

**CALL IN REQUEST**

Date of decision publication: **23<sup>rd</sup> September 2022**

Delegated decision ref: N/A

Executive Board Minute no: **43**

Decision description: **Taxi & Private Hire Licensing - Results of consultation on suitability (minor motoring convictions)**

**Discussion with Decision Maker:**

Prior to submitting a Call In, a nominated signatory must first contact the relevant officer or Executive Member to discuss their concerns and their reasons for wanting to call in the decision. Part of this discussion must include the Member ascertaining the financial implications of requesting a Call In.

Please identify contact and provide detail.

- Director/author of delegated decision report.
- Executive Board Member

Detail of discussion (to include financial implications)

Cllr Billy Flynn met with **Cllr Coupar** and **John Mulcahy** on **28<sup>th</sup> September** to outline concerns with the proposals and reasons for wanting to call-in the decision. These reasons related to proportionality, clarity of aims and outcomes, and due account being taken of points raised during the consultations (these reasons are expanded on in the section below).

Cllr Flynn asked about the financial implications of requesting a call in and was informed that there are no implications.

**Reasons for Call In:**

All requests for Call In must detail why, in the opinion of the signatories, the decision was not taken in accordance with the principles set out in Article 13 of the Council constitution (decision making) (principles of decision making) or where relevant issues do not appear to be taken into consideration. *Please tick the relevant box(es) and give an explanation.*

<b>X</b>	Proportionality (ie the action must be proportionate to the desired outcome)
<b>X</b>	Due consultation and the taking of professional advice from officers
	Respect for human rights
	A presumption in favour of openness
<b>X</b>	Clarity of aims and desired outcomes
<b>X</b>	An explanation of the options considered and details of the reasons for the decision
	Positive promotion of equal opportunities
	Natural justice

**Explanation**

The Executive Board papers and supporting documentation refer to Statutory Guidance but this guidance is clear that it need not be implemented if there are compelling local reasons why it should not be. We submit that there are good and compelling local reasons as follows to maintain the current minor convictions element of the driver suitability policy.

We place the utmost importance on the safety of Leeds passengers and want to see a licensing regime that both protects them and supports drivers to carry out their trade responsibly. Leeds has for some years been recognised as having some of the most stringent prerequisites when considering driver suitability and vehicle conditions. The city was unusual in that it developed a comprehensive policy in 2013 on how convictions should be treated when considering driver suitability. Most local authorities did not publish their own convictions policy until after 2017 so we already have considerable experience in the field.

Accordingly, we would question whether the proposals to change the council's driver suitability and convictions policy (minor motoring convictions) are proportionate and appropriate at this time, and whether the council has taken due account of the concerns raised by drivers in the consultation rounds. If implemented as currently drafted, we are concerned that the changes will have a negative impact on Leeds taxi and private hire licence holders and we would therefore like to see scrutiny take an independent look at the issue and provide greater clarity on the detail and impact of what is proposed.

In terms of proportionality and timing, we would question whether the significant changes being proposed are fairly directed and whether the current high standards in Leeds necessitate a policy change on this scale. To use an old but still very appropriate adage "If it ain't broke, why fix it?". Since the motoring convictions element of the suitability policy was introduced nearly 9 years ago to date, only 6 drivers have had their licences revoked and just 2 refused for accumulated points. Some would argue this is hardly a major safeguarding concern demanding urgent review. It is also understood that there is very little, if any, harmonisation nationally across authorities which could lead to significant issues with 'cross-border' trade where drivers come from areas with less stringent rules and trade in Leeds – some even use RAG (red/amber/green) status or timing of convictions rather than a points basis.

As the Executive Board report illustrates, 83% of taxi and private hire drivers have zero points on their licence. Only 69 drivers, a little over 1% of all taxi and private hire drivers, have 7 or more points. Furthermore, the trade has been under a great amount of strain throughout the pandemic

and has lost a considerable number of drivers. The trade is arguably amongst the worst affected by the pandemic and least assisted financially because drivers are mainly self-employed, and indeed is still recovering. Is now the right time to be introducing such potentially disruptive changes? The proposals do not apply to other LCC employees or indeed other public transport drivers, for example bus drivers who arguably carry more passengers than the taxi and private hire trade.

We would also argue the consultation process was not carried out in accordance with the main guiding principles laid down by the Courts or with a public authority's duty to act fairly in the exercise of their functions as follows:

- The decision to reduce the number of points was predetermined by the decision makers, it was not changed in any way following the consultation despite overwhelming opposition from the trade and the significant divergence of opinion expressed by consultees;
- Linked to the above, it is considered that conscientious consideration was not given to the produce of the consultation because there is no evidence of this, for example an amendment to the proposals as a result of the consultation responses. This is an essential requirement of the main guiding principles for consultation;
- The data regarding the tiny number of revocations and refusals under the current policy was not communicated to the consultees as part of the consultation process;
- That insufficient account has been taken of the significant opposition to the proposals from the taxi trade, (94% of licence holders who responded to the consultation were opposed to the proposals) and we note that there has previously been some dissatisfaction with the consultation process itself. 1,481 people responded against the proposal (80% were licence holders); compared to 756 responded in favour of the proposal, (89% were members of the public, passenger or stakeholder group). This suggests a significant difference in views, but certainly more opposition than support, and a serious amount of continuing concern from licence holders themselves.

In addition, DfT Statutory Guidance on consultation recommends that *"Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trade's customers."* The consultees show that 93 (4%) of the responders were from members of the public who do not use taxi or private vehicles. Similarly a further 61 responders (3%) were undeclared. Thus, 4% of the responses did not comply with the Statutory Guidance on licensing consultation and a further 3% may not have.

Although not affecting the proposal regarding points, the Licensing Committee decided that for an initial 12 month pilot period any decision to revoke a licence on the basis of the new minor motoring convictions will be determined by a licensing sub-committee. This was tried some years ago and we understand had to be withdrawn because of undue pressure from the trade on elected members. Given the history and the reduction in points required for revocation, we think this unwise and wonder about the danger of inequitable treatment for drivers seen by different elected members for similar offences.

The scale of the opposition to the plans also raises questions about the clarity of the aims and desired outcomes of the proposal. As the report acknowledges, some respondents to the consultation appeared to be unclear as to what would happen when an already licensed driver reached 7 or 8 points and were concerned about a 'revoke first, ask questions later' approach. This suggests there was a lack of clarity in the Council's communication of its aims.

There is a legitimate question over whether the Council should proceed in the teeth of such opposition when there appears to be a lack of confidence from licence holders in the process.

## Leeds City Council Scrutiny Support

For these reasons we believe the decision should be independently reviewed by the relevant scrutiny board.

A Call In request may be made by a **minimum** of:

**5 non-executive Members** of council from the **same political group**;

or;

**2 non-executive Members** of council if **they are not from the same political group**.

This Call In request should be submitted to Scrutiny Support, 1st Floor West, Civic Hall by 5.00pm by no later than the fifth working day after the decision publication date. The following signatories (**original signatures only**) request that the above decision be called in.

Nominated Signatory

Print name Cllr Billy Flynn

Political Group Conservative Group



Signature

Print name Cllr A Hutchinson

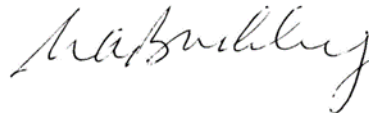
Political Group Morley Borough Independent



Signature

Print name Cllr Neil Buckley

Political Group Conservative Group



Signature

Print name Cllr Mike Foster

Political Group Conservative Group



Signature

Print name Cllr Linda Richards

Political Group Conservative Group



**Leeds City Council Scrutiny Support**

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Signature

Print name Cllr Matthew Robinson

Political Group Conservative Group



**For office use only:** (box A)

Received on behalf of the Head of Democratic Services by:

Rebecca Atherton

Date: 29 September Time: 9am SSU ref: 2022/23- 76

**For office use only:** (box B)

Exemption status  
checked:

Call In authorised: Yes

Date checked:

Signed: Rebecca Atherton

Signatures checked:

Date: 29 September 2022

Receipts given:

Validity re article 13