

**Report of** Taxi & Private Hire Licensing Manager

**Report to** Licensing Committee

**Date:** 3 September 2019

**Subject:** Taxi & Private Hire Licensing – Proposed Suitability Policy

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

### Summary of main issues

- 1 This report presents to committee members the results of recent consultation in Leeds and neighbouring authorities on taxi and private hire licensing policies, and a proposal for a new Suitability Policy to replace the council's existing Convictions Policy.
- 2 This proposal is part of a broader regional project to reduce the differences between licensing policies and enforcement.
- 3 Between November 2018 and January 2019, four of the five authorities in West Yorkshire and City of York Council have consulted on proposed changes to how applicants' and current licence holders' previous cautions and convictions should be viewed and reviewed when considering their suitability to be licensed (or to remain so). The proposals arose from a combined project representing professional bodies in licensing, intended to implement common standards across the UK for how convictions and cautions would be treated by licensing authorities.
- 4 The consultation and engagement process has been completed, and the different results in the five authorities can be presented to committee, together with recommendations for implementing policies, in Leeds and across the region. The views of licensing committee members are sought before the policy is forwarded for executive approval.

## **Recommendations**

1. That committee members note the purpose and content of the information in this report.
2. That committee members consider the summary of the responses to the consultations, the proposed policy, and the discussion points raised in the report, and note that there may be further guidance being developed as a result of the national consultation on statutory guidance, which included the table of suitability licensing decisions.
3. That committee members pay particular attention to the proposal to distinguish the extreme violence examples from less extreme violence, with a lower tariff of 5 years, not 10 years.
4. That committee members note the new policy on determining the suitability of applicants and licence holders as drivers in taxi and private hire licensing, and that this policy take effect from 1 November 2019.
5. That the Taxi and Private Hire licensing Manager be authorised to make any further clarification changes necessary to the policy, to align the policy as closely as possible with the other West Yorkshire & York Authorities and meet the preferences of committee members, officers and stakeholders in Leeds.

## **1 Purpose of this report**

- 1.1 To inform committee members of the results of a recent consultation in Leeds, and consultations and engagement exercises in neighbouring authorities, about the suitability of people to hold a licence to work as a taxi or private hire driver.
- 1.2 To highlight to committee members of the areas where the council's proposed policy relating to the suitability of licence holders could be revised following the consultation and discussion with the other West Yorkshire and York authorities.
- 1.3 To draw attention to some areas where the council and other licensing authorities, professional bodies have suggested that the suitability policy could be further refined and developed.

## **2 Background information**

- 2.1 Leeds City Council has responsibility for licensing Hackney Carriage (taxi) vehicles, drivers and proprietors, Private Hire and Executive vehicles, drivers, and operators within the city. The council's primary focus is the safety of the travelling public.
- 2.2 The council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976, which governs the licensing of Private Hire Vehicles, Private Hire Operators and drivers. The adoption of this act

also encompasses the adoption of the Town Police Clauses Act 1847, which governs the licensing of Hackney Carriages.

- 2.3 The council's policies and conditions are set and reviewed by the council's Licensing Committee. The council's policies and conditions apply to all drivers, vehicles and operators who hold the relevant licenses issued by the council. The council's Taxi & Private Hire Licensing team are responsible for making decisions relating to the application of the policies and conditions, under the council's scheme of sub-delegation.
- 2.4 Committee members will be aware that the UK taxi and private hire industry is rapidly changing in the UK, although much taxi and private hire law has changed little since the 1970s. In order to continue to keep the travelling public safe, the council's policies and conditions also need to keep pace with new developments, particularly the rise of cross border working (drivers and vehicles licensed in one area and working predominantly in another), the growth in use of smartphone apps enabling customers to book and pay for journeys. The council has a plan to review and consult on each of the specific policies and conditions after either three or five years, to make sure they remain up to date and effective.
- 2.5 The report presented here shows the results of the consultation and subsequent discussion between the authorities on proposed West Yorkshire & York policies for suitability of licence holders, based on the guidance developed by Institute of Licensing, Local Government Association, National Association of Licensing and Enforcement Officers and Lawyers for Local Government. The council responded to national consultation by the Institute for Licensing on the proposed suitability policy, and two questions in the recent Department for Transport (DfT) statutory guidance consultation also related to the suitability guidance. However, to date, no revisions to the national suitability guidance have been made, although licensing authorities have been requested to keep a record of cases where application of or variation from the suitability guidance has been criticised in court decisions. It is possible that the response by the DfT may provide some further information on suitability and the consultation responses, but the DfT are unlikely to suggest the suitability guidance be revised significantly.
- 2.6 This report proposes arrangements for implementation and review of the policy, with a number of revisions. If the respective policies can be approved and implemented in all six councils, it would mark significant progress towards adopting common minimum standards for taxi and private hire licensing in the region. The suitability policy would replace the council's previous convictions policy, and form the basis of a common framework for refusing and resourcing licences, which could be used for the new LGA/NAFN database of refused and revoked licences.

### **3 Main issues**

#### **Response to suitability survey in Leeds**

- 3.1 The council consulted on the proposed suitability policy, with no suggested changes to the policy. Respondents were invited to comment on each of the proposals for the length of time a licence would be refused or revoked.
- 3.2 The council received 250 responses to the survey. 227 responses were from licence holders, and 19 responses were from members of the public. The remaining responses were from other stakeholders, including driver's representatives and trade union, passenger groups, road safety, and West Yorkshire Combined Authority.
- 3.3 Respondents were asked for any additional comments, and to state their reasons why they didn't agree with the length of time a licence should be refused or revoked, with the options of 'too short' or 'too long'. Their comments are summarised and grouped in the table in **Appendix 1**, with a response on behalf of the council. Appendix 1 also includes responses to the same general or rhetorical questions or comments, which don't relate directly to suitability, in particular the increase in cross-border working in West Yorkshire.
- 3.4 Overall, the responses indicate a high degree of agreement with the proposed length of time to refuse a licence, although some respondents stated that they had not read the suitability guidance before replying. The lowest score of agreement with the tariff is 66% for sex and indecency offences.
- 3.5 The suitability policy does not need to be changed significantly following the consultation. A large majority of respondents stated that they agreed with the suitability proposals to refuse licences for a stated period of time. Therefore, unless the feedback to the other authorities was significantly different, no major changes to the overall West Yorkshire & York suitability policies would be recommended as a result of the consultation.

#### **Response to suitability survey in other authorities**

- 3.6 A summary of the responses to the consultation in the five authorities carrying out the consultation is provided in **Appendix 2**. In total, 695 people responded to the consultation on suitability.
- 3.7 There was a consensus (i.e. a majority in each of the authorities, as well as a majority in favour overall) in favour of the tariffs for the most serious crimes, for example, on death, exploitation, sexual offences, and on drug supply, drug use, and drink driving. There was also a consensus on signing up to the DBS update service.

- 3.8 A majority of survey respondents in Wakefield said they thought the majority of the tariffs were too long, perhaps indicating a larger difference in conviction tariff between Wakefield's current tariff and the proposed policy.
- 3.9 In a limited number of areas, there was a mixed or majority against the proposed tariff, with only Leeds results indicating a majority supporting the proposed tariff. This may indicate that respondents hadn't read the proposed policy in detail and answered that they thought the proposed tariff was correct, not too long, or too short, or that they thought the proposed tariffs were not a significant change from tariffs in Leeds.
- 3.10 There was a marked difference between the survey results in Leeds and in the other authorities. Leeds was the only authority where a majority of respondents agreed with the tariffs proposed in the suitability policy. In three of the policy areas, a majority (i.e. three or more authorities) of the surveys had a majority of responses disagreeing with the tariffs:
- Minor traffic or vehicle related offences (5 years);
  - Hackney carriage and private hire offences (7 years); and
  - Certificate of good conduct.
- 3.11 In only one policy area, however, was there a majority of responses across the region disagreeing with the tariff:
- Minor traffic or vehicle related offences (5 years).

### **Considerations about applicants and current licence holders' suitability**

- 3.12 The authorities have shared their individual consultation results and reviewed the specific responses to the consultation. In addition, the authorities have considered a number of areas where the suitability policy may be revised, strengthened or clarified. These discussions have resulted in the five authorities writing Suitability Policies with some relatively minor additions or variations from that developed nationally. The additions are marked in red for clarity in the Leeds (WY&Y) Suitability Policy attached at **Appendix 3**.
- Paragraphs 10 and 29 include cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information must be reported to the Council in the format and timescales stated in the relevant policy. Authorities want to emphasise that failing to report a caution, conviction or other information cannot be regarded as merely an oversight, and will be taken very seriously.
  - Paragraph 28: Any applicant who has resided outside the UK for any period longer than 6 (not 3) months within the preceding 3 years will be required to produce a certificate of good conduct dated in the last 3 months which details any convictions or cautions recorded against the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. Alternatively

an applicant may be required to produce a Statutory Declaration dated in the last 3 months.

- Paragraph 32 An applicant must hold a full DVLA driver's licence, have the right to remain and work in the UK and be a "fit and proper" person.
- Additions or changes to Table A:
  - Battery added to list of violence offences;
  - Minor traffic offences set at 3 years, not 5 years.

3.13 In their consideration, the authorities also took two main issues into account: first, the applicability of new national guidance or licensing authority policy to historical convictions and cautions, and second, the deliberately broad categories in the suitability guidance. They are discussed in turn.

### **Consideration of fit and proper person at renewal**

3.14 The West Yorkshire and York officers noted that the licensing authority must not issue a licence until or unless it is satisfied that a person is fit and proper. The suitability policy explicitly states in paragraphs 5 and 15 that the suitability policy should be used as a guideline as to whether an individual is fit and proper both at the stage that they apply to be licensed as a taxi or private hire driver, and when they apply to renew an existing licence.

3.15 It is extremely likely that the application of the policy will be scrutinised and decisions appealed when historical convictions and cautions (and also other information such as allegations or complaints) are considered; particularly when considering an applicant who already holds a licence and is applying to renew that licence. The applicant may have no new information about them since their last application, but previous information, such as common assault, which under the council's current conviction policy would carry a tariff of 3 years, would now be considered for 10 years after the caution or conviction.

3.16 The suitability policy gives decision makers scope to judge cases on their merits in such circumstances, and would give decision makers discretion to not apply the full tariff when reviewing historical information, as long as they were satisfied that appropriate remedies and rehabilitation had taken place, which would enable a licence holder to have their licence renewed. Of course, if on reviewing the case, it becomes apparent that the caution, conviction or other information had not been taken into account, the full tariff could be applied.

### **Broad categories of caution, conviction**

3.17 The West Yorkshire and York officers noted that the national suitability policy deliberately sets very general categories for many offence types, notably for violence, which spans criminal damage or common assault to terrorism and arson, and recommends the same length of refusal, in this case 10 years. It

is possible to understand the motivation behind the broad categories, so that the policy does not have to be updated each time a new crime is identified.

3.18 Yet, the broad categories provide significant leeway for a licensing decision maker to use their judgment and impose a shorter length of refusal for example, to an act of criminal damage, and an indefinite refusal for example, for an act of terrorism.

3.19 Officers in Leeds and other authorities have lobbied the authors of the statutory guidance to distinguish between extreme and less extreme violence, and set a lower tariff such as 5 years for criminal damage, harassment and assault, provided they are not compounded with other more violent incidents, see the table below. The views of committee members are invited on this subject.

Offences involving violence (including arson, riot, terrorism offences, grievous bodily harm, wounding, actual bodily harm) or connected with an offence of violence.	10 years
Offences involving violence (including harassment, battery, common assault & criminal damage) or connected with an offence of violence.	5 years

3.20 If approved, this new tariff would give officers in Leeds discretion to distinguish between applicants and existing licence holders who have arrests, cautions or convictions which would not carry a long custodial sentence (below 6 months). A refusal period of 5 years would still be a longer period of refusal than the 3 years in the council's current conviction policy, and the officer making the decision would retain the ability to refuse a licence after 5 years if they were still not confident that the person was a fit and proper person.

3.21 The officers in Leeds have significant experience of applying the current convictions policy and defending the policy against legal challenge on appeal in Leeds Magistrates and Crown Court. At the rear of the current Leeds convictions policy, officers use a comprehensive guide to convictions in a number of defined categories with probationary periods ranging from never or 10 years, down through 8, 6, 5 and 3 years respectively, depending on the severity and category of offending. This Council policy has proved to be proportionate and has withstood robust legal challenge gaining the support of Magistrates and Crown Court judges who have heard appeals and decided in the favour of the Council in 100% of cases over the past 3 years.

3.22 The officers in Leeds have suggested that, by including the extreme violence (e.g. carrying a sentence of more than 6 months in prison) with less serious violence (carrying a sentence of 6 months or less), would require a high level of discretion from decision makers. The current detailed convictions policy in place in Leeds already refuses a licence for 10 years or never for serious

violence. The current policy does in our view helpfully differentiate between the most serious violent crimes, which are comparatively rare, and the more frequent less serious violent crimes such as assault, and battery.

- 3.23 The officers in Leeds feel that by grouping together less serious violence, such as assault or battery, criminal damage with the most serious violence, such as terrorism, GBH with the same proposed tariff, decisions to refuse licences run the risk of being overturned on appeal at magistrates' or crown court as being disproportionate. The officers felt it would be clearer to distinguish between offences which would carry a prison term of six months or less in a lower category of violence, like the Suitability guidance provided for a lower category of vehicle offence. This rationale may also apply to other categories of offences specified in the convictions policy.
- 3.24 A policy is always a starting point, not a rigid requirement. For example, under a proposed 10 year minimum tariff for violence, a decision maker can make a decision to refuse a licence and indicate the length of time they would refuse a licence by taking the case on its own merits, and make a decision to refuse a licence for a different length of time other than that set out in the policy. However, by including all types of violence in one category and recommending 10 years, the suitability guidance gives decision makers a high degree of discretion in terms of how long they might decide to refuse a licence for.
- 3.25 In the opinion of Leeds officers, a case decided favourably on its own merits under a 10 year tariff for violence for example, may constitute a complete move away from the policy rather than a discretionary decision in line with the policy. Officers would advise that moving away from the policy in the majority of cases would lead to a redundant policy. Therefore, under the proposed policy, the 10 year tariff would be applied with a low degree of discretion required in only the most exceptional cases, as it is now against a 3 or 5 year tariff. Leeds' current policy categorises convictions and provides rehabilitation periods accordingly. This has helped decision makers to be consistent and decision made under this policy have been supported by courts as they were deemed proportionate.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 The council does not plan to consult again on these proposals. Following passing the proposed policy to the Executive for approval, the council will advertise the proposed changes on the council website, and to current licence holders and applicants.
- 4.1.2 The council plans to implement the revised policies from 1 November 2019, following discussion at September Licencing Committee.
- 4.1.4 The council proposes to implement the new suitability policy from 1 November 2019, and review the impact of the policy on the number and type of appeals against licensing decisions for the initial 12 months in West Yorkshire and York. It is also possible that other case law arising from

appeals and requests for judicial reviews may have the effect of requiring the policy to be reviewed and amended.

## **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 and policy changes made under the scheme of sub delegation. An Equality Impact Assessment Screening report is attached.

## **4.3 Council policies and City Priorities**

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

### **Best Council Plan**

#### **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; and
- 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; and
- 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;
- Safeguarding children and adults at risk:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and adults at risk 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 adults at risk.

#### **4.4 Resources and value for money**

- 4.4.1 The Taxi and Private Hire Licensing service is currently cost neutral to the council and by virtue of the Local Government (Miscellaneous Provisions) Act, 1976, raises its own revenue by setting fees to meet the cost of issuing and administering licences.
- 4.4.2 These arrangements mean that if proposals are associated with additional costs, they will be funded via licence fees and will not place additional pressure on the council's budget.
- 4.4.3 It is very likely that the new policy will increase the number of licensing decisions where the council will ask for additional information, and either impose additional conditions on a licence holder or will refuse a licence, in many cases, based on historical information. In turn, this is likely to increase the number of appeals against the refusal to grant or renew a licence. In the past three years, the council has refused to renew 38 licences, and had six appeals, all successful. Over the same period, the council has questioned around 100 licence holders about information arising on DBS checks.

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 There are possible legal implications arising from this review, both concerning the key legislation for taxi and private hire licensing, which is Local Government (Miscellaneous Provisions) Act 1976.
- 4.5.3 The Local Government (Miscellaneous Provisions) Act 1976 section 51(1) (b) refers to licence holders holding a valid full (i.e. not provisional) driving licence for 12 months or more.
- 4.5.4 The Local Government (Miscellaneous Provisions) Act 1976 section 61 refers to licensing decisions to refuse to renew a licence on two grounds:
  - a) based either on **new** evidence or conviction involving dishonesty, indecency or violence, since the grant of the licence. (Emphasis added)
  - b) any other reasonable cause.
- 4.5.5 The council has secured legal advice on how the new policy should be applied at the stage where a current licence holder is applying to renew their licence, for example with an 'old' conviction or caution, where relevant

remedial actions were put in place (such as drug test or additional training). The legal advice suggests that the new policy does give a licensing authority reasonable cause to review previous convictions and cautions, and that each case will be treated on its merits.

- 4.5.6 In some cases, the council may view those actions as having adequately addressed the risk posed by that licence holder with that conviction or caution, and no new period of refusal would be imposed.
- 4.5.7 In other cases, the new tariffs in the suitability policy could lead to the refusal to renew a licence not based on behaviours since the previous grant of the licence, but based on the new suitability policy requiring the council to view previous behaviour, evidence or conviction in a new light.

## **4.6 Risk Management**

- 4.6.1 The October 2018 report to Licensing Committee identified no major risks and mitigating actions. The aim of the new policies is to reduce the risk posed by licence holders to the travelling public, and to increase the confidence of the public that their taxi and private hire drivers can be trusted.
- 4.6.2 The review of the suitability policy has raised a new risk of a significant increase in the number of appeals made against the council's licensing decisions, and the increase in resulting casework. The proposed 12 month review of the suitability policy will give each council the ability to review the effectiveness of the new policy and impact on decisions and appeals.

## **5 Conclusions**

- 5.1 The report has addressed the results of consultations on two areas, the suitability of people to hold a licence, and the progress of the harmonisation project in West Yorkshire and York. The report has summarised the findings and recommendations of the consultation, and proposed revised policy.
- 5.2 The report has provided details of discussion where the council's suitability policies and conditions should be revised at the same time as the five other authorities in West Yorkshire and City of York.
- 5.3 The report proposes arrangements for implementation and review of the suitability policies. If the respective policies can be approved and implemented in all six councils, it would mark significant progress towards adopting common minimum standards for taxi and private hire licensing in the region. The suitability policy would replace the council's current convictions policy, and form the basis of a common framework for refusing and resisting licences, which could be used for the new LGA/NAFN database of refused and revoked licences.

## **6 Recommendations**

- 6.1 That committee members note the purpose and content of the information in this report.
- 6.2 That committee members consider the summary of the responses to the consultations, the proposed policy, and the discussion points raised in the report, and note that there may be further guidance being developed as a result of the national consultation on statutory guidance, which included the table of suitability licensing decisions
- 6.3 That committee members pay particular attention to the proposal to distinguish the extreme violence examples from less extreme violence, with a lower tariff of 5 years, not 10 years.
- 6.4 That committee members note the new policy on determining the suitability of applicants and licence holders as drivers in taxi and private hire licensing, and that this policy take effect from 1 November 2019.
- 6.5 That the Taxi and Private Hire licensing Manager be authorised to make any further clarification changes necessary to the policy, to align the policy as closely as possible with the other West Yorkshire & York Authorities and meet the preferences of committee members, officers and stakeholders in Leeds.

## **7 Background documents**

Department of Transport: Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, February 2019:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf)

Institute of Licensing guidance on suitability of applicants:

[https://www.instituteoflicensing.org/documents/Guidance\\_on\\_Suitability\\_Web\\_Version\\_\(16\\_May\\_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

Current Leeds City Council Convictions policy:

<https://www.leeds.gov.uk/docs/criminal%20convictions%20policy.pdf>

**Appendix 1 Summary of responses to consultation**

**Appendix 2 Summary of West Yorkshire & York Responses**

**Appendix 3 Leeds (WY&Y) Suitability Policy**

## Appendix 1 Summary of responses to consultation on suitability and driver training

Response/Objection	Leeds City Council response
<p><b>Clean Air Zone will harm taxi and private hire drivers' incomes (general comments)</b></p>	<p><i>We appreciate that drivers and vehicle owners and proprietors may have concerns about the council's plans for a Clean Air Zone for the city.</i></p> <p><i>All Clean Air Zone options provided by central government have implications for taxi and private hire vehicles. The council is has finalised plans for the Clean Air Zone for Leeds, and has secured funding from the Clean Air Fund to assist Leeds licence holders to make the transition from high polluting to ultra low emission vehicles.</i></p> <p><i>The council has also confirmed plans from central government for a central database of taxi and private hire vehicles so that non-compliant out of district private hire and taxi vehicles will be required to pay the Clean Air Zone charge.</i></p> <p><i>The proposed Clean Air Zone charge of £12.50 per day will be ringfenced to fund work to improve air quality in Leeds, it will not be used to fund taxi and private hire licensing.</i></p>
<p><b>Out of town vehicles should be stopped coming into Leeds (general comments)</b></p>	<p><i>We know that Leeds licensed drivers don't like the increase in drivers being licensed in other districts and working regularly in Leeds.</i></p> <p><i>Our investigation of journey records show that many customers choose out of district providers for their journey into Leeds and their journey home. Leeds has a vibrant night time economy, three large universities and a regional airport, all serving the wider city region. We do not want, nor do we have powers, to 'stop' all out of district drivers coming into Leeds.</i></p> <p><i>Our focus is on keeping the travelling public safe, so we have taken a number of steps to put out of district vehicles under scrutiny. These steps include maintaining a database of out of town vehicles observed in Leeds on a regular basis, checking journey records with operators licensed in other authorities, including out of town vehicles in 'plying for hire' operations, and joint working with West Yorkshire Police.</i></p> <p><i>We are also starting to conduct cross border enforcement with the four other West Yorkshire authorities and City of York, so that enforcement officers from any of the authorities can inspect vehicles licensed by any of the authorities.</i></p> <p><i>However, recent case law has found that out of town working is very difficult to regulate. Licensing authorities (such as Knowsley MDC) which have tried to impose 'intended use' conditions on their licence holders have had this decision appealed and lost in High Court. Licensing authorities (such as Reading BC) which have tried to prosecute (without a</i></p>

Response/Objection	Leeds City Council response
	<p><i>test purchase) out of town drivers for plying for hire have also lost at appeal.</i></p> <p><i>Focusing on passenger safety, we are working very closely with neighbouring authorities and large private hire operators to ensure that drivers are not able to have their licence revoked or refused in Leeds, and get a licence in a neighbouring authority, in order to work in Leeds.</i></p> <p><i>We will conduct a review of the council's operator policies and conditions, and it is possible that the review may include additional requirements and conditions for operators using apps, with vehicles and drivers who are routinely operating outside of their licensed district.</i></p>
<p><b>Leeds' licensing conditions are higher than other councils (e.g. tinted windows, vehicles first licensed not older than 5 years, impact on costs) (General comments)</b></p>	<p><i>It is a matter for each licensing authority how they put licensing conditions in place. We recognise that where there is a significant difference in licensing fees, there is an incentive for some licence holders to move to be licensed by a lower fee authority. We also know that some licence holders are motivated to be licensed in authorities with licensing conditions which are easier to meet.</i></p> <p><i>The licensing conditions which Leeds City Council has in place to there to maintain passenger safety and promote public confidence in the local taxi and private hire trade. The conditions which Leeds City Council has put in place which are higher than some other authorities, such as not permitting window tints in the rear of licensed vehicles which let less than 70% of light through.</i></p> <p><i>Leeds City Council maintains a high level of safety for the travelling public when using taxi and private hire vehicles. To support this, it is considered necessary to ensure that the Police, Council Enforcement Officers and members of the public can always see into a licensed vehicle in outside lighting conditions. This discourages crime from being carried out inside the licensed vehicle and it has also been established that women, vulnerable people and disability groups feel safer when they can easily see out of, and others can see into, the vehicle.</i></p> <p><i>It is now the current practice for different manufacturers to use glass with varying degrees of tint as standard. However, irrespective of the type of glass fitted by the manufacturer, Leeds City Council will not licence a vehicle unless the glass has a minimum light transmission which enables clear vision both into and from the vehicle at all times.</i></p> <p><i>In accordance with national regulations, the windscreen shall have a minimum light transmission value of 75% and the near and offside drivers windows 70%. The other windows must also have a minimum light transmission 70%.</i></p> <p><i>Leeds City Council has been in contact with vehicle manufacturers to check which vehicles are manufactured with levels of tint with meets the national regulations. We would advise anyone buying a vehicle for the</i></p>

Response/Objection	Leeds City Council response
	<p><i>first time or changing vehicle to check before buying that the window and windscreen tints are within acceptable levels.</i></p> <p><i>With respect to the age of vehicle, we recognise that Leeds has a vehicle age restriction at age of first licence and maximum age, which is more demanding than some other authorities. We will shortly be reviewing our vehicle policies and conditions, and will see how the conditions could be reviewed, while maintaining the focus on passenger safety and comfort.</i></p>
<p><b>Drivers should not have to meet suitability standards (Suitability)</b></p>	<p><i>We cannot agree that taxi and private hire drivers don't need to meet any test of their being safe to work (known as 'fit and proper'). We don't agree that a driving licence is sufficient evidence of someone's suitability to work as a taxi or private hire driver.</i></p> <p><i>Working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i></p> <p><i>The reason for the authorities in West Yorkshire and York consulting at the same time is to set some common minimum standards for licence holder suitability across the region. This should give the public confidence that drivers have met a common minimum standard, irrespective of where in the region they have been licensed, and that a driver who has been found unsuitable in one district will be able to get a licence in another district because a different test is used of their suitability.</i></p>
<p><b>Once you have served your punishment you should be able to work (Suitability)</b></p> <p><b>You are innocent until proven guilty (Suitability)</b></p> <p><b>If the police drop a prosecution against a driver, you should get your licence back (Suitability)</b></p>	<p><i>We agree that a conviction or caution doesn't necessarily means that a person can never be regarded as fit and proper to work as a taxi or private hire drivers. It will depend on the individual circumstances.</i></p> <p><i>However, working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i></p> <p><i>The proposed suitability policy would set down in broad terms the length of time a licence would be refused, depending on the type of conviction or caution. The policy is based on national review of individual councils' convictions policies.</i></p> <p><i>Criminal law uses a high burden of proof, which means for example, an allegation of inappropriate behaviour may not be prosecuted because of a lack of a witness. Licensing authorities can use a lower level of proof, which may mean that a case, which isn't seen as suitable for prosecution</i></p>

Response/Objection	Leeds City Council response
	<i>by the police and crown prosecution service, can be used to make a licensing decision on the basis of probability.</i>
<p><b>The length of time a licence would be refused is too long for motoring points (Suitability)</b></p> <p><b>The length of time a licence would be refused is too long for driving with a mobile phone (Suitability)</b></p> <p><b>You should be able to drive unless you are disqualified (Suitability)</b></p>	<p><i>We cannot agree that taxi and private hire drivers don't need to meet any test of their being safe to work (known as 'fit and proper'). We don't agree that a lower standard should be applied to people who drive for their living. The public have a right to expect that taxi and private hire drivers can drive professionally and safely for long hours and many thousands of miles without incurring minor traffic offences and points.</i></p> <p><i>Working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i></p> <p><i>We do recognise however, that the proposed refusal of a taxi or private hire licence for 5 years for minor traffic offences or driving with a mobile phone is a very long length of refusal, especially for drivers who may have attended speed awareness course or other remedial training as part of measures to ensure they satisfy their authority they remain fit and proper.</i></p> <p><i>The West Yorkshire and York authorities have proposed that this tariff be 3 years, which would also allow all endorsements to be viewed by licensing authority, for applicants and current licence holders renewing an existing licence.</i></p>
<p><b>The length of time a licence would be refused is too long for violence (Suitability)</b></p> <p><b>The length of time a licence would be refused is too long for drugs (Suitability)</b></p> <p><b>The length of time a licence would be refused is too long for sexual offences (Suitability)</b></p> <p><b>The length of time a licence would be refused is too short for violence (Suitability)</b></p> <p><b>What are you going to do to keep drivers safe from violent passengers? (Suitability)</b></p>	<p><i>We cannot agree that taxi and private hire drivers don't need to meet any test of their being safe to work (known as 'fit and proper'). We don't agree that a conviction or caution for violence, drug taking or supply, or sexual offences should be taken lightly when considering someone's suitability to work as a taxi or private hire driver.</i></p> <p><i>We recognise that taxi and private hire drivers come into contact with people who are sometimes violent or aggressive. We encourage all drivers to report violent passengers to the police, and we are looking to develop a new approach to encourage CCTV in vehicles, which should discourage violent behaviour against both drivers and passengers.</i></p> <p><i>However, working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i></p> <p><i>We do recognise that the categories used in the guidance are very broad, and that while all acts of violence are serious, terrorism should not necessarily be treated the same as assault. Each case will be judged on its</i></p>

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<p><b>The length of time a licence would be refused is too short for drugs (Suitability)</b></p> <p><b>The length of time a licence would be refused is too short for sexual offences (Suitability)</b></p>	<p><i>merits, and if the officer determines, a shorter or longer tariff may be used.</i></p> <p><i>The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.</i></p>