

# Taxi and private hire licensing - Proposed new criterion in Suitability (Convictions) Policy

Date: 22 September 2021

Report of: Director of Communities, Housing and Environment

Report to: Executive Board

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

## What is this report about?

### Including how it contributes to the city's and council's ambitions

- The proposed criterion sets out the basis for assessing whether a person is a 'fit and proper person' to hold a licence, and states how long applicants and existing taxi and private hire licence holders' licences would be refused following a conviction for minor motoring offences.
- The five other licensing authorities in West Yorkshire and the City of York have previously adopted the suitability policy, with a small number of revisions. In Leeds, however, representatives of taxi and private hire drivers and operators raised several concerns, and it was agreed that implementation of this criterion be deferred to allow time for further work to be undertaken. Members of Licensing Committee agreed to establish a working group and chaired by three councillors (cross party), officers and key stakeholders to consider the representations made and come back with proposals that would then be considered by the Council's Licensing Committee and Members of Executive Board.
- The conclusions of the working group have now been reported to Licensing Committee and they are now recommending that Members of Executive Board agree to undertake a further period of consultation on a new criterion for Leeds' Suitability (Convictions) Policy.
- If, following consultation, the new criterion is adopted by the council, the revised criterion in the policy would bring Leeds more into alignment with the other West Yorkshire authorities in refusing to licence people with a high level of points on their driving licence.

## Recommendations

That Executive Board:

- a) note the contents of this report;
- b) approve consultation on the new criterion in the Suitability Policy, which is attached as an appendix to this report;

- c) and agree to receive a further report outlining the findings of the consultation and making final proposals on the policy to be adopted.

### Why is the proposal being put forward?

- 1 This report outlines proposed new criterion to be added to the Suitability Policy (attached at **Appendix A**), with a revision from the policy [previously approved by Executive Board at its meeting in October 2019](#). The Suitability Policy would still closely correspond to the format developed by the Institute of Licensing and other bodies, and implemented by the five other West Yorkshire and City of York councils.
- 2 Under taxi and private hire law, the council must not issue a licence to an individual, or allow a licence to continue unless it is satisfied that the person is a safe and suitable person to hold a licence. The Suitability Policy forms the basis of a common framework to determine whether a person is a 'fit and proper' person to hold a licence, which could be used for the [national database](#) of refused and revoked taxi and private hire drivers' licences. Each case is treated on its own merits, however, the tariffs for refusing a licence for a range of convictions would be relevant:
  - When an application is received for a licence;
  - When an existing licence holder applies to renew a licence and new information comes to light (particularly cautions, convictions, penalty points on a driving licence, if they were not declared to the council at the time); and
  - When an existing licence holder discloses new information to the council (particularly cautions, convictions, penalty points on a driving licence).
- 3 Following engagement and consultation across West Yorkshire and York, the six authorities implemented the Suitability Policies between March 2019 and February 2020. However, following representation from the taxi and private hire trade, Leeds City Council decided not to implement the criterion for minor motoring convictions, allowing the council to refuse or revoke a taxi or private hire driver's licence at 7 points for the last 3 years of an individual's DVLA licence. Instead the criterion from the previous Convictions Policy was retained, allowing the council to refuse or revoke a licence at 12 points, and a plan to conduct a review with a working group drawn from officers and stakeholders with a cross-section of views.
- 4 The working group met in March 2021, led by three cross-party Licensing Committee members, and, following a report to Licensing Committee in July 2021, [a preferred criterion has now been developed](#). The criterion which is the recommendation of a majority of the working group, and was supported unanimously by members of the Licensing Committee, is as follows:
  - Applications for a taxi or private hire driver licence be refused when an applicant has 7 or more points for minor convictions showing on their driving licence;
  - Existing licence holders reaching 7 or 8 points for minor convictions will receive a warning and may be required to attend training; and
  - Existing licence holders reaching 9 or more points for minor convictions may have their licence refused or revoked.

## What impact will this proposal have?

### Wards Affected:

Have ward members been consulted?  Yes  No

- 5 Under the Local Government (Miscellaneous Provisions) Act 1976, all licensing authorities have responsibility for determining whether an individual is a 'fit and proper' person to hold a licence. The licensing authority must not by law issue a licence to an individual unless it is satisfied that that person is fit and proper, or safe and suitable, to hold a licence, and this applies to both applicants and existing licence holders seeking to renew their licence.
- 6 The proposal will affect the way in which the council defines an individual as a fit and proper person, reducing the threshold at which a licence is refused – from 12 to 7 points for new applicants, and from 12 to 9 points for existing licence holders. As of 1 September 2021, 4759 drivers had declared no points, and 1144 of 5903 licensed drivers had declared points on their DVLA licences, though not necessarily all for minor motoring convictions.

Points	Private Hire Driver	Hackney Carriage Driver	Total
3	699	115	814
4	12	2	14
5	8	1	9
6	199	32	231
7	3	2	5
8	15	1	16
9	40	6	46
10	3	0	3
11	1	1	2
12	2	1	3
16	1	0	1

- 7 As of 1 September 2021, 55 out of 5903 drivers had declared 9 or more points on their DVLA licences, though not necessarily for minor motoring convictions, and a further 21 drivers had declared 7 or 8 points. These 76 drivers would be most likely to be affected by the new criterion in the policy.

## What consultation and engagement has taken place?

- 8 The six authorities carried out engagement and consultation in 2018-19 on suitability to hold a licence and driver training policies. 695 people and organisations replied to the consultation on suitability, of which 250 were in Leeds.
- 9 The council held two working group meetings in March 2021, focusing on the specific criterion about minor motoring convictions, resulting in the proposed new criterion.
- 10 If approved at Executive Board, the council now proposes to consult again on the proposed criterion (i.e. to refuse new applicants at 7 points, to warn/train at 7-8 points, and to consider revoking/refusal at 9+ points).

## **What are the resource implications?**

- 11 There are potential resource implications from both the consultation and the new policy, if approved. On the consultation:
  - The council has agreed to write letters about the consultation to all licence holders who have not registered an email address with the taxi and private hire licensing service for communication purposes.
  - The council has also agreed to hold a number of meetings with trade representatives and stakeholders.
- 12 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. 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.
- 13 It is likely that, if approved, the revised policy will increase the amount of time spent on supportive licensing work, primarily for existing licence holders. It is likely to increase the number of licences refused, e.g. to applicants with 7 or more points, which would previously have been granted. In cases where licence holders exceed 7 points, the council will ask for additional information, and will impose additional conditions on a licence holder such as a warning and training. In cases where licence holders have 9 points or more, the council will ask for additional information, and will review to see if additional conditions could be placed on a licence holder such as a warning and training, before a revocation or refusal to renew a licence could be considered. In turn, this is likely to increase the number of appeals against the council's refusal to grant or renew a licence. In the past three calendar years, the council has refused to renew 38 licences, and had six appeals, all successful for the council. Over the same period, the council has questioned around 100 licence holders about information arising on DBS checks.

## **What are the legal implications?**

- 14 The council remains responsible for only issuing licences to individuals it is satisfied are safe and suitable to hold a licence. Applicants and licence holders who have had their licences refused or revoked will continue to be able to appeal the council's decision in the magistrates court.

## **What are the key risks and how are they being managed?**

- 15 The principal risk being managed by this proposed policy change is the risk to passengers and the wider travelling public of taxi and private hire drivers with repeated minor motoring convictions, particularly speeding. Tackling speeding has been repeatedly identified as a key element of the city's [road safety priorities](#).
- 16 Whilst the proposed criterion would bring Leeds more into alignment with the other West Yorkshire authorities, Members of Executive Board should note that our criterion would not be as stringent as originally proposed and would not wholly align with the policies adopted by other West Yorkshire authorities. However, as each case is considered on its individual merits against the criterion, officers are confident that any risks can be mitigated through

careful consideration of the nature and seriousness of the offences that have necessitated a driver receiving penalty points.

### Does this proposal support the council's 3 Key Pillars?

Inclusive Growth       Health and Wellbeing       Climate Emergency

17 The purpose of taxi and private hire licensing is the safety of the travelling public. By addressing and then applying the criterion for minor motoring convictions, the council contributes to improved public safety.

### Options, timescales and measuring success

#### a) What other options were considered?

18 The other options considered at the working group meeting were to a) continue to apply the 12 points criterion, or b) apply the 7 points criterion without any additional changes in wording. A large majority of the working group preferred the third option which provided a sliding scale above 7 points, as set out in section 4 above.

#### b) How will success be measured?

19 The council provides an [Annual Licensing Report](#), which includes a summary of licensing decisions. This allows readers of the report to track the trends in licences suspended, refused or revoked against the categories of the Suitability Policy. The taxi and private hire licensing service will also report on the numbers of cases where a warning has been issued, or training imposed.

#### c) What is the timetable for implementation?

20 Implementation will be led by Taxi and Private Hire Licensing Manager. The timetable is as follows:

22 September	Executive Board report – background and plans for consultation
24 September	Call in starts
1 October	Call in ends, consultation starts
29 October	Consultation ends, analysis starts
15 December	Executive Board report – findings and proposed criterion
1 January 2022	Implementation of new criterion (if approved)
25 January 2022	Licensing Committee report

### Appendices

- 21 Leeds City Council – current Suitability (convictions policy, including the current 12 point criterion for minor motoring convictions).
- 22 Equality and Diversity Impact Assessment, July 2021.

### Background papers

23 None.