

## Notice of Meeting

### Licensing and Safety Committee

Councillor Porter (Chairman),  
Councillor Brossard (Vice-Chairman),  
Councillors Allen, Atkinson, Dr Barnard, Brown, Brunel-Walker,  
Finch, Ms Gaw, Gbadebo, Mrs Ingham, Kirke, Leake,  
Mrs McKenzie-Boyle and Tullett

**Thursday 24 October 2019, 7.30 - 9.30 pm**  
**Council Chamber - Time Square, Market Street, Bracknell, RG12 1JD**



### Agenda

Item	Description	Page
1.	<b>Apologies for Absence</b>	
	To receive apologies for absence.	
2.	<b>Declarations of Interest and Party Whip</b>	
	<p>Members are asked to declare any disclosable pecuniary or affected interests and the nature of that interest, including the existence and nature of the party whip, in respect of any matter to be considered at this meeting.</p> <p>Any Member with a Disclosable Pecuniary Interest in a matter should withdraw from the meeting when the matter is under consideration and should notify the Democratic Services Officer in attendance that they are withdrawing as they have such an interest. If the Disclosable Pecuniary Interest is not entered on the register of Members interests the Monitoring Officer must be notified of the interest within 28 days.</p> <p>Any Member with an Affected Interest in a matter must disclose the interest to the meeting. There is no requirement to withdraw from the meeting when the interest is only an affected interest, but the Monitoring Officer should be notified of the interest, if not previously notified of it, within 28 days of the meeting.</p>	
3.	<b>Minutes</b>	3 - 8
	To approve as a correct record the minutes of the meeting held on 6 June 2019.	
4.	<b>Urgent Items of Business</b>	
	Any other items which, pursuant to Section 100B(4)(b) of the Local Government Act 1972, the Chairman decides are urgent.	
5.	<b>Notice of Public Speaking</b>	
	To note those agenda items which have received an application for public speaking	

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6.	<b>Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire trades</b>	9 - 64
7.	<b>How Licensing could reduce air pollution</b>	65 - 68
8.	<b>Fees and Charges</b>	69 - 88
9.	<b>Hackney Carriage and Private Hire Trade Meeting Update</b>	89 - 96
10.	<b>Minutes of Licensing Panels</b>	97 - 104

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Published: 16 October 2019

#### **EMERGENCY EVACUATION INSTRUCTIONS**

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**LICENSING AND SAFETY COMMITTEE**  
**6 JUNE 2019**  
**7.30 - 8.54 PM**

**Present:**

Councillors Porter (Chairman), Brossard (Vice-Chairman), Allen, Atkinson, Dr Barnard, Brown, Finch, Ms Gaw, Gbadebo, Mrs Ingham, Kirke, Leake, Mrs McKenzie-Boyle and Tullett

**Apologies for absence were received from:**

Councillors Brunel-Walker

**4. Urgent Items of Business**

The Chairman advised the Committee of an Urgent Decision which had been taken by the Chief Executive to rectify an administrative error made in the Committee's appointment, whereby 18 Committee members had been appointed at Annual Council rather than the 15 maximum permitted under the Licensing Act 2003.

Three members had stood down from the Committee, and the Chief Executive had reappointed remaining members as the Licensing and Safety Committee.

**5. Election of Chairman**

Further to the re-appointment of the Committee, it was

**RESOLVED** that Councillor Porter be elected Chairman of the Licensing and Safety Committee for the municipal year.

**6. Appointment of Vice-Chairman**

Further to the re-appointment of the Committee, it was

**RESOLVED** that Councillor Brossard be appointed Vice-Chairman of the Licensing and Safety Committee for the municipal year.

**7. Declarations of Interest**

There were no declarations of interest.

**8. Minutes**

The minutes of the meetings held on 7 February 2019 and 22 May 2019 (Annual Meeting) were approved as a correct record.

**9. Notice of Public Speaking**

There had been no applications for public speaking.

10. **Guidance on determining the suitability of applicants and licensees in the Hackney and Private Hire Trades**

Suzanne McLaughlin, Public Protection Partnership representative presented the report on the Institute of Licensing's Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades. Members were asked to adopt the Institute of Licensing guidance, and incorporate the time periods in relation to convictions and cautions into the existing Bracknell Forest policy.

Members discussed the report, and the following points were noted:

- Members were reminded that they could adopt the Guidance in part.
- All drivers underwent a local Enhanced DBS check, which would include a background check by local police.
- Where the Institute of Licensing column had been left blank, the conviction had not been covered in their policy.
- It was clarified that a Fixed Penalty Notice (FPN) may be issued by a Police Officer in respect of certain road traffic offences (criminal offences), such as for certain speeding offences, as an alternative to Court sanctions otherwise being imposed following conviction. Depending on the offence, Penalty Points may also be endorsed on a driver's licence either in addition to a Fixed Penalty Notice being issued for a road traffic offence or as part of a Sentence for such offence following conviction in Court.
- A conviction follows a finding of guilt in a Court of law, whereas a road traffic offence (criminal offence) dealt with by way of Police Caution, a Fixed Penalty Notice, or participation on a driver speed awareness course, outside of the Court process, does not.
- It was noted that the Institute of Licensing guidance, however, (at Chapter 4.12) defines "conviction" as including matters that amount to criminal behaviour but which have not resulted in a conviction, including acquittals at Court, cases resulting in decisions not to prosecute and cases of complaint where there was no police involvement.
- It was clarified that a Fixed Penalty Charge Notice (PCN) may be issued by authorised persons in respect of other driving contraventions (such as parking contraventions) which are Civil matters rather than criminal offences.
- Members raised concerns around a number of areas of disparity between the Institute's timescales around convictions compared to Bracknell Forest's existing policy.
- Members asked whether other authorities had adopted the Institute's Guidance, and officers agreed to look into this.
- It was noted that the consultation had received 3 responses, compared to the 331 email notifications sent out. Other authorities within the Public Protection Partnership had seem similarly poor response rates.
- Members were reminded that drives are banned for a period of time in order to protect the public as well as the Council's reputation, and was not only a punishment of the driver.
- It was suggested that if the Institute wished to create unanimity across Local Authorities, it would be difficult if Bracknell Forest were to adopt some and not all of the guidelines. Members were reminded that not all of the Public Protection Partnership authorities follow the same set of standards.
- Members queried the difference between the possession of and conviction for drug use. It was clarified that the Bracknell Forest policy currently referred to a 'single isolated conviction', which the Institute's guidelines did not. It was also questioned that 'drugs' were not defined in the guidelines.
- Members agreed that the current Bracknell Forest policy had some poor phraseology and needed reviewing.

- The Committee recognised that taxi drivers had paid attention when it had amended guidelines in the past, which had led to improvements in areas such as notifying of driving penalties.
- To alleviate concerns that drivers may not be aware of the change, officers agreed that drivers would be asked to sign and confirm they have received and read the new policy, if implemented.
- It was understood that Wokingham and West Berkshire would be adopting these guidelines at their upcoming Committee meetings.
- Members raised concerns around the lack of differentiation between convictions or non-convictions in the guidance, and wished for these to be specified and separated into convictions and non-convictions before supporting the guidance going forward.
- Members asked officers to reconsider the wording around timing of convictions and non-convictions, to ensure clarity.
- Members asked to see a working draft version of the new timelines before the Committee meeting in September.
- While Members agreed with the general principle of aligning the policies across the Public Protection Partnership and nationally, it was not felt that the guidance could be adopted in its current format and wording.

Members did not support the recommendations, and requested that the report be presented again at the next meeting.

#### 11. **Disability awareness training**

Suzanne McLaughlin presented the Disability Awareness Training report. The report outlined feedback received since the Committee agreed to consult the trade on training proposals.

It was recommended that new drivers be required to undertake training prior to a licence being granted, and existing operators be required to attend within 12 months of the training being implemented, and then every 3 years thereafter.

Responses received were expected to be the same as those who had responded to the Institute of Licensing guidance consultation, as three responses had been received for both consultations.

In response to questions, members noted the following points:

- Members stressed the importance of drivers being aware of all disabilities, including those which were unseen.
- Training would be delivered in a three-hour classroom session.
- Members drew connections to the Child Sexual Exploitation / Safeguarding training and proposed that drivers might be checked on their understanding in this area following a similar training initiative.
- Members were concerned at the lack of engagement and response from drivers on this issue and asked whether there were other ways of communicating key areas of consultation to drivers. Members were reminded that all consultation is published on the Council's website. It was agreed that communication was key to engagement, however members recognised that ignorance of the law was no excuse for poor conduct.
- The training would cost £50 under the proposed provider and would be at a cost of the drivers.
- There was not currently a trade association for drivers in Bracknell, although some consultees were operators who could represent multiple drivers.

The Committee discussed the matter, and it was

**RESOLVED** that

- 1 the responses to the consultation that has been carried out be reviewed and considered;
- 2 disability awareness training be carried out by all new driver and operator licence applicants before a licence is granted and thereafter on a three yearly basis, and that all existing driver and operator licence holders attend the same training within the 12 months following the first training session, and thereafter on a three yearly basis.

12. **CCTV conditions**

Matt Howlett presented the CCTV Conditions report. It was proposed to add a paragraph to existing policy around CCTV in licensed vehicles to enable the Council to stipulate that the driver may need to have a CCTV camera installed on home to school transport routes. The Council would supply cameras which could be easily installed and removed by the driver depending on the route, and all footage and information would be owned by the Council. The proposal aimed to safeguard both young people and drivers.

In response to questions, the following points were noted:

- Members recognised that the proposal was contrary to existing guidance which required CCTV to be wired into the vehicle's ignition. Members agreed that if such cameras were made mandatory on home to school routes, they would need to be easy to install and use.
- It was clarified that the clause to be added gave the Council the power to make cameras mandatory on home to school routes, and that they were not yet a requirement.
- It was noted that this recommendation arose relating to challenging behaviour of some children on home to school transport, relating to their behavioural diagnosis.
- Members agreed that the additional clause protected both children and drivers.

Having discussed the matter, the Committee **RESOLVED** that

- 1 The proposed amendment to CCTV conditions be agreed, as outlined in the report.

13. **Annual report**

Suzanne McLaughlin presented the Public Protection Partnership's Annual Report, which detailed licensing activity across the last financial year. The report also included comparable data across the three Partnership authorities.

Officers noted that the report included specific information around the scope of work regarding complaints and requests, and more detail around the types of inspection being carried out.

Members discussed the report, and the following points were noted:

- It was understood that the number of drivers who had failed to notify the authority of conviction, caution or fixed penalty notice had dropped as a result of the Committee increasing the number of points attributed to this offence.
- It was clarified that only Thames Valley Police had the power to stop a taxi for a check, and so all checks for serious convictions were conducted in partnership with the Police.
- It was noted that Transport for London had adopted a policy to authorise their officers to stop taxis without the Metropolitan Police, however officers understood that this was conducted under different powers were held locally.
- Members requested to attend taxi checks with Licensing Officers, when the next opportunity arose. Matt Howlett suggested that Members might attend checks on the Home to School vehicles.
- It was noted that the Public Protection Partnership did not receive very much feedback, either compliments or complaints

The Committee thanked officers for their report.

**CHAIRMAN**

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**TO: LICENSING AND SAFETY COMMITTEE**  
**24 October 2019**

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**GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES  
 IN THE HACKNEY AND PRIVATE HIRE TRADES  
 (Public Protection Manager)**

**1 PURPOSE OF REPORT**

- 1.1 This report examines the criminal convictions element of the ‘fit & proper’ test. This test applies to existing licence holders and new applicants for Hackney Carriage driver licences, Private Hire driver licences, and Private Hire Operators licences.
- 1.2 The results of the consultation as agreed by the Committee at their meeting on 19 February 2019 and 6 June are presented for discussion and consideration.
- 1.3 The Committee are asked, taking into account the consultation responses, to update the Council’s Hackney Carriage and Private Hire Licensing Criminal Convictions Policy to reflect the Institute of Licencing (‘IoL’) guidance document and to make amendments to current Policy to reflect the time periods within the guidance document.

**2 RECOMMENDATIONS**

**2.1 That the Committee agrees that:**

- (a) The Committee notes IoL guidance document and that it is adopted by the Council as a reference document, and**
- (b) That the time periods in relation to convictions and cautions included within the IoL guidance are incorporated into the Council’s existing Criminal Convictions Policy, to replace those time periods previously agreed by this Committee**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 It is good practice to keep policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The current Criminal Convictions Policy was agreed by the Committee in 2015.
- 3.2 It is also proposed that the IoL guidance shall be adopted across the other Public Protection Partnership (PPP) authorities. It is a stated objective of the PPP to reduce duplication and derive efficiency from economies of scale where possible.
- 3.3 The timescales included within the guidance document are analogous with those published by the Department for Transport in a draft document which is proposed to become National guidance.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Committee could decline to adopt the guidance document and new conviction timescales, meaning the Council would continue to utilise the existing policy.

- 4.2 The Committee could establish alternative timescales, other than those within the IoL guidance document, to replace those within the existing policy.

## 5 SUPPORTING INFORMATION

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that a Licensing Authority must satisfy themselves before a licence is granted that the applicant for a driver or operator licence is a fit and proper person. This has not been judicially defined but in the case of a suspension of a driver in Leeds City Council v Hussain it was said by the Judge:

*“To prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault passengers”*

- 5.2 There is no national or statutory guidance to assist local authorities in making a decision on whether a licence holder remains, or a new applicant is, fit and proper. As such, it is left up to individual authorities to make this decision. It is the hope of the IoL that if the standards within their guidance document are widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty, and confidence in the system of licensing.
- 5.3 The guidance has been produced by the IoL in partnership with the Local Government Association, Lawyers in Local Government, and the National Association of Licensing and Enforcement Officers, and following widespread consultation. It is formally endorsed by all of those organisations.
- 5.4 The guidance published by the IoL is attached at **Annex A**. The current Bracknell policy is attached at **Annex B**. **Annex C** shows the proposed new policy with changes identified as: underlined current policy; **red** proposed; **green** existing Policy not included in IoL guidance.
- 5.5 In each case in the IoL standards, the suggested time periods that should elapse before a licence would be granted are equal to, or longer than the existing periods in the Council's policy. In some cases, significantly longer periods are suggested, for example all violence offences are 10 years in the IoL guidance, whereas for some violence offences the period is as low as 3 years in the current policy.
- 5.6 Nationally, there have been a number of high profile incidents in recent years in relation to child sexual exploitation ('CSE') issues, and therefore it is felt to be very appropriate to specify that anyone who has been convicted of CSE or other exploitation offences (such as modern slavery), will not be licensed.
- 5.7 Both Hackney Carriage and Private Hire drivers are exempt from the Rehabilitation of Offenders Act 1974. This means that there are no 'spent' convictions and any and all criminal convictions can be taken into account by a Local Authority in assessing safety and suitability. Enhanced Disclosure and Barring Service (DBS) certificates are obtained by the authority in respect of a new applicant and these are renewed every 3 years.
- 5.8 Taxis are used by a large selection of the public but most regularly they are used by vulnerable groups such as children, the elderly, disabled people and the intoxicated. These groups in particular and lone females are placing themselves, and their personal safety, completely in the hands of a driver. As a passenger they may not

have any control of what the driver does, be it drive badly, take them to a remote location, or assault them mentally or physically.

- 5.9 The Local Government Association Taxi and PHV licensing Councillors' handbook (from page 13, August 2017 edition) recommends that a Council's criminal convictions policy is reviewed and updated regularly. Councils are also recommended to take a particularly strong stance in relation to indecency, violence and dishonesty offences.
- 5.10 In addition to help in protecting the public, a robust policy will also engender public confidence in the trade, which can ultimately only be of benefit to the trade. This is a point that will be made in the consultation process.
- 5.11 It is suggested that the IoL guidance will help to add greater clarity for both the person making a decision, whether officers or Committee Members at a panel hearing, and for an applicant or licence holder who has criminal convictions or allegations made against them.
- 5.12 The recommendation is therefore that the committee agree to adopt the IoL guidance document, and update the convictions policy to reflect the latest guidance on time periods before a licence would be considered following a conviction.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 The relevant legal provisions are contained within the body of the report.

### Borough Treasurer

- 6.2 The financial implications are included within the body of the report.

### Equalities Impact Assessment

- 6.3 There are no implications arising from the recommendation in this report.

### Strategic Risk Management Issues

- 6.4 There are no implications arising from the recommendation in this report.

## **7 CONSULTATION**

- 7.1 A consultation was carried out for six weeks, between 25 March 2019 and 6 May 2019.
- 7.2 The results were presented on the 6th June 2019 in a report to this Committee.

### Background Papers

Local Government Association Taxi and PHV licensing Councillors' handbook (August 2017)

### Contact for further information

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# Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades



April 2018

 Institute of Licensing

Produced by the Institute of Licensing in partnership with:



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## Foreword

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

Everybody working in this field should acquaint themselves with the facts of the Rotherham case, which stands as a stark testament to what can happen when licensing performs its safeguarding role inadequately. But the extremity of that appalling story should not distract us from the job of protecting the public from more mundane incompetence, carelessness or dishonesty. The standards of safety and suitability do not have to be set as a base minimum. To the contrary, they may be set high, to give the public the assurance it requires when using a taxi service. It is good to know that one's driver is not a felon. It is better to know that he or she is a dedicated professional.

Crucially, this is not a field in which the licensing authority has to strike a fair balance between the driver's right to work and the public's right to protection. The public are entitled to be protected, full stop. That means that the licensing authority is entitled and bound to treat the safety of the public as the paramount consideration. It is, after all, the point of the exercise.

Therefore, this guidance is to be welcomed. It rightly emphasises that any circumstance relating to the licensee is potentially relevant, provided of course that it is relevant to their safety and suitability to hold a licence. It provides useful and authoritative guidelines to licensing authorities as to how they ought to approach their important task of making determinations about the safety and suitability of drivers and operators.

While, of course, licensing is a local function, it seems absurd that precisely the same conduct might result in a short period without a licence in one district, and a much longer period in a neighbouring district. If a driver is suitable in district A, they are surely suitable in district B, and vice versa. If, as is hoped, this guidance becomes widely adopted, this will result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing. Adherence to the guidance may also provide protection to licensing authorities on appeal.

The guidance is therefore commended to licensing authorities. It is hoped that, in due course, it will sit at the elbow of every councillor and officer working in taxi licensing.

Philip Kolvin QC  
Cornerstone Barristers

April 2018

## Chapter 1: Introduction

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- 1.1 This guidance has been produced by the Institute of Licensing working in partnership with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO), following widespread consultation. We are grateful to all three organisations for their contributions. This guidance is formally endorsed by all of those organisations.
- 1.2 The overriding aim of any Licensing Authority when carrying out its functions relating to the licensing of Hackney or Private Hire Drivers, Vehicle Proprietors and Operators, must be the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services.
- 1.3 The relevant legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence and that is a test to be applied after any applicant has gained any reasonably required qualifications<sup>1</sup>. It is the final part of the process of an application when the decision is made, whether by a committee, sub-committee or an officer under a Scheme of Delegation. It involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 1.4 If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.
- 1.5 There is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision. This guidance complements the LGA's Taxi and Private Hire Licensing Councillor's Handbook and any forthcoming Government guidance. Local authorities should also be aware of the forthcoming National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences.
- 1.6 This document is intended to provide guidance on determining suitability, taking into account the character of the applicant or licensee. It can then be used by local authorities as a basis for their own policies: in particular it considers how regard should be had to the antecedent history of the applicant or licence holder and its relevance to their 'fitness and propriety' or 'character'. As with any guidance it need not be slavishly followed but it provides a starting or reference point from which decisions can be made taking into account the particular merits of each case.
- 1.7 A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the

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<sup>1</sup> Except vehicle proprietors. In those cases there is no "fit and proper" requirement, but the authority has an absolute discretion over granting a licence.

authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing authority considers that there are exceptional circumstances which warrant a different decision. This approach was endorsed by the High Court in *R (on the application of Nicholds) v Security Industry Authority*<sup>2</sup>.

- 1.8 In Chapter 2 this Guidance explores the current thinking behind an individual's tendencies to reoffend. It is clear that this is not an exact science and that there is no meaningful and precise statistical evidence that can assist in the setting of policy. Given the important function of licensing to protect the public, any bar should be set at the highest level which is reasonable, albeit subject to the exercise of discretion as is set out in paragraph 1.7 and Chapters 3 and 4.
- 1.9 This Guidance contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.
- 1.10 This Guidance cannot have the force of legislation, new or amended; the need for which is both abundantly clear to, and fully supported by the Institute and the other organisations working with it. It is intended to help local authorities achieve greater consistency so that applicants are less able to shop between authorities. It is acknowledged that this cannot be fully achieved without the imposition of national minimum standards.
- 1.11 In preparing this document the Institute's Working Party has consulted with and considered the issues from all perspectives including, Councillors, Licensing Officers, Lawyers, the Hackney Carriage and Private Hire Trades, Academics, the Probation Service and the Police.

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<sup>2</sup> [2007] 1 WLR 2067

## Chapter 2: Offenders and Offending - An Overview

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- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.<sup>3</sup> With this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 2.2 This section aims to provide a brief overview of public protection, how to determine risk and factors to be considered when an applicant seeks to demonstrate a change in their offending behaviour.
- 2.3 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability, it is essential that the decision maker considers all relevant factors including previous convictions, cautions and complaints and the time elapsed since these were committed.
- 2.4 There has been extensive research into the reasons behind why some individuals commit crimes, why some learn from their mistakes and stop offending whilst others find themselves in a cycle of repeat offending. Several theories have evolved over many years offering insight into the reasons behind offending behaviour. One common theme is that no two crimes are the same and that risk cannot be eliminated, or the future predicted. What can be done, is to examine each case on its individual merits, look at the risks involved along with any change in circumstances since any offences were committed to assist in making the decision.
- 2.5 A key factor when considering an application from an individual with any convictions, cautions or complaints recorded is Public Protection. This includes assessing the risk of re-offending and harm<sup>4</sup>. Risk assessment tools are regularly employed by those who are responsible for managing individuals who have committed offences. Local Authorities are not always privy to this information so it is important when they are making decisions around suitability that they have an understanding of offending behaviour and risk of re-offending in generic terms.

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<sup>3</sup> DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

<sup>4</sup> Kemshall, H. (2008). Understanding the Management of High Risk Offenders (Crime and Justice). Open University Press

- 2.6 Flaud<sup>5</sup> noted that risk is in principle, a matter of fact, but danger is a matter of judgment and opinion. He goes on to note that risk may be said to be the likelihood of an event occurring; danger may be the degree of damage (harm) caused should that event take place<sup>6</sup>.
- 2.7 The National Offender Management Service refers to risk in two dimensions. That being the likelihood that an offence will occur, and the impact / harm of the offence should it happen. Generally, when making a decision around probability and likelihood of re-offending, consideration is needed towards static and dynamic factors.
- 2.8 Static factors are historical and do not change such as age, previous convictions and gender. They can be used as a basis for actuarial assessments and are fundamental in considering an individual's potential to reoffend in future<sup>7</sup>. For example, recent published statistics revealed that 44% of adults are reconvicted within one year of release. For those serving sentences of less than twelve months this increased to 59%<sup>8</sup>. It is also widely accepted that generally persons with a large number of previous offences have a higher rate of proven reoffending than those with fewer previous offences<sup>9</sup>.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity<sup>10</sup>. It is documented that the greater their unmet need, the more likely an individual is to re-offend. When considering whether an individual has been rehabilitated, it is important to have regard towards the motivation behind their offending and dynamic risk factors present at the time, against the steps taken to address such factors thus reducing the risk of re-offending.
- 2.10 It is of note that problems and/or needs are more frequently observed in offender populations than in the general population<sup>11</sup>. Many of these factors are interlinked and embedded in an individual's past experiences. This can impact upon that person's ability to change their behaviour, particularly if the areas identified have not been addressed or support has not been sought. Needs will vary from individual to individual and will rely upon their level of motivation and the nature of the offence committed.

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<sup>5</sup> Flaud, R. (1982). Cited in, Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>6</sup> Gendreau, P., Little, T. and Goggin, C. (1996). A meta-analysis of the predictors of adult offender recidivism: what works! *Criminology*, 34, 557-607.

<sup>7</sup> Craig, L. A. and Browne, K. B (2008). *Assessing Risk in Sex Offenders: A Practitioner's Guide* Paperback.

<sup>8</sup> Ministry of Justice (2017) *Proven reoffending statistics: July 2014 to June 2015*, London: Ministry of Justice.

<sup>9</sup> Ministry of Justice (2015): *Transforming Rehabilitation: a summary of evidence on reducing reoffending*. London: Ministry of Justice.

<sup>10</sup> McGuire, J. (2008). A review of effective interventions for reducing aggression and violence. *Philosophical Transactions of the Royal Society B: Biological Sciences*, 363(1503), 2577-2597

<sup>11</sup> Nash, M. (1999) *Police, Probation and Protecting the Public*. London: Blackwell Press.

### Risk of re-offending:

- 2.11 The issue of recidivism and increase in serious crime rates has given rise to extensive publications, theories and changes in legislation with many focusing upon the need for more rehabilitation projects as a means of reducing re-offending rates. Central to the rehabilitation of offenders is the concept of criminogenic needs. This has been described by the National Offender Management Service as “any area where the offender has needs or deficits, in which a reduction in the need or deficit would lead to a reduction in the risk of re-conviction. An individual’s ability to address and reduce such needs relies heavily upon their motivation to change and desist and often takes place over a period of time”<sup>12</sup>.
- 2.12 Kurlychek, 2007 in her study noted that “a person who has offended in the past has been found to have a high probability of future offending, but this risk of recidivism is highest in the time period immediately after arrest or release from custody and, thereafter, decreases rapidly and dramatically with age”<sup>13</sup>.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over<sup>14</sup>. It is well documented that the change occurs for various reasons; for example, as a result of successful treatment, natural maturation or the development of positive social relationships<sup>15</sup>. Female offenders are also considered more likely to desist from offending as they mature. The peak age of reported offending for females was 14 compared to 19 for males<sup>16</sup>.
- 2.14 Desisting from crime for people who have been involved in persistent offending is a difficult and complex process, likely to involve lapses and relapses. Some individuals may never desist<sup>17</sup>. As a result, it is important for individuals to evidence change in their behaviour before they can be considered to present a low or nil risk of re-offending. Often the only way of achieving this is through lapse of time.
- 2.15 The longer the time elapsed since an offence has been committed, the more likely the individual will desist from crime. It is noted that the more a life is lived crime-free, the more one comes to see the benefits of desistance<sup>18</sup>. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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<sup>12</sup> National Offender Management Service (2016). Public Protection Manual Edition. Proven Reoffending Statistics Quarterly Bulletin, October 2015 to December 2015

<sup>13</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

<sup>14</sup> Serin, R, C. and Lloyd, C.D (2008). Examining the process of offender change: the transitions to crime desistance. 347-364.

<sup>15</sup> Nash, M. (1999) Police, Probation and Protecting the Public. London: Blackwell Press.

<sup>16</sup> Trueman, C.N. (2015). Women and Crime. The History Learning Site. Ingatestone: Essex.

<sup>17</sup> Farrell, S (2005). Understanding Desistance from Crime: Emerging Theoretical Directions in Resettlement and Rehabilitation (Crime and Justice) Paperback.

<sup>18</sup> Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3<sup>rd</sup> Edition. Oxford: Oxford University Press.

ambiguity for those who have committed offences. A study in 2007 looking into previous convictions and the links to re-offending concluded that “individuals who have offended in the distant past seem less likely to recidivate than individuals who have offended in the recent past”<sup>19</sup>.

- 2.16 Although it is not possible to determine the future behaviour of an individual, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual’s previous behaviour and their potential to cause harm as a result of the choices they have made plays a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person’s ability to sustain such change. This can be a long process that can only be achieved over time.

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<sup>19</sup> Kurlychek, M C, Brame, R (2007). Scarlet letters and recidivism: Does an old criminal record predict future offending? University of South Carolina.

## Chapter 3: 'Taxi' Licensing Overview

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- 3.1 Taxis are used by almost everyone in our society occasionally, but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated, and a taxi driver has significant power over a passenger who places themselves, and their personal safety, completely in the driver's hands.
- 3.2 Local authorities (districts, unitaries and Welsh Councils) and TfL are responsible for hackney carriage and private hire licensing.
- 3.3 The principal legislation is the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. The purpose of taxi licensing is detailed in the DfT *"Taxi and Private Hire Licensing – Best Practice Guide"* para 8 which states:
- "The aim of local authority licensing of the taxi and PHV trades is to protect the public."
- 3.4 Within the two licensing regimes, there are 5 types of licence: hackney carriage vehicle; private hire vehicle; hackney carriage driver; private hire driver and private hire operator.
- 3.5 In relation to all these licences, the authority has a discretion over whether to grant. Whilst there is some guidance issued by the DfT, there are no national standards.
- 3.6 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a "fit and proper person" to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.7 There are no statutory criteria for vehicle licences; therefore, the authority has an absolute discretion.
- 3.8 In each case, the authority has powers to grant a licence, renew it on application and, during the currency of the licence, suspend or revoke it.
- 3.9 What is the role of each of these, and how do authorities determine an application, or take action against a licence?

### Taxi Drivers

- 3.10 The term "taxi driver" encompasses two different occupations: hackney carriage drivers and private hire drivers. "Taxi driver" is therefore used as a broad, overarching term to cover both hackney carriage and private hire drivers. In each case there are identical statutory

criteria to be met before a licence can be granted and many authorities grant “dual” or “combined” licences to cover driving both types of vehicle.

- 3.11 An applicant must hold a full DVLA or equivalent driver’s licence, have the right to work in the UK, and be a “fit and proper” person<sup>20</sup>.
- 3.12 The driving licence element is a question of fact. Although there are some issues with foreign driving licences, ultimately a person either has, or does not have a driving licence.
- 3.13 An applicant must also have the right to remain, and work in the UK<sup>21</sup>.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.<sup>22</sup>
- 3.15 It is the whole issue of “fit and proper” that causes local authorities the most difficulties. It has never been specifically judicially defined but it was mentioned in *Leeds City Council v Hussain*<sup>23</sup>. Silber J said:
- “... the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers.”
- 3.16 This is reflected in a test widely used by local authorities:
- ‘Would you (as a member of the licensing committee or other person charged with the ability to grant a hackney carriage driver’s licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?’<sup>24</sup>
- 3.17 It is suggested that the expression “safe and suitable” person to hold a driver’s licence is a good interpretation which neither adds nor removes anything from the original term of “fit and proper” but brings the concept up to date.

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<sup>20</sup> Local Government (Miscellaneous Provisions) Act 1976. Section 51(1) covers private hire drivers, and section 59(1) covers hackney carriage drivers.

<sup>21</sup> Local Government (Miscellaneous Provisions) Act 1976 S51(1)(a)(ii) in respect of private hire drivers and S59(1)(a)(ii) in respect of hackney carriage drivers.

<sup>22</sup> “Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales” - Home Office, 1<sup>st</sup> December 2016 available at <https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

<sup>23</sup> [2002] EWHC 1145 (Admin), [2003] RTR 199

<sup>24</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 10.21

3.18 How can a local authority assess and then judge whether or not someone is safe and suitable to hold a drivers' licence?

3.19 The local authority has the power to require an applicant to provide:

“such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”<sup>25</sup>

This “information” can include any pre-conditions or tests that they consider necessary

3.20 Some of these are universal, such as medical assessments<sup>26</sup>. Others are required by some authorities, but not others. These include:

- Enhanced DBS certificates and sign-up to the update service;
- Knowledge tests;
- Driving tests;
- Disability Awareness;
- Signed Declarations;
- Spoken English tests.

3.21 The provision of information in these terms can satisfy the local authority that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of safety and suitability go beyond this. There is the character of the person to be considered as well.

3.22 Both hackney carriage and private hire drivers are exempt from the provisions of the Rehabilitation of Offenders Act 1974. This means that there are no “spent” convictions and that any and all criminal convictions (apart from “protected convictions” and “protected cautions” where they have been declared<sup>27</sup>) can be taken into account by the local authority in assessing safety and suitability, but only relevant spent convictions should be considered by the decision maker<sup>28</sup>.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks<sup>29</sup> and to provide this to the Licensing Authority. All Licensees should also be required to maintain their Certificates through the DBS Update Service throughout the currency of their licence.

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<sup>25</sup> Local Government (Miscellaneous Provisions) Act 1976 s57(1)

<sup>26</sup> See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

<sup>27</sup> “Protected convictions” and “protected cautions” are single, minor and elderly matters that do not appear on any DBS Certificates.

<sup>28</sup> See *Adamson v Waveney District Council* [1997] 2 All ER 898

<sup>29</sup> “For Taxi [driver] Licensing purposes the correct level of check is always the Enhanced level check, with the Adults and Children’s Barred list check. Other Workforce should always be entered at X61 line 1 and Taxi Licensing should be entered at X61 line 2” DBS email 31st August 2017.

- 3.24 If any applicant has, from the age of 10 years, spent six continuous months or more living outside the United Kingdom, evidence of a criminal record check from the country/countries covering the relevant period should be required.
- 3.25 Local authorities should have a policy to provide a baseline for the impact of any convictions, cautions or other matters of conduct which concern a person's safety and suitability<sup>30</sup>.
- 3.26 The character of the driver in its entirety must be the paramount consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a safe and suitable person.
- 3.27 There are occasions where unsuitable people have been given licences by local authorities, or if refused by the authority, have had it granted by a court on appeal.
- 3.28 Often this is because of some perceived hardship. Case law makes it clear that the impact of losing (or not being granted) a driver's licence on the applicant and his family is not a consideration to be taken into account<sup>31</sup>. This then leads to the question of whether the stance taken by local authorities is robust enough to achieve that overriding aim of public protection.
- 3.29 However, all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority's own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded.
- 3.30 One common misunderstanding is that if the offence was not committed when the driver was driving a taxi, it is much less serious, or even if it was in a taxi but not when passengers were aboard. This is not relevant: 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. Violence is always serious. The argument that it was a domestic dispute, or away from the taxi, is irrelevant. A person who has a propensity to violence has that potential in every situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been)

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<sup>30</sup> As recommended by the DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 59

<sup>31</sup> *Leeds City Council v Hussain* [2002] EWHC 1145 (Admin), [2003] RTR 199 and *Cherwell District Council v Anwar* [2011] EWHC 2943 (Admin)

to assault another sexually has demonstrated completely unacceptable standards of behaviour.

- 3.31 Applicants may claim that they have sought employment in other fields and been precluded as a result of their antecedent history particularly if that contains convictions. They therefore seek to become a licensed driver as an occupation of last resort. This is unacceptable as the granting of a licence would place such a person in a unique position of trust. The paramount responsibility of a licensing authority is to protect the public, not provide employment opportunities.
- 3.32 Licensees are expected to demonstrate appropriate professional conduct at all time, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. In no circumstances should Licensees take the law into their own hands. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
- 3.33 There are those who seek to take advantage of vulnerable people by providing services that they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. Licensees are expected to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers should feel confident to check that the person offering a service is entitled to do so. Licensees should willingly demonstrate that they are entitled to provide the offered service by, for example, showing their badge.
- 3.34 As a society, we need to ask the question “who is driving my taxi?” and be secure in the knowledge that the answer is “a safe and suitable person”. The vast majority of drivers are decent, law abiding people who work very hard to provide a good service to their customers and the community at large. However poor decisions by local authorities and courts serve to undermine the travelling public’s confidence in the trade as a whole. Unless local authorities and the courts are prepared to take robust (and difficult) decisions to maintain the standards the local authority lays down, and in some cases tighten up their own policies, the public cannot have complete confidence in taxi drivers. This is detrimental to all involved.

## Private Hire Operators

- 3.35 A private hire operator (“PHO”) is the person who takes a booking for a private hire vehicle (“PHV”), and then dispatches a PHV driven by a licensed private hire driver (“PHD”) to fulfil that booking. All three licences (PHO, PHV and PHD) must have been granted by the same

authority<sup>32</sup>. A local authority cannot grant a PHO licence unless the applicant has the right to work in the UK and is a fit and proper person<sup>33</sup>.

- 3.36 As with taxi drivers the role of the PHO goes far beyond simply taking bookings and dispatching vehicles. In the course of making the booking and dispatching the vehicle and driver, the PHO will obtain significant amounts of personal information. It is therefore vital that a PHO is as trustworthy and reliable as a driver, notwithstanding their slightly remote role. Hackney carriages can also be pre-booked, but local authorities should be mindful that where that booking is made by anybody other than a hackney carriage driver, there are no controls or vetting procedures in place in relation to the person who takes that booking and holds that personal information.
- 3.37 How then does a local authority satisfy itself as to the “fitness and propriety” or “safety and suitability” of the applicant or licensee?
- 3.38 Spent convictions can be taken into account when determining suitability for a licence, but the applicant (or licensee on renewal) can only be asked to obtain a Basic Disclosure from the Disclosure and Barring Service.
- 3.39 Although this is by no means a perfect system, it does give local authorities a reasonable basis for making an informed decision as to fitness and propriety of an applicant or existing licensee.
- 3.40 To enable consistent and informed decisions to be made, it is important to have a working test of fitness and propriety for PHOs and a suitable variation on the test for drivers can be used:
- “Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?”<sup>34</sup>
- 3.41 There is a further point to consider in relation to PHOs and that concerns the staff used on the telephones and radios. There is no reason why a condition cannot be imposed on a PHO licence requiring them to undertake checks on those they employ/use within their company to satisfy themselves that they are fit and proper people to undertake that task and retain that information to demonstrate that compliance to the local authority. Any failure on the part of the PHO to either comply with this requirement, or act upon information that they

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<sup>32</sup> See *Dittah v Birmingham City Council*, *Choudhry v Birmingham City Council* [1993] RTR 356 QBD

<sup>33</sup> Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

<sup>34</sup> *Button on Taxis – Licensing Law and Practice* 4<sup>th</sup> Ed Bloomsbury Professional at para 12.35

obtain (thereby allowing unsuitable staff to work in positions of trust), would then have serious implications on the continuing fitness and propriety of the PHO.

- 3.42 Care should be taken in circumstances where a PHO Licence is sought in the name of a limited company, partnership or other business structure that all the requirements applicable to an individual applicant are made of each director or partner of the applicant organisation<sup>35</sup>. Only by so doing can a decision be made as to the fitness and propriety of the operating entity.

## Vehicle Proprietors

- 3.43 Similar considerations apply to the vehicle proprietors, both hackney carriage and private hire (referred to here generically as “taxis”). Although the vehicle proprietor may not be driving a vehicle (and if they are they will be subject to their own fitness and propriety test to obtain a driver’s licence), they clearly have an interest in the use of the vehicle. They will also be responsible for the maintenance of the vehicle, and vehicles that are not properly maintained have a clear impact on public safety.
- 3.44 Taxis are used to transport people in many circumstances, and are seen everywhere across the United Kingdom, at all times of the day and night, in any location. Therefore, taxis could provide a transportation system for illegal activities or any form of contraband, whether that is drugs, guns, illicit alcohol or tobacco, or people who are involved in or are the victims of illegal activity, or children who may be at risk of being, or are being, abused or exploited.
- 3.45 In relation to both hackney carriages and private hire vehicles, the local authority has an absolute discretion over granting the licence<sup>36</sup> and should therefore ensure that both their enquiries and considerations are robust. It is much more involved than simply looking at the vehicle itself and it is equally applicable on applications to transfer a vehicle as on grant applications.
- 3.46 Again, this is not an exempt occupation for the purposes of the 1974 Act, but exactly the same process can be applied as for private hire operators – Basic DBS, statutory declaration and consideration of spent convictions. This can then be used in the light of a similar policy in relation to suitability as the authority will already have for drivers and PHOs.
- 3.47 A suitable test would be:

“Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be

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<sup>35</sup> See s57(1)(c) of the 1976 Act.

<sup>36</sup> S37 of the 1847 Act in relation to hackney carriages; section 48 of the 1976 Act to private hire vehicles.

satisfied that he/she would not allow it to be used for criminal or other unacceptable purposes, and be confident that he/she would maintain it to an acceptable standard throughout the period of the licence?”<sup>37</sup>

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<sup>37</sup> Button on Taxis – Licensing Law and Practice 4<sup>th</sup> Ed Bloomsbury Professional at para 8.98

## Chapter 4: Guidance on Determination

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- 4.1 As is clear from the overview of Offenders and Offending above, there is no evidence which can provide precise periods of time which must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 4.2 Many members of our society use, and even rely on, hackney carriages and private hire vehicles to provide transportation services. This can be on a regular basis, or only occasionally, but in all cases passengers, other road users and society as a whole must have confidence in the safety and suitability of the driver, the vehicle itself and anyone involved with the booking process.
- 4.3 Ideally, all those involved in the hackney carriage and private hire trades (hackney carriage and private hire drivers, hackney carriage and private hire vehicle owners and private hire operators) would be persons of the highest integrity. In many cases that is true, and the vast majority of those involved in these trades are decent, upstanding, honest and hard-working individuals. Unfortunately, as in any occupation or trade, there are those who fail to conform to those standards.
- 4.4 The purpose of this document is to offer guidance on how licensing authorities can determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. As outlined above, a policy can be robust, and if necessary, say never, and each case is then considered on its own merits in the light of that policy.

### Pre-application requirements

- 4.5 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

#### Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

#### Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

#### Operators:

- Basic DBS checks;
- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

- 4.6 In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.
- 4.7 Drivers and operators cannot be granted a licence unless the authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 4.8 There are no statutory criteria for vehicle licences, therefore the authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 4.9 “Fit and proper” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership<sup>38</sup>) is “safe and suitable” to hold the licence.
- 4.10 In determining safety and suitability the licensing authority is entitled to take into account all matters concerning that applicant or licensee. They are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.

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<sup>38</sup> Section 57(2)(c) of the Local Government (Miscellaneous Provisions) Act 1976 allows a local authority to consider the character of a company director or secretary, or any partner.

- 4.11 Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction<sup>39</sup>. Fixed penalties and community resolutions will also be considered in the same way as a conviction<sup>40</sup>.
- 4.12 It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" will also include matters that amount to criminal behaviour, but which have not resulted in a conviction.
- 4.13 In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.
- 4.14 In all cases, the licensing authority will consider the conviction or behaviour in question and what weight should be attached to it, and each and every case will be determined on its own merits, and in the light of these guidelines.
- 4.15 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 4.16 As the licensing authority will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor.
- 4.17 In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 4.18 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from experience and do not go on to commit further offences. Accordingly, in many cases an isolated

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<sup>39</sup> This is because a caution can only be imposed following an admission of guilt, which is equivalent to a guilty plea on prosecution.

<sup>40</sup> This is because payment of a fixed penalty indicates acceptance of guilt, and a community resolution can only be imposed following an admission of guilt.

conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

- 4.19 It is also important to recognise that once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. The licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.20 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 4.21 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 4.22 Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.
- 4.23 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, the licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.24 These guidelines do not replace the duty of the licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority must consider the matter from first principles and determine the fitness and propriety of the individual.

## Drivers

- 4.25 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together.
- 4.26 A driver has direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.

- 4.27 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.28 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.

#### Crimes resulting in death

- 4.29 Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

#### Exploitation

- 4.30 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

#### Offences involving violence

- 4.31 Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

#### Possession of a weapon

- 4.32 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

#### Sex and indecency offences

- 4.33 Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.
- 4.34 In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any 'barred' list.

### Dishonesty

- 4.35 Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Drugs

- 4.36 Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.
- 4.37 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

### Discrimination

- 4.38 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Motoring convictions

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

### Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving

- 4.40 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 4.41 Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

### Other motoring offences

- 4.42 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). 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.
- 4.43 A major traffic or vehicle related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Hackney carriage and private hire offences

- 4.44 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

### Vehicle use offences

- 4.45 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## Private Hire Operators

- 4.46 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.
- 4.47 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 4.48 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority’s overall criteria, that will lead to the operator’s licence being revoked.

- 4.49 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

## Vehicle proprietors

- 4.50 Vehicle proprietors (both hackney carriage and private hire) have two principal responsibilities.
- 4.51 Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
- 4.52 Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 4.53 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 4.54 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

## Acknowledgements

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In December 2015, the Institute of Licensing established a working party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee.

The core project group comprised:

- Stephen Turner, Solicitor at Hull City Council, Licensing Lead for Lawyers in Local Government and Vice Chair of the North East Region IoL (Project Group Chair)
- Jim Button, Solicitor at James Button & Co and President of IoL
- Philip Kolvin QC, Cornerstone Barristers and Patron of IoL
- John Miley, Licensing Manager for Broxtowe Borough Council, National Chair for NALEO and Vice Chair of the East Midlands Region IoL
- Linda Cannon, previously Licensing Manager for Basingstoke & Dean and Hart Councils, and now private licensing consultant and Chair of the South East Region IoL
- Phil Bates, Licensing Manager for Southampton City Council
- Sue Nelson, Executive Officer of IoL

This Guidance is the result of the work of the project team and includes consideration of antecedent history of the applicant or licence holder and its relevance to their 'character' as well as consideration of convictions, cautions and non-conviction information.

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Lawyers in Local Government (LLG). [www.lawyersinlocalgovernment.org](http://www.lawyersinlocalgovernment.org)



National Association of Licensing and Enforcement Officers (NALEO). [www.naleo.org.uk](http://www.naleo.org.uk)

## Hackney Carriage and Private Hire Licensing Criminal Convictions Policy



### 1. Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an **applicant** or an **existing licence holder** is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver's licence or a private hire vehicle operator's licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- That a person is a fit and proper person
  - That the person does not pose a threat to the public
  - That the public are safeguarded from a dishonest person
  - That children, young persons and vulnerable adults are safeguarded.
- 1.3 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not exclusively:
- Applicants for drivers and operator licences
  - Existing licensed persons whose licences are being reviewed
  - Licensing officers
  - Members of the licensing committee/panel (or other relevant decision making body)
  - Magistrates hearing appeals against local authority decisions.
- 1.4 Where licensing officers or the Licensing Panel have delegated powers to grant, revoke or suspend licences, they will utilise these guidelines when making their decision. Whilst officers and the panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.** Clear cogent reasons would be set out in any decision letter where there is a departure from the guidance.

### 2. General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances, or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a) remain free of conviction for an appropriate period; and
  - b) show adequate evidence that he or she is a fit and proper person to hold a licence

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The onus is on the applicant to produce such evidence and simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

- 2.3 **Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

### 3. Pre-requisites to making an application

- 3.1 It is the policy of the licensing authority that every application for a licence to drive a hackney carriage and/or private hire vehicle must be accompanied by satisfactory evidence of the following matters and that applications that are incomplete will not be deemed to have been made until such time as they are complete:

- That the applicant has the right to live and work in the country.
- An enhanced criminal record check (DBS) and evidence that they are not on a child and/or vulnerable adult barring list.
- A certificate of their current medical fitness to DVLA Group 2 standard.
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive.
- That the applicant meets the required post-qualification driving experience and demonstrates the required level of competency.
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for.
- That where specified the applicant has completed safeguarding awareness training specific to the service that they wish to be licensed to provide.
- For persons who seek to be authorised to drive a wheelchair accessible vehicle, that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their wheelchair.

- 3.2 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

### 4. Appeals

- 4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.
- 4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

## **5. Powers**

- 5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 5.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

## **6. Consideration of disclosed criminal history**

- 6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:
- How relevant the offence(s) are to the licence being applied for
  - How serious the offence(s) were
  - When the offence(s) were committed
  - The date of caution/conviction
  - Circumstances of the individual concerned
  - Sentence imposed by the court
  - The applicant's age at the time of caution/conviction.
  - Whether they form part of a pattern of offending
  - Any other character check considered reasonable (e.g. personal references)
  - Any other factors that might be relevant.
- 6.2 Existing licence holders are required to notify the licensing authority in writing within 28 days of being arrested, receiving a driving licence endorsement, fixed penalty notice, caution or criminal conviction.
- 6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing team in confidence for advice.
- 6.4 Applicants for the grant of a driver licence will be required to obtain an enhanced disclosure from the Disclosure and Barring Service (DBS). Existing licensed drivers are required to obtain an enhanced disclosure every 3 years or as required by the licensing authority.

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- 6.5 Applicants for the grant of an operator licence, where that person is not the holder of a current driver licence issued by the Council, will be required to obtain a basic criminal record disclosure from Disclosure Scotland. Existing licensed operators are required to obtain a basic criminal record disclosure every 3 years or as required by the licensing authority.
- 6.6 The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information, and the DBS's policy on the secure storage, handling, use, retention and disposal of disclosure information. Copies of these documents are available on request. More information about the DBS can be found on their website at:  
<https://www.gov.uk/government/organisations/disclosure-and-barring-service>.
- 6.7 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.
- 6.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

## 7. Serious offences involving violence

- 7.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life or serious injury. Exceptional circumstances may permit the Council to make an exception to this general policy statement.
- 7.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 7.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
  - Manslaughter
  - Manslaughter or culpable homicide while driving
  - Terrorism offences
  - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 7.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:
- Arson
  - Malicious wounding or grievous bodily harm
  - Actual bodily harm which would be classified as "hate crime"
  - Robbery

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- Possession of firearm
- Riot
- Assault on a Police officer, or a Council officer acting in the course of their duty
- Common assault which would be classified as "hate crime"
- Violent disorder
- Resisting arrest, when subsequently charged or convicted.
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 years prior to the date of application:

- Criminal damage would be classified as "hate crime"
- Any other hate crime offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

## 8. Possession of a weapon

8.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

8.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

## 9. Sex and indecency offences

9.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with

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convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

9.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for a serious offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

9.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit).

9.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

## 10. Dishonesty

10.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Licensed drivers are required to deposit such property with the police within 24 hours and inform their operator where applicable. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

10.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud

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- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- And any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

### **11. Drugs**

11.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.

11.3 A licence will not normally be granted where the applicant has a conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.

11.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

11.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11.6 A licence will not normally be granted if an applicant has more than one conviction for a drugs related offence.

### **12. Driving offences involving the loss of life**

12.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences

### **13. Drink driving/driving under the influence of drugs/using a mobile phone whilst driving**

13.1 As licensed drivers are professional vocational drivers, a serious view is taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs.

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Normally at least 3 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- Are much less aware of what's happening on the road around them
- Fail to see road signs
- Fail to maintain proper lane position and steady speed
- Are more likely to 'tailgate' the vehicle in front
- React more slowly, take longer to brake and longer to stop
- Are more likely to enter unsafe gaps in traffic
- Feel more stressed and frustrated.

13.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

13.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

### **14. Licensing offences**

14.1 Certain offences which relate to licensing matters such as illegal plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since the offence.

14.2 A licence will not normally be granted if an applicant has more than one conviction for such licensing related offences.

### **15. Insurance offences**

15.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however a strict warning should be given as to future behaviour.

15.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

15.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have their operator licence revoked immediately and be prevented from holding a licence for at least three years.

**16. Outstanding charges or summonses**

- 16.1 If an individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.
- 16.2 If the outstanding charge or summons involves a serious offence or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

**17. Non-conviction information**

- 17.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.
- 17.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

**18. Cautions**

- 18.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

**19. Once a licence has been granted**

- 19.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect serious consideration to be given to the suspension or revocation of their licence.
- 19.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]
- 19.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

**20. Licences issued by other licensing authorities**

- 20.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.
- 20.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

**21. Summary**

- 21.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before the stated period free from conviction has elapsed.
- 21.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 21.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration must remain the protection of the public.



## Unrestricted

### Hackney Carriage and Private Hire Licensing

### Criminal Convictions Suitability of Applicants and Licensees Policy

#### 1. Introduction

1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the

Council when determining whether or not an **applicant** or an **existing licence holder** is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver's licence or a private hire vehicle operator's licence.

1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from a dishonest person
- That children, young persons and vulnerable adults are safeguarded.

1.3 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not exclusively:

- Applicants for drivers and operator licences
- Existing licensed persons whose licences are being reviewed
- Licensing officers
- Members of the licensing committee/panel (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions.

1.4 Where licensing officers or the Licensing Panel have delegated powers to grant, revoke or suspend licences, they will utilise these guidelines when making their decision. Whilst officers and the panel will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.** Clear cogent reasons would be set out in any decision letter where there is a departure from the guidance.

## 2. General policy

2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances, or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.

2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:

- a) remain free of conviction for an appropriate period; and
- b) show adequate evidence that he or she is a fit and proper person to hold a licence

The onus is on the applicant to produce such evidence and simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

**2.3 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction** [Nottingham City Council v. Mohammed Farooq (1998)].

## 3. Pre-requisites to making an application

3.1 It is the policy of the licensing authority that every application for a licence to drive a hackney carriage and/or private hire vehicle must be accompanied by satisfactory evidence of the following matters and that applications that are incomplete will not be deemed to have been made until such time as they are complete:

- That the applicant has the right to live and work in the country.
- An enhanced criminal record check (DBS) and evidence that they are not on a child and/or vulnerable adult barring list.
- A certificate of their current medical fitness to DVLA Group 2 standard.
- That the applicant is authorised to drive a vehicle of the same classification as that which the licence will allow them to drive.
- That the applicant meets the required post-qualification driving experience and demonstrates the required level of competency.
- That the applicant has sufficient ability to speak English and to understand spoken English to provide the service that they wish to be licensed for.

- That where specified the applicant has completed safeguarding awareness training specific to the service that they wish to be licensed to provide.
- For persons who seek to be authorised to drive a wheelchair accessible vehicle, that the applicant has the ability to safely load and secure wheelchair users in a wheelchair accessible vehicle whilst in their wheelchair.

3.2 If an applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period before a licence application can be made.

#### **4. Appeals**

4.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].

4.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal.

4.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

#### **5. Powers**

5.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976

allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.

5.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 allows

the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

5.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

#### **6. Consideration of disclosed criminal history**

6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous

Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for
- How serious the offence(s) were
- When the offence(s) were committed
- The date of caution/conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of caution/conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant.

6.2 Existing licence holders are required to notify the licensing authority in writing within 28 days of being arrested, receiving a driving licence endorsement, fixed penalty notice, caution or criminal conviction.

6.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing team in confidence for advice.

6.4 Applicants for the grant of a driver licence will be required to obtain an enhanced disclosure from the Disclosure and Barring Service (DBS). Existing licensed drivers are required to obtain an enhanced disclosure every 3 years or as required by the licensing authority.

6.5 Applicants for the grant of an operator licence, where that person is not the holder of a current driver licence issued by the Council, will be required to obtain a basic criminal record disclosure from Disclosure Scotland. Existing licensed operators are required to obtain a basic criminal record disclosure every 3 years or as required by the licensing authority.

6.6 The licensing authority follows the DBS's Code of Practice on the fair use of disclosure information, and the DBS's policy on the secure storage, handling, use, retention and disposal of disclosure information. Copies of these documents are available on request. More information about the DBS can be found on their website at:

<https://www.gov.uk/government/organisations/disclosure-and-barring-service>.

6.7 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police.

6.8 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

## 7. Serious offences involving violence

7.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life or serious injury. Exceptional circumstances may permit the Council to make an exception to this general policy statement.

7.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.

7.3 Unless there are exceptional circumstances a licence will not normally never be granted where the applicant has a conviction for an offence such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

7.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm
- Actual bodily harm which would be classified as "hate crime"
- Robbery
- Possession of firearm
- Riot
- Assault on a Police officer, or a Council officer acting in the course of their duty

- Common assault which would be classified as "hate crime"
- Violent disorder
- Resisting arrest, when subsequently charged or convicted.
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 5 10 years prior to the date of application:

- Criminal damage would be classified as "hate crime"
- Any other hate crime offence
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the below offences and the conviction is less than 3 10 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

7.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

7.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

## **8. Possession of a weapon**

8.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

8.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 7 years (or at least 3 7 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

## 9. Sex and indecency offences

9.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.

9.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for a serious offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Possession of indecent photographs, child pornography etc.
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

9.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), **No licence will be granted if the applicant he/she has a conviction for an offence such as:**

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit).

9.4 In addition to the above the licensing authority will not normally **never** grant a licence to any applicant who is currently on the Sex Offenders Register.

## 10. Dishonesty

10.1 A licensed driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Licensed drivers are required to deposit such property with the police within 24 hours and inform their

operator where applicable. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

10.2 In general, a minimum period of 3 7 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- And any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

## 11. Drugs

11.1 A serious view is taken of any drug related offence. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

11.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 10 years.

11.3 A licence will not normally be granted where the applicant has a conviction for offences related to the possession of drugs and has not been free of conviction for 5 years. **In addition the applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.**

11.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

11.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11.6 A licence will not normally never be granted if an applicant has more than one conviction for a drugs related offence.

## 12. Driving offences involving the loss of life

12.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life. Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- Or any similar offences

## 13. Drink driving/driving under the influence of drugs/using a mobile phone whilst driving

13.1 As licensed drivers are professional vocational drivers, a serious view is taken of convictions for driving or being in charge of a vehicle while under the influence of drink or drugs.

Normally at least 3 7 years after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13.2 Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:

- Are much less aware of what's happening on the road around them
- Fail to see road signs
- Fail to maintain proper lane position and steady speed
- Are more likely to 'tailgate' the vehicle in front

- React more slowly, take longer to brake and longer to stop
- Are more likely to enter unsafe gaps in traffic
- Feel more stressed and frustrated.

13.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.

13.4 A licence will not normally never be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs or whilst using a mobile phone.

#### 14. Licensing offences

14.1 Certain offences which relate to licensing matters such as illegal plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 7 years has passed since the offence.

14.2 A licence will not normally never be granted if an applicant has more than one conviction for such licensing related offences.

#### 15. Insurance offences

15.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance, **including an offence connected with motor insurance**. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 7 years; however a strict warning should be given as to future behaviour.

15.2 A licence will not normally never be granted if an applicant has more than one conviction for an insurance related offence.

15.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have their operator licence revoked immediately and be prevented from holding a licence for at least three years.

### . Exploitation

.1 Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim(s) were adults or children, they will not be licensed. This includes:

- Slavery
- Child sexual exploitation
- Grooming
- Psychological, emotional or financial abuse.

## **. Discrimination**

.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

## **. Driving whilst using a hand-held telephone or hand-held device**

.1 Where an application has a conviction for using a hand-held mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence or driving ban imposed, whichever is the later.

## **. Major motoring offences**

.1 Where an applicant has a conviction for a major traffic or vehicle related offence and also any offence which resulted in injury to any person or damage to property (including vehicles), a license will not be granted until at least 7 years have elapsed since the completion of any sentence.

## **. Other minor offences**

.1 Other minor traffic or vehicle related offence is defined as 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). 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.

## **16. Outstanding charges or summonses**

16.1 If an individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings.

16.2 If the outstanding charge or summons involves a serious offence or the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

## **17. Non-conviction information**

17.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application.

17.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

17.3 The definition of serious offence is as stated in the Serious Crime Act 2007, Schedule 1, Part 1, as amended.

## **18. Cautions**

18.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

## **19. Once a licence has been granted**

19.1 If a licence holder's conduct is such that, were they to be applying for a new licence their application would normally be refused, they should expect serious consideration to be given to the suspension or revocation of their licence.

19.2 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

19.3 A suspension or revocation of the licence of an operator takes effect at the end of the period of 21 days beginning with the day on which notice is given to the operator.

## **20. Licences issued by other licensing authorities**

20.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

20.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

## **21. Summary**

21.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before the stated period free from conviction has elapsed.

21.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

21.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be

considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration must remain the protection of the public.

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**TO: LICENSING AND SAFETY COMMITTEE**  
**24 October 2019**

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**HOW LICENSING COULD REDUCE AIR POLLUTION**  
**(Public Protection Manager)**

**1 PURPOSE OF REPORT**

- 1.1 Poor air quality has an impact on the health and quality of life. Consideration that any actions to reduce/avoid any unnecessary emissions will reduce air pollution which applies to licensed vehicles.

**2 RECOMMENDATIONS**

**2.1 That the Committee agrees that:**

- (a) That the Committee recommends Officers consider the implication of adopting the delegated powers for dealing with idling vehicles, including taxis.

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 Idling vehicle engines has been a concern to residents and members as the Council receives complaints of idling engines. Poor air quality has an impact on the health and quality of life. This report sets out the three main options for tackling vehicle idling which includes:

Option A: Undertake a targeted campaign to effect behavioural change.

Option B: Adopting the delegated powers to use Fixed Penalty Notices (under the Traffic Regulations 2002)

Option C: Installation of road signage around sensitive areas

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None

**5 SUPPORTING INFORMATION**

- 5.1 The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 enable local authorities in England to issue fixed penalty notices to drivers who allow their vehicles to run unnecessarily while stationary on the road.

A local authority may enforce powers to deal with idling vehicles. If you idle your vehicle unnecessarily while stopped you could be given a £20 fixed penalty ticket. Bracknell Forest Borough Council at present has not implemented these powers.

If an officer is authorised under the above legislation discovers a vehicle with its engine running unnecessarily, the first action would be to advise the driver of the legal requirements and that such an offence carries a fixed penalty of £20. The officer would

then request the driver to turn the engine off. A fixed penalty notice would only be issued if the driver refuses to turn off the engine when requested to do so.

## **5.2 Current Position**

The two areas within the borough that have been declared as an Air Quality Management Areas (AQMA) being Bracknell and Crowthorne. These have been declared due to exceedances of the traffic pollutant nitrogen dioxide. The Council has a duty to produce an Air Quality Action Plan (AQAP) and within this plan there are measures to be put in place to reduce emissions.

Within the Bracknell Forest Borough Council's Hackney Carriage and Private Hire Licensing Policy requires vehicles first licensed by the authority to be less than five years old. No type of Private Hire vehicle will be issued that exceeds 8 years from the date of first registration. Vehicles are currently tested according to their age. Those vehicles up to five years old are subject to an annual inspection per year. For those vehicles over 5 years of age are required to be inspection every six months and emission checks form part of the inspection undertaken.

## **5.3 The Regulations are adoptive**

The Local Authority would need to make an application to the Secretary of State for designation and as BFBC has AQMAs we are eligible to apply.

## **5.4 Option A: Undertake targeted campaign**

It is clear that lots of local authorities run anti idling campaigns. There have been a number of different studies focusing on the impact of campaigns around schools. These show positive effects of educating parents and children to the action they can take, whilst significant reductions in particulate matter were seen in schools with a large number of buses. Evidence shows that targeted and well organised campaigns with community champions involving on street engagement can be very successful.

## **5.5 Option B: Adopt delegated powers to use Fixed Penalty Notices**

We have found only limited local authorities where the use of FPN is commonplace. The value of the Fixed Penalty Notice is £20 (rising to £40 if not paid within 28 days). This is relatively small fine and, given that over 80% of drivers are likely to turn off the vehicle engines when requested (which is necessary as part of the FPN process), it is unlikely to be issued on a regular basis. To issue FPN would require training staff whose job is not normally issuing notices and taking these staff away from their normal activities. Alternatively, it would be necessary to take traffic officers away from their normal duties.

If enforcement powers were adopted, a campaign would have to be developed prior to any powers being used.

## **5.6 Option C: Road Signage at sensitive locations**

Any signage on the highway would have to be linked to a wider campaign and would have to be sanctioned by the highway authority.

## **5.7 In addition work is also to be undertaken within the PPP on the following project:**

- To set out the business, environmental and operational case for low emission taxis

- To provide an overview of the range of low/ultra-emission technologies and fuels suitable for taxis and match these to different types of operators and journey patterns.
- Research Office for Low Emission (OLEV) funding opportunities and data required for bidding for funds from previous funding rounds where no current round exists
- Consider introducing/reviewing an age policy on vehicles across PPP area in the first instance to potentially reduce emissions
- Consider conditions of fitness
- Consider introducing Minimum emissions standards Taxis and Private hire vehicles Euro 6 (diesel) Euro 4 (petrol/LPG)

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The relevant legal provisions are contained within the body of the report.

### Borough Treasurer

6.2 The financial implications are included within the body of the report.

### Equalities Impact Assessment

6.3 There are no implications arising from the recommendation in this report.

### Strategic Risk Management Issues

6.4 There are no implications arising from the recommendation in this report.

## **7 CONSULTATION**

None required.

### Background Papers

The Road Traffic (Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002

### Contact for further information

Suzanne McLaughlin - 01635 502851 - Suzanne.McLaughlin@westberks.gov.uk

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**TO: LICENSING AND SAFETY COMMITTEE**  
**24 October 2019**

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**FEES AND CHARGES**  
**(Public Protection Manager)**

**1 PURPOSE OF REPORT**

Fees and charges relating to licences and registrations are based on cost recovery, and should they not reflect the cost of providing the service, there is a risk of generating a surplus or deficit.

**2 RECOMMENDATIONS**

**2.1 That the Committee resolves to recommend the fees to Council subject to:**

1. Consideration of the outcomes of the statutory consultation on fees relating to Taxi and Private Vehicles and Private Hire Operators Fees.

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 This report sets out the Fees and Charges which are to be proposed to and considered by the Joint Public Protection Committee.

Each service area is required to review the fees and charges it levies on behalf of the Council as part of the budget process. **Annex A** details the relevant information from report to be considered by The Joint Protection Committee for 2020/21. The fees include a new structure for those proposed under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations, the new licensing regime.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 It is open to Members to propose an alternative approach to fee setting.

**5 SUPPORTING INFORMATION**

- 5.1 The Joint Public Protection Committee is required by the Inter-Authority Agreement that set up the Public Protection Partnership shared service to recommend a draft set of fees and charges to each of the member Councils.

It is noted that a significant number of fees within the licensing field are set by Government regulation and cannot therefore be changed by the Council. The full list is shown in **Annex B**.

As a matter of principle, all fees and charges should be set on the basis of full cost recovery. Also aligning fees across the 3 Local Authorities is proposed where appropriate, including a proposed single fee structure for hackney carriage and private hire. **Annex C** shows an example of the new and renewal for Private Hire Operator fees as well as the dispensation fees. **Annex D** shows an example of the proposed fees calculation for Boarding Establishments combined dogs and cats.

## Unrestricted

In respect of all discretionary fees and the hourly rate, an inflationary % rise has been applied. This inflationary rise will balance the increase in cost of service provision such as the cost of living salary rise.

The Committee has discretion to round the proposed fees to the nearest whole pound should they so resolve.

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#### Borough Solicitor

6.1 The relevant legal provisions are contained within the body of the report

#### Borough Treasurer

6.2 The financial implications are included within the body of the report.

#### Equalities Impact Assessment

6.3 There are no implications arising from the recommendation in this report.

#### Strategic Risk Management Issues

6.4 There are no implications arising from the recommendation in this report.

### **7 CONSULTATION**

Statutory consultation on Taxi and Private Hire Vehicles and Private Hire Operators will be conducted following the decisions of this Committee.

#### Background Papers

None

#### Contact for further information:

Suzanne McLaughlin - 01635 502851 - Suzanne.McLaughlin@westberks.gov.uk

## Annex A

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### Public Protection Partnership Budget - Supporting Information

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#### 1. Supporting Information – Fees and Charges

- 1.1. At the meeting of the Joint Public Protection Committee in December 2017 (when it considered the 2018/19 fees and charges) a number of matters were decided. It was agreed that as a matter of principle that all fees and charges should be set on the basis of full cost recovery. In 2018/19 the hourly rate for the service was set at £55 p/h as the basis of cost recovery. This was increased as a flat fee to £57 p/h (with rounding) in 2019/20. It is proposed in the 2020/21 that as the fee was rounded in 2019/20 from £56.38 to £57 that this year it should remain at £57 to account for the rounding in 2019/20.
- 1.2. In July 2018 the Committee received a further report asking it to consider the basis for setting fees and charges and the application of full cost recovery. That methodology was approved by the Committee. Based on previous decisions work has been carried out by officers to align fee structures.
- 1.3. In respect of all discretionary fees we have assumed an inflationary rise of 2.0%. This inflationary rise will balance the increase in cost of service provision such as the cost of living salary rise set out above. The result is the fees schedule set out at Appendix B to this report.

#### 1.4. Taxi and Private Hire Related Fees

The 2018/19 fees and charges for taxi and private hire related activity showed a significant disparity between the former West Berkshire and Wokingham fee structure. These were brought into line for 2019/20

A review has taken place of the Private Hire PPP is currently proposing a review of Operator fees based on per vehicle charges which are more consistent, transparent and fairer for operators than the current banded ones.

The additional administration work of the dispensation vehicles will be incorporated into these new fees going forward so all vehicle licence fees are the same.

The new Operator fees are based on a administration fee for a new or renewal of a 5 year licence plus one hour for the first vehicle plus 15 minutes for each subsequent vehicle the operator has. There also needs to be a variation fee if an operator adds vehicles to the original number on the application plus the number of vehicles for each yearly inspection. Consideration needs to be made as to whether any refund is made on any reduction of numbers as this change will mean that each time there is a

variation of numbers a new licence will need to be issued-however this will be an administrative burden and will put costs up.

### 1.5. Animal Welfare Establishments

On 1 October 2018 the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force. These regulations are made under powers conferred under the Animal Welfare Act 2006, and replace a number of pieces of legislation under which the Council previously issued licences and registrations.

Activities licensable under the regulations are selling animals as pets, providing or arranging for the provision of boarding for cats or dogs, hiring out horses, breeding dogs, or keeping or training animals for exhibition.

A new set of fees are required as the fees charged under the preceding legislation do not cover the costs associated with the new regulations. Costs have increased as a result of matters such as increase administration, new higher inspection requirements and the required qualifications for inspectors.

A set of fees have been calculated based upon the costs now encountered by PPP in dealing with the new licensing regime.

These fees have been drawn up with the benefit of operation of the new licensing regime. In order to assist Members Appendix C to this report gives a worked example of how the fees are calculated and any potential savings for high levels of compliance.

The very essence of the scheme is risk based and the higher the risk the more you will pay over any given risk period.

### 5.6 Fees Under Review

These fees need to be kept under constant review. The centralised Applications Team settles and as we move to a single system in particular (where applicants will be able to apply on-line) it is anticipated that there may be some efficiencies that affect fees.

In particular we will be concentrating on whether fees for renewals could be reduced through the use of new technology.

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#### Background Papers:

*Papers containing facts or material you have relied on to prepare your report. The public can access these background papers.*

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#### PPP Strategic Aims and Priorities Supported:

The proposals will help achieve the following Public Protection Partnership aims as stated in the Inter Authority Agreement:

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- 1 – Community Protection
- 2 – Protecting and Improving Health
- 3 – Protection of the Environment
- 4 – Supporting Prosperity and Economic Growth
- 5 – Effective and Improving Service Delivery

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Description		Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT)	Proposed Wokingham/West Berkshire/Bracknell 2020/2021 (Excluding VAT) +2%	Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT) Fees Rounded Off	Notes
<b>Public Protection Partnership</b>					
<b>Environmental Protection</b>					
<b>Prevention of Damage by Pests</b>					
Pest Site survey		N/A			Hourly rate and / or cost recovery where WID
Rat treatment		N/A			Hourly rate and / or cost recovery where WID
Any other Pest treatment		N/A			Hourly rate and / or cost recovery where WID
<b>Dog Warden Services</b>					
Stray Dogs - Not taken to Kennel		£72.00	£73.44	£73.00	Amalgamate. Vet fees separate as applicable
Stray Dogs - Taken to Kennel		CR			Fees based on charges & cost recovery. Vet fees separate as applicable
<b>Dog Fouling fixed penalty charge</b>		<b>£75.00</b>			<b>Set in FPN policy</b>
Misc stray dog activities ie taxi, relocating, microchipping etc		£56.00	£57.12	£57.00	Plus cost recovery on charges.
<b>Abandoned Vehicles</b>					
Removal (prescribed fee)	Less than 3.5 tonnes	£150.00			Set by statute
Daily Storage (prescribed fee)	Less than 3.5 tonnes	£20.00			Set by statute
Enforcement disposal costs (prescribed fee)	Less than 3.5 tonnes	£75.00			Set by statute
Fixed penalty notice	Reduced to £120 if paid within 7 days	£200.00			Set by statute
Enforcement invoice costs		£77.00			Set by statute
<b>Trading Standards</b>					
Weights and Measures Fees (per hour)		£63.00	£64.26	£64.00	Discretionary
Explosives Licenses / Registrations - set by statute					Set by statute
Varying the name of licensee or address of site					Set by statute
Petroleum Licensing Fees - set by statute					Set by statute
<b>Primary Authority</b>					
Primary Authority Work hourly chargeable rate		£56.00	£57.12	£57.00	
Annual charge - previous year usage 10 hours or less		£513.00	£523.26	£523.00	
Annual charge - previous year usage 20 hours		£1,025.00	£1,045.50	£1,046.00	
Anything likely to be in excess of 20 hours		CR			Individually assessed
<b>Support with Confidence</b>					
Application fee	1-5 employees	£59.00	£60.18	£60.00	All disbursements charged at cost
	6-20 employees	£119.00	£121.38	£121.00	As above except fee reduced to £50 if registered with confidence
	21+ employees	£298.00	£303.96	£304.00	As above except fee reduced to £50 if registered with confidence
<b>Buy with Confidence</b>					
Members from 2017/18 Application Fee	1-5 employees	£125.00	£127.50	£128.00	Nationally agreed with 'Buy with Confidence' scheme holder as varied from time to time
	6-20 employees	£167.00	£170.34	£170.00	Nationally agreed with 'Buy with Confidence' scheme holder
	21+ employees	£208.00	£212.16	£212.00	Nationally agreed with 'Buy with Confidence' scheme holder
Annual Fee	1-5 employees	£250.00	£255.00	£255.00	Nationally agreed with 'Buy with Confidence' scheme holder
	6-20 employees	£375.00	£382.50	£383.00	Nationally agreed with 'Buy with Confidence' scheme holder
	21+ employees	£500.00	£510.00	£510.00	Nationally agreed with 'Buy with Confidence' scheme holder
Members before 2017/18 Application /Annual Fee	1-5 employees	£123.00	£125.46	£125.00	Applicable only to legacy Bracknell members

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	6-20 employees	£185.00	£188.70	£189.00	Applicable only to legacy Bracknell members
	21+ employees	£247.00	£251.94	£252.00	Applicable only to legacy Bracknell members
<b>Commercial</b>					
Food Export Certificates		£56.00	£57.12	£57.00	Full cost recovery based on officer hourly rate
<b>Anti-Social Behaviour Act:</b>					
High Hedges Fee (Class A – Fee Discretionary)		£1,175.00	£1,198.50	£1,199.00	Cost recovery for consultant
<b>Licences, Registrations and Similar Consents</b>					
<i>Licensing Act 2003:</i>					
Premises Licence – “one off” fees set by statute based upon rateable value (RV) of premises (Class B – Statutory Fee)					
Band A – RV up to 4300		£100.00	£100.00	£100.00	Statutory -no increase.
Band B – RV 4300 to 33000		£190.00	£190.00	£190.00	Statutory -no increase.
Band C – RV 33001 to 87000		£315.00	£315.00	£315.00	Statutory -no increase.
Band D – RV 87001 to 125000		£450.00	£450.00	£450.00	Statutory -no increase.
Band E – RV 125001 and above		£635.00	£635.00	£635.00	Statutory -no increase.
Pre-Application Advice, Hourly charge	Min 1 Hr	£56.00	£57.12	£57.00	
<b>Premises Licence – Annual Fee (Class B – Statutory Fee)</b>					
Band A		£70.00	£70.00	£70.00	Statutory -no increase.
Band B		£180.00	£180.00	£180.00	Statutory -no increase.
Band C		£295.00	£295.00	£295.00	Statutory -no increase.
Band D		£320.00	£320.00	£320.00	Statutory -no increase.
Band E		£350.00	£350.00	£350.00	Statutory -no increase.
<b>Personal Licence - (Class B – Statutory Fee)</b>					
Temporary Event Notices (TEN's) - (Class B – Statutory Fee)		£21.00	£21.00	£21.00	Statutory -no increase.
Application for copy licence, change address or club rules		£10.50	£10.50	£10.50	Statutory -no increase.
Application to vary DPS/transfer licence/interim notice		£23.00	£23.00	£23.00	Statutory -no increase.
Application for making a provisional statement		£315.00	£315.00	£315.00	Statutory -no increase.
Minor variation		£89.00	£89.00	£89.00	Statutory -no increase.
Application to disapply mandatory DPS condition		£23.00	£23.00	£23.00	Statutory -no increase.
Pre-Application Advice, hrly charge	Min 1 Hr	£56.00	£57.12	£57.00	
<b>Gambling Licenses</b>					
Casinos (regional)	New Application	£15,000.00	£15,000.00	£15,000.00	100% of Statutory Maximum
	Provisional Statement	£15,000.00	£15,000.00	£15,000.00	100% of Statutory Maximum
	Application with Prov Statement	£8,000.00	£8,000.00	£8,000.00	100% of Statutory Maximum
	Variation	£7,500.00	£7,500.00	£7,500.00	100% of Statutory Maximum
	Transfer/Reinstatement	£6,500.00	£6,500.00	£6,500.00	100% of Statutory Maximum
	Annual Fee	£15,000.00	£15,000.00	£15,000.00	100% of Statutory Maximum
Casinos (large)	New Application	£10,000.00	£10,000.00	£10,000.00	100% of Statutory Maximum
	Provisional Statement	£10,000.00	£10,000.00	£10,000.00	100% of Statutory Maximum
	Application with Prov Statement	£5,000.00	£5,000.00	£5,000.00	100% of Statutory Maximum
	Variation	£5,000.00	£5,000.00	£5,000.00	100% of Statutory Maximum

Description		Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT)	Proposed Wokingham/West Berkshire/Bracknell 2020/2021 (Excluding VAT) +2%	Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT) Fees Rounded Off	Notes
	Transfer/Reinstatement	£2,150.00	£2,150.00	£2,150.00	100% of Statutory Maximum
	Annual Fee	£10,000.00	£10,000.00	£10,000.00	100% of Statutory Maximum
Casinos (small)	New Application	£8,000.00	£8,000.00	£8,000.00	100% of Statutory Maximum
	Provisional Statement	£8,000.00	£8,000.00	£8,000.00	100% of Statutory Maximum
	Application with Prov Statement	£3,000.00	£3,000.00	£3,000.00	100% of Statutory Maximum
	Variation	£4,000.00	£4,000.00	£4,000.00	100% of Statutory Maximum
	Transfer/Reinstatement	£1,800.00	£1,800.00	£1,800.00	100% of Statutory Maximum
	Annual Fee	£5,000.00	£5,000.00	£5,000.00	100% of Statutory Maximum
Bingo Clubs	New Application	£3,500.00	£3,500.00	£3,500.00	100% of Statutory Maximum
	Provisional Statement	£3,500.00	£3,500.00	£3,500.00	100% of Statutory Maximum
	Application with Prov Statement	£1,200.00	£1,200.00	£1,200.00	100% of Statutory Maximum
	Variation	£1,750.00	£1,750.00	£1,750.00	100% of Statutory Maximum
	Transfer/Reinstatement	£1,200.00	£1,200.00	£1,200.00	100% of Statutory Maximum
	Annual Fee	£1,000.00	£1,000.00	£1,000.00	100% of Statutory Maximum
Betting Premises	New Application	£3,000.00	£3,000.00	£3,000.00	100% of Statutory Maximum
	Provisional Statement	£3,000.00	£3,000.00	£3,000.00	100% of Statutory Maximum
	Application with Prov Statement	£1,200.00	£1,200.00	£1,200.00	100% of Statutory Maximum
	Variation	£1,500.00	£1,500.00	£1,500.00	100% of Statutory Maximum
	Transfer/Reinstatement	£1,200.00	£1,200.00	£1,200.00	100% of Statutory Maximum
	Annual Fee	£600.00	£600.00	£600.00	100% of Statutory Maximum
Tracks	New Application	£2,500.00	£2,500.00	£2,500.00	100% of Statutory Maximum
	Provisional Statement	£2,500.00	£2,500.00	£2,500.00	100% of Statutory Maximum
	Application with Prov Statement	£950.00	£950.00	£950.00	100% of Statutory Maximum
	Variation	£1,250.00	£1,250.00	£1,250.00	100% of Statutory Maximum
	Transfer/Reinstatement	£950.00	£950.00	£950.00	100% of Statutory Maximum
	Annual Fee	£1,000.00	£1,000.00	£1,000.00	100% of Statutory Maximum
Family Entertainment Centres	New Application	£2,000.00	£2,000.00	£2,000.00	100% of Statutory Maximum
	Provisional Statement	£2,000.00	£2,000.00	£2,000.00	100% of Statutory Maximum
	Application with Prov Statement	£950.00	£950.00	£950.00	100% of Statutory Maximum
	Variation	£1,000.00	£1,000.00	£1,000.00	100% of Statutory Maximum
	Transfer/Reinstatement	£950.00	£950.00	£950.00	100% of Statutory Maximum
	Annual Fee	£750.00	£750.00	£750.00	100% of Statutory Maximum
Adult Gaming Centres	New Application	£2,000.00	£2,000.00	£2,000.00	100% of Statutory Maximum
	Provisional Statement	£2,000.00	£2,000.00	£2,000.00	100% of Statutory Maximum
	Application with Prov Statement	£1,200.00	£1,200.00	£1,200.00	100% of Statutory Maximum
	Variation	£1,000.00	£1,000.00	£1,000.00	100% of Statutory Maximum
	Transfer/Reinstatement	£1,200.00	£1,200.00	£1,200.00	100% of Statutory Maximum
	Annual Fee	£1,000.00	£1,000.00	£1,000.00	100% of Statutory Maximum
Lotteries and Amusements	New Application	£40.00	£40.00	£40.00	Statutory -no increase.
	Annual Fee	£20.00	£20.00	£20.00	Statutory -no increase.
All Licences	Notification of change	£50.00	£50.00		100% of Statutory Maximum
	Copy of Licence	£25.00	£25.00		100% of Statutory Maximum
Pre-Application Advice, hrly charge	Min 1 Hr	£56.00	£57.12	£57.00	
<b>Club Gaming Machines</b>					
Club Gaming or Machine Permit	New Application	£200.00	£200.00	£200.00	Statutory-no increase

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Club Gaming or Machine Permit	Existing holder	£100.00	£100.00	£100.00	Statutory-no increase
Club Gaming or Machine Permit(holds a Club Premises Certificate under Licensing Act 2003)	New Application	£100.00	£100.00	£100.00	Statutory-no increase
Club Gaming or Machine Permit	Renewal	£200.00	£200.00	£200.00	Statutory-no increase
Club Gaming or Machine Permit(holds a Club Premises Certificate under Licensing Act 2003)	Renewal	£100.00	£100.00	£100.00	Statutory-no increase
Club Gaming or Machine Permit	Annual Fee	£50.00	£50.00	£50.00	Statutory-no increase
Club Gaming or Machine Permit	Variation	£100.00	£100.00	£100.00	Statutory-no increase
Club Gaming or Machine Permit	Copy of Licence	£15.00	£15.00	£15.00	Statutory-no increase
<b>Licensed Premises Notifications</b>					
To make available up to 2 gaming machines on premises which hold on-premises alcohol licence	notification of intention	£50.00	£50.00	£50.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	Application (existing holder)	£100.00	£100.00	£100.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	New Application	£150.00	£150.00	£150.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	Annual Fee	£50.00	£50.00	£50.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	Variation	£100.00	£100.00	£100.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	Transfer	£25.00	£25.00	£25.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	Change of Name	£25.00	£25.00	£25.00	Statutory-no increase
Gaming Machine Permit (more than 2 machines) on premises which hold on premises alcohol licence	Copy of Permit	£15.00	£15.00	£15.00	Statutory-no increase
Pre-Application Advice, hrly charge	Min 1Hr	£56.00	£57.12	£57.00	
<b>Sex Establishments – (Class A – Fee Discretionary)</b>					
Cinema		min £3,100 to max £5150	min £3,100 to max £5150	min £3,100 to max £5150	No change
Shop		min £3,100 to max £5150	min £3,100 to max £5150	min £3,100 to max £5150	No change
Entertainment Venue		min £3,100 to max £5150	min £3,100 to max £5150	min £3,100 to max £5150	No change
Premises - new		£2,617.00	£2,617.00	£2,617.00	Bracknell only - no change. Amalgamating with WB & W
Premises - renewal		£1,389.00	£1,389.00	£1,389.00	Bracknell only - no change. Amalgamating with WB & W
Pre-Application Advice, hrly charge	Min 1 Hr	£56.00	£57.12	£57.00	
<b>Street Trading Consents – (Class A – Fee Discretionary)</b>					
Application / Renewal	1 week	£135.00	£137.70	£138.00	Bracknell only
	Monthly Rate	£363.00	£370.26	£370.00	Bracknell only
	Monthly Rate	£223.00	£227.46	£227.00	WB & W only
	3 months	£854.00	£871.08	£871.00	Bracknell only
	6 months	£1,396.00	£1,423.92	£1,424.00	Bracknell only
	6 months	£784.00	£799.68	£800.00	WB & W only
	Annual Fee	£1,343.00	£1,369.86	£1,370.00	WB & W only
	6 months max 2 trading days a week incl Fri, Sat or Sun	£837.00	£853.74	£854.00	Bracknell only

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	6 months max 2 trading days a week Mon to Thurs only	£558.00	£569.16	£569.00	Bracknell only
Ice Cream Van (per van) application / renewal	1 month	£181.00	£184.62	£185.00	Bracknell only
Ice Cream Van 6 months (per van) application / renewal	6 months	£699.00	£712.98	£713.00	Bracknell only
Variation fee		£88.00	£89.76	£90.00	
Community Events				£0.00	50% reduction of appropriate fee for non profit making events
Refund for Street Traders	If application withdrawn	£113.00	£115.26	£115.00	WB & W only
Pre-Application Advice, hrly charge	Min 1 Hr	£56.00	£57.12	£57.00	
<b>Skin Piercing Registrations (one off registration) – (Class A – Fee Discretionary)</b>					
Individual		£179.00	£182.58	£183.00	Cost recovery
Premises		£280.00	£285.60	£286.00	Cost recovery
Joint Application		£448.00	£456.96	£457.00	Cost recovery
Pre-Application Advice, hrly charge	Min 1 Hr	£56.00	£57.12	£57.00	
		<b>NEW or RENEWAL</b>			
<b>Animal Licences – (Class A – Fee Discretionary) * +vet fee where applicable</b>		<b>Application Fee</b>	<b>Grant Fee</b>	<b>Total fee Payable</b>	
Animal Boarding Establishment - combined (dogs and cats)		£285.00	£397.00	£684.00	12hrs
Animal Boarding Establishment - single species (dogs or cats))		£228.00	£342.00	£570.00	10 hrs
Home boarder		£228.00	£342.00	£570.00	10 hrs
Home Boarder - Franchisee arrangers licence (excludes inspection fee per host)		£171.00	£57.00	£228.00	4 hrs
Home Boarder - Assessment of hobby host as part of a franchisee licence		N/A	£112.00	£112.00	2 hrs
Dog Day Care					2019/20 rate to apply +2%
Dog Breeding Establishment (excluding vet fee)		£285.00	£397.00	£684.00	12 hrs
Dog Breeding Establishment (in domestic dwelling)		£228.00	£342.00	£570.00	10 hrs
Pet Vending / Sale of pets		£228.00	£342.00	£570.00	10 hrs
Animal for Exhibition		£285.00	£397.00	£684.00	12 hrs
Riding Establishment (excluding vet fee)*					
Main inspection fee, plus fee per horse		£228.00	£342.00	£570.00	8 hrs
Fee per horse, for the first 10 horses		£15.00			
Fee per horse, for next 11-50 horses		£10.00			
Fee per horse, for every horse 51 & over		£8.00			
* Inspections are carried out annually, regardless of the star rating or length of licence, by a vet and officer. Vets fees will be recharged separately.					
<b>Example of charge per horse in a yard with 60 horses</b>					
1- 10 horses @ £15 = £150.00					
horses 11-50 @ £10 = £309.00					
horses 51 - 60 @ £8 = £72.00					
<b>Other fees</b>					
Variation to the licence fee (inclusive of one visit)		£224.00			
Replacement licence fee (lost or stolen paperwork, change of name, etc.)		£56.00			
Re-evaluation of star rating (inclusive of one visit)		£112.00			
Transfer due to death of licensee		£56.00			
Dangerous Wild Animal Consent*	2 years	£448.00	£456.96	£457.00	WB & W only Cost recovery
Dangerous Wild Animal Consent - New*	2 years	£476.00	£485.52	£486.00	Bracknell only Cost recovery
Dangerous Wild Animal Consent - Renewal*	2 years	£276.00	£281.52	£282.00	Bracknell only Cost recovery
Zoo Licenses (new and renewals)*	Up to 6 Years	£475.00	£484.50	£485.00	Cost recovery

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Zoo Licenses (new and renewals)*	Up to 6 Years	£2,014.00	£2,054.28	£2,054.00	Cost recovery
<b>Hairdresser Registration</b>		£42.00	£42.84	£43.00	Cost recovery
<b>Scrap Metal</b>					
Scrap Metal Site - New	3 Years	£488.00	£497.76	£498.00	Cost recovery
Scrap Metal Site - Renewal	3 Years	£488.00	£497.76	£498.00	Cost recovery
Scrap Metal Mobile Collector - New	3 Years	£260.00	£265.20	£265.00	Cost recovery
Scrap Metal Mobile Collector - Renewal	3 Years	£260.00	£265.20	£265.00	Cost recovery
Scrap Metal -Variation of Licence		£359.00	£366.18	£366.00	Cost recovery
Scrap Metal-Change of Site Manager		£67.00	£68.34	£68.00	Cost recovery
Scrap Metal- Copy of licence		£11.00	£11.22	£11.00	Cost recovery
Scrap Metal- Change of Name		£35.00	£35.70	£36.00	Cost recovery
Pre-Application Advice, hrly charge		£56.00	£57.12	£57.00	
<b>Private Water Supplies (Statutory Maximums stated)</b>					
Risk Assessment	Carried out every 5 years	£56.00	£57.12	£57.00	Minimum charge 1 Hr, simple risk assessment and report typically 5 hours
Sampling		£56.00	£57.12	£57.00	Charge for a visit, taking a sample and delivering it to the laboratory. Typically 2.5 hours
Private water and pool samples	includes cost of testing	£59.00	£60.18	£60.00	
Investigation		£106.00	£108.12	£108.00	Carried out in the event of a test failure, can be substituted by the risk assessment - this does not include any required analysis costs.
Analysis - Regulation 10		£27.00	£27.54	£28.00	Where a supply provides <10m <sup>3</sup> /day or serves <50 people and is used for domestic purposes
Analysis of Group A Parameters					Cost of laboratory analysis will be recovered and will depend on type of suite being analysed. Customer will be advised of cost.
Analysis of Group B Parameters					Additional parameters sampled less often to ensure the water complies with all safety standards - Hrly rate applies
<b>Environmental Permitting (E&amp;W) Regulations 2016</b>					
Scheduled Processes - (Class B – Statutory Fee)					
Standard Process			£1,650.00	£1,650.00	Statutory-no increase
Service Stations (PVI &PVII)			£257.00	£257.00	Statutory-no increase
Dry Cleaners			£155.00	£155.00	Statutory-no increase
Vehicle Refinishers			£362.00	£362.00	Statutory-no increase
Mobile screening & crushing plant			£1,650.00	£1,650.00	Statutory-no increase
for the third to seventh applications			£985.00	£985.00	Statutory-no increase
for the eighth and subsequent applications			£498.00	£498.00	Statutory-no increase
					Statutory-no increase
<b>Substantial Changes</b>					Statutory-no increase
Standard Process			£1,050.00	£1,050.00	Statutory-no increase
Reduced Activities			£102.00	£102.00	Statutory-no increase

Description		Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT)	Proposed Wokingham/West Berkshire/Bracknell 2020/2021 (Excluding VAT) +2%	Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT) Fees Rounded Off	Notes
					Statutory-no increase
<b>Annual Subsistence Charge</b>					Statutory-no increase
Standard Process	LOW		£772.00	£772.00	Statutory-no increase
	MEDIUM		£1,161.00	£1,161.00	Statutory-no increase
	HIGH		£1,747.00	£1,747.00	Statutory-no increase
Service Stations PVR2	LOW		£113.00	£113.00	Statutory-no increase
	MEDIUM		£226.00	£226.00	Statutory-no increase
	HIGH		£341.00	£341.00	Statutory-no increase
VRs and other reduced fees	LOW		£228.00	£228.00	Statutory-no increase
	MEDIUM		£365.00	£365.00	Statutory-no increase
	HIGH		£548.00	£548.00	Statutory-no increase
Dry Cleaners /PVR1	LOW		£79.00	£79.00	Statutory-no increase
	MEDIUM		£158.00	£158.00	Statutory-no increase
	HIGH		£237.00	£237.00	Statutory-no increase
Mobile Screening & Crushing Plant	LOW		£646.00	£646.00	Statutory-no increase
	MEDIUM		£1,034.00	£1,034.00	Statutory-no increase
	HIGH		£1,506.00	£1,506.00	Statutory-no increase
For the second permit	LOW		£646.00	£646.00	Statutory-no increase
	MEDIUM		£1,034.00	£1,034.00	Statutory-no increase
	HIGH		£1,506.00	£1,506.00	Statutory-no increase
For the third to seventh permit	LOW		£385.00	£385.00	Statutory-no increase
	MEDIUM		£617.00	£617.00	Statutory-no increase
	HIGH		£924.00	£924.00	Statutory-no increase
For the eighth & subsequent applications	LOW		£198.00	£198.00	Statutory-no increase
	MEDIUM		£316.00	£316.00	Statutory-no increase
	HIGH		£473.00	£473.00	Statutory-no increase
Late payment charge	When invoice issued & not paid in 8 weeks		£52.00	£52.00	Statutory-no increase
					Statutory-no increase
<b>Transfer &amp; Surrender</b>					Statutory-no increase
Transfer			£169.00	£169.00	Statutory-no increase
Partial Transfer			£497.00	£497.00	Statutory-no increase
Surrender			£0.00	£0.00	Statutory-no increase
Transfer Reduced fees			£0.00	£0.00	Statutory-no increase
Partial Transfer Reduced fees			£47.00	£47.00	Statutory-no increase
<b>Private Sector Housing</b>					
Inspection of Housing Premises for Immigration purposes (Class A – Fee Discretionary)		£392.00	£399.84	£400.00	
Enforcement Notices served under Housing Act 2004		£113.00	£115.26	£115.00	Activities as prescribed
HMO Licence NEW - assisted application		£1,174.00	£1,197.48	£1,197.00	Fees aligned June 2018
HMO Licence RENEWAL		£784.00	£799.68	£800.00	
Civil Penalties housing offences					Up to £30,000.00
<b>Caravan Site Licence annual Licence (Option 2 of DCLG Guide for Charging)</b>					
Site licence new		£428.00	£436.56	£437.00	Amalgamate across all areas
New licence per pitch		£16.00	£16.32	£16.00	Amalgamate across all areas
Transfer of licence		£181.00	£184.62	£185.00	Amalgamate across all areas
Alteration of conditions		£332.00	£338.64	£339.00	Amalgamate across all areas
Annual fee per pitch		£14.00	£14.28	£14.00	Amalgamate across all areas

Description		Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT)	Proposed Wokingham/West Berkshire/Bracknell 2020/2021 (Excluding VAT) +2%	Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT) Fees Rounded Off	Notes
Enforcement action -per hour		£56.00	£57.12	£57.00	Hourly rate as for activity as prescribed. Amalgamate across all areas
Deposit, vary or deleting site rules		£114.00	£116.28	£116.00	Amalgamate across all areas
Variation of licence		£113.00	£115.26	£115.00	Amalgamate across all areas
<b>Other Fees for Information</b>					
Environmental Info Individual, Non Commercial		£113.00	£115.26	£115.00	Hourly rate applies minimum for 2 hours
Commercial and Government		£113.00	£115.26	£115.00	Cost recovery
Civil Actions (Class A – Fee Discretionary)		£113.00	£115.26	£115.00	Cost recovery
Safety Certification and administration	Minimum 2 hours	£113.00	£115.26	£115.00	Cost recovery
Pre-Application Advice, hourly charge		£56.00	£57.12	£57.00	
<b>Resident and Business Advice</b>					
General Business Advice (non-primary authority)	Per hour - free for first 30 minutes	£56.00	£57.12	£57.00	Hourly rate applies
Request for Advice		£56.00	£57.12	£57.00	New cost recovery model - refer to officer guidance
Primary Authority Advice		£56.00	£57.12	£57.00	New cost recovery model - refer to officer guidance
<b>Hackney Carriage / Private Hire Licensing</b>					
<b>Vehicle Licences</b>					
Hackney Carriage Vehicle New / Renewal		£282.00	£287.64	£288.00	Consideration 2020 for new environmental standard vehicles eg electric, low emission taxis
Private Hire Vehicle New / Renewal		£282.00	£287.64	£288.00	cost recovery
Home to School New / Renewal		£144.00	£146.88	£147.00	Bracknell only
Private Hire Vehicle with Dispensation		£328.00	£334.56	£288.00	Included in operator fees
Private Hire Vehicle with Dispensation		£282.00	£287.64	£288.00	Included in operator fees
Temporary Vehicle licence	Issue up to 3 months maximum	£226.00	£230.52	£231.00	cost recovery
<b>Private Hire Operators</b>					
<b>NEW 2020/21 LICENCE FEE SCHEDULE BASED ON PER VEHICLE 5 YEAR: New 4hr incl 1st vehicle +15 min per additional vehicle/Renewal 2 hours incl 1st veh + 15 min per additional vehicle.</b>					
Operator 1 vehicle	1 year	£183.00			W and B
Operator 2-5 vehicles	1 year	£318.00			W and B
Operator 6-10 vehicles	1 year	£533.00			W and B
Operator 11-15 vehicles	1 year	£738.00			W and B
Operator 16-20 vehicles	1 year	£999.00			W and B
Operator more than 20 vehicles	1 year	£1,204.00			W and B
Operator 1 vehicle	3 years	£439.00			W and B
Operator 2-5 vehicles	3 years	£772.00			W and B
Operator 6-10 vehicles	3 years	£1,279.00			W and B
Operator 11-15 vehicles	3 years	£1,773.00			W and B
Operator 16-20 vehicles	3 years	£2,400.00			W and B
Operator more than 20 vehicles	3 years	£2,889.00			W and B
Operator – New and renewal	1-4 Vehicles (New 5 Yr)	£559.00			WB Only
	5-9 vehicles (New 5 Yr)	£870.00			WB Only
	9+ vehicles (New 5 Yr)	£1,390.00			WB Only
Operator 1 vehicle	5 years	£559.00			W and B
Operator 2-5 vehicles	5 years	£923.00			W and B

Description		Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT)	Proposed Wokingham/West Berkshire/Bracknell 2020/2021 (Excluding VAT) +2%	Wokingham / West Berks / Bracknell 2019/20 (Excluding VAT) Fees Rounded Off	Notes
Operator 6-10 vehicles	5 years	£1,845.00			W and B
Operator 11-15 vehicles	5 years	£2,768.00			W and B
Operator 16-20 vehicles	5 years	£3,690.00			W and B
Operator more than 20 vehicles	5 years	£4,529.00			W and B
Variation to licence				£57.00	to include reissue of licence with additional vehicle registration added plus extra fees for those for length of licence
<b>Driver Licences</b>					
Driver – New / Renewal	3 years	£264.00	£269.28	£269.00	
Home to School New / Renewal	3 years	£181.00	£184.62	£185.00	Bracknell only
Conversion of driver licence to another type		£78.00	£79.56	£80.00	
<b>Other Charges</b>					
Transfer of vehicle to new owner		£112.00	£114.24	£114.00	2 hours
Change of vehicle		£73.00	£74.46	£74.00	
Replacement licence		£40.00	£40.80	£41.00	
Replacement badge		£40.00	£40.80	£41.00	
Replacement Vehicle licence Plate		£56.00	£57.12	£57.00	
Meter test - retest after failure		£31.00	£31.62	£32.00	
Knowledge Test		£73.00	£74.46	£74.00	
Missed Appointments		£36.00	£36.72	£37.00	
Disclosure and Barring Service Check (DBS)					Capita cost + half an hour at hourly charge
Advertising on a Hackney Carriage Initial		£46.00	£46.92	£47.00	Not West Berks
Advertising on a Hackney Carriage Renewal		£31.00	£31.62	£32.00	Bracknell only
Change of Address (PH & HC)		£14.00	£14.28	£14.00	
Backing Plate		£25.00	£25.50	£26.00	
Medical Exemption from carrying assistant dog		£22.00	£22.44	£22.00	
Refund processing fee		£56.00	£57.12	£57.00	
Change of vehicle registration		£56.00	£57.12	£57.00	
Pre-Application Advice, hourly charge	Min 1 Hr	£56.00	£57.12	£57.00	Refer to officer guidance
Age of vehicle inspection initial/reinspection		£56.00	£57.12	£57.00	
Disability Awareness Training Course					Cost to be agreed with PPP Management Board at cost recovery (internal / external provider being investigated)
Safeguarding Training					Cost to be agreed with PPP Management Board at cost recovery (internal / external provider being investigated)
First Aid training for drivers					Cost to be agreed with PPP Management Board at cost recovery (internal / external provider being investigated)
Pre-Application Advice, hourly charge	Min 1 Hr	£56.00	£57.12	£57.00	

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### Private Hire Operators Fees

#### 1. New Applications

Includes receipt and processing of application. Fee also covers general Compliance / admin and training costs.

3 hour receipt of application and processing i.e. 3 x £57 (one-off)

1 hours officers time to travel to site, inspect and prepare report notes for first vehicle per year licence applied for i.e. 1 x £57 per vehicle per year

15 mins officer time per individual vehicle for officer time per year applied for i.e. £14.25 per vehicle per year

Worked Example for Operator with 10 Vehicles:

1 Year = 4 x £57 + 9 x £14.25 = £365.25

3 Year = 4 x £57 + 2 x £57 + 3 x (9 x £14.25) = £726.75

5 Year = 4 x £57 + 4 x £57 + 5 x (9 x £14.25) = £1097.25

#### 2. Renewal of Existing Licence

Includes receipt and processing of application. Fee also covers general Compliance / admin and training costs.

1 hour receipt of application and processing i.e. 1 x £57 (one-off)

1 hours officers time to travel to site, inspect and prepare report notes for first vehicle per year licence applied for i.e. 1 x £57 per vehicle per year

15 mins officer time per individual vehicle for officer time per year applied for i.e. £14.25 per vehicle per year

Worked Example for Operator with 10 Vehicles:

1 Year = 2 x £57 + 9 x £14.25 = £251.25

3 Year = 2 x £57 + 2 x £57 + 3 x (9 x £14.25) = £612.75

5 Year = 2 x £57 + 4 x £57 + 5 x (9 x £14.25) = £983.25

#### 3. Dispensation Vehicles

Dispensation vehicles will be charged at 15 minutes extra per vehicle.

e.g. An operator with ten vehicles (of which 4 were Dispensation Vehicles) would be charged at the above rate + £57 per year of operation.

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### The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

#### Example fees calculation for Boarding Establishments combined dogs and cats:

##### 1. Application fee and renewal fee

Includes receipt and processing of application and one inspection. Fee also covers general enforcement/admin and training costs.

1 hour receipt of application and processing

4 hours officers time to travel to site, inspect and prepare report notes

5 hours @ £57.00 per hour = **£285.00**

##### 2. Grant fee

Includes writing up inspection report notes, determination of rating using scoring matrix (shown below), issuing of licence, unannounced visit and associated administration, ongoing liaisons with vet as required.

0.5 hour issue of licence

2.5 hours officers time to prepare inspection report and determine star rating

4 unannounced visit during terms of licence issued (1 unannounced visit per licence term granted)

7 hours @ £57.00 per hour = **£399.00**

Total Payable: £285.00 + £399.00 = **£684.00**

#### Comparison of proposed fee with current annually charged fee in Bracknell Forest

Current fee payable £405.00 annually.

- If premises meet the minimum standards and are issued with a 2 year licence a saving of £126.00 is gained from the current fee charged.

Current Fee: 2 x £405 = £810.00

Proposed Fee: £285 + £399 = £684.00

Total Saving: £810 - £684 = **£126.00**

- If premises meet the higher standard and a 3 year licence is granted then a saving of £531.00 is made.

Current Fee: 3 x £405 (annual fee) = £1215

Total Saving: £1215 - £684 = **£531.00**

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	<b>1 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>3 Star</b> 2yr licence Min 1 unannounced visit within 24 month period	<b>5 Star</b> 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	<b>1 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>2 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>4 Star</b> 2yr licence Min 1 unannounced visit within 24 month period

**TO: LICENSING AND SAFETY COMMITTEE  
24 OCTOBER 2019**

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## **HACKNEY CARRIAGE AND PRIVATE HIRE TRADE MEETING UPDATE (Public Protection Manager)**

### **1 PURPOSE OF REPORT**

- 1.1 This report is to update the Committee on the communication between Officers and the taxi trade within Bracknell Forest.

### **2 RECOMMENDATIONS**

#### **2.1 That the Committee:**

- i) **Notes the content of the report and minutes attached, and;**
- ii) **Makes any recommendations on matters discussed or for further discussion in the future of the Group.**

### **3 REASONS FOR RECOMMENDATIONS**

- 3.2 The Licensing and Safety Committee asked for an officer/trade meeting be set up to discuss issues of concern following representation of such from the trade with a further wish to receive feedback from the meetings..
- 3.2 Recent issues reported to the department indicate a need for an increase in dialogue with the trade.

### **4 ALTERNATIVE OPTIONS CONSIDERED**

None

### **5 SUPPORTING INFORMATION**

- 5.1 At the meeting on 3 July 2019 attended by officers and 3 representatives from the trade (attached as Appendix One) the following issues were discussed:

#### **Taxi Ranks**

Additional rank at Morrisons, The Peel Centre. NK to write to the land owner to ask if they would consider the suggestion. **Update: NK Emailed landowner and agent for the site no response received yet, chaser email sent**

- The Lexicon rank- is not well sign posted; **Update: to be discussed at meeting with Town Centre Management on 16/10/19**
- Implementation of a rank opposite Cineworld – **Update: to be discussed at with Town Centre Management- meeting arranged for 16/10/19.**

## Unrestricted

- NK/SM to look at placing cameras at The Waitrose rank as many people are plying for hire or sitting at this rank that shouldn't be. **Update: SM confirmed is looking to buy mobile cameras for the PPP that may be used for this purpose.**
- NK is to speak to Highways about new signs for the taxi ranks. SM agreed PPP will pay for the signs and to see if Highways will put them up for us. **Update: to be discussed at meeting on 16<sup>th</sup> Oct**
- NK to contact with South West Trains who own the land at the train station taxi rank and ask for a yellow box to be put in front of the rank and repairs made to the pavement **Update: To be followed up after 11<sup>th</sup> October when David (SW Trains) returns from leave**

### Promotion of Local Licensing Regime

- The group talked about promoting the local licensing regime to members of the public and stressing the need to always use vehicles which are licensed.
- Plan to do this by improving the signage, produce posters for notice boards around the borough, articles in newsletter/newspaper, use of door stickers on Bracknell Taxis to help identify them. **Update: NK has received corporate logo from graphics team -trade were to come back to her with suggested wording so this could be discussed further – trade wanted input into the wording as discussed with K Moore- nothing further received from trade. SM confirmed he will be purchasing a advert in Town and Country to promote Taxi Licensing regulation/community safety-e.g use of local licensed vehicles/Get Your Coat**

### Taxi Fare Rise

- The fares for licensed hackney carriage vehicles have not been increased since 2011.
- Taxi trade to present a Business case so the matter can be considered by the Licensing and Safety Committee
- **UPDATE: NK advised the sort of information to include-nothing received from the trade as yet**

### Complaints

- Several allegations were made. Trade asked that any complaints be sent to Licensing with as much detail as possible including date, times, vehicle registration and photographs if possible so they can be investigated.
- Authorised garages for vehicle inspection tests were discussed-the conditions need to be looked at –it is proposed that these are done in the same way as has been set up in West Berkshire and Wokingham with vehicles being able to use any of the Authorised Garages

### Mixed Fleets

- A discussion took place around possibly allowing a mixed fleet for Hackney Carriage vehicles.

- The trade were asked to put together a case to take to committee to include actual figures of how many wheelchair users were picked up in a month's period. **Update: nothing received as yet**
- It was agreed if a driver does not feel capable or safe escorting a wheelchair user into their vehicle then they can explain this to the member of the public explaining the safety elements and also send an email to [licensing.all@bracknell-forest.gov.uk](mailto:licensing.all@bracknell-forest.gov.uk) to advise so the team are aware in case of complaint.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The relevant legal provisions are contained within the body of the report.

### Borough Treasurer

6.2 There are no implications arising from the recommendation in this report.

### Equalities Impact Assessment

6.3 There are no implications arising from the recommendation in this report.

### Strategic Risk Management Issues

6.4 The Council has a duty to protect the public. To take no action could be criticised should there be a public enquiry into an incident in Bracknell Forest.

### Background Papers

Minutes from trade liaison meeting 03/07/19

### Contact for further information

Julia O'Brien - 01635 519848 – [Julia.Obrien@westberks.gov.uk](mailto:Julia.Obrien@westberks.gov.uk)

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## MINUTES

**MEETING NAME:** Taxi Meeting

**MEETING DATE AND TIME:** Wednesday 3<sup>rd</sup> July 2019 at 15.00pm

**PRESENT:**

Sean Murphy, Head of Public Protection  
Niamh Kelly, Licensing Officer  
Rhianne Arthur, The Applications Team (Minute Taker)  
3 Trade members



<p>1.</p>	<p><b>Taxi Ranks</b></p> <p>It was discussed about having a taxi rank at Morrisons, The Peel Centre. When talked about previously, Morrisons were happy for this to happen as it promotes a happier shopper experience. Niamh Kelly to write to the land owners of the Peel Centre and put this idea forward.</p> <p>The rank at The Lexicon is not well sign posted; there was talk about implementing another rank opposite Cineworld, next to TGIs just off The Ring. Niamh to investigate this to see if enough space and how we can action this if possible. It would be good to have clear visible signs, so members of the public can see there is a rank.</p> <p>Niamh and Sean to look at placing cameras at The Waitrose rank as many people are applying for hire or sitting at this rank that shouldn't be.</p> <p>Niamh is to speak to Highways about new signs for the taxi ranks. Sean has agreed we can pay for the signs and to see if Highways will put them up for us. The signs should have wording such as 'Bracknell Forest Taxis' 'Vehicles Licensed by Bracknell Forest Council'.</p> <p>Niamh to get in contact with South West Trains who own the land at the train station taxi rank and ask for a yellow box to be put in front of the rank to stop cars pulling up there and blocking the taxis from exiting the rank. Niamh to emphasis on the Customer Experience.</p>
<p>2.</p>	<p><b>Promotion of Local Licensing Regime</b></p> <p>The group talked about promoting the local licensing regime to members of the public and stressing the need to always use vehicles which are licensed.</p> <p>We can do this by improving the signs, so the public can clearly see where a rank is located and that wheelchair accessible vehicles will be parked here.</p> <p>Niamh and Sean to speak to the graphics team about producing posters that we can use around the borough for example on notice boards such as at the train station, bus station, in pubs and toilets.</p>

	<p>Please allow 4 to 6 weeks for these to be created and Licensing will invite the trade back in to look at and comment on the posters before release.</p> <p>We will look at articles to be sent out to the local newspaper / newsletter promoting the local licensing regime and how it seeks to protect the public and drive up confidence.</p> <p>We will also look at free door vinyl stickers for the taxis in Bracknell to help identify them as licensed by BFC when the trade is driving around. This will link in with the key safety messages.</p>
<p><b>3.</b></p>	<p><b>Taxi Fare Rise</b></p> <p>The fares for licensed hackney carriage vehicles have not been increased since 2011.</p> <p>The taxi trade is to pull together a business case to raise the fares and send to Sean, so it can be taken to the Committee being held in October. Licensing would need this by the end of August.</p> <p>The taxi trade is to send in a proposal with Hackney Carriage drivers' signatures to support this – please add this proposal to the back of the letter in support of your business case.</p> <p>Niamh will then build a report of how much the Councils fees and charges have gone up since 2011 to help support the case.</p> <p>Niamh is to send over some indexes to <a href="mailto:bracknelltaxidrivers@gmail.com">bracknelltaxidrivers@gmail.com</a> from the web to show the increase of the price of fuel per mile has increased from 2011 to now. This is to be added to the information sent to Licensing to support the case going to committee.</p> <p>If drivers are not supportive of this case, then remind them this is the maximum amount they can charge and can charge less.</p> <p>Ultimately this is a matter for the Committee</p>
<p><b>4.</b></p>	<p><b>Complaints</b></p> <p>Several allegations were made.</p> <p>{Local Operator} have an Operators Licence in both in Bracknell and elsewhere. An allegation was made that they are using the Wokingham Vehicles for jobs in the Bracknell area. Niamh to investigate.</p> <p>Dispensation vehicles have been taking cash at the Train Station Rank. If you do see this then please report it to <a href="mailto:licensing.all@bracknell-forest.gov.uk">licensing.all@bracknell-forest.gov.uk</a> including as much detail as you can, you will need to provide the time, date, vehicle registration and if you can any pictures. If we do not have the details, we cannot investigate the incident.</p> <p>Reports of Private Hire Vehicles taking there plates off and charging Chauffer prices. Again, this cannot be investigated without times, dates, registration numbers and if possible photos.</p> <p>Dispensation vehicles taking cash payments at Heathrow. Sean and Niamh talked about doing a mystery shopper for this. Or if a driver witnesses this then again to report it to the Licensing Team providing times, dates, and vehicle registration.</p> <p>It was reported that Great Hollands MOT are not checking the wheelchair accessible</p>

	<p>ramps at vehicle inspections. Niamh to investigate this.          We will be going out to tender again soon for more authorised garages to carry out the vehicle inspection tests. It was also discussed about changing the conditions to allow taxi drivers to use Wokingham and West Berkshire authorised garages for inspections.</p>
<p><b>5.</b></p>	<p><b>Mixed Fleets</b></p> <p>There was a discussion to see if Licensing would allow a mixed fleet for Hackney Carriage vehicles.</p> <p>The points raised were:</p> <ul style="list-style-type: none"> <li>- There are not many pickups of wheelchair users. Most jobs are called into the office and booked.</li> <li>- The vehicles are heavy which in turn uses more fuel</li> <li>- Loosing airport run jobs as the vehicles cannot fit under the height restrictions at airports</li> </ul> <p>The trade was asked to put together a case to take to committee and to include actual figures of how many wheelchair users were picked up in a month's period.</p> <p>It was agreed if a driver does not feel capable or safe escorting a wheelchair user into there vehicle then they can kindly explain this to the member of the public and to explain using safety grounds for them and the user themselves. An email will then need to be sent to <a href="mailto:licensing.all@bracknell-forest.gov.uk">licensing.all@bracknell-forest.gov.uk</a> to advise of the date and time and why they couldn't take the user on the requested journey which we will be able to use in the incident of any complaints received.</p>

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**LICENSING PANEL  
17 JULY 2019  
10.00 - 11.37 AM**

**Present:**

Councillors Tullett (Chairman), Porter and Brown

**Also Present:**

Donald Adams, Legal Advisor

Lizzie Rich, Clerk

Karen Court, Public Protection Partnership Officer

**1. Declarations of Interest**

There were no declarations of interest.

**2. The Procedure for Hearings at Licensing Panels**

The procedure for hearings at Licensing Panels was noted by all parties.

**3. Application for new Premises Licence in respect of BP Oil Limited, Bracknell Road, Crowthorne**

The application was for a Premises Licence to permit the sale of alcohol between the hours of 06:00 and 24:00 Monday to Sunday and for Late Night Refreshment, being hot food or hot drink, between the hours of 23:00 and 24:00 Monday to Sunday.

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues,
- the Applicant,
- the Interested Parties which included Crowthorne Parish Council.

At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel noted that Thames Valley Police had previously submitted an objection to the application on the grounds of it being contrary to the Licensing objective of prevention of crime and disorder but that those previous concerns had been mediated and settled with the Applicant in advance of the Hearing by way of the Applicant agreeing to additional licensing conditions in the event of the application being granted. The Panel noted that there had been no representations made by any of the other Responsible Authorities.

The Panel reached its decision with a view to promoting the four Licensing objectives under the Licensing Act 2003, being the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm, all of which were discussed in this case as a result of representations received both orally and in writing. The Panel also reached its decision having regard to the

provisions of the Licensing Act 2003, the Home Office Guidance issued in respect of the same and having regard to the Council's own Statement of Licensing Policy.

The Panel determined that granting the application, with conditions, would not have an adverse impact on the promotion of the four Licensing objectives and so agreed to grant the Premise Licence and Late Night Refreshment Licence as applied for (Premises Licence 06:00 – 24:00 Monday to Sunday, Late Night Refreshment Licence 23:00 – 24:00 Monday to Sunday). In addition to the mandatory Licence Conditions, and those as set out in and arising from the Applicant's operating schedule within the application before the Panel, the Panel granted the application, with additional conditions as below;

- 1 Outside of permitted hours for the sale of alcohol, all alcohol within the trading area (for the avoidance of doubt this does not include the display area behind the counter) is to be kept behind shutters/screens/grills
- 2 All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:
  - Induction training must be completed and documented prior to the sale of alcohol by the staff member
  - Refresher/reinforcement training at intervals of no more than 6 months

Training records will be available for inspection by a police officer or other authorised officer on request.

Training records will be maintained at the premises or electronically stored for a period of 12 months.

- 3 All cashiers will be trained to records refusals of sales of alcohol in a refusals log/register. The log/register will contain:
  - Details of the time and date the refusal was made
  - The identify of the staff member refusing the sale
  - Details of the alcohol the person attempted to purchase

This log/register will be available for inspection by a police officer or other authorised officer on request.

- 4 An incident log/register shall be maintained to record:
  - a. All incidents of crime and disorder occurring at the premises
  - b. Details of occasions when the police are called to the premises

This log/register will be available for inspection by a police officer or other authorised officer on request.

- 5 Signage shall be displayed at the entry and exit of the site to request that customers consider and respect those local residents living in the immediate vicinity.

The above stated additional conditions comprise both those as previously mediated and agreed between the Applicant and Thames Valley Police and an additional condition as offered as agreeable by the Applicant at the Hearing.

## Reasons

The reasons for the decision are that the Panel found insufficient evidence from the submissions of the interested parties to suggest that incidents of crime and disorder, including anti-social behaviour, would increase as a direct result of the Premises Licence being granted. The Panel was satisfied that the additional conditions as applied, including those as agreed between the Applicant and Thames Valley Police, would mitigate against the concerns raised in the previous Police objection and of those by the other interested parties.

The Panel carefully considered both the written and verbal representations raised by residents which included concerns that anti-social behaviour may increase as a result of this Licence being granted. However, the Panel considered that historic anti-social behaviour in the area could not be directly attributed to this filling station site. The Panel, while sympathetic to residents' concerns, could not find any evidence to suggest that anti-social behaviour, vandalism or nuisance would increase at the site as a result of the Licence being granted.

Residents had also raised concerns that the permitted licensable activity as applied for would finish later than the closing time of local pubs and supermarkets. However, the Panel determined that this application must be decided on its own merits and not be dependent on the facts of other local premises licences, or matters beyond the Applicant's control, and so to avoid the imposition of any disproportionate or overly burdensome conditions on the Applicant.

The Panel bore in mind that their decision was required by legislation to be proportionate, justifiable and appropriate for the promotion of the licensing objectives. It was not felt that historic anti-social behaviour in the area could be directly attributed to this new premises, and so the Panel did not have evidence before it to suggest that the Licensing objectives would not be supported by granting the application.

The Panel discussed potential future discrepancy as between the premises' substantive business operating hours, as approved by Planning officers, and the hours of licensable activity taking place during those hours, should the premises ever seek to substantively become a 24 hour operation. However, it was noted that, as at the time of the Panel Hearing, the Applicant's substantive business operating hours, as granted by Planning officers, were 06:00 to 24:00 Monday to Sunday, which were the same as the application before the Panel for the licensable activity.

The Panel took in to account the fact that the application before it had originally stated that the Applicant's substantive business operating hours were to be a 24 hour operation but found in fact, that was not presently the case. The Panel, however, considered that should the Applicant's present substantive business operating hours for this premises ever be extended in the future, the Applicant might prevent the sale of alcohol outside of the applied for hours of licensable activity. In order to address those concerns, and as proposed and agreed by the Applicant, the Panel deemed it appropriate to include the additional condition which required, outside of permitted hours of licensable activity, for all alcohol (not including the display area behind the counter) to be kept behind shutters/screens/grills.

The Panel considered that the application of the premises' operating schedule, the mandatory licensing conditions, together with the additional conditions as mediated with Thames Valley Police and the additional condition as proposed and accepted by the Applicant at the Hearing would be sufficient to mitigate interested parties' concerns. In addition, the Panel considered that the conditions as imposed on the

granted application were proportionate, justifiable, capable of being met by the Applicant and appropriate to the promotion of the Licensing objectives.

The Panel wished to remind all parties that the Licensing Act 2003 contains provision for seeking a review of the Licence if there are breaches of the Licence and if the Licensing objectives are not being met. This mechanism under the Licensing Act, rather than denying the granting of the new Licence, was considered the appropriate recourse and check and balance in this particular case.

In summary, while mindful of residents' concerns, the Panel granted the Licence, with conditions, as there was no evidence that granting the Licence would lead to an increase in anti-social behaviour or otherwise adversely impact on the promotion of the Licensing objectives.

**CHAIRMAN**

**LICENSING PANEL  
3 OCTOBER 2019  
10.00 - 11.25 AM**



**Present:**

Councillors Allen (Chairman), Porter and Tullett

**Also Present:**

Gary Clarke, Thames Valley Police  
Heather Fleming, Trading Standards  
Amanda Ward, Licensing Officer  
Mr Lamba, Designated Premises Supervisor  
Mr Bhanjal, representing SS Food and Wines

**4. Declarations of Interest**

There were no Declarations of Interest.

**5. The Procedure for Hearings at Licensing Panels**

The procedure for hearings of Licensing Panels was noted.

**6. Application of review of premises licence SS Food and Wine Limited**

The Panel carefully considered all the information presented, both written and oral, from:

- the Licensing Officer who outlined the issues;
- the Applicant (Thames Valley Police, supported by Trading Standards),
- the licence holder and representative;

The Panel reached its decision with a view to promoting the four Licensing objectives under the Licensing Act 2003, which they agreed were all pertinent to this case:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

In reaching its decision the Panel had regard to the provisions of the Licensing Act 2003, the Home Office Guidance, as issued under section 182 of that Act, and Bracknell Forest Council's own Statement of Licensing Policy.

At the conclusion of the proceedings all participants present confirmed that they had been given the opportunity to say all they wished to say.

The Panel determined that to allow the Premises Licence to continue in its current form would have an adverse impact on the promotion of the four Licensing objectives.

After careful consideration, the Panel's decision was to remove the Designated Premises Supervisor, Mr Preet Singh Lamba, from that role, and to suspend the Premises Licence for a period of 3 months.

In addition, the Panel determined to add a further condition to the Premises Licence to require that all and any containers of alcohol sold by the premises, whether cans, bottles or otherwise, must be individually price tag labelled, with the label affixed to the side of each individual alcohol container and the label stating the name of the business premises as at the point of sale (as it was noted that there had been a number of changes to the business name in recent years).

The above decision of the Panel (to suspend the Premises Licence for a period of three months, to remove the current Designated Premises Supervisor from that role and the requirement for the additional condition to be added to the Premises Licence as to individual alcohol container labelling with business premises name) **will take effect at the end of 21 days from the date of this decision letter, on the 29 October 2019 or on such date of determination of any Appeal against the decision of the Panel that is lodged within 21 days of the date of this decision letter.**

The Licensing Officer will send you a copy of the amended Licence in due course.

### **Reasons**

The Panel noted that there were a number of alcohol related incidents recorded by Thames Valley Police involving street drinkers within the Public Space Protection Order area of Bracknell town centre within which the premise is located and that, on several occasions, the consumed alcohol in question was suspected to have been purchased from S.S Food and Wine Limited.

The Panel noted that Thames Valley Police had previously requested that Mr Lamba take steps to assist the Police in establishing from where alcohol in street-drinking related incidents reported as occurring in the immediate and nearby area was being purchased, by way of introducing price tag labelling of all individual cans of alcohol sold, with such labelling to also state the name of the business premises from where it was sold. Mr Lamba had voluntarily agreed to implement such measures and advised the Panel that he had now purchased such a labelling system. However, whilst such news was welcomed, the purchase invoice shown to the Panel at the Hearing indicated that this had only been ordered on the 30 September 2019, just days before the Panel Hearing itself on 3 October 2019. Mr Lamba had long since previously agreed to such implementation during a meeting held with Thames Valley Police on the 7 March 2019. The Panel considered that Mr Lamba's action in that regard had been much too late and not pro-active enough to demonstrate his ready willingness to co-operate with Thames Valley Police and to promote the licensing objectives.

The Panel also noted that Thames Valley Police had visited the premises on several occasions and found that staff had not been able to readily access CCTV footage when required by officers to do so. The Panel noted this was in breach of the mandatory conditions and the Panel agreed that this lack of staff training in that regard did not support the Licensing objective of prevention of crime and disorder or of the promotion of public safety.

The Panel also noted that Trading Standards had submitted comments in support of Thames Valley Police's application for the review. The substance of these comments centred around a failed test purchase, in which a 21-year-old had been sold alcohol

at S.S Food and Wine Limited without being challenged by staff to present any identification, contrary to the Challenge 25 policy. The Panel agreed that this failure during a test purchase indicated that the Challenge 25 policy was not being rigorously implemented at the premises and that this was a breach of the mandatory conditions. It was noted that there had also been previous occasions of alcohol test purchase failures at the same premises, whilst operating under a different business name, with Mr Lamba still as the Designated Premised Supervisor. The Panel thus noted the concern of Trading Standards that the licensing objective to protect children from harm was not being met.

The Panel did not feel that the current Premises Licence and management regime was adequately supporting the four Licensing objectives, and that the responsibility for this primarily lay with the Designated Premises Supervisor. It was recognised that Thames Valley Police had made numerous attempts to meet with Mr Lamba to explain their concerns and to give advice to mitigate against them. Whilst Mr Lamba had agreed to voluntarily implement additional procedures and safeguards to help promote the licensing objectives, as well as to rectify breaches of mandatory conditions, not all of which had been implemented or not implemented fast enough and the Panel felt that this was unsatisfactory for a Designated Premises Supervisor.

The Panel felt that the current Designated Premises Supervisor had been remiss in his duties by failing to swiftly rectify breaches of the Premises Licence, including staff training in the operation of the Challenge 25 policy, the retrieval and provision of CCTV footage to Thames Valley Police or other authorised officers and with regard to the in-store display of Premise Licence documentation. The Panel also noted the inconsistent results of alcohol test purchases as carried out at the premises and considered this a failure of the current Designated Premises Supervisor to fulfil his obligations under the Licence, including as to staff training.

The Panel agreed that the current Designated Premises Supervisor, Mr Preet Singh Lamba, was no longer suitable to hold that position and reached the determination for his removal from that position.

In addition, in light of all that had been presented to and considered by the Panel, including noting that certain previous Licence condition breaches and voluntary procedural changes had been implemented, albeit late in the day and only after further chasing, the Panel determined it appropriate to suspend the Premises Licence for a period of 3 months.

In order to comply with mandatory conditions of the Premises Licence and to promote the four licensing objectives, a new Designated Premises Supervisor will need to be proposed and trained to the satisfaction of the Licensing Authority and be in place prior to the expiry of the 3-month suspension of the Premises Licence once it comes in to effect.

The Panel considered that there had been unjustifiable delay in implementing the business name price tag labelling on individual alcohol containers that Mr Lamba had voluntarily agreed to implement during the meeting with Thames Valley Police on 7 March 2019. As such, the Panel determined that the previously voluntary agreement rather be made a formal condition of the Premises Licence. In doing so, the Panel also considered it appropriate from what it had heard of problem street drinking in the area and of representations made as to the suspected origin of sale of some of that alcohol, to extend the requirement from just being for cans of beer, cider and lager, to being for all sold containers of alcohol, whether cans, bottles or otherwise.

In summary, the Panel agreed the following:

1. The Panel agreed that it was appropriate to make it a condition of the Premises Licence that all such sold containers of alcohol be individually price tag labelled on their side, stating the name of the current business premises as at the point of sale. Having been informed that an initial purchase order for such labelling had already been placed by Mr Lamba and, in light of all that had been presented to the Panel, including the referenced street drinking related incidents in immediate and nearby area, the Panel considered such additional Premise Licence condition to be reasonable, proportionate and capable of being met in the promotion of the four licensing objectives.
2. The Panel agreed that the current Designated Premises Supervisor, Mr Preet Singh Lamba, would be removed from the position at SS Food and Wines. The premises are reminded that a replacement DPS must be in place if the premises intends to sell alcohol following the suspension period.
3. The Panel agreed to suspend the premises licence for a period of 3 months.

The Panel's decisions above will **take effect at the end of 21 days from the date of this decision letter, on the 29 October 2019** or on such date of determination of any Appeal against the decision of the Panel that is lodged within 21 days of the date of the decision letter.

**CHAIRMAN**