

Report of Chief Officer, Elections and Regulatory

Report to Licensing Committee

Date: 28 January 2020

Subject: Leeds City Council Suitability and Convictions Policy – additional report

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| 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 Licensing Committee with information about the Suitability and Convictions policy, in response to additional representations from drivers' groups, who object to one aspect of the policy.
- 2 The council has made good progress in improving and maintaining the safety of the travelling public in Leeds. However, because of taxi and private hire issues which span local authority borders, we will make further improvements if we work more closely with neighbouring authorities.
- 3 The report sets out the Suitability and Convictions policy prepared in response to Institute of licensing (IOL) and other national guidance and as part of a number of initiatives intended to establish minimum standards across West Yorkshire and York. It explains the consultation process and addresses the objections.

Recommendations

- That Members determine the response to the representations received;
- That Members note the 12 month review period agreed at the September 2019 Licensing Committee;
- That Members identify any further action required.

1 Purpose of this report

- 1.1 To inform members of the response to the planned implementation of the new Suitability and Convictions policy since the approval of the policy at Executive Board in October.
- 1.2 To inform members of the consultation method, both in Leeds and across West Yorkshire and York, to clarify the results of the consultation, and set out the changes to the policy following the consultation.
- 1.3 To inform members of the way the policy will be implemented, including how exceptional circumstances will be taken into account, and how the application of the policy will be reviewed.

2 Background information

- 2.1 It is a function of the council as a licensing authority to issue Hackney Carriage and Private Hire licences. The overriding requirement of the council when carrying out this function is the protection of the public and others who use, or can be affected by Hackney Carriage and Private Hire services. The aim is to ensure that public safety is not compromised.
- 2.2 The council must ensure that applicants/licence holders are and remain fit and proper persons to hold a licence. This applies to all new applicants, to existing licensees on renewal, and when new information is disclosed. This requirement is contained within Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.3 Taxi and private hire vehicles are used by almost everyone, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated. A taxi or private hire driver has significant power over a passenger who places themselves, and their personal safety, in the driver's hands.
- 2.4 The Local Government (Miscellaneous Provisions) Act 1976 is clear that the council does not have to strike an even balance between the driver's right to work and the public's right to protection. The public are entitled to be protected. This means that the council is entitled and bound to treat the safety of the public as the paramount consideration.
- 2.5 The six authorities in the West Yorkshire and York (WY&Y) agreed to consult and/or engage on two policies in October 2018, and the consultation took place between November 2018 and January 2019. The group had agreed that the collaborative approach would be more effective if the authorities were to undertake a project to align their policies and conditions more closely, establishing minimum standards in common.
 - Driver training; and
 - Suitability and Convictions policy;
- 2.6 The other WY&Y authorities implemented very similar versions of the Suitability and Convictions policy between March and September 2019, adapted from the 2018 Institute of Licensing guidance. Leeds was the final authority in the group to approve the policy, as the Suitability and Convictions policy was discussed in

detail at September's Licensing Committee, and was approved at October's Executive Board.

- 2.7 The council's taxi and private hire licensing team contacted licence holders in December 2019, ahead of implementing the policy at the start of February 2020. This communication has, however, generated significant representations by hackney carriage and private hire associations, trade unions, drivers' groups, and by private hire operators, and examples are provided in **Appendices 1, 2 and 3**. These individuals and groups have contacted their councillors and MPs to object to the policy. It is appropriate that these concerns are discussed and addressed.

3 Main issues

- 3.1 The objections to the Suitability and Convictions policy have focused on the following issues:

- The consultation exercise was inadequate and/or invalid;
- The policy relating to minor points is excessive and/or draconian; and
- Concerns that while Leeds has approved a similar Suitability and Convictions policy to other authorities, the policy will be implemented very differently.

The following sections of the report address these issues.

Consultation on draft Suitability and Convictions policy

- 3.2 The council has received criticism for how it consulted on the draft Suitability and Convictions policy. Much of the criticism has focused on the council conducting consultation primarily via email and/or electronic surveys. The criticism suggests that this approach is inadequate when one takes into account the likelihood that members of the taxi and private hire trade may have low levels of literacy or use of computers. It has been suggested that the council should adopt a different approach to consultation.
- 3.3 There is UK guidance and case law on the important components of consultation, but we repeat the same here for convenience. In *R (Moseley) v Haringey London Borough Council* [2014] UKSC, the Supreme Court considered the nature of the duty to consult. It confirmed that in order for the consultation process to be carried out "properly", there are 4 essential requirements:
- (i) The consultation must be at a time when the proposals are still at a formative stage.
 - (ii) The proposer must give sufficient reasons for any proposal to permit of intelligent consideration and response.
 - (iii) Adequate time must be given for consideration and response.
 - (iv) The product of consultation must be conscientiously taken into account in finalising any statutory proposal.
- 3.4 In elaborating upon those requirements, the Supreme Court confirmed that the essential obligation

“...is to let those who have a potential interest in the subject matter know in clear terms what the proposal is and exactly why it is under positive consideration, telling them enough (which may be a good deal) to enable them to make an intelligent response.”

3.5 In respect of the degree of specificity demanded by fairness, the Supreme Court held,

“Two further general points emerge from the authorities. First, the degree of specificity with which, in fairness, the public authority should conduct its consultation exercise may be influenced by the identity of those whom it is consulting... Second, in the words of Simon Brown LJ in *Ex p Baker* [1995] 1 All ER 73 , 91, “the demands of fairness are likely to be somewhat higher when an authority contemplates depriving someone of an existing benefit or advantage than when the claimant is a bare applicant for a future benefit”.

3.6 How the council has satisfied these standards during the consultation is summarised in the table below.

| | Review | Considerations |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Early stage | <p>The consultation was based on the 2018 Institute of Licensing (IOL) Suitability guidance, developed by the IOL, Local Government Association, National Association of Licensing and Enforcement Officers and Lawyers for Local Government.</p> <p>Calderdale, Leeds, Wakefield and York took part in consultation. Bradford engaged its stakeholders.</p> | <p>The IOL guidance had been shared with UK licensing authorities, and discussed at Leeds Licensing Committee in October 2018.</p> |
| Reasons / clear terms | <p>The consultation highlighted that the aim of the policy review was to develop common approach to suitability and convictions across the WY&Y area, using the IOL guidance.</p> <p>The consultation separated out the questions asking for views on each aspect of the proposed policy.</p> | <p>It is important for consultation to summarise and or separate out specific questions so that people can answer each point at a time.</p> <p>The consultation page included both the current and the proposed policies, however some respondents did say that they had not read the policy or all of the policy when responding.</p> |
| Timely | <p>The consultation took place between November 2018 and January 2019 in WY&Y. Leeds extended the deadline at the request of one private hire operator, so that in Leeds, the consultation took place from 5 November 2018 to 21 January 2019.</p> | <p>The original aim was for each of the authorities to adopt the Suitability and Convictions policy from the same date, following the consultation.</p> <p>In fact, the authorities implemented the policy at different dates, in part as a result of the level of discussion generated by the</p> |

| | Review | Considerations |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | consultation. |
| Responses | <p>The five authorities taking part in the consultation revised their policies in response to the findings of the consultation.</p> <p>The five authorities revised the policy relating to minor points, from 5 years to 3 years, but kept the threshold the same (7 points or more).</p> <p>Leeds revised the policy further, extending paragraph 22 on existing licence holders being likely to remain fit and proper unless any new information is received or disclosed, and adding a new category of less severe violence (5 years) following consultation and discussion at September Licensing Committee.</p> | <p>The end result is that, by responding to consultation, the authorities have arrived at slightly different policies. This was not the original intention of the policy, but reflects a willingness to take into account the results of consultation.</p> <p>The review of the application of the policy may reveal different approaches across the authorities.</p> |
| Fairness / method | <p>The five authorities consulted using the same survey, each asking the same questions. Leeds used predominantly email and the council's online consultation tool, which is responsive, can be used on mobile phones, and does not need PC access. The other four authorities used SurveyMonkey, which Leeds does not use for GDPR reasons. All authorities provided paper copies and encouraged respondents to reply by letter, although comparatively few did so.</p> <p>Leeds consulted with several trade groups (associations and unions), over 5000 licence holders (drivers, operators, vehicle proprietors) and around 90 stakeholders.</p> <p>Leeds received 250 responses to the Suitability consultation and 890 responses to the driver training consultation which took place at the same time.</p> <p>Leeds received additional representation by trade groups before the September Licensing Committee.</p> | <p>The methodology reflects the council's approach to consultation – inviting people to respond to an online consultation, but also accepting email or collective responses (one email or letter with many names added).</p> <p>The council does not need to set a minimum level of respondents, but was wise to send reminders to trade and stakeholders, inviting completion of the survey.</p> |

3.7 **Appendix 4** includes an example of an email to direct respondents to the survey. The council also sent reminders to the email addresses of licence holders. A separate appendix also includes each of the Leeds responses with specific comments to the Suitability and Convictions consultation. The report to September Licensing Committee grouped the responses and answered them.

- 3.8 **Appendix 5** includes a summary of all of the responses across WY&Y to the Suitability and Convictions policy consultations. It shows the responses in Leeds compared to the other WY&Y authorities taking part in the consultation. This information was also presented to Members and discussed at the September Licensing Committee.
- 3.9 In summary, the information presented here demonstrates that the council, and the other councils taking part in the WY&Y consultation, met the legal standard for effective consultation, with a range of trade associations, individuals and stakeholders.

The policy relating to minor points

- 3.10 The council has received criticism for the specific area of the policy relating to licence holders who have accumulated seven points or more. This appears to be the main area of concern from current licence holders, some of whom are worried that their licence may not be renewed if they already have seven points or more on their driving licence. Other licence holder have expressed concerns that their licence will be revoked 'automatically' as soon as they report new points on their licence.
- 3.11 The council's current convictions policy states:

Minor Road Traffic Offences:

Convictions for minor traffic offences (identified in Table 1) 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.

Leeds City Council Convictions criteria 2016, page 15

- 3.12 The IOL guidance states:

Motoring convictions

- 4.39 Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

Institute of Licensing Suitability guidance 2018, page 22

It is useful to note that while the IOL guidance suggested one minor traffic offence would not be a barrier to gaining a licence, it did not set a threshold for how many points would be a barrier. The WY&Y authorities set a threshold at 7 points, which reflected that a licence holder may have incurred two minor

motoring convictions, and may also have previously attended a driver awareness course as an alternative to points on their licence.

3.13 The October 2018 Licensing Committee report and the WY&Y consultation between November 2018 and January 2019 consulted on the following:

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| Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence. | 5 years |
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3.14 Following evaluation of the responses, the WY&Y policy was revised to:

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| Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence. | 3 years |
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3.15 There is little doubt that a transition from the current convictions policy, which has been in place since 2016, to policy based on the IOL guidance brings into focus a larger number of licence holders, anyone who may have between 7 and 12 points. The council does know the current level of points a licence holder has at three stages before taxi and private hire licensing officers investigate further:

| Stage | Declaration | Action |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Application | Council conducts check of DVLA licence, and checks with applicant. Driving test is included in driver training for applicants. | Applicants with 7 or more points are likely under the new policy to be refused until their points fall below 7. |
| Renewal of existing licence | Hackney carriage drivers report points at renewal, not when points are issued. Council conducts check of DVLA licence of both Hackney carriage and private hire drivers at renewal of existing licence. | Drivers with 7 or more points are likely to have their licence renewed if the points were previously declared, and there are no new issues or concerns. Drivers with 7 or more points will have their licence reviewed if the points were not previously declared. This may involve additional training or other interventions before a revocation |

| Stage | Declaration | Action |
|-----------------------------|-----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | is considered to bring a driver into compliance. |
| When new points are awarded | Private hire drivers are required to report points within 3 days. Council conducts check of DVLA licence. | Drivers reporting new points which takes them to 7 or more points will have their licence reviewed. This may involve additional training or other interventions before a revocation is considered to bring a driver into compliance. |

3.16 The majority of the objections to the new policy accept the principle that it is reasonable for the council to require a high standard of driving from new entrants to the taxi and private hire trade in Leeds. The concerns appear to focus on how many drivers may have 7 points or more, and how many are close to exceeding this level. As the policy makes clear, the public are entitled to expect high standards of taxi and private hire drivers, whether they are new to the industry or have been licensed for 20 years. The largest two areas of complaint from the public to the council about taxi and private hire drivers are driver conduct and standard of driving, accounting for more than 500 complaints in 2019, so it is evident that the Leeds public give a priority to driving standards, among other factors.

3.17 Looking forward, and with a view to monitoring implementation of the policy, the council has received a number of Freedom of Information requests asking for the details of how many drivers have points on their licence, and how many have each level of points. While this information may help provide some context, the council does not hold this information in a way in its licencing system which takes into account when existing points expire from a licence. The council is taking part in the DVLA Access to Driver Details (ADD) project, which will enable the council to check driving licence details, and has requested the DVLA to assist in giving the council a periodic breakdown of the numbers of drivers with each level of points.

Implementation and review of the policy

3.18 The council has received criticism for the way in which the policy is worded, how it is likely to be implemented, and how it will be implemented and reviewed in other authorities. The main objections appear to be the following:

- The term 'fit and proper person' is not properly defined.
- Licence holders should not have any more challenging restrictions or background checks than the public or drivers in general.
- Rehabilitation of Offenders Act requires the council to dismiss spent convictions.

- The policy is written in very blunt legal language, relating to departing from the policy only in 'exceptional circumstances', which seems to limit the degree of discretion open to individual decision makers.
- The policy neglects consideration of the livelihoods of licence holders.
- While Leeds and the neighbouring authorities have adopted the same (or very similar) Suitability and Convictions policy, members of the licensed trade have concerns that Leeds will implement it harshly or 'automatically', while other authorities will adopt a less harsh approach.

The report addresses each point in turn.

Fit and proper person

- 3.19 The term 'fit and proper person' is a cornerstone of licencing policy and practice. The purpose of taxi and private hire licencing is passenger (and by extension) public safety, and determining whether someone is a fit and proper person to gain (i.e. at application) or continue to hold a licence is a key element of licencing decision making.
- 3.20 The policy does in paragraphs 6, 7 and 8 set out some of the main aspects of fit and proper person, although it is not a comprehensive definition or exhaustive list of what factors should be taken into account. Taxi and private hire vehicles are used by almost everyone, but they are used regularly by particularly vulnerable groups: children; older people, disabled people, and the intoxicated. A taxi or private hire driver has significant power over a passenger who places themselves, and their personal safety, in the driver's hands. The council is concerned to ensure that, an individual does not pose a threat to the public; that the council's obligations to safeguard children and vulnerable adults are met; and the public are protected from dishonest persons.
- 3.21 The law requires that the council must be satisfied that a person is a fit and proper person to hold a licence. If the council is not satisfied that a person is not fit and proper, it can refuse to licence that person, or ask for more information to enable the council to make a decision. That decision is wholly based on the strengths of that individual case. The legal context is that the council must not issue a licence or allow to licence someone it is not satisfied is a fit and proper person.
- 3.22 The IOL policy therefore does address the question of what factors and additional information should be taken into account in order to determine someone's suitability to gain or continue to hold a licence. The licencing authority may very well have good information about an existing licence holder, and may have taken into account cautions, convictions, and points at an earlier licencing decision. The Leeds Suitability and Convictions policy added, following consultation and discussion at September Licencing Committee, an additional sentence in paragraph 22, in bold for emphasis:

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| 22. | Any concerns, issues, incidents or convictions/offences not covered by this Policy will not prevent the Council from taking them into account. It is the aim of this Policy that any information that has not been fully considered, will be considered at the time a licence is considered for renewal. Licence holders renewing their licence with no new concerns, issues, incidents, |
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convictions/offences, and about whom no other new information has been received will continue to be regarded as fit and proper persons.

Licence holders, the law and specific licensing policies

3.23 One theme of criticism is that in developing this policy, the council has given undue emphasis on licensing guidance, which in some cases exceed those included in general law, such as Road Traffic Act. The petition and protest include a number of variations on the specific point that the council should allow licence holders to be licensed, as long as their driving licence has not been disqualified, and the council should leave it to the courts to determine who should be able to drive.

3.24 IOL guidance included a paragraph on the policy.

1.10 This guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.

Institute of Licensing Guidance on Suitability, 2018, p 4

3.25 It is well established that licensing policies can include conditions and provisions which differ from levels established in law, and the specific issue of points is an instructive example.

3.26 The UK law states in Local Government (Miscellaneous Provisions) Act 1976 s51 (1) that a person can apply for a licence as a private hire driver providing they are not disqualified from working according to their immigration status, and have held a driving licence for more than 12 months. However the next section 51 (2) allows the council to attach 'any other conditions to the granting of a licence as they consider reasonably necessary'.

3.27 A short (i.e. not exhaustive) list of the types of information which the council requires from its applicants and licence holders includes a range of requirements which are not required for the wider public:

- DBS checks and sign up to national DBS update service;
- English/ESOL tests;
- Knowledge tests;
- Geography test;
- Safeguarding test;
- Customer care test;
- Additional driving test;
- Medical assessment; and
- Other information, such as signed declarations.

This indicates the range of information the council may require or request over and above the law for the general public when establishing whether a person is a fit and proper person to work as a taxi or private hire licence holder.

Rehabilitation of Offenders Act requires the council to dismiss spent convictions.

3.28 One complaint received relates to the specific suggestion that historic convictions should be exempt from the policy. Owing to the special nature of taxi and private hire (the vulnerable nature of some passengers and the extent of control a licence holder may hold on an individual), the trade is specifically excluded to take account of convictions over a longer timescales than for other professions. Paragraph 23 of the policy states:

23. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that ALL convictions (including minor motoring convictions and fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale.

The policy limits the degree of discretion open to individual decision makers

3.29 The policy the council has approved uses the same wording as the IOL guidance; to rewrite the wording may have acted to undermine one stated objective for the UK to have some common minimum standards in licensing. The policy does indicate that in some cases, such as cautions or convictions for sexual assault, rape or death, licences will always be refused and for an indefinite period. The policy also indicates in paragraphs 16 and 17 that in exceptional cases, the council may depart from the policy.

3.30 However, it is important for members to note that the guidance and details developed in licensing policies are neither absolute nor exhaustive. Licensing policies are not strictly binding in nature, but instead act as a guide for applicants, decision makers and licence holders to understand what the licensing authority's expectation is when it considers the fitness of licence holders. The policy is a starting point. So while the licensing policy acts as a guide, the fundamental and overriding principle remains that licensing policies must always leave room for discretion and deal with each case on its individual merits. However the merits concern the level of risk to the passenger/public, not the impact on the livelihood of the licence holder.

3.31 It is worth taking this explanation slightly further in answering the questions or concerns licence holders or stakeholders may have. A decision maker must take a range of individual factors into account, such as the likelihood of harm happening in the future, whether the licence holder has been honest in reporting a problem or incident. Those individual factors may lead the decision maker to decide to apply the policy exactly, or to depart from the policy, in ways such as the following:

- To decide that a person continues to remain a risk and is not a fit and proper person after the end of a period of refusal included in the policy, e.g. violent

crime 11 years ago, when the tariff recommends a refusal of 10 years.
Licence refused.

- To decide that a person is a risk and is not a fit and proper person following a serious single complaint or pattern of separate complaints, although no caution, conviction or points have been awarded. Licence revoked.
- To decide that a person is a fit and proper person and can be licensed, following investigation, additional training or medical advice/drug testing. Licence issued, possibly with additional conditions.

3.32 The legal basis for decision making is clear that a licensing authority must not give a licence or allow to continue to be licenced someone who the authority believes not to be a fit and proper person. However, the law allows significant scope for authorities to request extra information in order to make this judgment, and importantly, allows discretion in decision making.

3.33 The officers making decisions about applicants and licence holders under this policy will use a 'case review' method, where borderline decisions or decisions are reviewed where an officer proposes to make a decision which does not follow the policy. This case review involves at least one, and usually two, senior managers, who review the proposed decision. It is not possible to give an exhaustive list of the factors and decisions which might be taken into account, but the list below suggests a range of options which could be exercised separately or in combination, using the example of minor points on a licence.

- Refusal of a licence to a new applicant until their points fall below 7;
- Additional remedial driver training for existing licence holder;
- Issue of a shorter licence period (e.g. 3 months) to review conduct; and
- Revocation of an existing licence is likely to be considered if there is a pattern of complaints about poor driving, points, failure to declare points, amounting to serious infringements.

The policy neglects consideration of the livelihoods of licence holders

3.34 A number of the complaints raised the issue of the livelihoods of taxi and private hire drivers and their families, and how they may be affected under the new policy, particularly the minor points condition. Representative groups and individuals asked what weight the council could give to the individual circumstances of drivers who exceed the points level.

3.35 While each decision should be made on its own merit, the merit focuses on the risk presented to the passenger or public, not on the financial hardship afforded by the licence holder or their family. Licensing case law (Leeds City Council vs Hussain 2002 and 2003, Cherwell District Council vs Anwar 2011) states that the financial hardship of a licence holder's family cannot be used as a justification for a licence holder posing a known risk to their passengers and continuing to work.

Concerns about how the policy will be implemented and reviewed in Leeds and other authorities

3.36 The objections have questioned how the six Suitability and Conviction policies, implemented in each of the WY&Y authorities, will differ in practice. There has

been a misleading suggestion that Leeds decision makers could ‘automatically’ revoke licence holders’ licences, whereas it was perceived other authorities could exercise a greater degree of discretion.

3.37 A main ambition of the joint development and consultation on the Suitability and Convictions and the Driver training policies was to develop a more consistent approach across WY&Y authorities. Joint consultation/engagement and policy development would help deliver this, but the authorities do plan to collectively review how they have made decisions and responded to appeals against decisions.

3.38 Each of the authorities in WY&Y has agreed as part of its implementation to review the licensing decisions it has made and appeals it has received for the first 12 months after the policy was adopted. The five authorities were asked to provide any information on licences revoked because of the level of points on a DVLA licence. Four authorities had the information available, and so far one driver has had their licence revoked for exceeding the 7 points or more level.

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| Bradford | We have revoked 10 drivers since implementing the policy in March 2019. We look at the totality of evidence, not one factor in isolation. None of the drivers’ licences were revoked purely for exceeding the level of points. All 10 would probably have had their licences revoked under our previous policy. |
| Calderdale | We have revoked 1 driver for reaching 11 points since implementing the policy in August 2019. |
| Kirklees | We have revoked one driver since implementing the policy. That was for a different driving category, driving while using a mobile device. |
| York | We have not revoked any drivers since implementing the policy in October 2019. We have refused to renew 6 drivers, who had reached 9 points, but had also failed to declare the points, so this was part points, part breach of licensing conditions. |

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Consultation and engagement has already taken place in 2018 and 2019 on this matter.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 Equality and Cohesion Screening Assessments are carried out on the policies recommended for approval at Licensing Committee which are used to inform decision making. The screening process for this policy did recognise that a majority of the Leeds taxi and private hire trade are male, BME, and would be affected by changes in licensing policy. However, the screening also showed that female passengers and passengers with disabilities or mobility needs are statistically likely to take more taxi and private hire journeys than the general population, and would benefit from changes in licensing policy.

4.3 Council policies and City Priorities

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

Best Council Plan 2018/19 – 20/21

Towards being an Efficient and 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 importance of air quality as an issue is also reflected in the Council's vision under our Best Council Plan. Our vision is for Leeds to be a healthy city in which to live, work and visit and we are working with partners to reduce emissions which will bring about health and wellbeing benefits including reducing premature deaths, improving health, promoting physical activity and reducing obesity levels. We are raising general health and environmental standards across the city through the promotion of walking and cycling. The Leeds Public Transport Improvement Programme is working to make improvements to the bus and rail networks which will enable reductions in congestion and greater modal shift, supporting a reduction in emissions.

4.3.3 The Council's Taxi & Private Hire Licensing policies contribute to the following priorities: -

- Reduce crime levels and their impact across Leeds;

- Effectively tackle and reduce anti-social behaviour in communities; and
- 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 There may be resource implications of putting the Suitability and Convictions policy into practice, if it results in more licences being refused and more appeals. The reviewing of decisions under this policy will show the number of decisions and appeals.

4.4.2 It should be noted that the Taxi and Private Hire Licensing service is 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 licenses. This means that any additional costs associated with the proposals will be funded via licence fees and will not place additional pressure on the council's budget.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The consultation was carried out in line with guidance and good practice. This report is for information only, and is not subject to call in.

4.6 Risk Management

4.6.2 The proposals are aimed at reducing the risk of passengers posed by current or future licenced drivers, including those drivers who are not licenced by Leeds City Council, but are licenced by other authorities in WY&Y.

5 Conclusions

5.1 The council has made good progress in improving the safety of the travelling public in Leeds. However, we will only make further improvements if we work more closely with neighbouring authorities.

5.2 The recent response to communication about the planned implementation of a new Suitability and Convictions policy has raised a number of questions about the consultation method, the provisions in the policy, and how the policy will be implemented.

5.3 The report has set out the questions and concerns and sought to answer them as fully as possible.

6 Recommendations

6.1 .That Members determine the response to the representations received;

- 6.2 That Members note the 12 month review period agreed at the September 2019 Licensing Committee;
- 6.3 That Members identify any further action required.

7 Background documents

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>

New Leeds City Council Suitability and Convictions Policy, February 2020:

<https://www.leeds.gov.uk/docs/Leeds%20City%20Council%20Suitability%20and%20Convictions%20Policy%20Dec%202019.pdf>

Current Bradford Suitability policy:

<https://www.bradford.gov.uk/media/5213/driver-suitability-policy-march-2019.pdf>

Current Calderdale Hackney carriage and Private Hire policy (includes suitability):

<https://www.calderdale.gov.uk/v2/sites/default/files/Hackney-Carriage-and-Private-Hire-Licensing-Policy.pdf>

Current Kirklees Suitability policy:

<https://www.kirklees.gov.uk/beta/licensing/pdf/statement-of-fitness-and-sustainability.pdf>

Current Wakefield Suitability policy:

<https://www.wakefield.gov.uk/Documents/licensing/taxis/driver/private-hire-and-hackney-carriage-suitability-policy.doc>

Current York Taxi licensing policy (includes suitability):

https://www.york.gov.uk/downloads/file/9715/taxi_licensing_policy

Appendices

Appendix 1 Petition by Leeds Private Hire Drivers Organisation

Appendix 2 Representation from Unite

Appendix 3 Joint statement from taxi and private hire groups

Appendix 4 Example of Leeds consultation and Leeds responses on Suitability and convictions policy

Appendix 5 Summary of responses to WY&Y consultation on Suitability and Convictions policy

Additional paper for Licensing Committee members – list of all comments to consultation (A3 size paper, prints over 22 pages)

