

## **Taxi & Private Hire Licensing – Results of consultation on suitability (minor motoring convictions)**

Date: 9 August 2022

Report of: Taxi & Private Hire Licensing Manager

Report to: Licensing Committee

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 council has been taking part in regional and national initiatives to review and update hackney carriage (taxi) and private hire policies and ways of working.
- One important area of this work has involved the council's approach to suitability and whether an individual is a fit and proper person to hold a licence.
- The council has recently undertaken consultation on changing one of the criteria within the council's Suitability and Convictions policy for taxi and private hire licence holders, which relates to points on individuals' driving licences for minor motoring convictions.
- This report sets out the full results of that consultation in Appendices A and B and, reveals a strong difference of opinion between the responses of the general public and members of the taxi and private hire trade.
- Licensing Committee are asked to consider the outcome of the consultation and recommend to Members of Executive Board a proposed way forward using the options set out in paragraph 38 as a guide:
  - a) The proposed criterion is approved without further amendment; or
  - b) The proposed criterion is amended having regard to the consultation responses, setting out what the amended criterion should be (see paragraph 39 below); or
  - c) The proposed criterion should not be approved or amended, and that further work is required to determine a more appropriate criterion.
- In relation to option b), and in relation to the consultation responses, Members are advised that minor amendments such as those seeking to respond to driver concerns and provide further mitigation measures such as when warnings or training is offered to licence holders can be recommended to Executive Board for approval.

- Applications for a new taxi or private hire driver licence will not be granted when an applicant has 7 or more points for minor motoring convictions showing on their driving licence.
- Existing licence holders reaching 7 or more points for minor motoring convictions will receive a warning and will only be required to attend appropriate training.
- Existing licence holders reaching 9 points or more for minor motoring convictions and who have previously attended training under this policy may have their licence refused or revoked dependent on the individual circumstances of the driver concerned and offences committed. In considering such action, the intention of the policy will be to only refuse or revoke a licence where there are very clear concerns for public safety.

## **Recommendations**

Licensing Committee members are recommended to:

- a) Note the outcome of the consultation.
- b) Note the supporting information which provides broader context to the implementation of criteria relating to minor motoring convictions.
- c) Consider the options set out in paragraph 38 of this report and make a recommendation to Executive Board.

## **Why is the proposal being put forward?**

- 1 In October 2019, the council's Executive Board approved a Suitability and Convictions policy, which took effect on 1 February 2020. The policy followed national and regional exploratory work and consultation to develop common approaches to determine an individual's suitability to hold a taxi or private hire licence. The national suitability framework was developed in 2018 by the Institute of Licensing (IOL), in partnership with the Local Government Association, Lawyers in Local Government, and the National Association of Licensing and Enforcement Officers. The regional approach involved the five West Yorkshire authorities and the City of York council engaging or consulting on a common suitability policy.
- 2 The aim of these regional developments and the national framework were to introduce greater consistency to help in ensuring that licensing authorities would use the same approach to determine whether an individual would be issued with a licence, and if a period of refusal applied, the same length of refusal would apply across authorities. All of the six West Yorkshire and York (WY&Y) authorities started their consultation with the table of 15 conviction categories in the IOL national framework.
- 3 In line with the IOL national framework, Leeds City Council and the other WY&Y authorities consulted or engaged on the threshold for refusing a licence at 7 points for minor motoring convictions i.e. excluding major motoring convictions, which are a separate category. The five other WY&Y authorities have adopted and implemented policies with the 7 point threshold, based on the individual's record for the last 3 years. However, following representation from the taxi and private hire trade in Leeds, Leeds City Council decided not to implement the criterion for minor motoring convictions. Instead, the minor motoring convictions criterion from the council's previous Convictions policy was retained, allowing the council to refuse or revoke a licence at 12 points for accumulated minor motoring convictions, whilst a review of the minor motoring convictions criterion was conducted by a working group drawn from officers and stakeholders with a cross-section of views.

- 4 The working group concluded its review of minor motoring convictions and recommended the council consult on a revised criteria for minor motoring convictions. The outcome of this work resulted in a proposal to set the Leeds City Council standard lower (weaker) than the other WY&Y authorities and others nationally who have implemented the 7 point threshold. . Since the WY&Y authorities engaged and consulted in 2018-19, the Department for Transport issued Statutory Guidance for taxi and private hire licensing, which included a section on suitability, advising licensing authorities they **must** have regard to the guidance and have clear and compelling reasons for departing from the standards in the guidance.
- 5 The chronology of the different versions of the criteria are listed in the table below to aid clarity:

Version	Wording
Institute of Licensing (2018)	A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). <u>Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed.</u>
West Yorkshire & York consultation (2019)	Minor traffic or vehicle related offences – offences which <u>do not involve</u> 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) <u>resulting in 7 or more points on a DVLA licence.</u> 3 years
Leeds City Council criteria retained from previous Convictions policy (2020)	Convictions for minor traffic offences... should not prevent you from proceeding with an application or holding a licence. However, <u>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.</u> 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 Consultation (2021)	Applications for a new 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.

- 6 The council, as licensing authority, has the responsibility to ensure that taxi and private hire licence holders are safe and suitable to hold a licence. Passengers place a great deal of trust in their taxi and private hire operators and drivers and they are entitled to expect that operators and drivers meet high standards. In making decisions about the granting and renewal of licences, the council establishes the licence holder as someone who can be trusted to convey

the passenger from A to B in safety, having regard to the fact that passengers can be vulnerable for a variety of reasons. The council's current scheme of sub-delegation gives officers the powers to revoke or refuse a licence.

- 7 Under law, the licensing authority has the legal responsibility to refuse a licence to an applicant, or to take the licence away from an individual, when it does not believe that person is suitable to hold a licence. The national and regional developments towards aligned policies make clear that driving record is relevant to whether a person is fit and proper, and also sets expectations that licensing authorities will only depart from national guidance where there are clear and compelling reasons to do so
- 8 In 2021 the Licensing Committee set up a Working Group, formed of three councillors, trade representatives, stakeholders/passengers groups and supported by officers. Following a delay owing to Covid, the Working Groups met twice in March 2021, and recommended that Members of Executive Board consult on a revised criterion for minor motoring convictions 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.
- 9 Executive Board approved the criterion for consultation in September 2021, and the council carried out the consultation during October and November 2021. The method and results of the consultation are summarised in this report and presented in detail in **Appendices A and B** attached.

### What impact will this proposal have?

**Wards affected:**

Have ward members been consulted?

Yes

No

- 10 The criterion consulted upon (refuse new applications at 7 points, train existing drivers at 7-8 points, and revoke from 9 points) would affect the way in which applicants in the taxi and private hire trade in Leeds, and existing licence holders would be assessed on their suitability to hold a licence. Minor motoring convictions and driving licence endorsements are the most common issue the licensing authority will have to consider in determining whether an individual is suitable to hold a taxi or private hire licence. This reflects the importance of safe driving and avoiding speeding to an individual's suitability to hold a taxi or private hire licence.
- 11 The criterion consulted upon would bring Leeds City Council more into alignment with the other WY&Y authorities than its current position. However, Licensing Committee members will note that our criterion would still not be as stringent as originally proposed in 2020, and would not wholly align with the policies adopted by other WY&Y authorities, who would continue to have a stricter policy in place in respect of existing licence holders. However, in relation to new applicants it would fully align Leeds with the other WY&Y authorities.
- 12 As of July 2022, 1015 out of 6019 drivers licensed in Leeds, (17%), had declared points to the licensing authority. This means that 83% of taxi and private hire drivers have zero points on their licence, recognising the positive standards adopted by the overwhelming majority of taxi and private hire drivers in Leeds. Of the drivers with points on their licence, 718 have 3 points, and 943 have 3-6 points. Only 72, just over 1% of all taxi and private hire drivers, have 7 or more points. As shown in the table below there is a concentration of drivers with points at 3 and

6 points, and to a lesser degree, 9 points, indicating that the majority of minor motoring convictions impose 3 penalty points.

Points	Private Hire Driver	Hackney Carriage Driver	Total
3	612	106	718
4	10	1	11
5	6	2	8
6	170	36	206
7	1	1	2
8	13	3	16
9	39	7	46
11	2	2	2
12	4	2	4
15*	0	1	1
16*	1	0	1

- 13 The current standards, retained from the council's previous Convictions policy, allow applicants to start their taxi and private hire career with 12 points on their licence. They also allow licence holders to retain and renew their licence when they accumulate new points, provided they do not exceed 12 points. Drivers currently licensed with more than 12 points and indicated with an asterisk in the table above, will be in the process of appealing against the points issued against them.
- 14 The current standards are significantly weaker than the equivalent standard for recruiting bus drivers, which is a comparable role with a responsibility for ensuring the safety of vulnerable passengers. Both Arriva and FirstBus have entry criteria which would preclude applicants with 6 points (Arriva) or other driving convictions (FirstBus) on their licence from starting a role as a bus driver. The council has contacted Arriva and Firstbus, but has not been able to obtain detailed information about the companies' provision for existing drivers who accrue minor motoring convictions, other than being advised that the companies' internal disciplinary processes would be invoked, as well as the possibility of the case being referred to the Traffic Commissioner, which would also be the case for large goods and public contract drivers.
- 15 The impact of the proposal consulted upon would be:
- Applications for a new 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 (at renewal) or revoked.

#### **What consultation and engagement has taken place?**

- 16 Leeds City Council has undertaken significant and extensive engagement and consultation, both on the broad Suitability & Convictions policy and on the subsequent review of the criterion for minor motoring convictions.

17 The council initially consulted between November 2018 and January 2019 on the draft Suitability policy, in concert with other WY&Y authorities. However, for the reasons outlined above, it subsequently developed a working group, formed of a mix of councillors, trade representatives, stakeholders/passenger groups and supported by officers, to review the criterion for minor motoring convictions. The working group met twice in 2021 and generated a revised suitability minor motoring conviction criterion to Executive Board for consultation.

*Consultation on the working group proposal:*

18 Executive Board approved in September 2021 the consultation on the revised suitability minor motoring conviction criterion. The council then consulted between October and November 2021 on the proposed criterion. The council promoted the consultation on social media channels, emailed a link to the survey to 6000+ taxi and private hire licence holders, representatives of trade groups, representatives of stakeholders and passenger groups (including councillors, older people, women and girls, people with disabilities, road safety partnership, city centre partners, school governors). The survey was also sent by post to around 60 licence holders who did not have a recognised email address for use by the council. Three drop-in meetings were also organised at Merrion House, but were not well attended. All non-electronic responses were added to the completed electronic surveys for analysis.

19 The consultation compared the current criterion of 12 points against the proposed criterion to refuse new applicants at 7 points, train existing drivers at 7-8 points, and revoke from 9 points, and asked respondents to support or oppose the proposed criterion.

20 The response to the consultation was unprecedented. In total 2275 people responded to the survey during the consultation period. In particular, the survey generated a much higher response from licence holders, the general public and stakeholders than previous consultations.

21 The breakdown of responses is set out in the table below and further information is set out in **Appendices A and B**. Responses from taxi and private hire drivers, vehicle owners and trade representatives amounted to 57% of all responses, and responses from passenger representatives, councillors and the wider public 43%. A small percentage of respondents did not disclose their role.

Group	Count	%
<b>Leeds City Council - Councillor</b>	9	0%
<b>Leeds hackney carriage association/union</b>	3	0%
<b>Leeds hackney carriage driver</b>	173	8%
<b>Leeds hackney carriage proprietor</b>	88	4%
<b>Leeds private hire driver</b>	974	43%
<b>Leeds private hire group/union representative</b>	7	0%
<b>Leeds private hire operator</b>	6	0%
<b>Leeds private hire vehicle proprietor</b>	8	0%
<b>Member of the public who does not use taxi or private hire vehicles</b>	93	4%
<b>Member of the public who uses taxi or private hire vehicles</b>	828	37%
<b>Passenger group representative</b>	19	1%
<b>Stakeholder representative</b>	6	0%
<b>Undeclared</b>	61	3%
<b>Total</b>	<b>2275</b>	<b>100%</b>

22 The council also received a significant number of responses from people, primarily licence holders, who live outside Leeds. Of these respondents, a majority 671 of these respondents were licence holders. This is not surprising, as around half of all taxi and private hire licence

holders do not live in Leeds. In total, one third, 895 of responses did not answer the question asking where they lived.

- 23 Respondents were asked if they supported the proposals (to move from refusing new applicants at 12 points to refuse at 7 points, train existing drivers at 7-8 points, and revoke from 9 points). 1495 (66.4%) respondents stated that they did not agree with the proposal and 757 (33.6%) did agree with the proposal.
- 24 The results show a significant difference between the view of, on one hand, licence holders and trade representatives, and on the other, stakeholders and the general public. The former were largely (94%) against the proposal, and the latter largely (71%) in favour, and some of the latter group objected to the proposal because in their view it is not strict enough. The themes below show the difference in support by taxi and private hire groups, stakeholders and the general public, excluding councillors and people who didn't state their role.
- Of the 756 who responded in favour of the proposal, 674 (89%) were members of the public, passenger or stakeholder groups, 71 (9%) were licence holders.
  - Of the 1481 who responded against the proposal, 1178 (80%) were licence holders, 266 (18%) were members of the public, passenger or stakeholder groups.
- 25 The detailed responses to the survey also revealed a more complex response, both from licence holders and from the general public, passenger groups and stakeholders. Respondents were asked the open question 'if you do not support the proposed criterion, can you tell us why?'. The main categories of response are summarised in the table below, including the respective numbers of responses from licence holders in the taxi and private hire trade and the public. These categories are drawn from open responses, as some respondents raised more than one issue in their response.

Theme	Count	HC PH trade	Public
<b>A DVLA rules/12 points should apply</b>	693	603	70
<b>B 7/9 point threshold is a risk to drivers' livelihoods</b>	266	224	38
<b>C Policy is too unfair or too harsh</b>	212	171	37
<b>D Frequency of driving means taxi drivers are more at risk of minor offences</b>	145	115	28
<b>E Misc/other comments</b>	129	92	34
<b>F Existing policy works ok</b>	126	116	9
<b>G Rules do not apply to others (Bus/HGV/LCC drivers)</b>	106	76	26
<b>H Seriousness of offence(s) need to be considered</b>	52	37	14
<b>I Disagree because proposal is not strict enough</b>	47	0	47
<b>J Policy discriminates or is racist</b>	42	30	11
<b>K Passengers cause distractions which can cause minor driving faults</b>	31	28	3

### *Objections and the council's response*

- 26 The report addresses each response in turn. The two largest themes of response (A and B in the table above) accounted for 959 comments, though some responses raised both comments. These respondents were largely (over 88%) licence holders and objected to the proposed criterion to refuse a new applicant at 7 points, train existing drivers at 7-8 points, and revoke

from 9 points, and suggested either that the council should apply DVLA threshold, as long as drivers weren't disqualified, they should be allowed to work. They also cited the impact on drivers' earnings and livelihoods if they were unable to drive. There are some observations which follow from these responses, which could form part of the council approach to responding to the consultation.

- First, these representations were focused on the earnings of existing taxi and private hire drivers, and did not contain objections to the council setting a threshold of 7 points for new applicants, which is a key aspect of the national and regional policy harmonisation agenda;
- Second, the respondents' concern about loss of earnings or family livelihood, while not the focus of licensing practice, could be alleviated (at least in part), if licence holders could be satisfied that the warning and driver training would always be applied to existing drivers reaching 7 points or more, and revocation only applied when a warning or training had been followed by a further minor motoring conviction at 9 points or more. Although other respondents referred to driver training in their survey responses, none of these respondents did, so this point may help to reduce concerns.
- Third, some respondents indicated their belief that licences would be refused or revoked at 6 points, and in some way 'automatically'. This is incorrect, and the proposal includes a step to warn and train existing drivers before any revocation would be considered for minor motoring convictions.

27 It is clear from some responses that many respondents, largely from the taxi and private hire trade, were not clear as to what would happen when an already licensed driver reached 7 or 8 points. In summary, those respondents were concerned about a 'revoke first, ask questions later' approach, which was not intended by the proposed criterion. Members can be reassured that the proposals are that all drivers reaching 7 or 8 points will be required to attend training and receive a warning. While the council does have legal powers to set licensing regulations more strictly than for the general public, reviewing a licence holder with points for minor motoring convictions would always consider how that driver could be brought into compliance without immediately or 'automatically' revoking their licence. This would include a warning and training, and revocation or refusal at renewal would only be considered for subsequent minor motoring convictions at 9 points where drivers had already received warnings and training. The concerns raised by respondents are, therefore, already fully addressed although it is appreciated providing greater clarity on this point would be helpful.

28 The next largest group of themes (C, D, F and G in the table in paragraph 25) accounted for 589 comments, though some respondents raised more than one issue. These respondents accounted for 81% from taxi and private hire licence holders who claimed that the proposed criterion was unfair (without referring to earnings or DVLA) and that equivalent criteria are not applied to other driving roles outside of the taxi and private hire trade. It should be recognised that taxi and private hire drivers are in a unique position of control over their passengers and therefore more stringent checks are required than may apply to other drivers, to ensure that people are and remain fit and proper. The council has checked with Arriva and Firstbus, relating to bus drivers, and with the Traffic Commissioner for drivers of larger and public service vehicles. Arriva and Firstbus have entry level criteria relating to driving standard, and the Traffic Commissioner has standards for vocational drivers. In addition, employers will also have internal disciplinary standards and measures, which they have not been able to share with the council.

29 A third group of comments (H, J and K from the table), 95 in total, and with 77% from taxi or private hire trade, said that the proposed minor motoring convictions criteria did not take into account the seriousness of the motoring offence, that the criteria are racist or discriminatory, or that the driver could acquire points by being distracted by their passengers. In response, while minor motoring convictions are by definition at the lower end of motoring convictions, and do not

involve injury, repeated minor motoring convictions do indicate that a person's standard of driving is not as high as it should be. The council does note that a majority of taxi and private hire licences are held by people with a Black and Minority Ethnicity (BAME), however, this criterion applies equally across all licence holders. An Equality and Diversity Impact Assessment has been completed, identifying the protected characteristics of both drivers and passengers, for example people with a mobility need or disability, who statistically take more taxi and private hire journeys. The council also notes that passengers can behave in ways to distract their driver, but it always remains the driver's responsibility to drive the vehicle in a safe manner.

- 30 Fourth, a small group of respondents (47, 100% not from the taxi and private hire trade), objected to the proposed criteria because in their view they do not go far enough in ensuring passenger safety. The council recognises these concerns, which was the reasons for the previous proposal (in 2014) to implement a more stringent standard, in line with the Institute of Licensing framework, and the subsequent Department for Transport statutory guidance. However, feedback against the proposal had led the council to review the criterion as set out elsewhere in this report.
- 31 In progressing this review, the council contacted all 284 licensing authorities in England and Wales, and 85 responded to our request in February and March 2022. A list of the authorities responding is provided in **Appendix B**. While the council does not have information for all licensing authorities, the response is considered a good representative sample, and confirms the following. 69 (81%) authorities have implemented a suitability policy and 72 (85%) have criteria for assessing minor motoring convictions.
- 32 33 authorities had implemented the IOL/DfT standard 7 points for both applicants and existing licence holders. Of the 39 who had not implemented the 7 points in its entirety, there was a range of criteria, from those who explained their policy. The following corresponded very closely to the IOL/DfT recommended standard, and the proposed criterion: -
- 3 authorities refused a licence to applicants and existing licence holders above 6 points;
  - 9 authorities refused applicants with 6-8 points (8 chose 6 points, 1 chose 8 points) and revoked existing licence holders at 9 points, similar to Leeds City Council proposal);
  - 1 authority refused a licence to applicants and existing licence holders above 8 points;
  - 7 authorities refused a licence to applicants and existing licence holders above 9 points;
  - 1 authority refused a licence if two minor convictions in two years; and
  - 1 authority refused a licence if three minor convictions in three years.
- 33 A small number of authorities (13) had a policy for minor motoring convictions differing significantly from the IOL/DfT standard 7 points, although some authorities stated that they planned to review the policy and would refer to the IOL framework.
- 7 authorities had no points criteria and judged every case for applicants and existing licence holder on its merits, more severely for multiple minor convictions;
  - 1 authority refused a licence to applicants and existing licence holders above 3 points;
  - 1 authority refused a licence unless 1 year free of minor convictions;
  - 1 authority refused a licence unless five years had elapsed since disqualification; and
  - 3 authorities refused an applicant and existing licence holder at 12 points (Leeds City Council current criterion).

34 The feedback from other licensing authorities indicated a range of adherence and departure from the IOL/DfT minor motoring convictions criterion which the council and WY&Y authorities originally consulted on. Only three authorities had aligned their minor motoring convictions criterion with the DVLA disqualification threshold of 12 points. The vast majority of authorities had either aligned with the IOL/DfT standard of 7 points, or set the level just above or below (e.g. 6 or 8 points), or some variation on the added training, panel or review for existing licence holders before revocation.

35 In conclusion, the results of the consultation are complex. Above all, they indicate a significant disparity between the views of the public (i.e. customers) and the taxi and private hire trade on what the expected threshold should be for refusing a licence and potentially revoking a licence. 71% of the public responded in support of the proposed standard, with a further 5% of the public responding opposing the standard because it is not strict enough. Conversely, 94% of licence holders objected to the proposed standard and many stated that they did not feel they should be treated any differently from the normal motorist.

36 The council can conclude the following: -

- There is strength of feeling in the taxi and private hire trade that the proposed suitability criterion for minor motoring convictions, which are already in place in a majority of licensing authorities in England and Wales, should not apply to Leeds licence holders; and
- There is a significant opinion in the wider public that the proposed suitability criterion for minor motoring convictions, which are already in place in a majority of licensing authorities, should apply to Leeds licence holders;

*Options in response to the consultation:*

37 Given the complex findings of the consultation, Licensing Committee members must consider what to recommend to Executive Board in order to progress this matter. In doing so, they must have regard to statutory and other guidance from the Department of Transport, as well as the background work and context which resulted in the formulation of the proposals subject to consultation. Members also have to consider the representations made as part of the consultation as set out in **Appendix B** of this report.

38 Having regard to all the above, the options for Licensing Committee include recommending one of the following:

- a) The proposed criterion is **approved** without further amendment;
- b) The proposed criterion is **amended** having regard to the consultation responses, setting out what the amended criterion should be (see paragraph 39 below); or
- c) The proposed criterion should not be approved or amended, and that **further work** is required to determine a more appropriate criterion.

39 In relation to option b), and in relation to the consultation responses, Members are advised that minor amendments such as those seeking to respond to driver concerns and provide further mitigation measures such as when warnings or training is offered to licence holders can be recommended to Executive Board for approval. The specific proposals could be amended from those consulted upon to state the following and summarised in the flowcharts in Appendix C:

- Applications for a new taxi or private hire driver licence will not be granted when an applicant has 7 or more points for minor motoring convictions showing on their driving licence.
- Existing licence holders reaching 7 or more points for minor motoring convictions will receive a warning and will only be required to attend appropriate training.

- Existing licence holders reaching 9 points or more for minor motoring convictions and who have previously attended training under this policy may have their licence refused or revoked dependent on the individual circumstances of the driver concerned and offences committed. In considering such action, the intention of the policy will be to only refuse or revoke a licence where there are very clear concerns for public safety.

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

- 40 There are minor resource implications of adopting and implementing a higher standard for applicants and current licence holders.
- 41 It is possible that the council, as licensing authority, would provide a higher number of warnings and remedial training, for licence holders reaching 7 or 8 points on their driving licence for minor motoring convictions and as an alternative to revocation. The work can be resourced from within the Taxi and Private Hire Licensing service, with a monthly training session providing capacity for between 100 and 120 delegates.
- 42 In the longer term, it is possible that the council as licensing authority could receive fewer complaints for investigation about the standard of driving by taxi and private hire drivers. This may free up some capacity within the Taxi and Private Hire Licensing service to concentrate on other licensing priorities.

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

- 43 The Council is under a legal obligation to have regard to the DfT statutory guidance unless there is a compelling local reason to depart from any part of it. That guidance sets out some minimum standards for drivers in relation to criminal convictions. The IoL framework of recommended minimum standards, which is best practice but not obligatory, mirrors those in the statutory guidance but adds a number of other standards to be applied. In respect of minor motoring convictions both the statutory guidance and IoL framework provide that a single occurrence of a minor traffic offence may not necessitate the refusal or revocation of a licence. The IoL framework goes further, suggesting 7+ points on a driving licence may lead to refusal or revocation.
- 44 If pursued, option (a) would be fully in line with the IoL framework and be compliant with the statutory guidance. Option (b) would be compliant with the statutory guidance, which doesn't fix a maximum number of permitted points, but would be out of step with the IoL best practice framework. Option (c) would leave the existing policy in place which is technically compliant with the statutory guidance but is even further from established best practice in the IoL framework. The Institute of Licensing framework now forms part of the DfT's statutory guidance to licensing authorities, which the council must have regard to when considering suitability criteria and other licensing policies.
- 45 The Local Government (Miscellaneous Provisions) Act 1976 sections 47, 48, 51, 55 and 57 permits the licensing authority to attach conditions to a taxi or private hire licence over and above those for the general public. The Policing and Crime Act 2017 section 177 permits the secretary of State to issue guidance to public authorities as to how their licensing functions under taxi and private hire legislation may be exercised so as to protect children and vulnerable individuals who are 18 or over, from harm. The same Act also requires a public authority which has licensing functions under taxi and private hire legislation to have regard to any guidance issued under the Act.
- 46 A full Equality, Diversity, Cohesion and Integration Assessment for the proposal has been completed. When deciding whether to recommend the proposal for approval, the council has to comply with the Public Sector Equality Duty.

### *Equalities implications:*

- 47 Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty, whereby a public authority must, in the exercise of its functions, have due regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
  - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- With regard to b) above, due regard must be given to the need to:
- d) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
  - e) Take steps to meet the needs of who share a relevant protected characteristic that are different from the needs of persons who do not share it.
  - f) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
  - g) The relevant protected characteristics include age, disability, gender reassignment, pregnancy and maternity, religion or belief, sexual orientation.
- 48 The duty is not a duty to achieve a result, but a duty to have due regard to the need to achieve the goals in section 149. The courts have also made it clear that the weight and extent of the duty is highly fact sensitive and dependent on individual judgment, and that is for the decision maker to decide how much weight should be given to the various factors informing their decision.
- 49 As part of the decision-making process, the council has given due consideration to the issues raised and taken into account the feedback received. As part of the proposal, there will be impacts on all stakeholders which have been evaluated and mitigated where possible.
- 50 Members have a personal duty to consider this duty when making their decision, and they cannot be considered to automatically know what officers want or know what may have been in the minds of officers in providing their advice. Members must assess the risk and extent of any adverse impact and the ways in which such risk may be eliminated before making their decision. The duty must be exercised in substance, with rigour, and with an open mind, and it must not be simply a case of 'ticking boxes'.
- 51 A general regard to issues of equality is not the same as having specific regard, by way of a conscious approach to the statutory criteria of the legislation. In addition, the duty requires members to be properly informed before taking a decision, and if the relevant material is not available, there is a duty to acquire it, and this includes consultation with appropriate groups in some circumstances, in the case of these proposals, an extensive consultation exercise has taken place.

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

- 52 The principal risk being addressed by the proposed criterion, is reducing the risk to the travelling public and other road users posed by licence holders with multiple convictions for minor motoring offences. Lowering the threshold for new applicants from 12 to 7 points would

allow the licensing authority to refuse to licence applicants with multiple recent convictions for minor motoring offences from obtaining a licence in Leeds.

- 53 A secondary risk is the possible reduction in the numbers of applicants and loss of existing drivers, if applicants and existing licence holders opt not to work in the taxi and private hire trade as a result of the council implementing the proposed criterion. This would impact on a Leeds taxi and private hire trade which has lost 300 from around 6000 drivers in the past 2 years. Feedback to the council from private hire operators and taxi associations has indicated that they have found it difficult to source drivers who can often earn as much working in delivery roles. However, this risk can be alleviated by extending and developing driver training and assessment provision in line with increased demand.
- 54 A third risk, if the proposals are not recommended for approval, (thus retaining the 12 points criterion), is the impact on Leeds from the differential in standards between Leeds and neighbouring authorities. As all other WY&Y authorities, and based on our engagement with licensing authorities, a majority of licensing authorities in England and Wales have implemented a criterion at or around 7 points, then Leeds with a 'weaker' lower standards policy, could become a more attractive location for applicants or other drivers who are unable to obtain a licence elsewhere due to their lower driving standards.

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

- Inclusive Growth       Health and Wellbeing       Climate Emergency

- 55 The proposed criterion aligns with the council's priorities for Health and Wellbeing. It places a priority on public and passenger safety.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 56 The option to retain permanently the 12 point criterion for minor motoring convictions (from the previous Convictions policy) was considered by the working group, Licensing Committee and Executive Board, but not agreed as a recommendation for consultation. Retaining a 12 point criterion for minor motoring convictions would, as has been discussed above, mean the council had one of the weakest standards on this aspect of taxi and private hire licensing.

#### **How will success be measured?**

- 57 The council's Annual Licensing Report provides comparative measurable information on the level and type of complaints, suspended and revoked/refused licences. Successful implementation of the new criterion should result in fewer drivers having a higher level of points on their driving licences, and fewer complaints about driving standard (currently among the higher level of complaints), accounting for around 10% of complaints to the council. This would be an indication that the standard of driving has improved.
- 58 The implementation of the proposed criterion would provide some confidence that only the safest, as judged by their driving record, of taxi and private hire drivers can renew their licence in Leeds.

#### **What is the timetable for implementation?**

- 59 If option a) is recommended by August Licensing Committee and approved at September Executive Board, the new criterion for minor motoring convictions would take effect from 1 October 2022, and will align the council to the national standard developed by the Institute of

Licensing, in partnership with the Local Government Association, Lawyers in local Government and the National Association of Licensing and Enforcement Officers. If option b) is recommended by August Licensing Committee and approved at September Executive Board, the new criterion for minor motoring convictions would take effect from 1 November 2022, and the council would still vary from the national standard. If option c) is recommended by Licensing Committee, then the council will follow the respective timetables for further consultation.

## **Appendices**

Appendix A Summary of consultation responses and sample questionnaire

Appendix B Comments/objections, and the council's response

Appendix C Application, Renewal, Training, Decision flowchart

## **Background papers**

Report to Executive Board, September 2021 Taxi and private hire licensing -Proposed new criterion in Suitability (Convictions) Policy

<https://democracy.leeds.gov.uk/documents/g11357/Public%20reports%20pack%2022nd-Sep-2021%2013.00%20Executive%20Board.pdf?T=10>

Report to Licensing Committee, July 2021 Taxi and private hire licensing - Proposal to Amend Minor Driving Convictions Criteria within the Suitability and Convictions Policy 2020

<https://democracy.leeds.gov.uk/documents/g11471/Public%20reports%20pack%2006th-Jul-2021%2010.00%20Licensing%20Committee.pdf?T=10>

Report to Executive Board, October 2019 Taxi and private hire licensing - Proposed Suitability (Convictions) Policy for Taxi and Private Hire

<https://democracy.leeds.gov.uk/documents/g9772/Public%20reports%20pack%2016th-Oct-2019%2013.00%20Executive%20Board.pdf?T=10>

Report to Licensing Committee, September 2019 Taxi and private hire licensing - Taxi & Private Hire Licensing – Proposed Suitability Policy

<https://democracy.leeds.gov.uk/documents/g9677/Public%20reports%20pack%2003rd-Sep-2019%2011.00%20Licensing%20Committee.pdf?T=10>

Institute of Licensing, May 2018, Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades

[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)

Arriva recruitment site:

[Join the Arriva Bus Family | Arriva Bus UK](#)

Firstbus recruitment site:

[Bus driver jobs - apply now! | Leeds | First Bus](#)

Traffic Commissioner statutory document for vocational drivers:

[Statutory Document 6 - vocational driver conduct - GOV.UK \(www.gov.uk\)](#)

Department for Transport Penalty points and endorsement codes:

[Penalty points \(endorsements\): Endorsement codes and penalty points - GOV.UK \(www.gov.uk\)](#)

## Appendix A Summary of Consultation – Suitability (minor motoring convictions) and sample questionnaire

### 1 a) Consultation Overview

The consultation ran from 5 October to 15 November 2021. The Council's guidance suggests that consultation schemes should run for a minimum of 2 weeks. The consultation ran for 6 weeks.

The consultation consisted of a city-wide campaign to contact 6000+ licence holders and trade representatives, the general public, representatives of more than 100 passenger and vulnerable passenger groups, to get a wide range of responses.

The consultation consisted of a variety of electronic, paper and face to face events. Licence holders, trade representatives, representatives from stakeholder groups, and councillors were contacted by email by Taxi and Private hire Licensing. 60 licence holders who had not registered an email address with the council for licensing purposes were contacted in writing and provided with paper surveys. Three face to face events were booked for function rooms at Merrion House, but were not well attended.

The consultation was publicised on the council's Consultation and Feedback web page, <https://www.leeds.gov.uk/consultations-and-feedback>, Facebook and Twitter. All were provided with a link to the taxi and private hire consultation section of the Consultation and Feedback area of the Council's website.

### 1 b) Consultation Questions

Leeds City Council is consulting on a change to the Taxi and Private Hire Suitability (Convictions) Policy relating to Minor Traffic or Vehicle related Offences

On 22nd September 2021 the Council's Executive Board agreed to consult on a new standard in the Taxi and Private Hire Suitability (Convictions) Policy relating to Minor Traffic or Vehicle related offences.

What does this mean?

Leeds City Council has a legal responsibility to protect the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. Part of this duty is to make sure taxi and private hire drivers, among other licence holders, are 'fit and proper' people for the role. This includes having a good driving record. Currently, people who apply for, or hold a taxi or private hire licence, can be granted a licence by the Council even if they have up to 12 points on their DVLA driving licence

The Council revised its Suitability (Convictions) Policy in February 2020, bringing Leeds City Council standards into line with five neighbouring authorities and many more across the UK.

However, the standard relating to minor traffic or vehicle related offences was objected to by drivers, leading to further consideration of it.

The new standard

Following a long consultation with stakeholders and further work the Council's Licensing Committee have recommended and Executive Board have agreed that the public should be consulted on the following new standard

(i) 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;

(ii) Existing licence holders reaching 7 or 8 points for minor convictions will receive a warning and may be required to attend training; and

(iii) Existing licence holders reaching 9 or more points for minor convictions may have their licence refused or revoked.

Note: When a driver is convicted of an offence by a court, they may have penalty points put on their DVLA drivers' licence. Minor motoring offences usually stay on a licence for 3 years. A driver who accumulates 12 penalty points, usually from different events, is likely to be disqualified from driving. Commonly known as totting-up.

### **Tell us what you think.**

The council is asking for the public including drivers and passengers to comment on this change so it of everyone before deciding whether to approve it as part of the Taxi and Private Hire Suitability (Convictions) Policy.

### **Q 1 Do you support the change?**

Yes or No

If you answered No, please say why not and tell us what change you think would be better

### **Q2 About you**

Please provide your name, address and email (if you have one). If you wish to remain anonymous you can.

Q3 To help us understand who is responding please tick ONE of the boxes below which best describes yourself:

1. Leeds private hire driver
2. Leeds private hire vehicle proprietor
3. Leeds private hire operator
4. Leeds private hire union representative
5. Leeds hackney carriage driver
6. Leeds hackney carriage proprietor
7. Leeds hackney carriage association union
8. Member of the public who uses taxi or private hire vehicles
9. Member of the public who does not use taxi or private hire vehicles
10. Leeds City Council - Councillor
11. Passenger representative
12. Stakeholder representative
13. Other (Please state)

## Q4 Equality information

Leeds City Council is committed to fair treatment of all our existing and potential customers, our existing and potential employees, and our partners. We are committed to ensuring that our practices and services are free from unlawful discrimination and they meet the needs of all sections of the community.

We would appreciate it if you could complete the equality monitoring questions below. This will help us in monitoring the fairness and effectiveness of our service delivery and employment practices and to develop future policies and services. You are under no obligation to provide the information requested and it will not make any difference to the service you receive if you do not answer them. However, the more information we can collect the more effective our equality monitoring will be. The categories included have been informed by the National Census 2011 and characteristics protected by equality legislation as well as other questions that are relevant to local communities in Leeds.

The information you supply will be used for monitoring and reporting purposes around the fairness and effectiveness of our service delivery and employment practices only. You will not be identified in any statistics that the council publishes. The information you supply will be treated in the strictest confidence and will be held in accordance with the GDPR and Data Protection Act 2018. If we need to share any information with a third party, we will make sure the same levels of protection are in place.

Sex and gender identity:		
	<input type="checkbox"/>	Male (including Trans Male)
	<input type="checkbox"/>	Female (including Trans Female)
	<input type="checkbox"/>	Non-Binary
	<input type="checkbox"/>	Other (please write below)  .....
	<input type="checkbox"/>	I prefer not to say
Is your gender the same as the sex you were assigned at birth?		
	<input type="checkbox"/>	Yes
	<input type="checkbox"/>	No
	<input type="checkbox"/>	I prefer not to say

--	--	--

Date of birth: .....
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<input type="checkbox"/>	<input type="checkbox"/>	I prefer not to say
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Ethnic origin:		
Please indicate which best describes your ethnic origin		
<b>A White</b>	<b>B Mixed/ multiple ethnic group</b>	<b>C Asian or Asian British</b>

English	White and Asian	Bangladeshi
Welsh	White and Black African	Chinese
Scottish	White and Black Caribbean	Indian
Northern Irish		Kashmiri
British		Pakistani
Irish		
Any other White background - please write below .....	Any other mixed or multiple ethnic group - please write below .....	Any other Asian background - please write below .....
<b>D Black or Black British</b>		<b>E Other ethnic groups</b>
African	Arab	
Caribbean	Gypsy or	
Any other Black background - please write below .....	Any other group - please write below .....	
I prefer not to say		

**Disability**

Do you consider yourself to be disabled?

- Yes
- No
- I prefer not to say

If you have said yes, you consider yourself to be disabled, what is the nature of your impairment?

- Physical impairment, (such as using a wheelchair to get around or difficulty using your arms)
- Visual impairment, (such as being blind or partially sighted)
- Hearing impairment, (such as being or hard of hearing)
- Mental health condition, (such as depression or schizophrenia)

Learning disability, (such as Downs syndrome or dyslexia) or cognitive impairment (such as autism or head injury)

Long-standing illness or health condition, (such as cancer, HIV, diabetes, chronic heart disease, or epilepsy)

I prefer not to say

**Sexual orientation**

Please indicate which best describes your sexual orientation

(Please note: if you are under the age of 16 years old you do not have to complete this section)

Heterosexual/ straight

Lesbian/ Gay woman

Gay man

Bisexual

Other please specify

.....

I prefer not to say

**Religion or belief**

Please indicate which best describes your religion or belief

Buddhist

Christian

Hindu

Jewish

Muslim

Sikh

No religion

No belief

Other - please write below

.....

I prefer not to say

<b>Carers</b>
The council considers that a 'carer' is someone who provides care for a relative, neighbour or friend who is dependent on them because they cannot manage without their help because of physical or mental ill-health, disability, frailty, sensory impairment, old age or substance misuse.
In the context of employment, a 'working carer' is someone who balances these unpaid caring responsibilities with full or part-time employment.
Please indicate whether you consider yourself to be a carer

<input type="checkbox"/>	Yes
--------------------------	-----

<input type="checkbox"/>	No
--------------------------	----

<input type="checkbox"/>	I prefer not to say
--------------------------	---------------------

<b>Where you live</b>
-----------------------

<input type="checkbox"/>	What is the first part of your postcode? (for example, LS10): .....
--------------------------	---

<input type="checkbox"/>	I prefer not to say
--------------------------	---------------------

Thank you for completing the survey

## 1 c) Analysis of survey results

### Respondents

A total of 2275 people responded to the survey during the survey period. This section details the demographic profile, location and type of respondents. Where possible it has been compared to the population of Leeds.

### Demographics

Note that these questions were optional, and some respondents did not answer all questions, therefore the totals may not exactly match other figures in this report. In addition, those who selected 'prefer not to say' are excluded from the figures and percentages.

		Survey Respondents	% Valid Respondents	% Leeds Residents -Census 2011	
Age/ years	Under 18	1	0%	-	Residents of Leeds, aged 18 and over only
	18 - 29	62	4%	27%	
	30 - 44	599	35%	26%	
	45 - 64	820	48%	29%	
	65+	231	13%	18%	
Sex	Female	363	19%	52%	
	Male	1555	80%	48%	
	Non-binary/Other	20	1%	-	
Ethnicity	BAME	1307	63%	17%	

	White: British	763	<b>37%</b>	83%	
Disability	Yes	117	<b>6%</b>	8%	All Leeds Residents - day to day activities limited a lot
	No	1808	<b>94%</b>	92%	
Sexuality	Heterosexual / Straight	1476	<b>95%</b>	90%	Estimate – LCC (not available in the last Census)
	LGBT+	81	<b>5%</b>	10%	
Religion	No religion or belief	396	<b>20%</b>	30%	Residents of Leeds, aged 18 and over only
	Christian	385	<b>19%</b>	60%	
	Other religion or belief	1213	<b>61%</b>	10%	

## Groups

Respondents were asked to state whether they are a driver, proprietor, councillor or member of the public. The tables below show the number of responses from each group. Respondents could only select one option for this question.

### All Groups

Group	Count	As %
Leeds City Council - Councillor	9	0%
Leeds hackney carriage association/union	3	0%
Leeds hackney carriage driver	173	8%
Leeds hackney carriage proprietor	88	4%
Leeds private hire driver	974	44%
Leeds private hire group/union representative	7	0%
Leeds private hire operator	6	0%
Leeds private hire vehicle proprietor	8	0%
Member of the public who does not use taxi or private hire vehicles	93	4%
Member of the public who uses taxi or private hire vehicles	828	37%
Passenger group representative	19	1%
Stakeholder representative	6	0%

### Drivers and Public

This table groups responses from the public (including councillors) and drivers/proprietors.

Group	Count	As %
Driver/Proprietor	1259	57%
Public/Cllrs	955	43%

### Local Authority

Respondents were asked to provide their postal code to understand which local authority they live in. Where a postcode was provided, the following table shows the local authority of where respondents were located.

Authority	Count	As %
Leeds	1447	64%

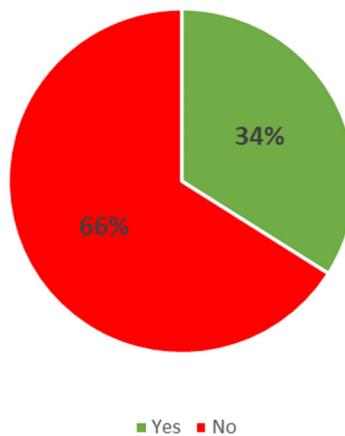
<b>Bradford</b>	388	17%
<b>Unknown</b>	254	11%
<b>Kirklees</b>	111	5%
<b>Wakefield</b>	43	2%
<b>Calderdale</b>	17	1%
<b>Sheffield</b>	4	0%
<b>Greater Manchester</b>	3	0%
<b>York</b>	2	0%
<b>Dacorum</b>	1	0%
<b>Derby</b>	1	0%
<b>East Riding</b>	1	0%
<b>Middlesbrough</b>	1	0%
<b>Newcastle</b>	1	0%
<b>Pendle</b>	1	0%

### Do you support the change?

After explaining the proposal in detail, the main question asked in this survey was whether or not they support the change.

Overall

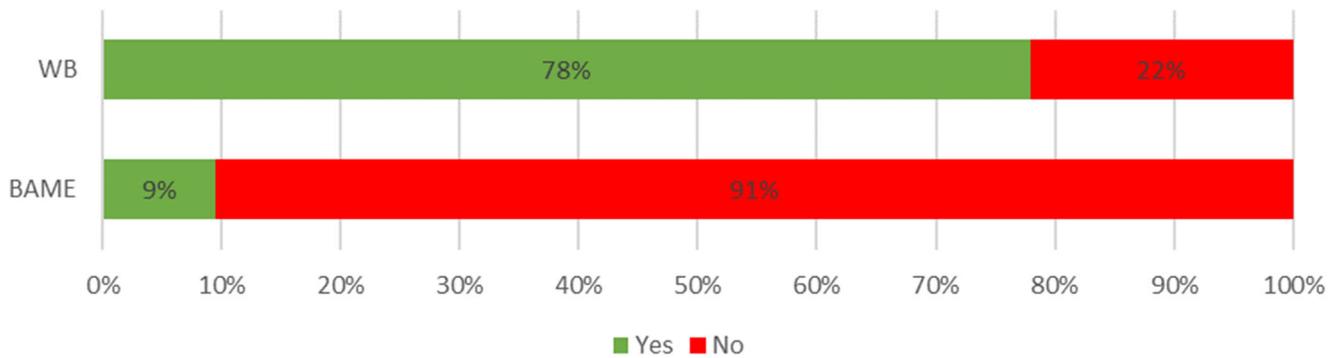
In total 34% of people supported the change, and 66% did not.



### Support by ethnicity

Respondents were asked for their ethnicity. These have been grouped into White: British and BAME. The tables below show to level of support by ethnic groups, where this information was provided.

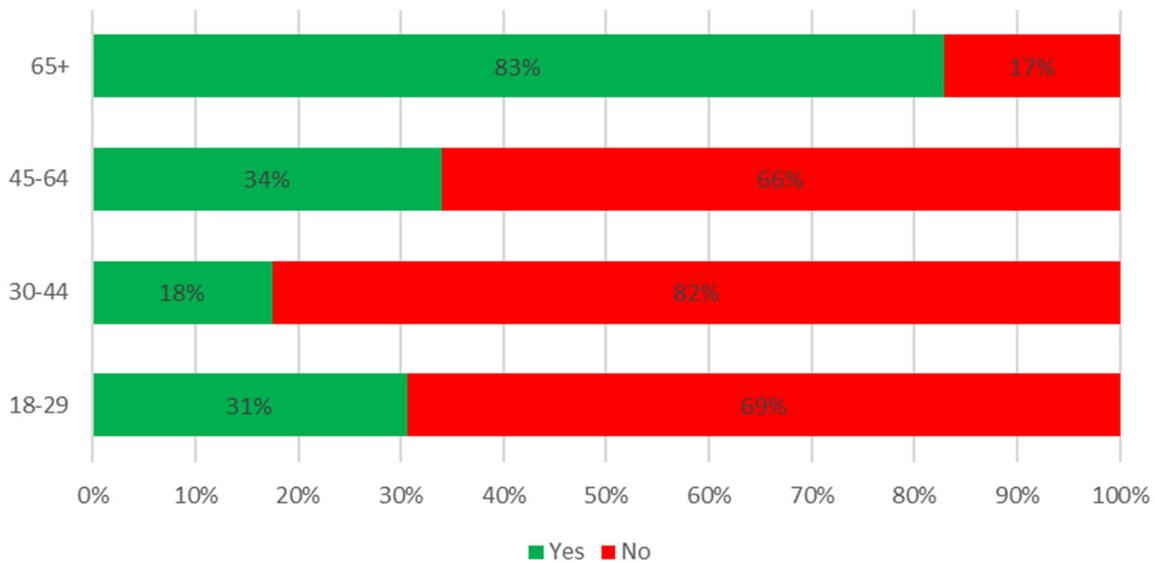
There is a significant difference in opinion between those from a White: British background and those from an ethnic minority background. Those from a BAME background account for 63% of overall respondents.



### Support by age

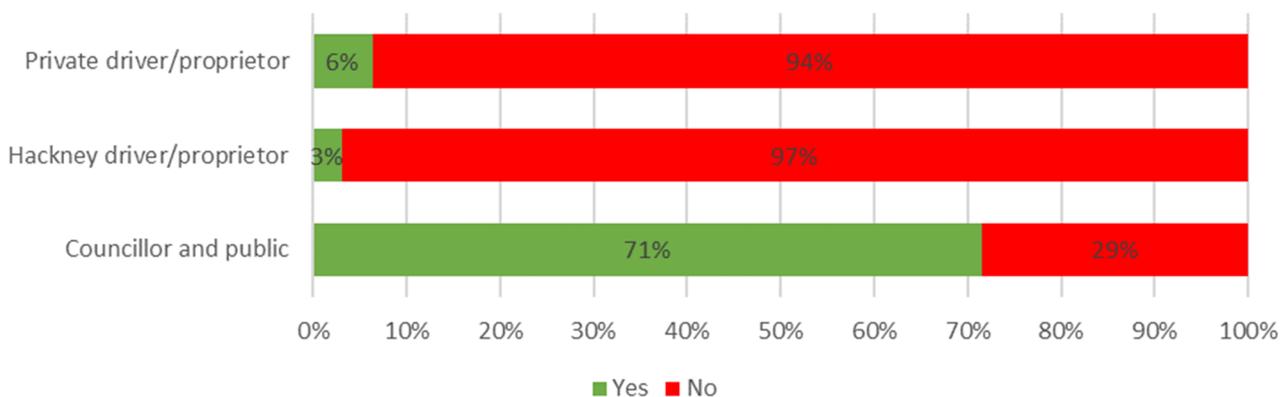
Respondents were asked to provide their date of birth. Where provided respondents were grouped into broader age groups. Dates that were clearly incorrect (for example the current year) were removed.

Those over 65 years old are much more likely to support the proposal than younger respondents.

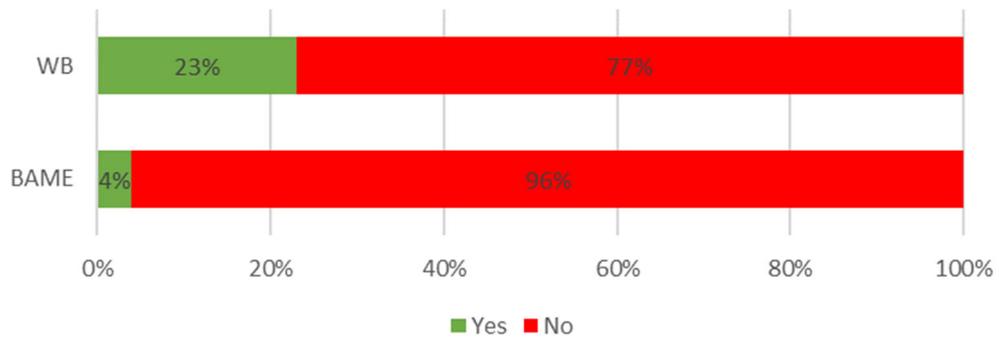


### Support by groups

The chart below shows the difference in support based on private drivers, hackney cab drivers, and the public. This shows that over two thirds of the public support this, private and Hackney carriage drivers/proprietors strongly oppose this proposal at a similar level.



The following chart shows support for the proposal for **drivers only**, grouped by ethnicity. This shows that although both groups do not support the change, it is much higher in BAME respondents.



## Appendix 2 Comments/objections and the council's response – Suitability (minor motoring convictions)

### 2 a) Comments/objections

Those who said that they disagree with the proposal were asked to provide further detail on why they disagreed. In total 1381 people provided a response, with 1338 of the comments stating that they disagree.

To understand the overall sentiment, each comment was reviewed and categorised into broader themes. A single comment can fall into several themes. In total 1338 respondents who disagree made comments covering 1849 different themes. The categorisation of the theme is the opinion of the analyst.

Note that one of the themes below are respondents who disagree with the change as they feel it should be stricter than the one proposed.

Theme	Count	As %
<b>DVLA Rules/12 points should apply</b>	693	37%
<b>It is a risk to people's livelihoods</b>	266	14%
<b>Policy is too unfair or too harsh</b>	212	11%
<b>Frequency means more at risk of minor offenses</b>	145	8%
<b>Misc/other comments (see below)</b>	129	7%
<b>Existing policy works ok</b>	126	7%
<b>Rules do not apply to others (Bus/HGV/LCC drivers)</b>	106	6%
<b>Seriousness of offence(s) need to be considered</b>	52	3%
<b><i>Disagree because proposal is not harsh enough</i></b>	47	3%
<b>Policy discriminates or is racist</b>	42	2%
<b>Passengers cause distractions which can cause minor faults</b>	31	2%

Do you support the change? If you answered No, please say why not and tell us what change you think would be better

Officers' responses are summarised here.

Response/objection	Officer response
DVLA rules/12 points should apply	<p><i>The council's existing policy does allow licence holders with 12 points accumulated for minor motoring convictions to continue to be licensed.</i></p> <p><i>The fact that an individual has accumulated points for repeated minor motoring convictions does suggest that their driving standard is worthy of review. Nationally and in West Yorkshire, licensing authorities have been setting a higher standard for taxi and private hire drivers than general motorists, owing to the vulnerability of many people who use taxis and private hire vehicles, and the fact that they regularly put their safety in the hands of their driver.</i></p> <p><i>The criterion consulted on - 7 points for applicants, training at 7-8 points and considering revocation at 9 points and above was viewed by the working group set up by the council and endorsed by Executive Board as a proposal as striking the right approach for determining whether someone is suitable to work as taxi and</i></p>

Response/objection	Officer response
	<p><i>private hire driver. Officers remain of the view, for the reasons set out above, that there is real need to introduce criteria which go beyond that applied by the DVLA, i.e. apply a more stringent standard than 12 points.</i></p>
<p>7/9 point threshold is a risk to drivers' livelihoods</p>	<p><i>The criterion consulted on - 7 points for applicants, training at 7-8 points and considering revocation at 9 points and above - was viewed by the working group set up by the council and endorsed by Executive Board as a proposal as striking the right approach for determining whether someone is suitable to work as a taxi or private hire driver and showing a level of discretion for people who are already working as taxi and private hire drivers.</i></p> <p><i>The council, whilst working in partnership with the licensed taxi and private hire trade and other stakeholders, is nevertheless required to prioritise the safety of the travelling public, over the livelihoods of drivers. Leeds City Council's figures show that the vast majority (over 80%) of drivers have zero points, and most can continue to work, while not accumulating repeated points for minor motoring offences.</i></p> <p><i>The criterion consulted upon would immediately affect a small number of drivers (78) 1.4% of all drivers, who already have 7 or more points. A further 241 drivers on 4-6 points, could be affected by the new criterion if they were to accrue more points for minor motoring convictions. However, the council has proposed to work with those drivers to provide additional training in order to help them maintain their taxi or private hire licence and not incur further endorsements. On that basis officers find no evidence to suggest that introduction of the criterion alone will risk drivers' livelihoods.</i></p>
<p>Policy is too unfair or too harsh</p>	<p><i>The criterion consulted on - 7 points for applicants, training at 7-8 points and considering revocation at 9 points and above - was viewed by the working group set up by the council and endorsed by Executive Board as a proposal as striking the right approach for determining whether someone is suitable to work as taxi and private hire driver, and showing a level of discretion for people who are already working as taxi and private hire drivers.</i></p> <p><i>People who use taxis and private hire vehicles are entitled to feel safe when they get into those vehicles, and a relevant aspect of safety is the standard of driving.</i></p> <p><i>The council has followed the UK national guidance on setting tighter standards for drivers with convictions for minor motoring convictions. A large majority of licensing authorities nationally have already implemented a minor motoring conviction very similar to that proposed by the council. Officers conclude that the criterion remains a fair balance then assessed against the overarching objective to protect public safety</i></p>

Response/objection	Officer response
<p>Frequency of driving means taxi drivers are more at risk of minor offences</p>	<p><i>People who use taxis and private hire vehicles are entitled to feel safe when they get into those vehicles, and a relevant aspect of their safety is the standard of driving.</i></p> <p><i>The council's priority is the safety of the travelling public, and not the livelihoods of drivers. Leeds City Council's figures show that the vast majority (over 80%) of drivers have zero points, and most can continue to work, while not accumulating repeated points for minor motoring offences.</i></p> <p><i>It is important that taxi and private hire drivers do observe speed limits and traffic signals, both for their passengers' safety and for their own. For those taxi and private hire drivers who drive many more miles than the general motorist, it is just as important that they drive safely, as their driving impacts more strongly on passengers and other road users than motorists driving an average number of miles.</i></p>
<p>Existing policy works ok</p>	<p><i>The council's previous policy did allow licence holders with 12 points accumulated for minor motoring convictions to continue to be licensed.</i></p> <p><i>The fact that an individual has accumulated points for repeated minor motoring convictions does suggest that their driving standard is worthy of review. Nationally and in West Yorkshire, authorities have been setting a higher expectation for taxi and private hire drivers than general motorists, owing to the vulnerability of many people who use taxis and private hire vehicles, and the fact that they regularly put their safety in the hands of their driver.</i></p> <p><i>The criterion consulted on - 7 points for applicants, training at 7-8 points and considering revocation at 9 points and above was viewed by the working group set up by the council and endorsed by Executive Board as a proposal as striking the right approach for determining whether someone is suitable to work as taxi and private hire driver.</i></p> <p><i>The Institute of Licensing Guidance states in paragraph 3.30: 'speeding is dangerous, irrespective of the situation; drink driving is dangerous, irrespective of the situation; bald tyres are dangerous, irrespective of the situation. All these behaviours put the general public at risk</i></p>
<p>Rules do not apply to others (Bus/HGV/LCC drivers)</p>	<p><i>The council recognises that this is a criterion to determine whether a person is suitable to hold a licence as a taxi or private hire driver and does not apply to any other driving role.</i></p> <p><i>The council has a legal responsibility to ensure that it is satisfied that an individual is fit and proper to hold a taxi or private hire licence. The regulators of other driving professions have their own method of determining whether bus, lorry or other drivers</i></p>

Response/objection	Officer response
	<p><i>are fit and proper. The council has policies in place for employing people who drive for the council as part of their role, and has found bus companies who have equivalent policies in place for employing drivers, in contrast to the assertion from respondents.</i></p> <p><i>The council asserts that taxi and private hire drivers are in a unique position of control over their passengers, and that it is proportionate to have rules in place which scrutinise the driving records of applicants and licence holders.</i></p>
<p>Seriousness of offence(s) need to be considered</p>	<p><i>The council recognises that the majority of points accrued by drivers appear to be in multiples of 3, and therefore at the lower end of the majority of motoring convictions tariffs. The council has a long term aim of reducing the number of serious and fatal accidents in Leeds, and minor motoring convictions may suggest that an individual's driving standard needs to be improved.</i></p> <p><i>Points accrued for speeding, are imposed only where a speed awareness course cannot be offered – either because one has already been attended within the previous 3 years, has been refused or the speed in question exceeded certain speed ranges indicating that an individual driving speed is of concern. In setting the limit at more than 6 points for applicants, the council indicates that more than one conviction for minor motoring convictions, including speeding, would not be a barrier to gaining a licence.</i></p> <p><i>In setting the limit higher for existing licenced drivers, including a warning and training, the council was seeking to strike the right approach for determining whether someone is suitable to work as taxi and private hire driver, and showing a level of discretion for people who are already working as taxi and private hire drivers.</i></p>
<p>Disagree because proposal is not harsh enough</p>	<p><i>The council recognises that the proposed criterion would allow drivers with 6 points for minor motoring convictions to obtain a licence. It is acknowledged that there are many people who would want the threshold to be set lower than 6 points, so the travelling public could be assured their taxi or private hire driver did not have a high level of points on his or her licence.</i></p> <p><i>The council recognises that the proposed criteria would also allow drivers with 7 or more points to continue to hold a licence, providing they undertook further training. It is acknowledged that this is slightly out of step with the national recommended standard, which recommends refusal and revocation at 7 points for minor motoring convictions.</i></p> <p><i>However, the criterion consulted on - 7 points for applicants, training at 7-8 points and considering revocation at 9 points and above - was viewed by the working group set up by the council and endorsed by Executive Board as striking the right approach for determining whether someone is suitable to work as a taxi or</i></p>

Response/objection	Officer response
	<p><i>private hire driver, and showing a level of discretion for people who are already working as taxi and private hire drivers.</i></p> <p><i>The council can assure people wanting tougher measures that this criterion does not apply to taxi and private hire drivers who have convictions for more serious motoring offences, where other criteria would be applied and result in a refusal of a licence?.</i></p>
<p>Policy discriminates or is racist</p>	<p><i>The council is aware that the majority of taxi and private hire licence holders are of Black &amp; Minority Ethnicity (BAME). The council carried out an Equality &amp; Diversity Impact Assessment on the proposed criterion on which the council consulted.</i></p> <p><i>The council does not accept that because a criterion impacts significantly on people of a BAME background, it is discriminatory or racist, either directly or indirectly. People who use taxis and private hire vehicles are entitled to feel safe when they get into those vehicles, and a relevant aspect of safety is the standard of driving.</i></p> <p><i>The council considers that it is reasonable to require a higher standard of driving of all drivers regardless of their ethnicity</i></p> <p><i>The council considers that the consulted upon criteria, which includes a provision for additional training for drivers with points for minor motoring convictions, demonstrates that the council wants to work with licence holders in a supportive way.</i></p>
<p>Passengers cause distractions which can cause minor driving faults</p>	<p><i>The council recognises that the job of taxi or private hire driver is not an easy one, and that passengers may cause distractions to drivers.</i></p> <p><i>However, drivers are responsible for their own standard of driving their vehicle, and it remains extremely important for drivers to take steps to continue to drive in a safe and professional way which avoids minor motoring convictions. Officers are not therefore of the view that this situation requires an amendment to the proposed criterion.</i></p>

## 2 b) Further Miscellaneous Comments

Some comments do not fall into a specific category, generally because the number of responses covering a theme are very low numbers, or the comment had little meaning or use. These are listed as 'Misc/General Comments' in the table above. However, some of the more commonly seen comments included:

- Increase in speed cameras/money making traps are an issue
- LCC seem to put themselves above the DVLA
- Tinted/privacy windows policy in some areas is a concern for drivers – *irrelevant to council position on drivers with minor motoring convictions, will be addressed as part of future vehicle policy reviews*
- The courts will not ban someone on 12 points if it will affect their income/livelihood
- There is a lack of data to support the change
- It could make it harder for the public to get a taxi and could increase unemployment levels
- Some want LCC to have a full consultation on the whole suitability policy and not just the points
- Some suggestions that people will take LCC to court or face a judicial review
- Drivers support their whole family on a single income, so the impact will be wider than just the driver

## **2 d) Additional Considerations**

Below are some considerations and checks made to ensure the validity of the results.

### **Repeating comments**

There are a number of open-text comments that are identical and appear to have been replicated between respondents. In total there were 60 comments with an identical statement, and a further 9 comments with a different statement but also identical.

This raised a concern of survey manipulation, so further work was carried out to understand the source of these responses.

All of the repeated comments were submitted from different devices (security settings within our survey software will generally only allow one response per device) and were from different IP addresses. In addition the answers to other questions such as demographic information and contact details suggest that these are different people.

Due to one particular comment it was found that wording had been written and shared with others. Given that 63% of respondents were from a BAME background, it is possible that many respondents do not use English as their first language, and therefore used the English wording provided by others.

Given the above checks the duplicate responses are considered as valid and have been included in the analysis.

### **IP address information**

IP address checks were made to see if a large number of responses had been made on the same internet network or at the same location. Other than repeating IP addresses belonging to Leeds City Council, there was no unusual activity found.

### **Inconsistent responses**

People were asked to leave a comment if they do not support the proposal. However a number of people said they were in support but then left a comment.

When analysing these comments, it was noted that on 12 occurrences the comment left clearly shows that they do not support the proposal. As mentioned above this could be as a result of

language barriers, or simple human error. In addition, a further 8 people did not state whether they agree/disagree, but the comment made clearly showed their choice.

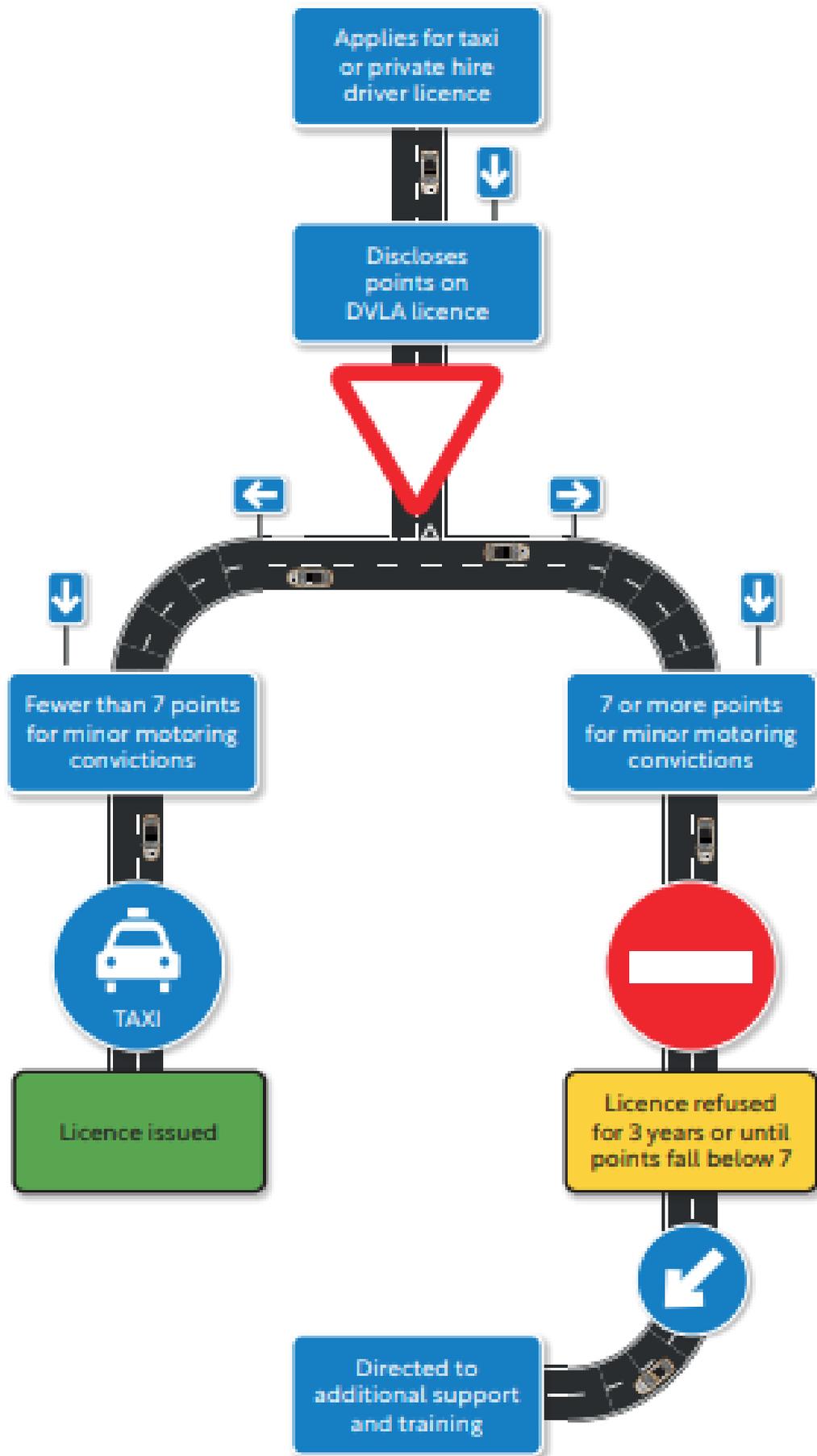
These have been manually changed and their comments included in the analysis.

## 2 e) List of licensing authorities who responded to the council's request

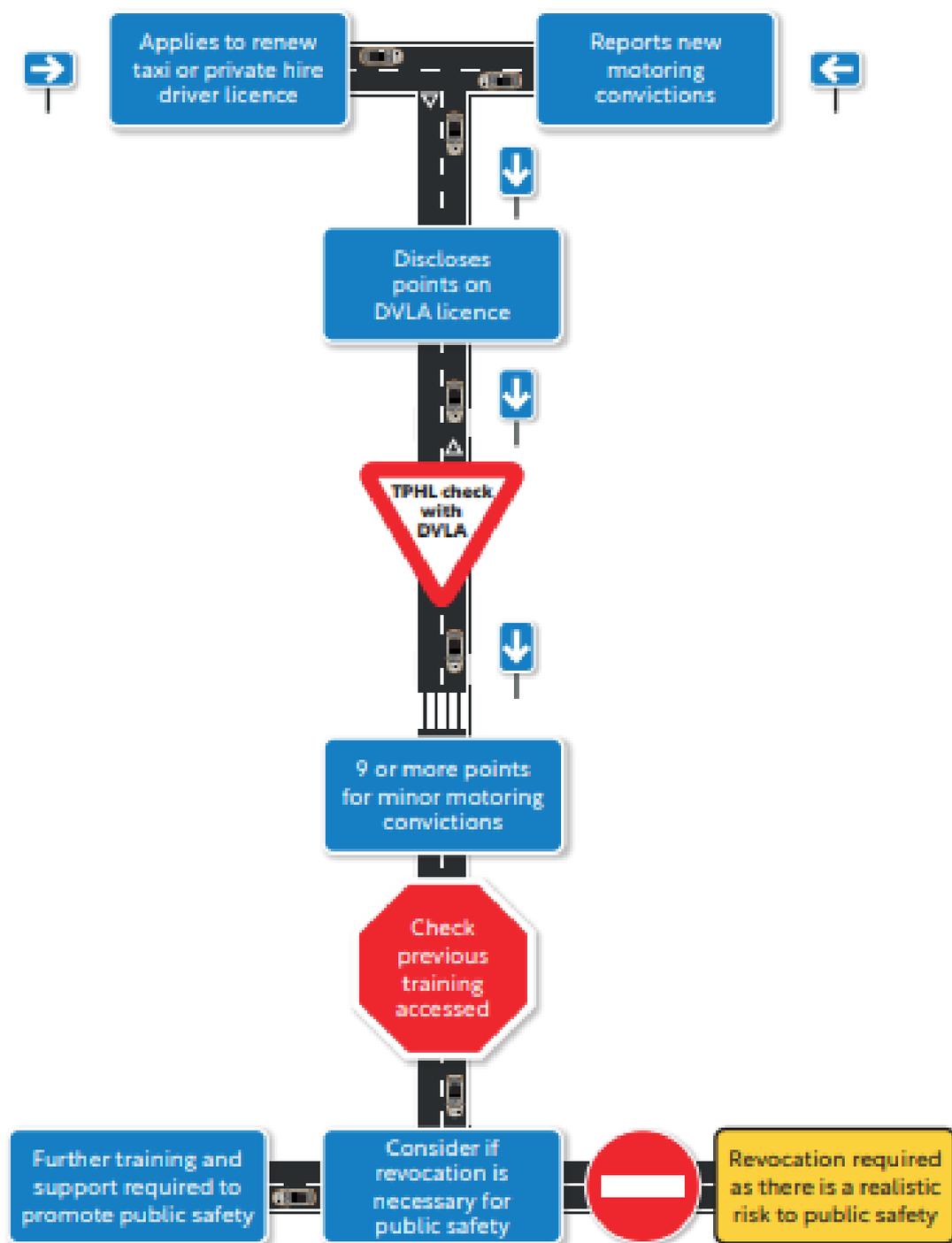
Ashfield
Ashford
Barnsley
Barrow-in-Furness
Bassetlaw
Basingstoke and Deane
Breckland
Brighton and Hove
Broadland
Broxbourne
Burnley
Cambridge
Canterbury
Cannock Chase
Charnwood
Colchester
Corby
Darlington
East Cambridgeshire
Erewash
Gedling
Guildford
Hambleton
Harborough
Hart
Harlow
Harrogate
Hertsmere
Hinckley and Bosworth
Hyndburn
Ipswich
Kettering
Knowsley
Leicester
London
Luton
Manchester
Middlesbrough
Newark and Sherwood
Newcastle-under-Lyme
North West Leicestershire
North Kesteven
North Somerset
North Tyneside
Oadby and Wigston
Oldham

Pendle
Peterborough
Richmondshire
Rochford
Runnymede
Ryedale
Salford
Scarborough
Sedgemoor
Sefton
Sevenoaks
Sheffield
Folkestone and Hythe
Slough
Somerset West and Taunton
South Derbyshire
South Tyneside
South Norfolk
South Holland
Spelthorne
Stoke-on-Trent
Stroud
Surrey Heath
Swale
Teignbridge
Telford and Wrekin
Tendring
Test Valley
Thurrock
Torridge
Torbay
Vale of White Horse
Wakefield
Warwick
Watford
West Suffolk
Windsor and Maidenhead
Winchester
York

# NEW LICENCE APPLICATION PROCESS



# LICENCE RENEWAL AND CONVICTION REPORTING PROCESS 9 OR MORE POINTS



# LICENCE RENEWAL AND CONVICTION REPORTING PROCESS 7 OR MORE POINTS

