally be **6 years** from the date of conviction, final release or end of a suspended prison sentence. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

Members may feel that the statistics reproduced below will add to their life experience, views and the councils values which create a justification for the high classification given to this type of offending within the 'convictions criteria rehabilitation period'.

Hate crime statistics

In September 2012, the Home Office published statistics on hate crimes recorded by the police in England and Wales for the first time. In 2011 to 2012, 43,748 hate crimes were recorded by the police, of which:

- 35,816 (82%) were race hate crimes
- 1,621 (4%) were religion hate crimes

- 4,252 (10%) were sexual orientation hate crimes
- 1,744 (4%) were disability hate crimes
- 315 (1%) were transgender hate crimes- ??? to follow.

3.8 Change proposal

Category 4 – High risk dishonesty crime to the public and the Council in granting/holding a licence.

The types of crime here are those which employment as a licensed driver would present very real opportunities for offending and are considered to be of substantial risk to the public or the Council or being able to have effective working relationships or trust with an individual. The minimum period of time to have elapsed would generally be **5 years** from the date of conviction, final release or end of suspended prison sentence. This would normally be the minimum period and there may be circumstances where the Council would continue to resist an application. It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

For example: burglary dwelling, handling stolen goods, theft as employee, Perverting the course of justice, Perjury, Aggravated vehicle taking, those offences created by the Fraud Act of 2006 on the basis of the deliberate and planned elements of dishonesty, fraudulent use of motor vehicle documents or false declaration to obtain such.

3.9 Change proposal

Drugs Misuse

In respect of 'possession of a controlled drug' there are two proposals; where there is an existing conviction for unlawful possession of a controlled drug that the period of rehabilitation be extended by one year to fall in line with the Category 3 offences on the basis that those who have a history of drug abuse are more sympathetic to others unlawful use and allows a more appropriate period of time to demonstrate 'distance' from drugs; it sends out a clear message that drugs and licensed drivers are not an acceptable mix and that the Council recognises the dangers of association between those who might be associated with drugs and illegal drugs activity.

- 3.10 Officers regularly see applications with two or more convictions for unlawful possession of drugs on Disclosure and Barring Service disclosures and the existing policy is felt to be light in being able to deal effectively with that issue. An option available to Members is to build additional safeguards into the policy set out below.

3.11 Change proposal

- 3.12 Where there are two convictions for such an offence on a disclosure that the policy could be further strengthened reducing the risk to public safety by including

a medical drugs test requirement prior to the approval of an application and at random times during the life time of a licence at the licence holders expense and in a manner prescribed by the Council. This would amount to not much more than three occasions in a rolling 12 months period and would cease after 5 years from the date of last conviction.

3.13 Change proposal

Where there is a third conviction for drugs possession that the last conviction be regarded as a category 2 matter from the date of last conviction and those timescales are adopted.

3.14 Change proposal

Category 5 – General Offences of dishonesty and violence

Those general crimes contained within the Theft Act 1968, and Theft Act 1978 along with those crimes associated with benefit fraud. The minimum period of time to have elapsed would generally be **3 years** from the date of conviction, final release or end date of a suspended prison sentence.

For example:- General cases of theft, 'shoplifting', stealing from motor vehicle, obtain money by deception, going equipped for crime, taking vehicle without consent/being carried on or in. Similarly the inclusion of the racially aggravated public order offence receives a significant upgrade from a 'points only' matter to a category 5 offence may be justified when one considers the benefits to community cohesion.

Where there are other offences that have a 'Hate Crime' aggravating feature they will attract a longer period of rehabilitation in terms of this convictions criteria and move to a category 3 type of offence. 'Hate Crimes' are defined as any crimes that are targeted at a person because of hostility or prejudice towards that person: disability, race or ethnicity, religion or belief, sexual orientation, transgender identity.

3.15 Notable additions to the convictions criteria

Common Assault with the statutory aggravating features of being motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation or disability (or presumed sexual orientation or disability). – to Category 3

Offences under Protection from Harassment Act 1997, sections 1 and 2 to Category 5;

Offences of stalking – (sections 2a, 4, 4a) – to Category 3

Money Laundering – to category 4

The re-categorised table of sexual offences appears at **Appendix 2**.

The re-categorised table of violence offences appears at **Appendix 3**.

The re-categorised table of dishonesty offences appears at **Appendix 4**.

The re-categorised table of drugs offences appears at **Appendix 5**.

The categorised table of race related offences appears at **Appendix 6**.

3.16 Recognition of terms

‘Conviction’

The term conviction includes the whole range of disposal outcomes of the commission of a criminal offence; those related matters which have been successfully pursued through the civil courts and those related licensing decisions which have been determined in the Courts in the favour of the local Authority.

3.17 Acting as a licensed driver – increase tariff

Where an offence identified in the previous categories was committed whilst in a licensed vehicle or in the course of carrying out a service illegally or legally, this would be considered an aggravating factor and the conviction criteria rehabilitation period would attract an additional rehabilitation period of 50%. Where the Council is successful in defending a licensing decision to refuse an application, revoke or refuse to renew a licence where the information on which the decision was based can be appropriately linked to one of the categories of crime explained in this report it would then attract the same rehabilitation period as that category. In all other instances or in cases of doubt that period of the Act ‘any other reasonable cause’ should be used.

The above categories include attempts, incitement, aid and abet, counsel or procure or conspiracy to commit such an individual offence which can attract the same penalty.

Where a sentence imposed upon a child or young person is restricted by virtue of their age the policy will take account of the sentence that could have been imposed upon them as an adult. However, it is not intended to defeat the intentions of the Courts powers of sentencing of children and young persons in respect of lower level crime (category 5) and those matters will be weighted accordingly by discretion being appropriately applied.

3.18 Category 6 - Motoring convictions generally and disqualification from driving

The current policy guidelines are set out at **Appendix 7** which summarise the position in respect of motoring convictions.

As in the case of criminal convictions and the changing legislation the same applies with motoring convictions and Court practices. This has proven to be one of the more difficult areas of decision making for a number of reasons including the areas of:-

- 'totting up' for varying periods of disqualification
- application of exceptional hardship pleas to the Court to avoid disqualification
- applications to the Court when a licence holder is nearing 9 points to voluntarily impose a short term discretionary disqualification
- failures to report convictions to the licensing section
- possession of more than one DVLA licence

3.19 EXPLAINING THE LAW

3.20 Totting up

A licence holder can be disqualified from driving for the accumulation of penalty points if they build up to, or exceed 12 points. On receiving 12 or more penalty points disqualification can be for:-

- 6 months if you get 12 penalty points or more within 3 years
- 12 months if you get a second disqualification within 3 years
- 2 years if you get a third disqualification

The legislation in respect of 'new drivers' is different in that if they receive 6 penalty points within two years of passing their test the licence is revoked by statute, it is not discretionary in the Magistrates Court.

There are of course more serious offences which carry long term disqualification periods or even imprisonment and that issue is addressed later in the report.

3.21 Exceptional hardship

Where a defendant accrues 12 or more penalty points in accordance with Section 35 of the Road Traffic Offenders Act 1988, the Court is bound to disqualify them from driving unless it can be proven that to do so would cause them "exceptional hardship".

"Exceptional hardship" is a difficult term to qualify, because there is no strict definition of what the term means or which situations it will necessarily include. It should be noted, that exceptional hardship does truly mean exceptional and even arguing that you will lose your job as a result may not be a sufficient defence.

Typical arguments used to try and persuade the magistrates that exceptional hardship exists could be, for example that if they were disqualified they would lose their job, or if they are disabled or a disabled person is dependent on them for transport, or it would be difficult to visit vulnerable relatives, or there could be problems taking their children to some destination. It is also possible for the exceptional hardship to apply to someone else such as a partner, business partner, family, dependant relative etc.

Nationally this accounts for a significant number of exceptions to disqualification and does occur in respect of some Leeds licensed drivers. This brings into focus the conflict the Council has in ensuring it conforms to its statutory requirements in respect of safety versus a Courts decision not to disqualify on the grounds of exceptional hardship.

The legal focus for the Council is solely in respect of safety and the Court considering an 'exceptional hardship' plea does **not** take account of safety concerns in such pleas, in law it can **only** assess the plea of exceptional hardship.

For clarity, to meet its legal obligations the Council must consider proportionate options for public safety which in law cannot take into account the exceptional hardship issue. Proposals are set out later in this report for Members to consider which try to bridge that difficult issue.

There are some newspaper extracts attached to illustrate the issues at a national level at **Appendix 8**.

Locally the issue of driver convictions and penalty point accumulation with existing licensed drivers is set out at **Appendix 9**.

3.22 Failure to report convictions

It is a regular occurrence that drivers do not report a conviction to the licensing office and in some cases do not report second or third convictions. It is not unusual for periods of disqualification not to be reported and then only come to light at the point of personal renewal. In effect some drivers have managed to circumvent the Councils safety policy.

3.23 More than one DVLA licence

It is somewhat surprising that there are a number of licensed drivers who have repeatedly lost their DVLA licence, and on occasions those licences have been produced at the point of renewal. The Police also encounter similar incidents of licences being produced which do not carry the correct number of motoring convictions penalty points but they are able to relatively quickly identify the discrepancy in licence issue numbers.

The main issues in developing a new policy revolve around these issues and updating the explanations of offences covered under the minor motoring convictions following changes in the law.

The fact that someone has been disqualified or achieved 12 or more penalty points on the DVLA licence can demonstrate a continued pattern of poor driving standards or significant high risk driver offending.

Members might consider that one way of overcoming the conflicts which often arise in 'short term disqualifications' and 'exceptional hardship' cases and to achieve safety requirements and improved driving standards could be by utilising driver training life skills development opportunities and not just sanction.

3.24 Minor Road Traffic Offences

3.25 Length of time full DVLA licence held before granting

3.26 Change proposal

Members, having viewed the information at **Appendix 7** may wish to consider whether at the point of application, the PHD applicant must have held a full UK DVLA licence (or its recognised EU equivalent) for a period of not less than 3 years. (This is a statutory requirement, in effect, on HCD's who cannot hold a HCD licence until they are 21 years of age but one which still does not reflect their driving experience and 12 months in respect of private hire driver's).

3.27 Disqualified from driving

The Council currently uses the DSA to provide a level of security to itself is assessing safety after disqualification but there is no long term driver development engagement in that test.

There are numerous opportunities for drivers to take improved driver skills training and preference would ideally be left as a driver choice. The key issue is the accredited testing of drivers which the Council can rely on as being conducted in a consistent and auditable way. There are several organisations carrying out this type of assessment and who are approved by the DSA; for example the Institute of Advanced Motorists and ROSPA (Royal Society for the Prevention of Accidents).

An explanation of an advance driver test is described below:-

"The advanced driving test is a special exam for motorists who can drive to a skill level substantially above average, and candidates who passed are called advanced drivers. It is available from several societies, including the Institute of Advanced Motorists, the Royal Society for the Prevention of Accidents and the Driving Instructors' Association DIAMond Advanced Test.

Most candidates need advanced lessons before the advanced test. They may be provided by the examining body (as with IAM) or the candidate can pay their own instructor privately, as is UK standard practice for the initial driving test.

The test covers 30 to 40 miles (48 to 64 km) on different types of road, from town to country, city and country. Students will have trained in all areas and have to demonstrate the techniques and methods they've learned.

Advanced driving is described as "The ability to control the position and speed of the vehicle safely, systematically and smoothly using road and traffic conditions to make reasonable progress unobtrusively, with skill and responsibility. This requires a positive but courteous attitude and a high standard of driving competence based on concentration, effective all round observation, anticipation and planning co-ordinated with good handling skills. The vehicle should always be at the right place on the road at the right time, travelling at the right speed with the correct gear engaged and can always be stopped safely in the distance that can be seen to be clear."

Some insurers will offer reduced vehicle insurance premiums to holders of an advanced certificate.”

It is to be emphasised, that such driver training or assessments could not be undertaken by Officers or the recommending of how training and assessing is undertaken nor would individual organisations. However, the standard to be attained would be in accordance with recognised outcomes of the accredited organisation and it is for individual drivers to choose their own preferred training provider and similarly with the test process.

Change proposal options

- When disqualified from driving under the ‘totting up’ procedures the current policy remains in place and when disqualified the local Authority licence will remain suspended until the driver has achieved a pass in ‘life skills driving development’ with a nationally recognised driving assessment program.
- 12 or more points but not disqualified because of ‘exceptional hardship’ – requirement to undertake ‘driving life skills’ development and be successful in achieving that within 3 months of the Court decision or the Private Hire driver licence be suspended and not renewed until successful in a ‘driving life skills’ program.

Change proposal

3.28 Fail to report a disqualification

Council PHD or HCD licence is suspended and remains so for 6 months and not re-issued until completion of driver life skills training, which is a process that does not reward circumventing the Councils licensing safety policy. Where false declarations are involved that might also be considered under the ‘fit and proper’ test.

3.1 Second period of disqualification

Change proposal

Private Hire driver licence is revoked and not considered for renewal for a minimum period of 12 months from the end of the disqualification period and a requirement to undertake driver life skills training.

3.2 Third period of disqualification

Change proposal

Private Hire driver licence is revoked and not considered for renewal for a minimum period of three years from the end of the disqualification period etc.

3.3 MAJOR ROAD TRAFFIC OFFENCES

The existing schedule of offences covered under 'major motoring convictions' is at **Appendix 10**.

The proposed new profile of those offences is identified as **Appendix 10** under the heading of 'Offences covered under serious motoring offences'. The schedule has been updated to include new legislation and the reference to the Rehabilitation of Offenders Act 1974 remains as useful guidance for time periods.

3.4 Change proposal

A licence would not be granted until the applicant has successfully undertaken a life skills driving development training test and in the case of those offences involving drink and or drugs not until the applicant could demonstrate they had attended an accredited course of rehabilitation.

3.5 Change proposal

The schedule has been updated to include new legislation.

The body of the original statement at **Appendix 7** would remain the same.

3.6 Change proposal

Where there is a second conviction of using a motor vehicle with defective brakes (CV10), defective tyres (CU30), defective steering (CU40), using a mobile phone whilst driving (CU80), no insurance (IN10) active on the DVLA licence (or a combination of these categories), the licence should be refused, suspended or revoked and not restored until the number of active occasions for those types of offence has reduced to one or less.

3.7 Change proposal

Where there is a conviction for Driving after making a false declaration about fitness (LC30), driving a vehicle having failed to notify a disability (LC40), Driving after a licence has been revoked or refused on medical grounds (LC50), driving with uncorrected defective eyesight (MS70), driving while disqualified by order of court (BA10) which occurred whilst a licensed driver it may be regarded as high risk to public safety and immediate suspension should be considered until all safety issues have been resolved and in any other case consideration should be given to revocation.

3.8 Change proposal

Where there is a second conviction for the types of offences immediately above or any failure to comply with any reasonable request from an Authorised Officer of the Council consideration should be given to the immediate suspension of the licence, its revocation, or a refusal to renew.

3.7 Legal implications

3.8 Members are aware that the basis of the policy had previously been approved and withstood legal challenge. Full legal consideration is being given to this enhanced report and will be included in the final report after consultation.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Initial consultation has taken place on the existing policy and all of the trade and public have had the opportunity to contribute. With the exception of one comment that the policy should be suspended, the principles of the policy have been well received over the last decade and in the consultation process. Following Member comments at the Licensing Committee on 14 January 2014 this report will be sent for further consultation across the trade and to the public. It is suggested that 3 months would be the most appropriate timescale.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 A full equality impact assessment has been completed and is available as a background document.

4.3 Council policies and City Priorities

4.3.2 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 There are no anticipated additional on-costs other than those involved in obtaining legal advice.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The statutory obligation of the Council is clear and set out at Section 51(1)(a) and (b) of the Local Government (Miscellaneous Provisions) Act 1976

Provided that a district council shall not grant a licence—

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised

4.5.2 The issues of suspension, revocation and refusal to renew follow on from that same requirement.

4.5.3 The existing policy has been seen as good practice and repeated in other Licensing areas. It has also stood repeat legal scrutiny in the Courts. The new proposals in this report need to be considered in the light of proportionality. Members might consider that the proposals for change are not a significant departure from the existing policy in so far as the changes are appropriate and necessary for maintaining public safety and not excessive in its overall effects.

4.5.4 The opportunities for challenge exist by way of judicial review of the policy or on the occasion of individual appeals.

4.6 Risk Management

- 4.6.1 It is felt that change proposals do not present significant challenge risk to the Council.

5 Conclusions

- 5.1 Members may feel that the existing convictions criteria has served the Council and the public well and the change proposals are necessary updates which reflect changes in law, society, unacceptable patterns of driver behaviour and public safety risks and the changes are proportionate..

6 Recommendations

- 6.1 That Members consider the amendments to the convictions criteria.
- 6.2 Members consider the amendments to policy in respect of 'motoring convictions' categories and in particular the proposal for a requirement to undertake appropriate life skills driver development.
- 6.3 Following consideration by the Members that the report be released for public and trade consultation for a period of three months.

7 Background documents¹

Forgery & Counterfeiting Act 1981

Public Order Act 1986

Consumer Credit Act 1974

Sexual Offences Act 2003

Policing and Crime Act 2009

Road Traffic Offenders Act 1988

Criminal Justice & Immigration Act 2008

Indecent Displays (Control) Act 1981

Obscene Publication Act 1959

Protection of Children Act 1978

Crime and Disorder Act 1998

Child Abduction Act 1984

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.

Offences Against the Person Act 1861

Police Act 1996

Theft Act 1968

Theft Act 1978

Public Order Act 1986

Protection from Harassment Act 1997

Racial & Religious hate Act 2006

Crime & Disorder Act 1998

Criminal Justice Act 1988

Local Government (Miscellaneous Provisions) act 1976

Protection of Freedoms Act 2012

Current convictions criteria - Points Criteria Tables

Table 1 - Dishonesty

Date Since Conviction Received	12mth ago	24mth ago	36mth ago	48mth ago	60mth ago	72mth ago	84mth ago	96mth ago	108mth ago	120mth ago
	(1 Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Dishonesty	Points are doubled if term of imprisonment served									
Theft	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft – Shoplifting	Refused	Refused	Refused	5	4	3	2	1	0	0
Theft – Employee	Refused	Refused	Refused	5	5	4	3	2	1	0
Theft – From Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft – Dwelling	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Burglary & Theft – Non Dwelling	Refused	Refused	Refused	5	4	3	2	1	0	0
Burglary & Theft – Aggravated	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	0
Fraudulent Use	Refused	Refused	Refused	5	4	3	2	1	0	0
Handling	Refused	Refused	Refused	5	4	3	2	1	0	0
Receiving	Refused	Refused	Refused	5	4	3	2	1	0	0
Forgery	Refused	Refused	Refused	5	4	3	2	1	0	0
Conspiracy to Defraud	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
Obtain Money by Forged Instrument	Refused	Refused	Refused	5	4	3	2	1	0	0
Deception	Refused	Refused	Refused	5	4	3	2	1	0	0
False Accounting	Refused	Refused	Refused	5	4	3	2	1	0	0
False Statement to Obtain Benefit	Refused	Refused	Refused	5	4	3	2	1	0	0
Going Equipped	Refused	Refused	Refused	5	4	3	2	1	0	0
Taking/Driving or Attempt to Steal Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Allow to be Carried in a Stolen Vehicle	Refused	Refused	Refused	5	4	3	2	1	0	0
Perverting Course of Justice	Refused	Refused	Refused	Refused	8	6	4	2	0	0

Table 2 - Drugs

Date Since Conviction Received	12mth ago	24mth ago	36mth ago	48mth ago	60mth ago	72mth ago	84mth ago	96mth ago	108mth ago	120mth ago
	(1 Year)	(2 Years)	(3 Years)	(4 Years)	(5 Years)	(6 Years)	(7 Years)	(8 Years)	(9 Years)	(10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
Drugs	Points are doubled if term of imprisonment served									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Possessing Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Producing Controlled Drug	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2

Table 3 – Violence

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
VIOLENCE										
Points are Doubled if Term of Imprisonment Served										
Common Assault	Refused	Refused	Refused	5	4	3	2	1	0	0
Assault - Section 47	Refused	Refused	Refused	5	4	3	2	1	0	0
Grievous Bodily Harm - Section 20	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Grievous Bodily Harm - Section 18	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Assault Police	Refused	Refused	Refused	6	5	4	3	2	1	0
Affray	Refused	Refused	Refused	5	4	3	2	1	0	0
Riot	Refused	Refused	Refused	Refused	8	6	4	2	0	0
Murder	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter or Culpable Homicide while Driving	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Using Threatening, Abusive Words or Behaviour	5	4	3	2	1	0	0	0	0	0
Breach of the Peace	3	2	1	0	0	0	0	0	0	0
Drunk and Disorderly	3	2	1	0	0	0	0	0	0	0
Common Assault - Aggravated	Refused	Refused	Refused	6	5	4	3	2	1	0
Obstruction	Refused	Refused	Refused	3	2	1	0	0	0	0
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possess Offensive Weapon	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm	Refused	Refused	Refused	5	4	3	2	1	0	0
Possess Firearm with intent	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Criminal Damage	Refused	Refused	Refused	5	4	3	2	1	0	0
Violent Disorder	Refused	Refused	Refused	8	6	4	2	1	0	0
Resist Arrest	Refused	Refused	Refused	8	6	4	2	1	0	0
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused

Table 4 - Indecency

Date Since Conviction Received	12mth ago (1 Year)	24mth ago (2 Years)	36mth ago (3 Years)	48mth ago (4 Years)	60mth ago (5 Years)	72mth ago (6 Years)	84mth ago (7 Years)	96mth ago (8 Years)	108mth ago (9 Years)	120mth ago (10 Years)
Type of Offence	Points	Points	Points	Points	Points	Points	Points	Points	Points	Points
INDECENCY										
Points are Doubled if Term of Imprisonment Served										
Indecent Exposure	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure to the Annoyance of Residents	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Indecent Exposure with intent to insult a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Unlawful Sexual Intercourse	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Importuning	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Gross Indecency with a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Gross Indecency with a Male	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent Assault on a Female	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Indecent Assault on a Child Under 16 yrs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Living Off Immoral Earnings	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Prostitution	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4
Possessing or Distributing Obscene Material	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Buggery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Rape	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent or Nuisance Telephone Calls	Refused	Refused	Refused	Refused	Refused	5	4	3	2	1

Proposed indecency table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago	10 years ago
Category 1 offences										
Rape	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Sexual Assault (Section 2 & 3)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Causing sexual activity without consent	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Rape- sexual offences – children under 13 (Section 5 – 8 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Child sex offences (Section 9 – 15 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Abuse of Trust (Section 16 -19 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Familial Child sex offences (Section 25 – 27 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Sexual activity – persons with mental disorder (Section 30 -37 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Careworkers – sexual activity with persons with mental disorder (Section 38 -41 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent photographs with children (Section 45)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Indecent photographs of children – take, permit to be taken or make, distribute or show	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Abuse of children through prostitution and pornography (Section 47 – 50 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Trafficking for sexual exploitation (Section 57 – 59 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Preparatory offences for sexual offending	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Sex with adult relative (Section 64 – 56 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Voyeurism (Section 67)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Sexual penetration – animal or corpse (Section 69 – 70 inclusive)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Possession of extreme pornographic images	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Displaying Pornographic images	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6

Appendix 2

Category 2 offences											
Prostitution – causing, inciting, controlling, exploitative conduct (Section 52 – 52A)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Indecent exposure (Section 66)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Sexual activity in a public lavatory (Section 71)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Category 4											
Soliciting for prostitution (Section 51A)	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	4	2
Paying for sexual services – subjected to force (Section 53A)	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	4	2
Sending indecent or obscene articles by post	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	4	2

Proposed Violence table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago	10 years ago
Category 1 offences	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Murder	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Manslaughter or Culpable Homicide while driving	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Child abduction (by stranger) or those with aggravating features	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Grievous Bodily Harm/Wounding Section 18	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Arson	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Possess a firearm with intent	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused
Category 2 offences										
Child abduction (none stranger)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Aggravated burglary	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Grievous Bodily Harm Section 20	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Possess a firearm	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Category 3										
Protection form Harassment – Section 4	Refused	Refused	Refused	Refused	Refused	Refused	8	6	4	2
Category 4										
Riot	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Child abduction	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Assault – Actual Bodily Harm Section 47	Refused	Refused	Refused	Refused	Refused	6	4	2	0	0
Stalking Section 2A	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Stalking Section 4 & 4A	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Category 5										
Violent disorder	Refused	Refused	Refused	8	6	4	2	0	0	0

Appendix 3

Affray	Refused	Refused	Refused	8	6	4	2	0	0	0
Fear of provocation of violence -	Refused	Refused	Refused	8	6	4	2	0	0	0
Intentional harassment, alarm or distress	Refused	Refused	Refused	8	6	4	2	0	0	0
Protection from Harassment Section 1	Refused	Refused	Refused	6	4	2	0	0	0	0
Harassment, alarm or distress Section 5 Public Order Act 1986	6	4	2	0	0	0	0	0	0	0
Common Assault	Refused	Refused	Refused	6	4	2	0	0	0	0
Assault Police	Refused	Refused	Refused	8	4	2	0	0	0	0
Using threatening words or behaviour	6	5	4	3	2	1	0	0	0	0
Breach of the Peace	4	3	2	1	0	0	0	0	0	0
Drunk and disorderly	6	4	2	0	0	0	0	0	0	0
Obstruct Police	Refused	Refused	Refused	6	4	2	0	0	0	0
Possess offensive weapon	Refused	Refused	Refused	8	6	4	2	0	0	0
Criminal damage	Refused	Refused	Refused	6	4	2	0	0	0	0
Violent Disorder	Refused	Refused	Refused	6	4	2	0	0	0	0
Resist arrest	Refused	Refused	Refused	6	4	2	0	0	0	0

Appendix 4

Proposed dishonesty table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago	10 years ago
Category 2 offences										
Robbery	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Aggravated Burglary	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Aggravated vehicle taking (causing death)	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Blackmail	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	6	4
Footnote: Any other offences of dishonesty capable of attracting a term of imprisonment exceeding 10 years										
Category 3 offences										
Fraudulent Use of Road Tax documents	Refused	Refused	Refused	Refused	Refused	6	4	2	1	0
Category 4 Offences										
Perverting the Course of Justice	Refused	Refused	Refused	Refused	Refused	8	6	4	2	1
Money laundering Section 45	Refused	Refused	Refused	Refused	Refused	8	6	4	2	1
Theft - Employee	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Theft - Employee	Refused	Refused	Refused	Refused	Refused	8	6	4	2	0
Burglary & Theft - Dwelling	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8	6
Burglary & Theft – Non Dwelling	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	6	4
Category 5 Offences										
Theft	Refused	Refused	Refused	6	5	3	2	1	0	0
Theft – From vehicle	Refused	Refused	Refused	6	4	2	1	0	0	0
Obtain by deception	Refused	Refused	Refused	6	5	3	2	1	0	0
Evasion of Liability by deception	Refused	Refused	Refused	6	5	3	2	1	0	0
Obtain Services by deception	Refused	Refused	Refused	6	5	3	2	1	0	0
Making off without payment	Refused	Refused	Refused	6	5	3	2	1	0	0
False Statement to obtain Benefit	Refused	Refused	Refused	8	6	4	2	0	0	0
Going Equipped	Refused	Refused	Refused	6	4	3	2	1	0	0
Taking/Driving or Attempt to steal Vehicle	Refused	Refused	Refused	5	3	2	1	0	0	0
Allow to be Carried in a Stolen Vehicle	Refused	Refused	Refused	5	3	2	1	0	0	0
Use unrebated fuel	Refused	8	6	4	2	0	0	0	0	0

Proposed Drugs table

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago
Category 2 offences									
Possessing a Controlled Drug with Intent to Supply	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Import Drugs	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Producing Controlled Drug	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Category 4									
Possessing Controlled Drug	Refused	Refused	Refused	Refused	Refused	6	5	4	3

New Table – Racially motivated Offences

	1 year ago	2 years ago	3 years ago	4 years ago	5 years ago	6 years ago	7 years ago	8 years ago	9 years ago
Category 2 offences									
Assault occasioning Actual bodily harm	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Common assault	Refused	Refused	Refused	Refused	Refused	Refused	Refused	Refused	8
Category 3									
Acts intended or likely to stir up racial hatred (Section 18 – 22 inclusive) Public Order Act 1986	Refused	Refused	Refused	Refused	Refused	Refused	6	4	2
Possession of Racially Inflammatory material (Section 23) Public Order Act 1986	Refused	Refused	Refused	Refused	Refused	Refused	6	4	2
Stirring up religious/racial hatred 2006 Act (all offences)	Refused	Refused	Refused	Refused	Refused	Refused	6	4	2

Current Policy guidelines on motoring convictions and disqualification.

Motoring convictions adopt different criteria dependant on the conviction(s) disclosed on the licence and are broken into two groups:

- (a) Minor road traffic offences
- (b) Major road traffic offences

Minor Road Traffic Offences:

Convictions for minor traffic offences should not prevent you from proceeding with an application or holding a licence. However, if the number of current points on your DVLA licence exceeds 12 points then your application will be refused or the current licence suspended or revoked.

A further application will not be approved until the DVLA licence demonstrates that the number of current points on the licence is below 13 points.

If a period of disqualification has been received on a licence, a period of 6 months must have elapsed from the restoration of the DVLA licence and be free from any other motoring conviction before an application is approved or a licence restored. Should the DVLA licence demonstrate a further conviction since the disqualification period, then a 6 months period must elapse from the date of the last conviction on the DVLA licence before an application is approved or a licence restored.

Major Road Traffic Offences:

An isolated conviction for major traffic offences should not prevent a person from proceeding with an application or holding a licence. However, if more than one conviction for an offence under this heading is shown to be current on the DVLA licence, then an application will be refused or the current licence suspended or revoked.

Where the DVLA licence demonstrates more than one conviction of this type a period of 6 months must have elapsed from the date of the last conviction on the DVLA licence before an application is approved or a licence restored.

If a period of disqualification has been received on a licence, a period of 6 months must have elapsed from the restoration of the DVLA licence and be free from any other motoring conviction before an application will be approved or a licence restored.

Should the DVLA licence demonstrate a further conviction since the disqualification period then a 6 months period must elapse from the date of the last conviction on the DVLA licence before an application is approved or a licence restored.

An application received which details one of the following offences on the DVLA licence; DD30, DD60, DD70, will automatically be refused or a current licence suspended or revoked. No further application will be approved until such time as that conviction is removed under the Rehabilitation of Offenders period. Other offences covered in this section will be treated under the dishonesty/violence category as detailed in the Criminal Convictions section.

Driving a Motor Vehicle under the Influence of Drink or Drugs:

A serious view is taken of convictions of driving or being in charge of a vehicle while under the influence of drink or drugs. An application with one conviction on the DVLA licence under this category will be accepted providing a 12 months period has elapsed since the restoration of his DVLA licence. More than one conviction of this type and the application will be refused until such time as one of the convictions has been removed under the Rehabilitation of Offenders period.

Road.cc

NEWS

More than 8000 drivers have 12 or more points on their licence - and are still allowed on the roads

Some have as many as 25 points - and the worst offenders are men

by Sarah Barth April 27, 2013



driving using mobile phone

More than 8000 drivers in the UK have 12 or more points on their licence - despite an official upper limit of 12 before a driver faces disqualification.

A total of 14 UK drivers have more than 25 points - all of them men.

In fact the gender imbalance is very pronounced: of the top 99 licence point holders, just fourteen are women; 2256 men are still driving with more than 12 points on their licence, and 351 women are still driving with more than 12 points their licence.

The DVLA states that the official top limit for licence points is 12 (or six for those who have held a licence for three years or less) - but a Freedom of Information request carried out by the Institute of Advanced Motorists revealed that there were a surprisingly large number of drivers still on the roads with far more penalty points.

A male driver from Warrington has the highest number of points, 36.

IAM chief executive Simon Best said: "Law abiding drivers will be shocked that so many drivers are on the road who have more than 12 points. The 'totting up' principle is supposed to give a simple four strikes and you are out message. Anything more than this should be a disqualification, unless there are the most exceptional circumstances.

"There must be tighter practice in courts and at the DVLA to take these motorists off the road or ensure they take a driver retraining course to help them break their points habit."



Totting up driver gets ban: exceptional hardship defence failed

Posted on [August 9, 2013](#)

A father of four who 'totted' up points on his licence has been banned from driving despite claiming exceptional hardship.

Waheed Rafiq, 42, of Worcester, tried to use the defence of exceptional hardship against a driving ban because he needed to take his son to the hospital.

Rafiq admitted to driving without insurance, driving otherwise than in accordance with a licence and using a car without a MOT certificate in December last year, when he appeared in court.

His licence was revoked by the DVLA in October last year and the police had written to him in January this year offering to settle the matter by way of a fixed penalty.

Rafiq, who is unemployed, requested some kind of payment plan which was rejected by the police who warned that if he did not pay in full the case would come to court.

He already had 6 points on his licence and had now 'totted' up points on his licence making him eligible for a driving ban.

Rafiq claimed a ban would cause him exceptional hardship as his son needed to attend upcoming hospital appointments and the car was needed as taxis and public transport was too expensive.

However, the Prosecution pointed out that the hospital was less than a mile away from the family home and many people in the area used public transport.

The Prosecution also said that the ban would cause inconvenience, but not exceptional hardship.

The Court agreed and Rafiq was banned from driving for 6 months.

Emma Smith, expert criminal defence lawyer at Swain & Co says, "Recent cases of use of exceptional hardship defence show that where a person's livelihood is at stake or that the hardship will affect others, there is a higher chance of the defence being successful."

Mail online News

Still driving with 42 points on her licence: Woman is among nine motorists who have 30 or more and are still on the road

- **Despite being three times the ban threshold, the woman is still driving**
- **Another eight have 30 or more points**
- **7,621 people are still driving with 12 points or more on their licence**

By [Ray Massey](#)

PUBLISHED: 01:57, 5 September 2013 | **UPDATED:** 02:41, 5 September 2013

Offender: The record-breaking but unnamed woman driver from Isleworth in west London accumulated 42 points last year

A woman driver has clocked up a record 42 penalty points but is still driving - despite being more than three times over the threshold that would normally lead to a ban.

Eight more motorists are still driving with 30 or more points, figures reveal today.

Another 7,000 drivers have 12 points or more.

Normally, under the 'totting up' system, drivers are banned if they accumulate 12 points on their licence over a three-year period.

The new official Government figures have outraged motoring groups and road safety campaigners who say it makes a mockery of penalty points system and bringing it 'into disrepute'.

They say the ministers at the Departments for Transport and Justice must act to clamp down on the scandal which is leaving potentially dangerous drivers unpunished on the nation's roads.

The statistics were highlighted by the Institute of Advanced Motorists (IAM) (must credit) which collated them from information supplied under a Freedom of Information request to the Government's Driver and Vehicle Licensing

The record-breaking but unnamed woman driver from Isleworth in west London accumulated 42 points last year.

All the points were for failing to disclose the identity of the driver on six occasions between May 26 and December 21 last year - accruing six points each time.

Today's new figures show that the second-highest tally for a person still driving was 36 points clocked up by man from Warrington, Cheshire, who was caught driving without insurance six times in less than two weeks between February and March last year.

Next is a woman from Hull who has accumulated 31 points on six counts - three of speeding and three more for failing to say who was driving .

The IAM said 7,621 people are still driving with 12 points or more on their licence.

It blamed failures to communicate between the courts and the DVLA - particularly when drivers clocked up repeat points over a short time.



Eight more motorists are still driving with 30 or more points, figures reveal today. Another 7,000 drivers have 12 points or more

Some drivers given points for failing to disclose the driver had argued that a series of people had ‘test-driven the car ahead of a sale and they didn’t know who was at the wheel at the time of the offence’, said the IAM.

IAM chief executive Simon Best said: ‘The DVLA and the courts service are upgrading their computer systems to ensure that offence information is shared more efficiently, but this is not due to be in place until October.

But when drivers with 10 speeding offences are getting away with holding a licence, these improvements cannot come quickly enough.’

A spokesman for HM Courts & Tribunals Service said: ‘The vast majority of drivers who get 12 or more penalty points are fined and disqualified from driving.

‘Magistrates can use their discretion to not enforce a driving ban if doing so would cause exceptional hardship, such as losing a job or the ability to care for a dependant. A fine will still be enforced.

Only a very small number of cases are affected by the data-sharing issue and we are working closely with DVLA to improve this.’

A DVLA spokesman said: ‘The DVLA’s role is to record the information provided by the courts. The courts are able to use their discretion to decide whether or not to disqualify a driver.’

Seconds ago these men were cheering on a dance routine by beautiful scantily-clad women in Amsterdam’s Red Light district... so why do they look so shocked and upset when it ends?

The Telegraph

Thousands of motorists escaping totting up driving ban

A driver with 54 penalty points has been allowed to keep his licence by the courts, it has emerged.



The 27-year-old from Teeside is one of more than 11,000 motorists whose licences have not been revoked despite totting up 12 points last year.

Of these 10,000 have been let off by the courts, while another 1,000 are still driving because details of the disqualification failed to reach the Driver and Vehicle Licensing Agency.

Appendix 8

The number of motorists still on the road despite accumulating more points than needed for a driving ban were disclosed, as a result of a Freedom of Information inquiry by a Sunday newspaper.

Around one driver in four facing disqualification has been shown clemency under the "exceptional hardship" provisions which allow the courts a measure of discretion when considering whether to impose a driving ban.

Nick Freeman, the solicitor known as "Mr Loophole", has made a number of successful applications under these provisions.

Last month he persuaded Staines magistrates to suspend a motoring ban faced by Joe Cole, the Liverpool footballer, after telling the court that the England international's wife had been unable to get behind the wheel after being severely traumatised by a carjacking and therefore relied on her husband as a driver.

Courts have shown clemency for a number of reasons, including accepting a plea from a businessman who persuaded magistrates that his company would lose key contracts.

Andrew Howard, the AA's head of road safety, voiced outrage at the number of motorists being let off.

"You are not talking about someone who has made one mistake, but four," he said.

"If a quarter of motorists are getting let off, we seem to have forgotten the purpose of the law is to inconvenience those who repeatedly break it."

A spokesman for the Royal Society for the Prevention of Accidents also voiced concern.

"The points system is there to flag up problem areas of driving and give motorists the opportunity to improve. Ultimately the threat of disqualification does need to be there so people take the enforcement aspect of road safety seriously."

While the Government accepts that courts should be given the power to handle cases on their merits, Mike Penning, the road safety minister, has ordered an urgent inquiry into the cases of the 1,000 drivers who are still on the road despite being disqualified by the courts.

"It is our job to enforce the courts' will," Mr Penning told the Daily Telegraph. "It 10 per cent of cases a court's decision to remove a licence has not reached the DVLA."

"I am adamant that this will not happen in future."

A spokesman for the DVLA said: "The courts are able to use their discretion to decide whether or not to disqualify a driver."

"The DVLA's role is to record the information provided by the courts and work closely with the Courts Service to make sure that there are rigorous processes in place to ensure that only those who are entitled to drive are allowed to hold a licence."

Driver convictions and penalty point accumulation

Number of drivers with 20 points or less (broken down by number of points)

Number of Points	Number of Drivers
3	1122
4	15
5	10
6	366
7	9
8	20
9	96
10	7
11	12
12	16
13	1
14	2
18	1
20	1
Total:	1678

Details of drivers with 10 points

Date driving licence issued	Failing to stop after an accident	Driving without due care & attention	Causing or likely to cause danger – overloaded vehicle	Using a mobile phone while driving	No insurance	Failure to identify driver	Exceeding the statutory speed limit	Exceed speed limit on motorway	Failing to comply with traffic lights signal
22/11/12		5 pts 01/11/12						5 pts 26/09/11	
19/04/12					6 pts		4 pts		

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					14/06/10		23/10/11		
30/07/09			3 pts 17/02/13				3 pts 27/10/12 4 pts 10/06/10		
15/04/97						6 pts 20/01/10	4 pts 15/07/10		
28/09/02		4 pts 05/06/11					6 pts 09/11/09		
23/11/07		7 pts 05/02/10							3 pts 12/12/09
14/11/12	7 pts 19/11/11			3 pts 12/05/12					

Details of drivers with 11 points

Date driving licence issued	Failing to stop after an accident	Driving without due care & attention	Using a vehicle with defective tyres	No insurance	Contravention of pedestrian crossing	Exceeding the statutory speed limit	Exceed speed limit on motorway	Failing to comply with traffic lights signal
03/10/12			3 pts 27/02/11	8 pts 22/07/11				
19/01/12							5 pts 01/02/13 3 pts 22/07/12	3 pts 22/06/11
04/04/12				8 pts 03/11/11		3 pts 04/06/10		
11/11/10				8 pts 03/12/11	3 pts 23/05/12			
29/05/13				8 pts 04/01/11				3 pts 07/01/12
25/05/11			3 pts 30/10/10	8 pts 20/02/10				
11/02/12	5 pts 26/01/11					3 pts 04/06/10 3 pts 19/06/10		
02/06/12	7 pts 26/09/12					4 pts 16/01/10		
05/02/10						3 pts 05/02/11 3 pts 11/01/12 5 pts 18/11/12		

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02/08/12				8 pts 06/06/11	3 pts 10/12/11			
10/11/12	8 pts 02/10/12							3 pts 20/07/13
01/05/10		5 pts 17/03/10				6 pts 24/04/11		

Details of drivers with 12 points

Date driving licence issued	Using a vehicle with defective tyres	Using a mobile phone while driving	Driving/attempting to drive with alcohol levels over the limit	No insurance	Failure to identify driver	Contravention of pedestrian crossing	Exceeding the statutory speed limit	Exceed speed limit on motorway	Failing to comply with traffic lights signal
01/01/92	3 pts 04/09/10						3 pts 27/11/11 3 pts 27/07/11 3 pts 02/04/10		
12/11/11			12 pts 25/06/06						
08/08/08				6 pts 19/02/11		3 pts 25/01/13	3 pts 26/06/11		
20/10/12	3 pts 22/08/13						3 pts 31/01/10 3 pts 28/02/12		3 pts 03/07/11
20/06/12	3 pts 24/11/10						6 pts 12/09/11 3 pts 08/11/09		
12/12/12					6 pts 14/06/11 6 pts 13/04/12				
22/05/12							3 pts	3 pts	

Appendix 9

							12/08/12	25/01/11 3 pts 22/01/11 3 pts 21/01/11	
16/06/11							6 pts 26/08/10		3 pts 13/06/10 3 pts 02/05/12
03/10/10							3 pts 05/07/10 3 pts 17/11/12 3 pts 22/11/12 3 pts 19/12/12		
25/09/73							3 pts 03/03/10 3 pts 24/06/10 3 pts 27/12/11 3 pts 12/02/12		
25/08/01		3 pts 23/07/12 3 pts 18/08/12					3 pts 22/05/11		3 pts 19/01/11
25/01/12		3 pts 23/07/12 3 pts 18/08/12					3 pts 22/05/11		3 pts 19/01/11
23/05/13		3 pts 14/02/11					3 pts 10/07/11		

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		3 pts 06/07/10					3 pts 19/02/11		
18/03/03	3 pts 25/11/12	3 pts 04/09/10					6 pts 24/10/10		
19/07/13	3 pts 25/11/12	3 pts 04/09/10					6 pts 24/10/10		
19/09/12	3 pts 07/09/11	3 pts 07/01/10					3 pts 21/09/10 3 pts 17/03/10		

Details of drivers with 13 points

Date driving licence issued	No insurance	Exceeding the statutory speed limit
04/05/13	7 pts 06/07/12	3 pts 07/02/11 3 pts 14/11/09

Details of drivers with 14 points

Date driving licence issued	Using a mobile phone while driving	No insurance	Exceeding the statutory speed limit	Failing to comply with traffic lights signal
05/04/13		8 pts 02/02/10	3 pts 06/11/11	3 pts 03/02/12
22/01/13	3 pts 27/08/10	8 pts 05/05/10	3 pts 10/07/11	

Details of drivers with 18 points

Date driving licence issued	Using a vehicle with defective tyres	No insurance	Exceeding the statutory speed limit
15/01/08	3 pts 27/02/10 3 pts 27/02/10 3 pts 20/08/10	6 pts 05/03/13	3 pts 05/06/13

Details of drivers with 20 points

Date driving licence issued	No insurance	Disqualification under 'totting up'
21/01/11	8 pts 20/07/12	12 pts 12/11/10

Proposed table - Offences covered under minor motoring convictions

AC10	Failing to stop after an accident
AC20	Failing to give particulars or report an accident within 24 hours.
AC30	Undefined accident offence
CU10	Using vehicle with defective brakes.
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition.
CU30	Using a vehicle with defective tyres.
CU40	Using a vehicle with defective steering.
CU50	Causing or likely to cause danger by reason of load or passengers.
CU80	Breach of requirements as to control of a vehicle, mobile telephone etc
LC10	Driving without a licence.
MS10	Leaving a vehicle in a dangerous position.
MS20	Unlawful pillion riding.
MS30	Playstreet Offences.
MS40	Driving with uncorrected defective eyesight or refusing to submit to a test.
MS60	Offences not covered by other codes.
MS70	Driving with uncorrected defective eyesight.
MS80	Refusing to submit to an eyesight test.
MW10	Contravention of Special Road Regulations (excluding speed limits).
PC10	Undefined Contravention of Pedestrian Crossing Regulations.
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle.
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle.
PL10	Driving without 'L' plates.
PL20	Not accompanied by a qualified person.
PL30	Carrying a person not qualified.
PL40	Drawing an unauthorised trailer.
PL50	Undefined failure to comply with conditions of a Provisional Licence.
SP10	Exceeding goods vehicle speed limit.
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles).
SP30	Exceeding statutory speed limit on a public road
SP40	Exceeding passenger vehicle speed limit.
SP50	Exceeding speed limit on a motorway.
SP60	Undefined speed limit offence.
TS10	Failing to comply with traffic light signals.
TS20	Failing to comply with double white lines.
TS30	Failing to comply with a 'Stop' sign.
TS40	Failing to comply with direction of a constable or traffic warden.
TS50	Failing to comply with traffic sign (excluding 'Stop' sign, traffic lights or double white lines).
TS60	Failing to comply with school crossing patrol sign.
TS70	Undefined failure to comply with a traffic direction or sign.

Proposed table – Offences covered under major motoring convictions

CD10	Driving without due care and attention.
CD20	Driving without reasonable consideration for other road users.
CD30	Driving without due care and attention or without reasonable consideration for other road users.
CU10	As a second offence on DVLA licence
CU20	As a second offence on DVLA licence
CU30	As a second offence on DVLA licence
CU40	As a second offence on DVLA licence
CU50	As a second offence on DVLA licence
CU80	As a second offence on DVLA licence
IN10	Using a vehicle uninsured against third party risks.
BA10	Driving while disqualified by order of Court.
BA30	Attempt to drive while disqualified as under age.
MS50	Motor racing on Highway
MS80	Refusing to submit to an eyesight test
MS90	Failure to give information as to identity of driver

Proposed Table - Offences for driving a motor vehicle under the influence of drink or drugs

DR10	Driving or attempting to drive with alcohol level above limit.
DR20	Driving or attempting to drive while unfit through drink or drugs.
DR30	Driving or attempting to drive then refusing to supply a specimen for analysis.
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR61	Refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity in circumstances other than driving or attempting to drive
DR40	In charge of a vehicle while alcohol level above limit.
DR50	In charge of a vehicle while unfit through drink or drugs.
DR60	In charge of a vehicle then refusing to supply a specimen for analysis.
DR70	Failing to provide a specimen for breath test.
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs

Offences where a licence will automatically be refused or a current licence suspended or revoked

CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving when unfit through drugs
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for alcohol analysis
CD80	Causing death by careless, or inconsiderate, driving
CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers
DD10	Causing serious injury by dangerous driving
DD40	Dangerous driving.
DD60	Manslaughter or culpable homicide while driving a vehicle.
DD70	Causing death by dangerous driving.
DD90	Furious driving
	When applicable to licensed vehicle
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or effused on medical ground
MS70	Driving with uncorrected defective eyesight

All offence codes mean also those alternative codes with differing numbers which mean, aiding, abetting, counselling or procuring; cause, use or permit and inciting offences.

Convictions Consultation: Email Responses

Response From:	Response Details:	Officer Response:	Change to policy:
Eurocabs	<p>There are no suggestions on the terms of convictions for offences committed by Licence holders.</p> <p>Where a Licence holder has been charged with an offence then they must be given an opportunity to present their case to a Licensing Panel as was the case when Lorna Cohen was the chair of the Licensing Committee.</p> <p>This system of having a Licensing Panel gives a Licence holder an opportunity to voice their concern or issue which is their democratic right and by denying them this right the decision is being dictated to them. Any errors, misunderstanding or any evidence a Licence holder may have can be discussed and reviewed and a decision can be made with minimum amount of expense and if any mistakes have been made then they can be changed causing minimum amount of losses on the Licence</p>	Discussed at previous Licensing Committees.	

	<p>holder. Any compensation that needs to be paid for any unnecessary losses incurred by the Licence holder then these will also be kept to a minimum.</p> <p>Incentives like reduced suspensions or revocation of Licence FOR FIRST TIME OFFENDERS ONLY, should be considered if the Licence holder agrees to have a CCTV fitted into their vehicle for offences that have been committed whilst the vehicle was in use or the vehicle was used to commit these offences e.g. plying for hire, low level assault cases should be considered under this scheme.</p>	<p>This has been considered previously and is not considered practical.</p>	
<p>Licensed driver.</p>	<p>I think that a single officer or just the vehicle licensing should not be responsible for revoking or suspending licenses a panel should be responsible for making this decision.</p> <p>On cases where it is not a serious offence a the licensee should be innocent until he is proven guilty. With claims of assault(physical / sexual) then instant suspension or revocation</p>	<p>Dealt with above.</p> <p>The Act is specifically created to deal with dangers before conviction or even without a</p>	

	<p>of license is understandable but again working with the police crown prosecution service the cases should be dealt with as quickly as possible so an innocent driver is not at a loss for too long.</p>	<p>conviction.</p>	
<p>Unite the Union – Leeds Hackney Drivers Branch 302/3</p>	<p><u>Revocation and Suspension of Licences.-</u></p> <p>In summary, Unite agrees with the current policy on revocation and suspension of licences. However, there is scope for improvement and this would be in <i>Sec 2. Conviction Criteria Guidelines</i>. Paragraph 3 is well worded, but Unite feels that the inclusion of ‘<i>and operator</i>’ should be placed in. It is wholly inconceivable that only drivers should be held accountable under this section and firmly believes that accountability should now increase to operators too.</p> <p><i>Sec 4. Requirement to report</i>, would appear to need amending in that it is unfair under both sub-section (c & d) to use these measures for incidents such as a court summons for financial reasons and otherwise for parking ticket issues. Both these sub-sections require greater clarity and Unite would</p>	<p>Already applies to all licence holders.</p> <p>There are a few areas where we would not take action but when we start to dilute the requirement it becomes difficult for drivers to understand.</p>	

	<p>welcome both the removal of such implication that the above could be construed as such in them.</p> <p><i>Sec 5. Suspension, Revocation and Refusal of Licenses</i>, would also appear to need an amendment. Such article is in <i>Sec (b(iv))</i> “Any other reasonable cause”. Unite knows and feels that this section, although part of current legislation is abused by enforcement officers and there is no consistency when adopting this section. If this section were to remain, then Unite would prefer to see an implementation of a ‘<i>Tariff</i>’ of such reasonable causes. This would ensure that drivers would not be placed in an uncompromising position without the knowledge that they had ‘unreasonably’ caused an offence under this section.</p> <p>It is not unreasonable to ascertain such a system given that currently a points system exists for criminal convictions for both applications and renewals of both operator and drivers licences. This would further cement the sections ability to make clear and unambiguous decisions, which could later be challenged by the individuals</p>	<p>The decision making record by Officers based on the policy proves this to be an inaccurate statement.</p> <p>The benefit of the current criteria is its simplicity and easy operation.</p>	
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	<p>concerned.</p> <p>Sec (c) is also in need of a cursory amendment in so far as the wording “currency” in reaching a timescale for a length of a licence. Unite feels that once again, a clear definitive word such as “year” or “for as long as the licence is held” would be clearer and would fall in line with PEC guidelines and their crystal mark scheme.</p> <p>Sec 6. Appendix 1. Would appear to need clearer objectives. Item 2 should be made clearer to ensure that all offences be collated and individually tested for presentation before or after court. No one individual offence should be treated any lesser than the next. An offence is an offence and no arbitration should be given for this nature. Given that, summary offences carry greater sentences than others do. It remains that offences, which are committed, should be attributed and accountable. Moreover, it is felt that <i>item 4 should apply to both items 2 and 3 respectively.</i></p> <p>Sec 7. Unite have a specific view on this point. Unite feel that under current UK court law, ‘it is with a</p>	<p>Please see earlier response.</p>	<p>Please see change proposals.</p>
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	<p><i>preponderance of evidence that a case is dealt with</i>. Unite therefore feels it is unfair to automatically assume that an applicant must be considered guilty, even though a magistrate or judge has not found them to be so or cannot reach a decision. This completely flies in the belief that <i>'a person is innocent until proven guilty'</i>.</p> <p>Sec 7. Appendix 2. Unite would like to understand where the points criteria tables is established from. On the basis that the points criteria system is questionable, Unite would prefer to see the system suspended until such time as a greater amount of evidence can be presented as to where, how and who was responsible for this.</p>	<p>Officers disagree with this and as highlighted in the reports the Court approve of this system.</p>	
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Report author:	Stephen Holder
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Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 14 January 2014

Subject: Entertainment Licensing Section – Update Report
July – December 2013

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. This report provides Members with an update of matters appertaining to the Entertainment Licensing Section between July and December 2013. The Section deals with a variety of licences and registrations. This reports provided an overview of the applications received, including reviews and appeals, liaison and enforcement initiatives and action, policy development and a summary of national statistics collated by the Home Office.

Recommendations

2. That Licensing Committee note the contents of the report.

1 Purpose of this report

- 1.1 To inform the Licensing Committee of matters appertaining to the Entertainment Licensing Section during the last six month period, including licence reviews, prosecutions, applications and policy development.

2 Background information

- 2.1 Entertainment Licensing deals with various licences, permits and authorisations under various pieces of legislation.
- 2.2 The main functions of the Section are
- Licensing Act 2003 - sale/supply of alcohol and regulated entertainment
 - Gambling Act 2005 - gambling facilities including the large casino
 - Local Government (Miscellaneous Provisions Act) 1982 – adult retail shops, cinemas, and sexual entertainment venues.
- 2.3 The Council has statement of licensing policies for each of these three main functions.
- 2.4 Application, inspection and enforcement procedures must be followed in accordance with the relevant legislation.
- 2.5 As a general rule any application that attracts adverse representation will be heard before a Licensing Sub Committee, with the exception of licences for sexual entertainment venues where all new and renewal applications are brought before Members.
- 2.6 Applications made under the Licensing and Gambling Acts must be granted in the absence of such representations.

3 Main issues

Licensing Act 2003

- 3.1 The Councils Licensing Act 2003 Statement of Licensing Policy has recently undergone a review and is set to be put before the full Council in January.
- 3.2 As previous, the Policy identifies five areas of the Leeds district that are subject to Cumulative Impact Policies: City Centre, Woodhouse/Hyde Park corridor, Headingley, Horsforth and Chapel Allerton.
- 3.3 Furthermore the Policy recognises problems in the South Leeds area of the City and applicants are encouraged to have consideration for the local area guidance and to build in to their application control measures to minimise the problems associated with reduced life expectancy: alcohol, obesity and smoking, which in turn could be linked to public nuisance, crime & disorder and the protection of children from harm.

3.4 During this reporting period the licensing authority received the following number of licence applications. This table excludes the applications for any of the cumulative impact areas and those for South Leeds.

New premises licence applications:

Total number of applications	23
Applications with no representations	13
Applications with representations agreed prior to a hearing	3
Number of applications withdrawn	1
Number of hearings	1
Number of pending hearings	5
Applications granted at hearing	1
Applications refused at hearing	0
Appeals	0

3.5 The following table sets out the applications received in the Cumulative Impact Areas:

	Area 1 City	Area 2 Headingley/ Hyde Park	Area 3 Woodhouse	Area 4 Chapel Allerton	Area 5 Horsforth
Total number of applications	26	2	0	3	1
Applications with no representations	14	0	0	1	0
Applications with reps agreed prior to a hearing	9	0	0	0	1
Applications withdrawn	0	0	0	0	0
Hearings	2 1 Pending	2	0	2	0
Applications granted at hearing	1	2 Pending	0	2	0
Applications refused at hearing	0	0	0	0	0
Appeals	0	0	0	0	0

3.6 The following table sets out the applications received in South Leeds:

Total number of applications	7
Number of liaison meetings (to agree measures)	2
Applications with no representations	5
Applications with representations agreed prior to a hearing	1
Number of applications withdrawn	0
Number of hearings	0
Number of pending hearings	1
Applications granted at hearing	0
Applications refused at hearing	0
Appeals	0

Temporary Event Notices

3.7 The following sets out the number of Temporary Event Notices served on the authority:

Normal Temporary Event Notices:

Received:	531
Accepted:	481
Accepted following modifications:	2
In process:	41
Withdrawn:	7

Late temporary event notices:

Received:	141
Accepted:	123
Accepted following modifications:	1
In process:	8
Invalid:	3
Counter notice served:	4
Rejected:	1

Licensing Act: Reviews and Appeals

3.8 The following review applications have been dealt with during this reporting period:

Slip Inn, Morley, Leeds 27

- 3.9 On the 23 January 2013 a review was brought by the police due to anti-social behaviour and crime & disorder at the premises. The licensing subcommittee revoked the licence and an appeal was subsequently lodged.
- 3.10 Dialogue followed between the police and licence holder resulting in the police having no further concerns over the management of the premises. The revocation was subsequently rescinded.

Shokar Mini Market, Middleton Road, LS10

- 3.11 On the 29 April 2013 a review as brought by the police due to unlawful activities being carried on at the premises, including supplying stolen property and controlled substances. The licensing subcommittee revoked the licence and an appeal was subsequently lodged.
- 3.12 Dialogue followed between the police and licence holder resulting in certain agreements and new conditions of licence, including the removal of a named individual from the licence and from having association with the business. The licence was subsequently re-instated and appeal withdrawn.

Call Lane Social, Call Lane, LS1 - Area 1, City Centre Cumulative Impact Policy

- 3.13 In June 2013 application was made to increase the size of these premises to include the 1st floor. This attracted representation from the police and the application was refused by the subcommittee.
- 3.14 An appeal was subsequently lodged but agreement was reached between the police and applicant negating the need for a hearing. The licence was issued but with certain restrictions including the restricted use of the new area and additional door staff.

Hyde Park Newsagents, 7 Hyde Park Road, LS6, and News & Booze, Eldon Terrace, LS2.

- 3.15 On the 18 November 2013 reviews were brought by the police on the grounds that unlawful activities had been carried out at the premises, namely the provision of counterfeit goods and products on which on UK duty had been paid. The licensing subcommittee decided to suspend one licence for 28 days and the other for 7 days

Mezz Club, Assembly Street, LS1.

- 3.16 On the 9 December 2013 application was brought by the police resulting from an irresponsible promotion night held at the premises.
- 3.17 The review was supported by representation of the Licensing Authority and members of the public. The licensing subcommittee decided to suspend the licence for three months to allow the sale of the property together with other measures preventing the existing management from having any involvement with the premises.

Licensing Act: Policy development and projects

- 3.18 Members will be aware that the current Licensing Act 2003 Statement of Licensing Policy has been subject to review. A report was presented to the Licensing Committee in December 2013 and the new policy is set to be approved before the full Council in January 2014.
- 3.19 The policy still provides reference to the five cumulative impact areas, although there has been a change in the City Centre CIP where a green, amber and red system has been introduced. The red zone identifies the Call Lane area of the City where there is an evident concentration of licensed premises and associated problems with antisocial behaviour and crime and disorder. In the remaining areas each application will be considered on its own merits depending on the style of operation and other facilities in the locality.
- 3.20 Furthermore, the policy sets out that where an application is received for any of the cumulative impact areas (Areas 2 – 5), the licensing authority, in their capacity as a responsible authority, will consider making representation. Applications for Area 1, City Centre, will be addressed on a case by case basis in association with the police. Any application for the 'red' zone however will probably attract representation.
- 3.21 Further to the consultation on the policy, a request has been made for Otley to be designated as a cumulative impact area. Further work is being carried out with the area representatives and a report will come before the Licensing Committee in the future.
- 3.22 Members will be aware from the December meeting that the licensing authority and relevant agencies are looking at introducing a local voluntary scheme to reduce the strength of alcohol. This is to support the work being carried out, particularly around the bus station/New York Street area of the city centre where there are evident problems with street drinking and antisocial behaviour. An expression of interest has been made in respect of this Scheme to the Home Office which is looking to support Local Authority Action Areas by way of providing assistance in consultation and publicity.
- 3.23 Members will also be aware that the matter regarding the Late Night Levy was referred to by the Executive to Scrutiny Board (Resources and Council Services). A report was taken back to Executive Board on the 18th December 2013 with a recommendation that alternative schemes be initially explored including a Business Improvement District.

Gambling Act 2005

- 3.24 The current Gambling Act 2005 Statement of Licensing Policy is effective from January 2013 to December 2015.
- 3.25 During this reporting period the licensing authority has not received any applications for new or variations to premises licences under this Act.

- 3.26 There have been concerns for the growth of betting office premises nationally. In Leeds there are presently 104 betting premises licensed compared to 105 in 2012, 106 in 2010, and 99 in 2008.
- 3.27 The ward with the most betting premises is City & Hunslet with 24 premises, followed by Gipton & Harehills (10), Crossgates & Whinmoor (5), and Armley (5). All other wards have between 1 and 4 premises.
- 3.28 Members will be aware that a provisional statement for a large casino premises licence was granted to Global Gaming Ventures Limited for the site at Eastgate, now known as Victoria Gate. Dialogue is continuing with GGVLtd and it is understood that the development is set to be completed around 2016.

Local Government (Miscellaneous Provisions) Act 1982 - Licensing of Sex Establishments (including adult shops, cinemas and sexual entertainment venues, i.e. lapdancing)

- 3.29 The current Statement of Licensing Policy – Licensing of Sex Establishments, was approved by Executive Board and came in to effect on the 1st September 2013.
- 3.30 Notable changes to the previous policy was enhanced reference to locations and a reduction in numbers to four premises.
- 3.31 Applications for renewal of the sexual entertainment venue licences were considered by the specialist subcommittee of the Licensing Committee, and were held during the week of the 18th November 2013.
- 3.32 The decisions were as follows:
- Liberte of 10 York Place and Purple Door of 5 York Place – both applications approved for expiring 30th September 2014.
 - Silks of Sovereign Place - application approved until 30th June 2014 given the redevelopment of the area.
 - Deep Blue of 36 Wellington Street, Red Leopard of 164-176 The Headrow, and Wildcats of 149-155 The Headrow –applications refused and the premises to cease trading from 4am Friday 13th December 2013.
- 3.33 An update on this matter may be provided at the meeting.

Scrap Metal

- 3.34 The Scrap Metal Dealers Act became effective from the 1st October 2013, and all dealers must hold the relevant registration from 1st December 2013. There are now two forms of licence, a collectors licence and site licence.
- 3.35 To date the licensing authority has dealt with 91 applications for collectors licences and 25 site licences.

- 3.36 Where an applicant has a relevant criminal offence they will be invited in for interview. Officers have conducted 3 such interviews and the applications have been approved subject to conditions restricting the times that collections may take place and in the instance of a site, a retention period for metals before they are disposed.

Enforcement

- 3.37 In accordance with the Hampton Principles, inspections and enforcement must be risk based and proportionate.
- 3.38 Entertainment Licensing has a dedicated Liaison & Enforcement Team that engages in partnership working with other agencies to identify and address problem premises, respond to complaints, contribute to action planning meetings and instigate legal action where other measures have failed. In addition the Team take part in operations involving Trading Standards, HM Revenues & Customs, UK Borders Agency etc., where in addition to licensing matters, other offences such as counterfeit goods and immigration may be identified.
- 3.39 During this reporting period the team have attended the outdoor events during the summer season, including: Party & Opera in the Park, Cocoon and the Mint Festival at Temple Newsam, Leeds Pride, Leeds Reggae Concert, Chapel Allerton Arts Festival, Leeds Festival.
- 3.40 The team were also involved in a large multi-agency operation on the opening night of the Leeds Arena.
- 3.41 Since the full enactment of the Scrap Metal Dealers Act 2013 on the 1st December 2013 the team has been involved in several multi-agency days of action looking at, amongst other things, scrap metal collectors. Overall there has been a high compliance rate of properly registered mobile scrap metal dealer collectors. The Entertainment Licensing Section has drawn up an information sharing agreement with identified partners to support and further develop this closer partnership working. The agreement is currently with partners for formal signatures.
- 3.42 Liaison has been ongoing with the Council's Events Team and the police to put in place measures to negate a repeat of problems experienced at last year's Christkindlemarkt. These include closure of the beer tent between 4 and 5pm, beer is now served by the pint instead of 2 pint steins, and training has been provided to all of the bar staff.
- 3.43 The Team have also carried out a number of visits with the Health & Safety Team, police and HM Revenues and Customs to illegal shisha smoking premises, resulting in formal prosecution action being brought by the Health & Safety Team against three premises where smoking was witnessed. There were no breaches found under the Licensing Act 2003 at the time of the visits.

3.44 During this reporting period the following formal actions have been taken:

- Prosecution against an individual for unauthorised sale of alcohol at a premises in Leeds 8. A not guilty plea has been entered and the case is listed for hearing at Leeds Magistrates' Court in February 2014.
- Prosecution against an individual for the unauthorised provision of late night refreshment from a takeaway in LS6. A not guilty plea has been entered and the case is listed for hearing at Leeds Magistrates' Court, date to be confirmed.
- Prosecution against an individual for the unauthorised provision of late night refreshment from a takeaway in LS6. In this instance the premises were trading beyond the hours of the existing licence. Listed for hearing at Leeds Magistrates' Court on 10th December 2013.
- Formal caution of a Personal Licence holder who failed to notify the authority of a relevant offence conviction.
- Formal caution of a Designated Premises Supervisor (DPS) found to be providing alcohol from a licensed premises in the LS21 area beyond licensed hours.
- Formal caution of a Designated Premises Supervisor (DPS) found to be providing alcohol from a licensed premises in the LS13 area beyond licensed hours.
- The team has supplied evidence to the Security Industry Authority which resulted in the conviction of senior management personnel of a security company.

National Statistics

3.45 The Home Office recently released statistics they have gathered from around the country in respect of the number of licences issued during 2012/13 under the Licensing Act 2003 and associated functions.

3.46 In summary, the findings are:

- Leeds is 3rd in terms of the number of premises licences issued (2,405) behind Westminster (3,118) and Birmingham (2,929).
- The number of Personal Licences are 5,846, setting us 2nd behind Birmingham (7,170)
- We have the most registered clubs coming with 224, setting us first and Kirklees 2nd (218) and Birmingham 3rd (183)
- We are the 3rd largest authority for late night refreshment with 375 premises. Birmingham were the largest with 469, then Newcastle Under Lyme with 443.

- Despite being promoted as a 24 hour city, we are 23rd with 72 premises licensed to sell alcohol 24 hours a day. The top 3 are Blackpool with 792, Westminster with 200 and Brighton and Hove with 142.
- We are amongst a group of four authorities with the most CIPs. Leeds, Newcastle, Newham and Plymouth all have 5.
- We held the most hearings with 172. Westminster was next with 148 and Bristol 135.
- We ranked 68th in terms of the number of reviews, having only 5 during the 2012/13. The most were heard by Sandwell (39), Hammersmith and Fulham (27) and the Wirral (26).
- We were 3rd for the number of Temporary Event Notices with 1,563 received. Westminster came top with 2,525 followed by the Wiltshire Unitary Authority on 2,270, but we were ranked 43rd on the list of counter notices given following police objection with 1. Greenwich topped that table with 21, followed by Chiltern on 19 and Southwark on 14.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 New premises licence applications and full variations to existing licences are subject to a 28 day consultation period.
- 4.1.2 The consultation period is advertised by the display of a site notice at the premises and an advert in a local newspaper.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The council has adopted a Statement of Licensing Policy which sets out the principals the council will use to exercise its functions under the Licensing Act 2003. There is a similar policy adopted under the Gambling Act 2005. The policies are developed with matters of equality, diversity and human rights taken into consideration. This policy is regularly reviewed in line with the legislation. The council has completed equality, diversity, cohesion screening and impact assessments with regards to the consultation process undertaken during the review of the policy.

4.3 Council Policies and City Priorities

- 4.3.1 When determining an application under the Licensing Act 2003 the Licensing Authority must have regard for the Licensing Act 2003, and the Statement of Licensing Policy which sets out the principles the council will use to exercise its functions under the Licensing Act 2003. Applicants are expected to read the policy before making their application and the council will refer to the policy when making its decision.

4.3.2 When determining an application under the Gambling Act 2005, the Licensing Authority must aim to permit the use of premises for gambling in so far as the authority thinks its:

- In accordance with any relevant Licensing Conditions and Codes of Practice
- In accordance with the Gambling Commission Guidance to Local Authorities
- Reasonably consistent with the three licensing objectives
- In accordance with the Gambling Act 2005 Statement of Licensing Policy

4.3.3 The licensing regimes contribute to the following aims:

By 2030, Leeds will be fair, open and welcoming

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

By 2030, Leeds' economy will be prosperous and sustainable

- Opportunities to work with secure, flexible employment and good wages

By 2030, all Leeds' communities will be successful

- Communities are safe and people feel safe

4.3.4 The licensing regime contributes to the following city priorities:

Best city... for communities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and Value for Money

4.4.1 Licence compliance underpins the licensing regime and Entertainment Licensing ensures compliance through liaison with licensed premises and multi-agency partners.

4.5 Legal Implications, Access to Information and Call In

4.5.1 All information provided in this report is publicly accessible and there is no legal implication to the recommendations of this report.

4.6 Risk Management

4.6.1 As this is an advisory report there are no risks associated.

5 Recommendations

5.1 That members note the contents of the report.

Background Papers¹

None

¹ 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.

Report of the Assistant Chief Executive (Citizens and Communities)

Report to **Licensing Committee**

Date: **14th January 2014**

Subject: **Late Night Levy**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): All	<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 checked="" type="checkbox"/> Yes <input 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 late night levy is a power conferred on council licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables councils to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area as a means of raising a financial contribution towards the costs of policing the late-night economy. It is for the council to determine whether to implement the levy, how the levy is designed and when it should be implemented.
2. Executive Board considered the late night levy and potential consultation at the September meeting but withdrew the report and referred the matter to Scrutiny Board. Scrutiny reported to Executive Board with recommendations which Executive Board support. Executive Board has now referred the matter back to Licensing Committee so the previous decision that a levy could be of benefit to the city and to consult upon the levy can be reconsidered.

Recommendations

3. Members of Licensing Committee are recommended to:
 - consider the recommendation from Executive Board;
 - support the conclusions and recommendations made by Scrutiny Board not to progress with the levy at this time;

- to note that should a city centre business improvement district not be progressed, or if existing voluntary initiatives are not further developed and enhanced, Members may re-consider the issue of a Late Night Levy at a later time.

1 Purpose of this report

- 1.1 This report presents the recommendations from Executive Board and the report from Scrutiny Board (Resources and Council Services) which is attached at appendix 1 for consideration.

2 Background information

- 2.1 The late night levy is a power conferred on councils under the Police Reform and Social Responsibility Act 2011. This enables councils to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a financial contribution towards the costs of policing the late-night economy.
- 2.2 The levy will be payable by the holders of any premises licence or club premises certificate in the whole of the Leeds district which authorise the sale or supply of alcohol on any days during the late night supply period beginning at or after midnight and ending at or before 6am.
- 2.3 The decision to introduce a levy is for the council to make. The council will decide the design of the levy. This includes the late night supply period, any exemptions or reductions that may apply and the proportion of revenue (minimum 70%) after the council's costs are deducted, which will be paid to the Police & Crime Commissioner with the remainder being retained by the council to fund other activities.
- 2.4 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If the council decides that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their district
- 2.5 The council has the ability to use their discretion in respect of offering a reduction if a premises is part of a recognised scheme, or offering an exemption for certain types of premises.
- 2.6 The council must consider the desirability of introducing a levy in relation to the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.

3.0 Main issues

- 3.1 At its September meeting Executive Board considered a report on the late night levy and the recommendation from Licensing Committee to consult on a proposed design.

- 3.2 Executive Board decided that the submitted report be withdrawn from the agenda in order to enable further work to be undertaken on it and also to request that the relevant Scrutiny Board consider the issues within it, prior to the matter being further considered by Executive Board.
- 3.3 Scrutiny Board (Resources and Council Services) formed a working group to look into this matter who met with officers, West Yorkshire Police and the Chair of Licensing Committee to examine the work that has been undertaken and the desire of implementing a late night levy.
- 3.4 The Chair of the Licensing Committee explained that Members of the committee had expressed concern over the impact on premises outside the city centre that would still have to pay the levy if the proposed design was implemented. They had recommended a further period of consultation before any decision was taken to implement a levy. Officers explained the legislative framework to the Working Group and demonstrated how they had designed the levy to minimise the impact to areas outside the city centre but the legislation did not allow them to exclude all premises outside the city centre. As such, concerns still remained over the proposed levy's design.
- 3.5 Scrutiny Board (Resources and Council Services) approved its report at its November meeting and has referred the matter, with its findings back to Executive Board with the following recommendations:
1. That the Executive Board does not pursue the introduction of a Late Night Levy.
 2. That Officers within Licensing work with partners, including the licensing trade, to develop and enhance the various existing voluntary initiatives.
 3. That the Executive Board reiterates its openness to support a BID which includes an element of initiatives to manage the night time economy
- 3.6 The Chair of the Licensing Committee and officers welcome the recommendations of the Working Group and also believe a BID for the city centre which includes initiatives to manage and support the night time economy would be better suited to the needs of the city. Should a BID for the city centre not be progressed, or if existing voluntary initiatives are not further developed and enhanced, then Members may wish to re-consider the issue of a Late Night Levy at some time in the future.
- 3.7 Officers are supportive of the conclusions reached by Members of Scrutiny Board (Resources and Council Services) and will support and facilitate action to implement a city centre business improvement district and the enhancement of existing voluntary measures. If these actions are not progressed to a satisfactory conclusion then Members would be recommended to re-consider the issue of a Late Night Levy at some time in the future.

Executive Board Recommendation

- 3.8 Executive Board considered the report of Scrutiny Board (Resources and Council Services) and resolved that:
1. The conclusions and recommendations made by Scrutiny Board be supported;

2. Agree that should a city centre business improvement district not be progressed, or if existing voluntary initiatives are not further developed and enhanced, the issue of a Late Night Levy could be re-considered at some time in the future;
3. That the matter be referred back to Licensing Committee to reconsider their former decision to consult upon the late night levy.
4. To note that the officer responsible for implementing these decisions is the Head of Licensing and Registration and that a report can be prepared for the Licensing Committee meeting in January 2014

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 It is requirement of the legislation that those affected by the proposals are consulted with. There is no specified length of the consultation in the legislation however it is the council's practice to consult for 12 weeks on matters relating to licensing. The legislation is specific about who the council must consult with.
- 4.1.2 Within the council the matter of the late night levy has been considered by Licensing Committee, Executive Board and Scrutiny Board (Resources and Council Services).

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The late night levy process and consultation has undergone an equality diversity cohesion and integration screening. The screening showed there were no implications for equality as the length of the consultation would be sufficient to take religious festivals into consideration.

4.3 Council Policies and City Priorities

- 4.3.1 The late night levy has the potential to provide a regular and predictable income. . The council must apply its share having regard, in each case in connection with the supply of alcohol between midnight and 6am, to arrangements for:
 - (a) The reduction or prevention of crime and disorder;
 - (b) The promotion of public safety;
 - (c) The reduction or prevention of public nuisance;
 - (d) The cleaning of any highway maintainable at the public expense (other than a trunk road which is a special road) within the City or any land within the City to which the public are entitled or permitted to have access with or without payment and which is open to the air.
- 4.3.2 These arrangements would contribute to the following outcomes as stated in the Best Council Plan 2013-17:
 - Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
 - Make it easier for people to do business with us; and

- Achieve the savings and efficiencies required to continue to deliver frontline services.

4.3.3 In addition these arrangements would contribute to our best council objectives of:

- Building a child friendly city – improving outcomes for children and families
- Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses
- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city

4.4 Resources and Value for Money

4.4.1 The consultation and implementation of the levy has a cost implication. However these costs can be recovered from the first year's revenue. The collection of the levy in subsequent years is undertaken at the same time as the collection of the Licensing Act 2003 annual fee. This reduces the costs to the council.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Late Night Levy is a new, untested process which has the potential to impact the finances of businesses owners in Leeds. As such there is a possibility that the implementation of a late night levy may be challenged through the courts.

4.6 Risk Management

4.6.1 Officers are in close liaison with other core cities and the Home Office to build on and incorporate any 'lessons learned' or emerging knowledge from those bodies.

5 Conclusions

5.1 The late night levy has the potential to provide a regular and predictable income to support the Best City ambitions of the Council. In order to implement a levy the council has to consider the costs of policing the night time environment and the desirability of implementing a levy as a contribution towards those costs.

5.2 A recommendation from Licensing Committee was brought to Executive Board in September. Executive Board referred the matter to Scrutiny Board (Resources and Council Services). The report from Scrutiny Board is attached. Executive Board has now referred the matter back to Licensing Committee so the decision that the levy could be of benefit to the city can be reconsidered.

6 Recommendations

6.1 Members of Licensing Committee are recommended to:

- consider the recommendation from Executive Board;
- support the conclusions and recommendations made by Scrutiny Board not to progress with the levy at this time;

- to note that should a city centre business improvement district not be progressed, or if existing voluntary initiatives are not further developed and enhanced, Members may re-consider the issue of a Late Night Levy at a later time.

Background documents¹

None

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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LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 13/12/13 (hg)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			
HC Proprietor Licence Conditions	To receive a report considering a review of the Hackney Carriage Proprietor Licence Conditions, and including the findings of the Members Working Group	D Broster	RP
PH Vehicle Licence Conditions	To receive a report considering a review of the Private Hire Vehicle Licence conditions	D Broster	RP
Immediate Suspensions Policy (TPHL)	To receive a further report considering a review of the Immediate Suspensions Policy in respect of plying for hire – following consideration by the HC/PH Working Group	D Broster	RP
Transfer of HC Driver Licences	To consider a review of the Policy in respect of the Transfer of a Hackney Carriage Proprietors Licence on the Death of a Proprietor, following consideration by the HC/PH Working Group	D Broster	RP

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: TUESDAY 4 JUNE 2013. HELD. Annual Governance arrangements, Annual Report			
Meeting date: 25 JUNE 2013. HELD. SEV policy, Law Commission interim statement, Executive PH policies			
Meeting date: 23 JULY 2013. HELD. Enforcement Activity Update, Trike PH applications, ELS Activity Update, Site Allocation Plan, Late Night Levy			
Meeting date: 13 AUGUST 2013. HELD. TPHL Decision Making Process, Leeds Festival			
Meeting date: 10 SEPTEMBER 2013. HELD. Scrap Metal Dealers Act, TPHL Monitoring Proposals (deferred), SEV update			
Meeting date: 15 OCTOBER 2013. HELD. WYP presentation, TPHL Monitoring proposals, Wi-Fi in Taxis, Shisha Smoking, Budget update, Leeds Festival interim report			
Meeting date: 12 NOVEMBER 2013. HELD Immediate Suspensions Policy, Sex Shop licence fee review, Petition from Alpha Welfare, Leeds Festival full de-brief			
Meeting date: 17 DECEMBER 2013			
Disclosure and Barring Service	To receive an update	D Broster	B
PH Operator Conditions (TPHL)	To receive a report considering a review of the Private Hire Operator Conditions	D Broster	RP

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 13/12/13 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Licensing Act 2003 Statement of Licensing Policy 2014-18	To receive a report on the Statement of Licensing Policy 2014-18 (Licensing Act 2003)	S Holden	RP
Strong Alcohol Schemes	To receive a report on voluntary schemes which ask retailers to remove low cost, high strength alcohol from sale and referencing street drinking in Leeds City Centre	S Holden	B
Meeting date: 14 JANUARY 2014			
TPHL – update on the Decision Making process suspensions/revocations	To receive a six monthly update on the decision making process in respect of suspensions and revocations undertaken by the Taxi and Private Hire Licensing Section for the period June to November 2013	D Broster	PM
TPH Convictions Criteria (TPHL)	To receive a report considering a review of the Taxi and Private Hire Convictions Criteria	D Broster	RP
ELS – update on ELS activity (including the ELS Enforcement team)	To receive a six monthly update on the activity and applications processed by the Entertainment Licensing Section June to Nov 2013 including information on action taken by the ELS Enforcement Team	N Raper	PM
Late Night Levy	To receive a report back on the outcome of discussions regarding the governance arrangements for the implementation of the Late Night Levy, particularly the mechanism for overseeing the spending of the Levy	S Holden	B
Meeting date: 11 FEBRUARY 2014			
TPHL Equality Monitoring	To receive an update on the data collection levels achieved so far (since Oct 13) in respect of HC and PH applicants and licence holders,	D Broster	PM
WYP Presentation	Policing and the Night time Economy		B
Meeting date: 11 MARCH 2014			
Sex Establishment Fees	To consider the Annual review of Sex Establishment fees	N Raper	PM
Meeting date: 8 APRIL 2014			
Shisha Smoking issues - update	To receive an update report from LCC Health and Safety Team on shisha smoking in Leeds and the Service's remit on enforcing smoking regulations	R McCormack	B

LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 13/12/13 (hg)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Wi-Fi in licensed vehicles	To provide an update on the take-up of Wi-Fi within Hackney Carriage Vehicles following amendments to the existing conditions to facilitate its use (Oct 13) and providing information exploring the expansion of the initiative throughout the rest of the licensed vehicle fleet	D Broster	RP
Meeting date: 13 MAY 2014			

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

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