



Leicester
City Council

MEETING OF THE LICENSING AND PUBLIC SAFETY COMMITTEE

DATE: TUESDAY, 22 OCTOBER 2019

TIME: 5:30 pm

PLACE: Meeting Room G.01, Ground Floor, City Hall, 115 Charles Street, Leicester, LE1 1FZ

Members of the Committee

Councillor Hunter – Chair

Councillor Pickering – Vice Chair

Councillor Singh Johal – Vice Chair

Councillors Cank, Fonseca, Gee, Dr Moore, and Dr Sangster

1 Labour Group Vacancy

1 unallocated Non-Group Place

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

for The Monitoring Officer

Officer contact : Angie Smith
Democratic Support
Leicester City Council
City Hall, 115 Charles Street, Leicester, LE1 1FZ
(Tel. 0116 454 6354)
Email: angie.smith@leicester.gov.uk

Information for members of the public

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- ✓ to respect the right of others to view and hear debates without interruption;
- ✓ to ensure that the sound on any device is fully muted and intrusive lighting avoided;
- ✓ where filming, to only focus on those people actively participating in the meeting;
- ✓ where filming, to (via the Chair of the meeting) ensure that those present are aware that they may be filmed and respect any requests to not be filmed.

Further information

If you have any queries about any of the above or the business to be discussed, please contact Angie Smith, **Democratic Support on (0116) 454 6354 or email angie.smith@leicester.gov.uk** or call in at City Hall, 115 Charles Street, Leicester, LE1 1FZ.

For Press Enquiries - please phone the **Communications Unit on 454 4151**

PUBLIC SESSION

AGENDA

FIRE/EMERGENCY EVACUATION

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1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are asked to declare any interests they may have in the business on the agenda.

3. MINUTES OF PREVIOUS MEETING

**Appendix A
(Pages 1 - 4)**

The minutes of the meeting held on 9th July 2019 are attached and the Commission will be asked to confirm them as a correct record.

4. PETITIONS

The Monitoring Officer to report on the receipt of any petitions submitted in accordance with the Council's procedures.

5. QUESTIONS, REPRESENTATIONS, STATEMENTS OF CASE

The Monitoring Officer to report on the receipt of any questions, representations and statements of case submitted in accordance with the Council's procedures.

6. PAVEMENT CAFÉ LICENSING - POLICY REVIEW

**Appendix B
(Pages 5 - 32)**

The Director of Neighbourhood and Environmental Services submits a report which seeks the views of the Committee on the forthcoming consultation on pavement café licensing.

Members are recommended to comment on the café licensing policy and any changes that may be appropriate.

7. TAXI STRATEGY - CONSULTATIONS

**Appendix C
(Pages 33 - 68)**

The Director of Neighbourhood and Environmental Services submits a report to inform the Committee of the forthcoming driver consultation and to seek views on the private hire operator consultation. Members are recommended to comment on the draft consultation.

8. TAXI STRATEGY - UNMET DEMAND

**Appendix D
(Pages 69 - 72)**

The Director of Neighbourhood and Environmental Services submits a report to inform the Committee of the need for a survey of unmet demand for hackney carriages. Members are recommended to note the report.

9. ANY OTHER URGENT BUSINESS



Leicester
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Appendix A

Minutes of the Meeting of the
LICENSING AND PUBLIC SAFETY COMMITTEE

Held: TUESDAY, 9 JULY 2019 at 5:30 pm

P R E S E N T :

Councillor Hunter (Chair)
Councillor Pickering (Vice Chair)
Councillor Singh Johal

Councillor Cank
Councillor Fonseca
Councillor Gee

Councillor Dr Moore
Councillor Sangster
Councillor Thomas

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1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

Members were asked to declare any interest they may have in the business on the agenda.

There were no declarations.

3. MEMBERSHIP OF THE COMMITTEE

NOTED:

The membership of the Licensing and Public Safety Committee for the 2019-20 municipal year as follows:

Councillor Hunter (Chair)
Councillor Singh-Johal (Vice-Chair)
Councillor Pickering (Vice-Chair)
Councillor Cank
Councillor Fonseca
Councillor Gee
Councillor Dr Moore
Councillor Sangster

Councillor Thomas
1 non-group place

4. TERMS OF REFERENCE

NOTED:

The Terms of Reference for the Licensing & Public Safety Committee.

5. DATES OF MEETINGS

NOTED:

The dates of the Committee meetings for the 2019-20 municipal year as follows:

Tuesday 9th July 2019
Tuesday 22nd October 2019
Tuesday 11th February 2020
Tuesday 21st April 2020

All meetings to commence at 5.30pm

6. MINUTES OF PREVIOUS MEETING

RESOLVED:

that the minutes of the meeting held on 12th February 2019 be confirmed as a correct record.

7. PETITIONS

The Monitoring Officer reported that no petitions had been received.

8. QUESTIONS, REPRESENTATIONS, STATEMENTS OF CASE

The Monitoring Officer reported that there were no questions, representations and statements of case received.

9. LICENSING SERVICE POSITION STATEMENT

The Director of Neighbourhood and Environmental Services submitted a report providing an overview of each work area within the Licensing Service.

The Licensing Team Manager introduced the report which included background information to the Licensing Process, roles and responsibilities, a summary of the three Licensing Teams: Licensing Applications; Licensing Enforcement and the Vehicle Testing Station and details of any particular areas of note.

Members noted that the Licensing and Public Safety Committee were responsible for maintaining an overview of licensing matters, scrutinising processes and procedures, making recommendations and actions as a

consultee on licensing policy.

RESOLVED:

That the contents of the report be noted.

10. TAXI STRATEGY - DRIVER LICENSING CONSULTATION

The Director of Neighbourhood and Environmental Services submitted a report giving details of the proposed consultation regarding policies and procedures associated with the licensing of taxi drivers.

The Chief Licensing Officer introduced the report and reminded members that the Taxi Strategy had been approved by Deputy City Mayor Clair earlier in the year and the next step of the process was to begin public consultation with the first part concerning taxi drivers. Members were referred to a draft copy of the consultation document which included proposals for consideration and were invited to provide comments to be feedback to the executive.

Members were of the view that Child Sexual Exploitation awareness training should be a mandatory pre-licensing requirement in proposal 11.

Regarding proposal 1, it was suggested that the expression “as soon as reasonably practicable” should be more specific. Concern was also expressed about computer accessibility and the difficulties that some may have with that. It was explained that all new applicants had been required to apply online for a few years with no reports of that being an issue. It was accepted that the renewal process was less simple however the council was moving to digital by default but there would continue to be an offer of assistance to anyone that struggled with that. Existing drivers would also be written to about the consultation.

In relation to proposal 7, it was suggested the statement about English assessment pre-licensing requirements be rephrased to say, “applicants whose language is not English as their first language” rather than refer to “all new applicants who were born outside the UK”. Members also questioned the equality implications of the English assessment and were informed that the English assessment had been introduced following a series of complaints primarily from customers, but also from councillors and officers, who had encountered difficulties with drivers that spoke little or no English. The proposal was to obtain further advice on equalities and consider whether there was a more appropriate way of screening people to ensure a sufficient level of communication ability with customers.

Members also suggested that once a provider was approved to conduct English Assessments there should be regular checks or audits against providers to ensure they were carrying out those assessments properly and verifying identities of those being tested.

Members noted that for proposal 3 and 6, the intention would be to contract a medical services provider and English assessment provider following a

thorough procurement process based on whoever was able and willing to provide such a service. In relation to proposal 3 concern was expressed regarding the procurement of private medical services as it was felt that the council should be seen to support the provision of NHS services. It was explained that this proposal had come about due to the constraints on GP practices in Leicester and the fact that a number of those were now unable to provide this service.

DBS checks would be portable under the DBS update service at proposal 4.

Members raised concerns that there was a gap in the system around convictions and people were potentially being put at risk when a driver's licence was revoked by one authority and a new licence granted by another authority. It was explained this was an issue across the country since the government had deregulated taxi licensing. Although all authorities carry out a DBS check, individual authorities might take a different view of the seriousness or relevance of any convictions. It was perfectly legitimate for a driver to be licensed by an authority and to be driving in another area, but local authority enforcement officers were not able to stop drivers or conduct vehicle checks if they were licensed by another licensing authority.

In relation to Proposal 10 it was queried why there was a need for someone to have both a competent understanding of the major areas of Leicester and sat-nav as over time a driver could become more competent. It was clarified that the proposals were for a new knowledge test to cover more than just street names and to include a general knowledge of the city, landmark sites and key features that a sat-nav would not be able to give.

Concern was expressed regarding proposal 15 that a person coming to Leicester as a refugee would not be able to meet the criteria to provide a continuous 5-year address history or produce a certificate of good conduct and that anyone unable to do that would have their application considered at the discretion of a Team Manager. In contrast the view was expressed that the authority's role was to protect the public and maintain high standards and where an applicant's suitability could not be confirmed a licence should be refused.

The legal officer commented that proposal 2 should be amended to read "referring to" the IoL guidance rather than "following".

RESOLVED:

1. That the contents of the report and draft consultation paper be noted,
2. That the comments of the committee be fed back to the executive member.

11. CLOSE OF MEETING

The meeting closed at 6.24 pm



Leicester
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WARDS AFFECTED: ALL

LICENSING & PUBLIC SAFETY COMMITTEE

22 October 2019

PAVEMENT CAFÉ LICENSING – POLICY REVIEW

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1 The purpose of the report is to seek the views of Committee on the forthcoming consultation on pavement café licensing.

2. Background

- 2.1 The council's policy on pavement café licensing has been in place for several years and it is appropriate to carry out a review to ensure it complies with current law and best practice and reflects the council's current position.
- 2.2 The Deputy City Mayor has been briefed on this matter and has approved a public consultation to seek the views of existing licence holders, responsible authorities, other stakeholders and the public.

3. Proposals for change

- 3.1 This is a light touch review. The current policy includes a requirement for all pavement café licences to expire on 31 May each year. It is proposed to amend this, subject to the outcome of public consultation. Other than this, there are no changes proposed prior to public consultation.

4. Public consultation

- 4.1 The consultation will be online for one month. Existing licence holders and responsible authorities will be informed in writing and invited to participate. General publicity will be given via media releases, including social media.
- 3.2 The existing policy on pavement café licensing is attached at Appendix A.
- 3.3 The consultation questions are attached at Appendix B.

4. Recommendation

- 4.1 Members are asked to comment on the café licensing policy and any changes that may be appropriate.

5 Financial & Legal Implications

Financial Implications

- 5.1 No significant financial implications for the Council are expected to arise from this report.

Colin Sharpe, Deputy Director of Finance, ext 37 4081

Legal Implications

- 5.2 Permissions to use the highway for street/pavement cafes are granted by the issue of licences by the City Council as the Highway Authority under Section 115E of the Highways Act 1980. Licences granted by the City Council are subject to payment of a fee and subject to standard terms and conditions. As the Council is proposing to change its terms and conditions, it is good practice to consult with existing licence holders and the public at large. Once the Consultation is closed, Council Officers will need to demonstrate that proper consideration has given to consultation responses and if any adverse impacts on individuals and businesses are identified, these should be reported to committee for further consideration together with any steps available to the Council to mitigate any impacts.

Feizal Hajat, Legal Services, ext 6881

6 Background Papers – Local Government Act 1972

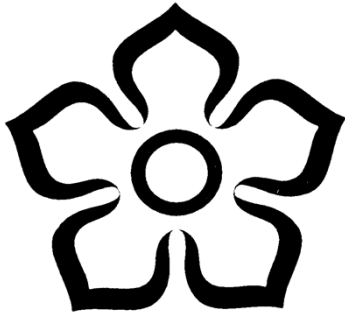
None

7 Consultations

Head of Legal Services
Head of Finance

8 Report Author

Rachel Hall – Chief Licensing Officer
454 3047
Rachel.hall@leicester.gov.uk



Leicester
City Council

HIGHWAYS AMENITIES (STREET CAFÉ) LICENSING

Guidance, Policy, Application Process and

www.leicester.gov.uk



Policy and Guidance Introduction

Leicester City Council permits tables and chairs to be placed on the Highway outside restaurants, cafes and public houses. This is to support and encourage the use of amenities on the highway and recognises that their provision can make a positive contribution with an ambience that makes the City Centre more attractive by:

Providing facilities for people, who visit, work or live in Leicester and aiding the local economy and by maximising the use of public space

This policy and guidance is intended to help businesses understand where the placing of objects or structures on the highway might be permitted. **The granting of a Highways Amenities (also known as a Street or Pavement Café) Licence is therefore necessary before you can set up a street café.** Any amenity permissions are required to be maintained to a high standard and enforcement action will be taken to ensure that obstruction to the highway is kept to a minimum.

The provision of highway amenities must be carefully managed to ensure that the public are not put in danger of injury or worse. Amenities need to be sited where they do not impede rights of access, block vehicular sight lines, obstruct fire paths, emergency access routes, must not be permanent structures and must be removed during periods outside the scope of the permission.

Amenities (particularly tables, chairs and parasols) MUST be of good quality and design and positively enhance the street scene and public space.

The Licensing Service of the Council will administer the amenity scheme in consultation with the agencies of the authority as well as local residents and businesses and will arrange for any contested applications to be referred to a panel of the Licensing Committee for final adjudication.

Any application that might require planning permission will ordinarily need to be approved by the Planning Authority prior to the submission of an amenity application.

Each application will be considered on its own merit. Any unauthorised highway use, constituting an unreasonable obstruction will be investigated and enforcement action taken where necessary.

Legal Guidance

The area for any amenity permission must be a highway as defined by Section 115A of the Highways Act 1980 (“the Act), namely:-

- A highway in relation to which a pedestrian planning order is in force;
- A bridleway;
- A footpath (including a walkway as defined in Section 35(2) of the Act);
- A footway;
- A subway constructed under Section 69 of the Act;
- A footbridge constructed under Section 70 of the Act;
- A highway whose use by vehicular traffic is prohibited by a traffic order but whose use by other traffic is not prohibited or restricted or regulated by such an order; and
- To a local Act walkway.

The council **may** grant permission to place objects or structures on the highway in accordance with Section 115E of the Act.

The objects or structures are termed “amenities” and although no strict statutory definition is given, could include such things as, but not limited to:

- Tables, chairs and parasols;
- Planters;
- Barriers, screens or enclosures to contain tables, chairs and/or outside designated smoking areas etc.
- “A” Boards or other advertising boards;

It is important to note that any person who, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway commits offence(s) contrary to section 137 of the Act.

In cases where there is any doubt about the ownership or responsibility in relation to a “highway” please contact the Licensing Service/Highways Department or seek your own legal advice prior to making any amenity application.

Design Guidance

The overall objectives of a Street Café will be:

- **To make the city centre attractive to visitors and residents.**
- **To protect the safety of users of the highway and users of the café.**
- **To ensure that access for emergency services is maintained.**

Consideration should be given by the applicant to the following issues prior to applying:

- Space – is there enough room for the proposed street café
- Environment – Is the area suitable and fit for purpose? Is it a conservation area?
- Other Considerations – How will other highway users and usage be affected? Will neighbours be affected? Is the area within a Pedestrian Preference Zone (PPZ)? – Details can be found here: [ParkingEnforcementPDF](#) (www.leicester.gov.uk)
- Planning Consent – Is planning required for any furniture e.g. fixed canopy. Check with the planning department.

Space

The size of any area will depend on the type of usage and the available space. Public safety will be paramount as a principle; however each application will be determined on its own merits. There must always be sufficient room for pedestrians and others to use the footpath taking into account street light columns, waste bins and any other street furniture. Access to fire hydrants must also be maintained.

A minimum of 2 metres must be maintained between the outer edge of the amenity and the edge of any street furniture or defined carriageway such as Bike Lanes. This is to allow safe movement of persons and any aids such as wheelchairs or prams that are required. Additional width may be required in areas with high pedestrian or vehicular traffic.

The area should take into account other needs of the area such as kerbside parking, pedestrian routes and crossing points. These must all be identified within any plan.

An example of how to draw a plan is attached as an Appendix. This should be followed as a minimum standard.

Means of Enclosure

The council requires the tables and chairs placed on a highway to be contained by means of a 'barrier'. This is to:

- Contain the tables and chairs so that the area is distinguishable to pavement users;
- Prevent "drifting" of the furniture or barriers outside of the authorised area; and
- To assist blind and visually impaired pedestrians.

Barriers (or similar structures) must:

1. Have a solid horizontal bar/element at appropriate height(s) above ground level so as to be detectable by a stick ("tapping rail")
2. Not be plastic in material
3. Have a minimum of two distinct contrasting colours in order to meet the needs of partially sighted people. This will need to be authorised by the Council.
4. Not exceed 1.5 metres in height unless otherwise authorised by the Council
5. Be removed entirely from the highway when outside of the times authorised by the licence. It must be therefore lightweight in construction or portable but robust enough to withstand winds or being pushed over
6. Compliment the surrounding area and the Council may require a specific design in order to maintain the street frontage. Any designs must be authorised by the Council
7. Be supported by suitable 'feet' that do not cause a trip hazard to pedestrians particularly partially sighted people

Any emergency exits must be kept clear.

Furniture Design

Tables and Chairs – These must be robust and of good quality. They should also be separate and of a design to allow use by disabled or wheelchair users. The design should compliment the area they are used in. White plastic garden furniture or picnic style tables (with fixed benches) will not be acceptable.

Care must be taken that any feet or resting points of any furniture do not cause damage to the highway or footpath surface (any repairs to such surfaces will be at the permit holder's expense).

Planters – These must be lightweight enough to be removed daily, however stable enough to resist weather conditions. These must also comply with the colour and tapping rail requirements detailed above. They should be well maintained with a vibrant array of bedding plants or flowers.

Parasols – They must not extend beyond the amenity area and at their lowest point should be at least 2 metres from the ground. They must be suitably secure at the base, robust and of high quality.

Any umbrellas must be non – reflective.

Planning consent may also be required for canopies, awnings or blinds which are attached to the building.

It will not normally be necessary to obtain planning permission for amenities on the highway provided that the main existing premises have the appropriate planning consent for the use of the premises. For more details on planning issues:

[PlanningGuidance](#)

(www.leicester.gov.uk)

Patio Heaters – If any are proposed, the application must be accompanied by a full description, detailed risk assessment to include an energy efficiency and environmental impact statement. It will be the responsibility of the applicant to notify their insurers of the use of such equipment and approved in accordance with the terms of the policy of public liability insurance.

Compliance / Enforcement

Environmental Implications

The amenity area must be kept clear of litter and clean at all times. Evidence of a scheduled cleaning record shall be provided on request. Ashtrays or similar receptacles must be provided in areas where smoking takes place.

Serious consideration should be given to division of amenity areas, where space permits, into smoking and non-smoking sections and to be clearly marked.

External public address systems are not permitted. The playing of live or recorded music may also be subject to statutory control and you should make your own enquiries accordingly.

Applicants should fully address and control and potential nuisance(s) caused by their patrons. Inappropriate behaviour may lead to enforcement action.

It is imperative that the needs of neighbours, nearby residents or businesses including all agencies are fully considered including companies that require access to the highway for maintenance repair.

All A-Boards must be contained within any Street Café Amenity Area. For more guidance on A-Boards: [ABoardsGuidance](http://www.leicester.gov.uk) (www.leicester.gov.uk)

Smokefree Legislation

The smokefree Regulations apply to all enclosed public places and workplaces. These regulations are aimed at protecting people using these places (or working in them) from the effects of second-hand smoke.

The layout of the street café should ensure that smoke does not enter into the main 'enclosed' premises by virtue of people smoking within the street café. This may be achieved by:

- Providing pedestrian routes between the main 'enclosed' building and

the street café;

- Restricting smoking in the areas of the street café that are close to the main ‘enclosed’ building;
- Keeping all opening windows (facing onto the street café) closed;
- Providing any doors facing onto the street café are fitted with self-closing devices;
- Any other equivalent or equally effective measures(s)

For further information on the Smokefree Regulations please contact the Public Safety Team on:

Telephone: (0116) 454 3220 (during office hours)
Website: [SmokefreeGuidance](#)
Email: healthandsafetyteam@leicester.gov.uk

Alcohol Guidance

The Licensing Act 2003 provides a regime for the control of the sale or supply of alcohol, regulated entertainment and late night refreshment.

The purpose of setting up street cafes is to attract people to Leicester, to enjoy a relaxed and continental style of eating/drinking. Not merely to extend licensed premises and this will be borne in mind when applications are considered.

Whilst consumption is not a licensable activity, licensees may need to seek advice and apply for variations to incorporate “additional” areas where a licensable activity is likely to take place.

Although licensing law is not the primary mechanism for dealing with the control of persons away from licensed premises; licensees do have a duty of care for the behaviour of persons immediately outside or adjacent to their premises.

If you wish to apply for a premises licence application, guidance/information for this can be found at:

Telephone: (0116) 454 3040 (during office hours)

Website: [AlcoholLicensingGuidance](http://www.leicester.gov.uk/AlcoholLicensingGuidance)
(www.leicester.gov.uk)
Email: licensing@leicester.gov.uk

Safety

It is the responsibility of the applicant/licence holder to ensure that all equipment and services complies with all relevant legislation and statutory requirements.

Licence holders will be responsible for securing **public** liability insurance (minimum £5 million) and for indemnifying the Council against public liability claims from members of the public arising from the provision of any amenity on the highway.

Any damage to the Council property caused as a result of the provision of the amenity, will be repaired by the Council with all costs recharged to the business in question.

Table service is highly recommended and customers should be seated.

Only the licensed number of furniture must be out within the licensed area.

General Information

- A Street Café Licence, if granted, applies only to the applicant/agent specified, not the premises. Any change to this would require a new application.
- A Street Café Licence, if granted, is not transferable to other land held, or to activities other than those specified.
- If any additional variations are required, this would require a new application.
- **All licenses granted will expire on the 31st May each year, irrespective of when granted.** All licenses will need to be renewed via the application form online prior to this date.

- All licenses granted will be subject to the standard conditions held with the licence. These can be found with any granted licence as well as in the Appendix.
- All amenities must comply with the licensed plan.
- Any Street Café licence can be revoked/suspended at any time for breach of conditions or in conjunction with the Highways Act 1980.

Fees and Charges

The fees for a Street Café Licence are reviewed by the Council on a regular basis. The fee MUST accompany the online application. The link to the current fees is shown below:

<https://www.leicester.gov.uk/media/179150/licensing-fees-2017-18.pdf>

Application Process - Guidance

Procedure for applying for a Highways Amenity (Street Café) Licence under Section 115 (E-K) of the Highways Act 1980

The application process involves both statutory and non-statutory procedures and requirements. Applicants **must** have regard to the guidance contained in this policy document as failure to supply the relevant information may mean that your application will be rejected.

- An application can be submitted for a Street café Licence at any time (however all licenses expire on the 31st May each year irrespective)
- You are advised to read through this guidance fully and take regard of all the notes prior to applying.
- Complete the [online application](#) in full submitting all the required information and ensuring there is enough detail to support your application.
- Detail clearly [each](#) day and times that you are applying for. This must fall within any planning permissions relating to operating times.
- Attach a detailed [plan](#). There is an example in the Appendix. You must use this as a **minimum** standard, detailing measurements, all street furniture and details of the proposed street café dimensions.
- Submit a valid [public liability insurance](#) certificate detailing a minimum cover of £5 million cover on application and renewal.
- On receipt of your application, the proposals will be checked against the policy guidelines. Further details may be needed and obtained from you at this stage.
- You will be required to display a [public notice](#) on blue paper which must be displayed on the proposed premises for 28 consecutive days. This must be clearly visible to members of the public 24/7. This outlines your proposals and gives details of any representations from interested parties. If this notice is not displayed or displayed incorrectly, the representation period will be restarted upon correction.

- The Council will consult with bodies which may include, but not limited to:-
 - Ward Councillors
 - Highway and Traffic Department
 - Noise Pollution Team
 - Police
 - Fire and Rescue Service
 - Public Safety Team
 - Planning
 - Local Residents/Businesses

A period of 28 days will be allowed for consultation with the above bodies.

- You will be advised if there are any objections to your application. It may be possible to revise your application through an agreement process between the parties in order to negate any objections. Special conditions can be added.
- If objections are not withdrawn in respect of the application and/or the amendments are not appropriate then the application will be referred to the Licensing Enforcement Sub-Committee (panel of councillors) for a final determination.
- You and any objectors will receive a case bundle with all details for the application as well as any objections. You will have the right of attendance at the committee hearing as well as any objectors. The committee will normally make their decision at the end of the hearing which will be confirmed in writing. They may adjourn the hearing to make their decision after a day or two in order to obtain further technical advice.
- There is no right of appeal against the decision of the Council to refuse to grant an application. There is also no right of appeal if there is a refusal to renew, suspend or revoke an existing licence. Likewise there is no appeal against any conditions imposed.

Further Applications Processes - Guidance

Once you have been granted a licence there are several other applications that must be completed for different circumstances/changes that may occur.

RENEWAL APPLICATION

Every licence expires on 31st May each year (irrespective of when granted) and the online renewal application must be submitted prior to the expiry.

You must submit:

- A current PUBLIC LIABILITY Insurance Certificate/Schedule.
- Current photo of the street café with the street furniture out
- Upload photo ID
- Pay fee

Once submitted, your licence will be sent out to the premises around the time that your current licence is due to expire. If you do not renew in time, your licence will expire and a new application will have to be applied for.

MINOR VARIATION

If you would like make any of the below changes to an existing licence then a Minor Variation application needs to be applied for:

- Change of licence holder's address
- Reduction of licensed hours
- Reduction in size of licensed area
- Decrease in number of tables/seating capacity
- Change to authorised furniture/barrier design or type
- Change of premises name

You must submit:

- A current PUBLIC LIABILITY Insurance Certificate/Schedule.
- Upload photo ID
- Pay fee

If:

- **Change of licence holder's address** – proof of current address
- **Reduction of licensed hours** – state clearly proposed days and hours
- **Reduction in size of licensed area** – proposed plan using the example plan
- **Decrease in number of tables/seating capacity** - state clearly proposed number of tables or seats

- Change to authorised furniture/barrier design or type – provide pictures/brief of new furniture or barrier designs
- Change of premises name – Detail name

Once submitted, if granted, your licence will be sent out to the premises. This will normally be decided within 14 working days of submission however will vary.

MAJOR VARIATION

If you would like make any of the below changes to an existing licence then a Major Variation application needs to be applied for:

- Extension of licensed hours
- Enlargement of the licensed area
- Increase in number of tables/seating capacity

Please refer to the processes required for a new application.

TRANSFER APPLICATION

Each licence is issued to the licence holder/agent. If you require to transfer the licence to another person, you must complete the Transfer application form.

You must submit:

- A current PUBLIC LIABILITY Insurance Certificate/Schedule.
- Upload photo ID
- Attach a file or photo of a document that proves you legal entitlement to transfer
- Pay fee

Once the application has been submitted, it will be scrutinised by a Licensing Enforcement Officer. Once this has been reviewed, you may be requested to provide further evidence of entitlement.

If granted, the transferred licence will be issued.

SURRENDER/CANCEL LICENCE APPLICATION

If you wish to surrender or cancel your licence, you can either let it expire (31st May each year) and not renew it or complete a surrender/cancel licence application.

You must submit:

- Upload photo ID

Once the application has been submitted, it will be scrutinised by a Licensing Enforcement Officer. Once this has been reviewed, you may be requested to provide further evidence if required.

Surrendered licenses cannot be reinstated.

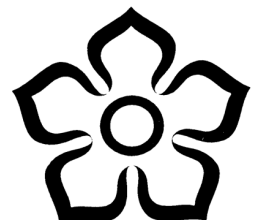
PLEASE NOTE:

- All of the above forms are to be completed online
- Applications will only be processed once all required information/documents are received.
- There is no right of appeal against the council's decision regarding determining applications or decisions on renewing/suspending or revoking licenses.

Contact Details

Licensing Authority
Leicester City Council
York House
91 Granby Street
Leicester
LE1 6FB

Telephone: (0116) 454 3040
Email: licensing@leicester.gov.uk
Website: www.leicester.gov.uk



Standard Conditions

RESPONSIBILITY OF LICENCE HOLDER

1. The Licence holder shall be at all times responsible for the compliance with the terms and conditions of the licence.

DISPLAY OF LICENCE

2. The Licence holder shall ensure that a copy of the licence is displayed in a prominent public position in the premises.

PUBLIC LIABILITY

3. The Licence holder shall ensure that Public Liability insurance cover is in effect to cover the Highways Amenities Licence (Street Café).
4. Good order and decent behaviour shall be maintained at all times the Street Café is open.

CONTINUITY OF CONDITIONS

5. On expiry of the licence, where there has been an application to renew the licence prior to its expiry, these conditions shall be deemed to remain in force whilst the premises lawfully continue to operate as if a licence was in force.

GIVING OF NOTICE

6. Any change of Licence holder shall be notified in writing to the Leicester City Council.

GENERAL

7. The licence is personal to the Licence holder.
8. The Licence holder shall provide a waiter / waitress service, where hot drinks are served in open containers.

9. The Licence holder shall ensure that the Street Café is kept clean and free from litter at all times.
10. Waste from the Licence holder's operation must not be disposed of in the permanent litter bins provided by the Leicester City Council.
11. The Licence holder shall at all times ensure that the Street Furniture and other items are not placed outside the area of highway shown on the plan ("the Licensed Area").
12. The Licence holder shall remove the Street Furniture from the Licensed Area outside the Permitted Hours and:-
 - (a) Immediately if required by reasonable request at any time from a Police Officer.
 - (b) as necessary to permit works in or the use of the highway by
 - 12.1 the City Council, Police, Fire Brigade, Ambulances and any service undertakers
 - (c) specifically where permitted by the City Council as Highway Authority
 - 12.2 vehicles accessing premises for the purpose of loading/unloading of goods;
 - 12.3 builders' vehicles, hearses and furniture removal vans
13. The Licence holder shall make no claims or charge against the City Council in the event of the street furniture being lost, stolen or damaged in any way from whatever cause except where the same is attributable to negligence of the part of the Council or any of its officers.
14. If for whatever period or reason a public liability insurance policy is not in force, the City Council shall be deemed to have withdrawn this Licence for the period during which the said policy is not in force and

the Licence holder may be held liable for obstruction of the highway and prosecution under Section 137 of the Act.

15. The Licensed Area must be used solely for the purpose of consuming refreshments such as food and/or drink.
16. The barriers, table and chairs and layout shall be as agreed by the Council and conforms to the plan at all times.
17. No alcohol shall be consumed within the Licensed Area except in compliance with the appropriate licensing laws.
18. The Licence holder's attention is drawn to Section 115K of the Act which refers to failure to comply with the terms of permission:
 - 18.1 If it appears to the City Council that the Licence holder to whom the City Council have granted permission under Section 115E of the Act has committed any breach of the terms of that permission, they may serve a notice on the Licence holder requiring the Licence holder to take such steps to remedy the breach as are specified in the notice within such time as is so specified;
 - 18.2 If the Licence holder on whom a notice is served under Clause 18.1 fails to comply with the notice, the City Council may take steps themselves to remedy the breach;
 - 18.3 Where the City Council have incurred expenses in the exercise of the power conferred on the City Council by Clause 18.2, those expenses, together with interest at such reasonable rate as the City Council may determine from the date of service of a notice of demand for the expenses, may be recovered by the City Council from the Licence holder.
 - 18.4 If during any six month period of the term of the licence the Licence holder receives two or more notices in accordance with the provisions of section 115K of the Act, the Council may revoke this licence with immediate effect upon giving written notice of revocation to the Licence holder.

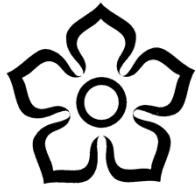
19. The issuing of this licence does not in any way permit the playing of live or recorded music for the entertainment of customers using the external area, in order to prevent public nuisance to nearby residents.

Guidance updated October 2018

APPENDIX B

Pavement café licensing – consultation questions

1. The existing policy provides that all pavement café licences expire on 31 May each year, regardless of the date they were granted. The council proposes to remove this requirement, and replace it with a statement that all licences will last for 12 months from the date they are granted. Do you agree with this proposal?
2. If you think changes are needed in "Policy and guidance introduction", please explain here
3. If you think changes are needed in "Design guidance", please explain here
4. If you think changes are needed in "Compliance and enforcement", please explain here
5. If you think changes are needed in "Applications process guidance", please explain here
6. If you think changes are needed in "Further applications processes guidance", please explain here
7. If you think changes are needed in "Standard conditions", please explain here
8. Do you think changes are needed to other parts of the policy?
9. Please use the space below to add any further comments to make about the council's pavement café licensing policy



Leicester
City Council

WARDS AFFECTED: ALL

LICENSING & PUBLIC SAFETY COMMITTEE

22 October 2019

TAXI STRATEGY – CONSULTATIONS

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1 The purpose of the report is to inform the Committee of the forthcoming driver consultation and to seek views on the private hire operator consultation.

2. Background

- 2.1 The taxi strategy involves a review of all of the council's policies and procedures in relation to taxi licensing. This is being taken in phases in order to make to task more manageable.
- 2.2 In July 2019 the Committee gave it's views on the proposed driver consultation. The next phase is about licensing of private hire operators. A third phase on vehicle licensing will follow in due course.

3. Licensing of private hire operators

- 3.1 Private hire operators are licensed under the Local Government (Miscellaneous) Provisions Act 1976. The council's existing policies and procedures have not been reviewed for some time. It is appropriate to review them to ensure they reflect current legislation and best practice, and thereby allow the council to fulfil its obligations as a licensing authority.
- 3.2 There is little formal guidance on private hire operator licensing, but the Institute of Licensing issued guidance in April 2018 that include this area of work. The guidance does not have legal status but does reflect best practice across the country and has been adopted by many licensing authorities. The guidance "Safe and Suitable?" is attached at Appendix A.

4. Consultation

- 4.1 Officer have reviewed the council's current policies and procedures. Draft proposals are attached at Appendix B.

3.2 The draft consultation will be submitted to the Deputy City Mayor for approval, together with the comments of the Licensing and Public Safety Committee.

1. Recommendation

4.1 Members are asked to comment on the draft consultation.

5 Financial & Legal Implications

Financial Implications

5.1 No significant financial implications for the Council are expected to arise from the consultations described in the report.

Colin Sharpe, Deputy Director of Finance, ext 37 4081

Legal Implications

5.2 S.55(1) of the Local Government (Miscellaneous Provisions) Act 1976 governs the licensing of operators of private hire vehicles.

5.3 The legislation provides that any person who applies for an Operator's Licence must satisfy the Local Authority that they have the right to work in the UK and are fit and proper persons to hold a licence. This involves a detailed examination of the applicant's entire character in order to make a judgement as to their fitness and propriety. 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 in accordance with S.61 of the Local Government (Miscellaneous Provisions) Act 1976.

Katherine Jamieson, Solicitor, Legal Services, ext 37 4542

6 Background Papers – Local Government Act 1972

None

7 Consultations

Head of Legal Services

Head of Finance

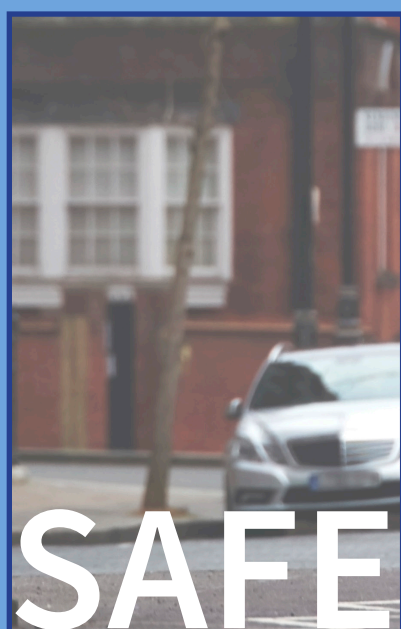
8 Report Author

Rachel Hall – Chief Licensing Officer

454 3047

Rachel.hall@leicester.gov.uk

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:

 **LLG**
Lawyers in Local Government

 **NALEO**

 **Local Government Association**

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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

- 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 qualifications¹. 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

¹ 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*².

- 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.

² [2007] 1 WLR 2067

Chapter 2: Offenders and Offending - An Overview

- 2.1 The aim of local authority licensing of the taxi and PHV trades is to protect the public'.³ 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 harm⁴. 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.

³ DfT "Taxi and Private Hire Licensing – Best Practice Guide" para 8

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

- 2.6 Flaud⁵ 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 place⁶.
- 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 future⁷. 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%⁸. 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 offences⁹.
- 2.9 Dynamic factors are considered changeable and can vary over time. They include attitudes, cognitions and impulsivity¹⁰. 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 population¹¹. 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.

⁵ 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.

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

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

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

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

¹⁰ 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

¹¹ 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”¹².
- 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”¹³.
- 2.13 A consistent finding throughout criminological literature is that male offenders tend to desist from crime aged 30 years and over¹⁴. 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 relationships¹⁵. 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 males¹⁶.
- 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 desist¹⁷. 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 desistance¹⁸. Demonstrating a change in offending behaviour and an ability to make effective choices takes time and comes with some

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

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

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

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

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

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

¹⁸ Maguire, M., Morgan, R. and Reiner, R. (2002). The Oxford Handbook of Criminology. 3rd 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”¹⁹.

- 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.

¹⁹ 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

- 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” person²⁰.
- 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 UK²¹.
- 3.14 Again, this is ultimately a question of fact and the local authority should follow the guidance issued by the Home Office.²²
- 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*²³. 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?’²⁴
- 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.

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

²¹ 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.

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

²³ [2002] EWHC 1145 (Admin), [2003] RTR 199

²⁴ Button on Taxis – Licensing Law and Practice 4th 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.”²⁵

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

3.20 Some of these are universal, such as medical assessments²⁶. 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 declared²⁷) 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 maker²⁸.

3.23 All Applicants/Licensees should be required to obtain an Enhanced DBS Certificate with Barred Lists checks²⁹ 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.

²⁵ Local Government (Miscellaneous Provisions) Act 1976 s57(1)

²⁶ See Local Government (Miscellaneous Provisions) Act 1976 s57(2)

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

²⁸ See *Adamson v Waveney District Council* [1997] 2 All ER 898

²⁹ “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 suitability³⁰.
- 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 account³¹. 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)

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

³¹ *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

authority³². 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 person³³.

- 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?”³⁴
- 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

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

³³ Section 55(1) Local Government (Miscellaneous Provisions) Act 1976

³⁴ Button on Taxis – Licensing Law and Practice 4th 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 organisation³⁵. 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 licence³⁶ 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

³⁵ See s57(1)(c) of the 1976 Act.

³⁶ 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?”³⁷

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

Chapter 4: Guidance on Determination

- 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 partnership³⁸) 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.

³⁸ 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 conviction³⁹. Fixed penalties and community resolutions will also be considered in the same way as a conviction⁴⁰.
- 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

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

⁴⁰ 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

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



National Association of Licensing and Enforcement Officers (NALEO). www.naleo.org.uk

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Leicester
City Council

WARDS AFFECTED: ALL

LICENSING & PUBLIC SAFETY COMMITTEE

22 October 2019

TAXI STRATEGY – UNMET DEMAND

Report of the Director of Neighbourhood and Environmental Services

1. Purpose of Report

- 1.1 The purpose of the report is to inform the Committee of the need for a survey of unmet demand for hackney carriages.

2. Background

- 2.1 The taxi strategy involves a review of all of the council's policies and procedures in relation to taxi licensing. This is being taken in phases in order to make to task more manageable.
- 2.2 The vehicle licensing phase has not begun yet. However, there are links with work being undertaken within Transportation to improve air quality. Members will recall the introduction of a grant scheme to help existing taxi owners with the purchase of ULEVs to replace their existing vehicles. The committee previously approved the LEVC electric vehicle for licensing as a hackney carriage.
- 2.3 Members will also be aware that the council currently limits the number of hackney carriage licences that it issues. This was introduced and subsequently retained following surveys of unmet demand for hackney carriages.

3. Unmet demand

- 3.1 The council current limits the number of hackney carriages that it issues. A survey of unmet demand is necessary to justify maintaining, amending or removing this limit.
- 3.2 An unmet demand survey involves on-street observations to see whether or not the existing number of hackney carriages is sufficient to meet customer demand. If the survey finds that there is no unmet demand this may justify retaining a limit on the number of hackney carriages. If the survey finds that there is unmet demand, then the limit may be increased or lifted altogether.
- 3.3 A number of changes to the locations of existing taxi ranks are imminent. This is in connection with highways improvements and pedestrianisation within the city centre.

Once the changes have begun, it would be necessary to wait for the works to be completed and embedded before carrying out an unmet demand survey. This is because the survey may not give a true picture during or immediately after works due to customers potentially being unsure of where the permanent ranks are located. It is important to undertake a survey of unmet demand sooner rather than later.

- 3.4 The Service Director, in consultation with the Deputy City Mayor, has approved the commissioning of a survey of unmet demand as soon as possible.

4. Recommendation

- 4.1 Members are asked to note the report.

5 Financial & Legal Implications

Financial Implications

- 5.1 The cost of the survey will be met from licensing income.

Colin Sharpe, Deputy Director of Finance, ext 37 4081

Legal Implications

- 5.2 Section 37 of the Town Police Clauses Act 1847 as amended by Section 16 of the Transport Act 1985 provides that the Council is entitled to limit the number of Hackney Carriage Licences it grants provided it is satisfied there is no significant demand for the services of Hackney Carriages which is unmet.

- 5.3 The Council is under no legal obligation to limit the number of HC Licences it grants, however if it wishes to, it may only do so if it is satisfied that there is no significant unmet demand for Hackney Carriages. To prove this, the Local Authority will have to conduct a survey because it is the only way they can be satisfied that there is significant demand for all services of Hackney Carriages which is unmet.

Katherine Jamieson, Solicitor, Legal Services, ext 37 1452

6 Background Papers – Local Government Act 1972

None

7 Consultations

Head of Legal Services
Head of Finance

8 Report Author

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