

LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON**TUESDAY, 3RD SEPTEMBER, 2019 AT 11.00 AM**

MEMBERSHIP

N Buckley	-	Alwoodley;
R Downes	-	Otley and Yeadon;
B Flynn	-	Adel and Wharfedale;
G Wilkinson	-	Wetherby;
A Garthwaite	-	Headingley and Hyde Park;
H Bithell	-	Kirkstall;
P Drinkwater	-	Killingbeck and Seacroft;
B Garner (Chair)	-	Ardsley and Robin Hood;
C Knight	-	Weetwood;
A Hutchison	-	Morley North;
P Latty	-	Guiselley and Rawdon;
J Lennox	-	Cross Gates and Whinmoor;
A Marshall-Katung	-	Little London and Woodhouse;
A Wenham	-	Roundhay;
P Wray	-	Hunslet and Riverside;

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

John Grieve
37 88662

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded) (*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)	
2			EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC 1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report. 2 To consider whether or not to accept the officers recommendation in respect of the above information. 3 If so, to formally pass the following resolution:- RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			LATE ITEMS To identify items which have been admitted to the agenda by the Chair for consideration (The special circumstances shall be specified in the minutes)	
4			DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.	
5			APOLOGIES FOR ABSENCE To receive apologies for absence (If any)	
6			MINUTES OF THE PREVIOUS MEETING To consider and approve the minutes of the previous meeting held on 13 th August 2019. (Copy attached)	1 - 4
7			MATTERS ARISING FROM THE MINUTES To consider any matters arising from the minutes.	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			TAXI & PRIVATE HIRE LICENSING - PROPOSED SUITABILITY POLICY AND UPDATE ON POLICY HARMONISATION WITH WEST YORKSHIRE & YORK AUTHORITIES To consider a report by the Chief Officer, Elections and Regulatory which sets out the results of a recent consultation in Leeds, and consultations and engagement exercises in neighbouring authorities, about the suitability of people to hold a licence to work as a taxi or private hire driver. The report also highlights the areas where the Council's proposed policy relating to the suitability of licence holders could be revised following the consultation and discussion with the other West Yorkshire and York authorities and the areas where the Council and other licensing authorities, professional bodies have suggested that the suitability policy could be further refined and developed. (Report attached)	5 - 32
9			LICENSING COMMITTEE WORK PROGRAMME To note the contents of the Licensing Committee Work Programme for 2019/20. (Report attached)	33 - 36
10			DATE AND TIME OF NEXT MEETING To note that the next meeting will take place on Tuesday, 8th October 2019 at 10.00am in the Civic Hall, Leeds.	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
			Third Party Recording Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda. Use of Recordings by Third Parties– code of practice a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title. b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.	
2				
a)				
b)				

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Licensing Committee

Tuesday, 13th August, 2019

PRESENT: Councillor B Garner in the Chair

Councillors N Buckley, R Downes,
A Garthwaite, H Bithell, C Knight,
A Hutchison, P Latty and P Wray

25 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents.

26 Exempt Information - Possible Exclusion of the Press and Public

That, in accordance with Regulation 4 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during Consideration of the following parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated as follows:-

Appendix A to Agenda Item No. 8 Leeds Festival 2018 – Notes of the Safety Advisory Group Debrief meeting for the Leeds Festival 2018 held on 6th November 2018 were designated as exempt under Access to Information Procedure Rules 10.4 (3, 7) because it contained information relating to the financial or business affairs of any particular person. (Minute No.35 Referred)

27 Late Items

Although there were no late items of business, the Chair did accept the inclusion of supplementary information in respect of Agenda Item No. 8 Premises Licence, Licensing Act 2003 – Leeds Festival 2019 Taxi & Private Hire Routing Information for the Leeds Festival 2019 (Minute No. 35 referred)

28 Declaration of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests made at the meeting.

29 Apologies for Absence

Apologies for absence were received for Councillors: B Flynn, J Lennox, A Marshall-Katung, A Wenham and G Wilkinson.

30 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meetings held on 2nd July 2019, were accepted as a true and correct record.

31 Matters Arising from the Minutes

Review of the City Centre Cumulative Impact Area (Minute No.21 referred) - At the previous meeting it was suggested that there appeared to be drug related activities taking place in the Marlborough estate/ Clarendon Road area, and it was understood that the Police were not aware.

It was reported that following a local Tasking Meeting, the Police had confirmed that they were aware that drug related activities were taking place in the Marlborough/ Clarendon Road areas.

32 Taxi & Private Hire Licensing - Proposed Working Group on CCTV in Taxi and Private Hire Vehicles

The Chief Officer, Elections and Regulatory submitted a report which sought the establishment of a Working Group to consider a policy for CCTV in taxis and private hire vehicles.

The Taxi and Private Hire Licensing Manager explained the proposal for the establishment of a Working Group, led by Members but to also include representatives from the taxi and private hire trade and passenger groups with the aim of developing a policy for CCTV in taxi and private hire vehicles.

Members were informed that the proposal was part of a broader regional project to reduce the differences between licensing policies and enforcement in different licensing authorities.

Members noted that the resulting recommendations arising from the Working Group would be discussed with neighbouring authorities and consulted upon before a new policy and practical and financial arrangements would be developed.

Members sought further details about the passenger groups who would participate within the Working Group.

Members were informed that many passenger stakeholder groups would be encourage to participate in the WG including; disabled groups and lone travelling females.

Commenting on the data protection issues, Members queried if the views of the Police had been sought, given their experience of CCTV.

Members were informed that in addition to the Police, material from relevant information managers (Information Management) had been obtained so clear advice/ guidelines should be available to the WG.

The Chair queried if there would be consultation with other authorities in the West Yorkshire and York areas.

Members were informed that any recommendations arising from the Working Group could be shared and used to set common minimum standards on CCTV.

Members queried if any local authorities had adopted a mandatory policy for CCTV in taxi and private hire vehicles.

Members were informed that a small number of local authorities had adopted a mandatory CCTV policy but the intention in Leeds was to investigate other options before considering a mandatory policy.

In seeking expressions of interest to serve on the Working Group, the Chair said ideally the WG should consist of 3 – 5 Members.

Councillor P Wray said he would be willing to participate on the WG.

In the absence of further volunteers, the Chair suggested that an email be circulated to all Members of the Licensing Committee seeking further expressions of interest to serve on the WG

RESOLVED –

- (i) That the purpose of the CCTV Working Group and the accompanying report be noted
- (ii) That that an email be circulated to all Members of the Licensing Committee seeking further expressions of interest to serve on the WG

33 Licensing Committee Work Programme

Following discussion at today's meeting the subsequent items be added to the Committee's Work Programme:

- Draft report on the findings of the CCTV Working Group (December)
- De-brief Report following the Ed Sheeran event at Roundhay Park (December)

RESOLVED – That with the inclusion of the above, to approve the contents of the Licensing Committee Work Programme for 2019/20

34 Date of Next Meeting

RESOLVED – To note that the next meeting will take place on Tuesday, 3rd September 2019 at 11.00am in the Civic Hall, Leeds.

35 Premises Licence, Licensing Act 2003 - Leeds Festival 2019

The Chief Officer Elections and Regulatory submitted a report which set out details of progress of the multi-agency meetings and the Event Management Plan for the

2019 Annual Leeds Festival, to be held within the grounds of Bramham Park, Friday 23rd until Sunday 25th August 2019.

The report also recommended that the approval of the final Event Management Plan be delegated to the Chief Officer Elections and Regulatory.

A copy of the notes of the Safety Advisory Meeting held on 6th November 2018 which provided a de-brief of the 2018 event were attached at Appendix A of the submitted report (Appendix A was deemed exempt from publication and considered in closed session).

In addressing the report, the Section Head, Entertainment Licensing provided an update of the agency liaison via the Safety Advisory Group and licensing process in preparation for the Leeds Festival 2019 event.

Members were informed that the Safety Advisory Group process had not highlighted any issues of concern arising from the previous year's event.

(At this point the meeting went into closed session to discuss the contents of the Management Plans for the Festival).

RESOLVED –

- (i) That the contents of the report be noted
- (ii) That approval of the Event Management Plan, including any minor amendments necessary to the Plan before the Festival takes place, be delegated to the Chief Officer Elections and Regulatory.
- (iii) That, Should there be any unresolved matters associated with the Event Management Plan then the matter will be referred back to a special meeting of the Licensing Committee before the commencement of the Festival.



Report author: Andrew White
Tel: 37 81562

Report of Taxi & Private Hire Licensing Manager

Report to Licensing Committee

Date: 3 September 2019

Subject: Taxi & Private Hire Licensing – Proposed Suitability Policy

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☒ Yes	☐ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

- 1 This report presents to committee members the results of recent consultation in Leeds and neighbouring authorities on taxi and private hire licensing policies, and a proposal for a new Suitability Policy to replace the council's existing Convictions Policy.
- 2 This proposal is part of a broader regional project to reduce the differences between licensing policies and enforcement.
- 3 Between November 2018 and January 2019, four of the five authorities in West Yorkshire and City of York Council have consulted on proposed changes to how applicants' and current licence holders' previous cautions and convictions should be viewed and reviewed when considering their suitability to be licensed (or to remain so). The proposals arose from a combined project representing professional bodies in licensing, intended to implement common standards across the UK for how convictions and cautions would be treated by licensing authorities.
- 4 The consultation and engagement process has been completed, and the different results in the five authorities can be presented to committee, together with recommendations for implementing policies, in Leeds and across the region. The views of licensing committee members are sought before the policy is forwarded for executive approval.

Recommendations

1. That committee members note the purpose and content of the information in this report.
2. That committee members consider the summary of the responses to the consultations, the proposed policy, and the discussion points raised in the report, and note that there may be further guidance being developed as a result of the national consultation on statutory guidance, which included the table of suitability licensing decisions.
3. That committee members pay particular attention to the proposal to distinguish the extreme violence examples from less extreme violence, with a lower tariff of 5 years, not 10 years.
4. That committee members note the new policy on determining the suitability of applicants and licence holders as drivers in taxi and private hire licensing, and that this policy take effect from 1 November 2019.
5. That the Taxi and Private Hire licensing Manager be authorised to make any further clarification changes necessary to the policy, to align the policy as closely as possible with the other West Yorkshire & York Authorities and meet the preferences of committee members, officers and stakeholders in Leeds.

1 Purpose of this report

- 1.1 To inform committee members of the results of a recent consultation in Leeds, and consultations and engagement exercises in neighbouring authorities, about the suitability of people to hold a licence to work as a taxi or private hire driver.
- 1.2 To highlight to committee members of the areas where the council's proposed policy relating to the suitability of licence holders could be revised following the consultation and discussion with the other West Yorkshire and York authorities.
- 1.3 To draw attention to some areas where the council and other licensing authorities, professional bodies have suggested that the suitability policy could be further refined and developed.

2 Background information

- 2.1 Leeds City Council has responsibility for licensing Hackney Carriage (taxi) vehicles, drivers and proprietors, Private Hire and Executive vehicles, drivers, and operators within the city. The council's primary focus is the safety of the travelling public.
- 2.2 The council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1976, which governs the licensing of Private Hire Vehicles, Private Hire Operators and drivers. The adoption of this act

also encompasses the adoption of the Town Police Clauses Act 1847, which governs the licensing of Hackney Carriages.

- 2.3 The council's policies and conditions are set and reviewed by the council's Licensing Committee. The council's policies and conditions apply to all drivers, vehicles and operators who hold the relevant licenses issued by the council. The council's Taxi & Private Hire Licensing team are responsible for making decisions relating to the application of the policies and conditions, under the council's scheme of sub-delegation.
- 2.4 Committee members will be aware that the UK taxi and private hire industry is rapidly changing in the UK, although much taxi and private hire law has changed little since the 1970s. In order to continue to keep the travelling public safe, the council's policies and conditions also need to keep pace with new developments, particularly the rise of cross border working (drivers and vehicles licensed in one area and working predominantly in another), the growth in use of smartphone apps enabling customers to book and pay for journeys. The council has a plan to review and consult on each of the specific policies and conditions after either three or five years, to make sure they remain up to date and effective.
- 2.5 The report presented here shows the results of the consultation and subsequent discussion between the authorities on proposed West Yorkshire & York policies for suitability of licence holders, based on the guidance developed by Institute of Licensing, Local Government Association, National Association of Licensing and Enforcement Officers and Lawyers for Local Government. The council responded to national consultation by the Institute for Licensing on the proposed suitability policy, and two questions in the recent Department for Transport (DfT) statutory guidance consultation also related to the suitability guidance. However, to date, no revisions to the national suitability guidance have been made, although licensing authorities have been requested to keep a record of cases where application of or variation from the suitability guidance has been criticised in court decisions. It is possible that the response by the DfT may provide some further information on suitability and the consultation responses, but the DfT are unlikely to suggest the suitability guidance be revised significantly.
- 2.6 This report proposes arrangements for implementation and review of the policy, with a number of revisions. If the respective policies can be approved and implemented in all six councils, it would mark significant progress towards adopting common minimum standards for taxi and private hire licensing in the region. The suitability policy would replace the council's previous convictions policy, and form the basis of a common framework for refusing and refusing licences, which could be used for the new LGA/NAFN database of refused and revoked licences.

3 Main issues

Response to suitability survey in Leeds

- 3.1 The council consulted on the proposed suitability policy, with no suggested changes to the policy. Respondents were invited to comment on each of the proposals for the length of time a licence would be refused or revoked.
- 3.2 The council received 250 responses to the survey. 227 responses were from licence holders, and 19 responses were from members of the public. The remaining responses were from other stakeholders, including driver's representatives and trade union, passenger groups, road safety, and West Yorkshire Combined Authority.
- 3.3 Respondents were asked for any additional comments, and to state their reasons why they didn't agree with the length of time a licence should be refused or revoked, with the options of 'too short' or 'too long'. Their comments are summarised and grouped in the table in **Appendix 1**, with a response on behalf of the council. Appendix 1 also includes responses to the same general or rhetorical questions or comments, which don't relate directly to suitability, in particular the increase in cross-border working in West Yorkshire.
- 3.4 Overall, the responses indicate a high degree of agreement with the proposed length of time to refuse a licence, although some respondents stated that they had not read the suitability guidance before replying. The lowest score of agreement with the tariff is 66% for sex and indecency offences.
- 3.5 The suitability policy does not need to be changed significantly following the consultation. A large majority of respondents stated that they agreed with the suitability proposals to refuse licences for a stated period of time. Therefore, unless the feedback to the other authorities was significantly different, no major changes to the overall West Yorkshire & York suitability policies would be recommended as a result of the consultation.

Response to suitability survey in other authorities

- 3.6 A summary of the responses to the consultation in the five authorities carrying out the consultation is provided in **Appendix 2**. In total, 695 people responded to the consultation on suitability.
- 3.7 There was a consensus (i.e. a majority in each of the authorities, as well as a majority in favour overall) in favour of the tariffs for the most serious crimes, for example, on death, exploitation, sexual offences, and on drug supply, drug use, and drink driving. There was also a consensus on signing up to the DBS update service.

- 3.8 A majority of survey respondents in Wakefield said they thought the majority of the tariffs were too long, perhaps indicating a larger difference in conviction tariff between Wakefield's current tariff and the proposed policy.
- 3.9 In a limited number of areas, there was a mixed or majority against the proposed tariff, with only Leeds results indicating a majority supporting the proposed tariff. This may indicate that respondents hadn't read the proposed policy in detail and answered that they thought the proposed tariff was correct, not too long, or too short, or that they thought the proposed tariffs were not a significant change from tariffs in Leeds.
- 3.10 There was a marked difference between the survey results in Leeds and in the other authorities. Leeds was the only authority where a majority of respondents agreed with the tariffs proposed in the suitability policy. In three of the policy areas, a majority (i.e. three or more authorities) of the surveys had a majority of responses disagreeing with the tariffs:
- Minor traffic or vehicle related offences (5 years);
 - Hackney carriage and private hire offences (7 years); and
 - Certificate of good conduct.
- 3.11 In only one policy area, however, was there a majority of responses across the region disagreeing with the tariff:
- Minor traffic or vehicle related offences (5 years).

Considerations about applicants and current licence holders' suitability

- 3.12 The authorities have shared their individual consultation results and reviewed the specific responses to the consultation. In addition, the authorities have considered a number of areas where the suitability policy may be revised, strengthened or clarified. These discussions have resulted in the five authorities writing Suitability Policies with some relatively minor additions or variations from that developed nationally. The additions are marked in red for clarity in the Leeds (WY&Y) Suitability Policy attached at **Appendix 3**.
- Paragraphs 10 and 29 include cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information must be reported to the Council in the format and timescales stated in the relevant policy. Authorities want to emphasise that failing to report a caution, conviction or other information cannot be regarded as merely an oversight, and will be taken very seriously.
 - Paragraph 28: Any applicant who has resided outside the UK for any period longer than 6 (not 3) months within the preceding 3 years will be required to produce a certificate of good conduct dated in the last 3 months which details any convictions or cautions recorded against the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. Alternatively

an applicant may be required to produce a Statutory Declaration dated in the last 3 months.

- Paragraph 32 An applicant must hold a full DVLA driver's licence, have the right to remain and work in the UK and be a "fit and proper" person.
- Additions or changes to Table A:
 - Battery added to list of violence offences;
 - Minor traffic offences set at 3 years, not 5 years.

3.13 In their consideration, the authorities also took two main issues into account: first, the applicability of new national guidance or licensing authority policy to historical convictions and cautions, and second, the deliberately broad categories in the suitability guidance. They are discussed in turn.

Consideration of fit and proper person at renewal

3.14 The West Yorkshire and York officers noted that the licensing authority must not issue a licence until or unless it is satisfied that a person is fit and proper. The suitability policy explicitly states in paragraphs 5 and 15 that the suitability policy should be used as a guideline as to whether an individual is fit and proper both at the stage that they apply to be licensed as a taxi or private hire driver, and when they apply to renew an existing licence.

3.15 It is extremely likely that the application of the policy will be scrutinised and decisions appealed when historical convictions and cautions (and also other information such as allegations or complaints) are considered; particularly when considering an applicant who already holds a licence and is applying to renew that licence. The applicant may have no new information about them since their last application, but previous information, such as common assault, which under the council's current conviction policy would carry a tariff of 3 years, would now be considered for 10 years after the caution or conviction.

3.16 The suitability policy gives decision makers scope to judge cases on their merits in such circumstances, and would give decision makers discretion to not apply the full tariff when reviewing historical information, as long as they were satisfied that appropriate remedies and rehabilitation had taken place, which would enable a licence holder to have their licence renewed. Of course, if on reviewing the case, it becomes apparent that the caution, conviction or other information had not been taken into account, the full tariff could be applied.

Broad categories of caution, conviction

3.17 The West Yorkshire and York officers noted that the national suitability policy deliberately sets very general categories for many offence types, notably for violence, which spans criminal damage or common assault to terrorism and arson, and recommends the same length of refusal, in this case 10 years. It

is possible to understand the motivation behind the broad categories, so that the policy does not have to be updated each time a new crime is identified.

3.18 Yet, the broad categories provide significant leeway for a licensing decision maker to use their judgment and impose a shorter length of refusal for example, to an act of criminal damage, and an indefinite refusal for example, for an act of terrorism.

3.19 Officers in Leeds and other authorities have lobbied the authors of the statutory guidance to distinguish between extreme and less extreme violence, and set a lower tariff such as 5 years for criminal damage, harassment and assault, provided they are not compounded with other more violent incidents, see the table below. The views of committee members are invited on this subject.

Offences involving violence (including arson, riot, terrorism offences, grievous bodily harm, wounding, actual bodily harm) or connected with an offence of violence.	10 years
Offences involving violence (including harassment, battery, common assault & criminal damage) or connected with an offence of violence.	5 years

3.20 If approved, this new tariff would give officers in Leeds discretion to distinguish between applicants and existing licence holders who have arrests, cautions or convictions which would not carry a long custodial sentence (below 6 months). A refusal period of 5 years would still be a longer period of refusal than the 3 years in the council's current conviction policy, and the officer making the decision would retain the ability to refuse a licence after 5 years if they were still not confident that the person was a fit and proper person.

3.21 The officers in Leeds have significant experience of applying the current convictions policy and defending the policy against legal challenge on appeal in Leeds Magistrates and Crown Court. At the rear of the current Leeds convictions policy, officers use a comprehensive guide to convictions in a number of defined categories with probationary periods ranging from never or 10 years, down through 8, 6, 5 and 3 years respectively, depending on the severity and category of offending. This Council policy has proved to be proportionate and has withstood robust legal challenge gaining the support of Magistrates and Crown Court judges who have heard appeals and decided in the favour of the Council in 100% of cases over the past 3 years.

3.22 The officers in Leeds have suggested that, by including the extreme violence (e.g. carrying a sentence of more than 6 months in prison) with less serious violence (carrying a sentence of 6 months or less), would require a high level of discretion from decision makers. The current detailed convictions policy in place in Leeds already refuses a licence for 10 years or never for serious

violence. The current policy does in our view helpfully differentiate between the most serious violent crimes, which are comparatively rare, and the more frequent less serious violent crimes such as assault, and battery.

- 3.23 The officers in Leeds feel that by grouping together less serious violence, such as assault or battery, criminal damage with the most serious violence, such as terrorism, GBH with the same proposed tariff, decisions to refuse licences run the risk of being overturned on appeal at magistrates' or crown court as being disproportionate. The officers felt it would be clearer to distinguish between offences which would carry a prison term of six months or less in a lower category of violence, like the Suitability guidance provided for a lower category of vehicle offence. This rationale may also apply to other categories of offences specified in the convictions policy.
- 3.24 A policy is always a starting point, not a rigid requirement. For example, under a proposed 10 year minimum tariff for violence, a decision maker can make a decision to refuse a licence and indicate the length of time they would refuse a licence by taking the case on its own merits, and make a decision to refuse a licence for a different length of time other than that set out in the policy. However, by including all types of violence in one category and recommending 10 years, the suitability guidance gives decision makers a high degree of discretion in terms of how long they might decide to refuse a licence for.
- 3.25 In the opinion of Leeds officers, a case decided favourably on its own merits under a 10 year tariff for violence for example, may constitute a complete move away from the policy rather than a discretionary decision in line with the policy. Officers would advise that moving away from the policy in the majority of cases would lead to a redundant policy. Therefore, under the proposed policy, the 10 year tariff would be applied with a low degree of discretion required in only the most exceptional cases, as it is now against a 3 or 5 year tariff. Leeds' current policy categorises convictions and provides rehabilitation periods accordingly. This has helped decision makers to be consistent and decision made under this policy have been supported by courts as they were deemed proportionate.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The council does not plan to consult again on these proposals. Following passing the proposed policy to the Executive for approval, the council will advertise the proposed changes on the council website, and to current licence holders and applicants.
- 4.1.2 The council plans to implement the revised policies from 1 November 2019, following discussion at September Licensing Committee.
- 4.1.4 The council proposes to implement the new suitability policy from 1 November 2019, and review the impact of the policy on the number and type of appeals against licensing decisions for the initial 12 months in West Yorkshire and York. It is also possible that other case law arising from

appeals and requests for judicial reviews may have the effect of requiring the policy to be reviewed and amended.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality and Cohesion Screening Assessments are carried out on the policies agreed at Licensing Committee and policy changes made under the scheme of sub delegation. An Equality Impact Assessment Screening report is attached.

4.3 Council policies and City Priorities

- 4.3.1 Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs;
- Boosting the local economy; and
- Generating income for the council.

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time; and
- Improving customer satisfaction.

- 4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds;
- Effectively tackle and reduce anti-social behaviour in communities;
- Safeguarding children and adults at risk:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and adults at risk across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or adults at risk.

4.4 Resources and value for money

- 4.4.1 The Taxi and Private Hire Licensing service is currently cost neutral to the council and by virtue of the Local Government (Miscellaneous Provisions) Act, 1976, raises its own revenue by setting fees to meet the cost of issuing and administering licences.
- 4.4.2 These arrangements mean that if proposals are associated with additional costs, they will be funded via licence fees and will not place additional pressure on the council's budget.
- 4.4.3 It is very likely that the new policy will increase the number of licensing decisions where the council will ask for additional information, and either impose additional conditions on a licence holder or will refuse a licence, in many cases, based on historical information. In turn, this is likely to increase the number of appeals against the refusal to grant or renew a licence. In the past three years, the council has refused to renew 38 licences, and had six appeals, all successful. Over the same period, the council has questioned around 100 licence holders about information arising on DBS checks.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 There are possible legal implications arising from this review, both concerning the key legislation for taxi and private hire licensing, which is Local Government (Miscellaneous Provisions) Act 1976.
- 4.5.3 The Local Government (Miscellaneous Provisions) Act 1976 section 51(1)(b) refers to licence holders holding a valid full (i.e. not provisional) driving licence for 12 months or more.
- 4.5.4 The Local Government (Miscellaneous Provisions) Act 1976 section 61 refers to licensing decisions to refuse to renew a licence on two grounds:
 - a) based either on **new** evidence or conviction involving dishonesty, indecency or violence, since the grant of the licence. (Emphasis added)
 - b) any other reasonable cause.
- 4.5.5 The council has secured legal advice on how the new policy should be applied at the stage where a current licence holder is applying to renew their licence, for example with an 'old' conviction or caution, where relevant

remedial actions were put in place (such as drug test or additional training). The legal advice suggests that the new policy does give a licensing authority reasonable cause to review previous convictions and cautions, and that each case will be treated on its merits.

- 4.5.6 In some cases, the council may view those actions as having adequately addressed the risk posed by that licence holder with that conviction or caution, and no new period of refusal would be imposed.
- 4.5.7 In other cases, the new tariffs in the suitability policy could lead to the refusal to renew a licence not based on behaviours since the previous grant of the licence, but based on the new suitability policy requiring the council to view previous behaviour, evidence or conviction in a new light.

4.6 Risk Management

- 4.6.1 The October 2018 report to Licensing Committee identified no major risks and mitigating actions. The aim of the new policies is to reduce the risk posed by licence holders to the travelling public, and to increase the confidence of the public that their taxi and private hire drivers can be trusted.
- 4.6.2 The review of the suitability policy has raised a new risk of a significant increase in the number of appeals made against the council's licensing decisions, and the increase in resulting casework. The proposed 12 month review of the suitability policy will give each council the ability to review the effectiveness of the new policy and impact on decisions and appeals.

5 Conclusions

- 5.1 The report has addressed the results of consultations on two areas, the suitability of people to hold a licence, and the progress of the harmonisation project in West Yorkshire and York. The report has summarised the findings and recommendations of the consultation, and proposed revised policy.
- 5.2 The report has provided details of discussion where the council's suitability policies and conditions should be revised at the same time as the five other authorities in West Yorkshire and City of York.
- 5.3 The report proposes arrangements for implementation and review of the suitability policies. If the respective policies can be approved and implemented in all six councils, it would mark significant progress towards adopting common minimum standards for taxi and private hire licensing in the region. The suitability policy would replace the council's current convictions policy, and form the basis of a common framework for refusing and resisting licences, which could be used for the new LGA/NAFN database of refused and revoked licences.

6 Recommendations

- 6.1 That committee members note the purpose and content of the information in this report.
- 6.2 That committee members consider the summary of the responses to the consultations, the proposed policy, and the discussion points raised in the report, and note that there may be further guidance being developed as a result of the national consultation on statutory guidance, which included the table of suitability licensing decisions
- 6.3 That committee members pay particular attention to the proposal to distinguish the extreme violence examples from less extreme violence, with a lower tariff of 5 years, not 10 years.
- 6.4 That committee members note the new policy on determining the suitability of applicants and licence holders as drivers in taxi and private hire licensing, and that this policy take effect from 1 November 2019.
- 6.5 That the Taxi and Private Hire licensing Manager be authorised to make any further clarification changes necessary to the policy, to align the policy as closely as possible with the other West Yorkshire & York Authorities and meet the preferences of committee members, officers and stakeholders in Leeds.

7 Background documents

Department of Transport: Taxi and Private Hire Vehicle Licensing: Protecting Users, Statutory Guidance for Licensing Authorities, February 2019:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/778276/taxi-phv-licensing-protecting-users-draft-stat-guidance.pdf

Institute of Licensing guidance on suitability of applicants:

[https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_\(16_May_2018\).pdf](https://www.instituteoflicensing.org/documents/Guidance_on_Suitability_Web_Version_(16_May_2018).pdf)

Current Leeds City Council Convictions policy:

<https://www.leeds.gov.uk/docs/criminal%20convictions%20policy.pdf>

Appendix 1 Summary of responses to consultation

Appendix 2 Summary of West Yorkshire & York Responses

Appendix 3 Leeds (WY&Y) Suitability Policy

Appendix 1 Summary of responses to consultation on suitability and driver training

Response/Objection	Leeds City Council response
Clean Air Zone will harm taxi and private hire drivers' incomes (general comments)	<i>We appreciate that drivers and vehicle owners and proprietors may have concerns about the council's plans for a Clean Air Zone for the city.</i> <i>All Clean Air Zone options provided by central government have implications for taxi and private hire vehicles. The council has finalised plans for the Clean Air Zone for Leeds, and has secured funding from the Clean Air Fund to assist Leeds licence holders to make the transition from high polluting to ultra low emission vehicles.</i> <i>The council has also confirmed plans from central government for a central database of taxi and private hire vehicles so that non-compliant out of district private hire and taxi vehicles will be required to pay the Clean Air Zone charge.</i> <i>The proposed Clean Air Zone charge of £12.50 per day will be ringfenced to fund work to improve air quality in Leeds, it will not be used to fund taxi and private hire licensing.</i>
Out of town vehicles should be stopped coming into Leeds (general comments)	<i>We know that Leeds licensed drivers don't like the increase in drivers being licensed in other districts and working regularly in Leeds.</i> <i>Our investigation of journey records show that many customers choose out of district providers for their journey into Leeds and their journey home. Leeds has a vibrant night time economy, three large universities and a regional airport, all serving the wider city region. We do not want, nor do we have powers, to 'stop' all out of district drivers coming into Leeds.</i> <i>Our focus is on keeping the travelling public safe, so we have taken a number of steps to put out of district vehicles under scrutiny. These steps include maintaining a database of out of town vehicles observed in Leeds on a regular basis, checking journey records with operators licensed in other authorities, including out of town vehicles in 'plying for hire' operations, and joint working with West Yorkshire Police.</i> <i>We are also starting to conduct cross border enforcement with the four other West Yorkshire authorities and City of York, so that enforcement officers from any of the authorities can inspect vehicles licensed by any of the authorities.</i> <i>However, recent case law has found that out of town working is very difficult to regulate. Licensing authorities (such as Knowsley MDC) which have tried to impose 'intended use' conditions on their licence holders have had this decision appealed and lost in High Court. Licensing authorities (such as Reading BC) which have tried to prosecute (without a</i>

Response/Objection	Leeds City Council response
	<i>test purchase) out of town drivers for plying for hire have also lost at appeal.</i> <i>Focusing on passenger safety, we are working very closely with neighbouring authorities and large private hire operators to ensure that drivers are not able to have their licence revoked or refused in Leeds, and get a licence in a neighbouring authority, in order to work in Leeds.</i> <i>We will conduct a review of the council's operator policies and conditions, and it is possible that the review may include additional requirements and conditions for operators using apps, with vehicles and drivers who are routinely operating outside of their licensed district.</i>
Leeds' licensing conditions are higher than other councils (e.g. tinted windows, vehicles first licensed not older than 5 years, impact on costs) (General comments)	<i>It is a matter for each licensing authority how they put licensing conditions in place. We recognise that where there is a significant difference in licensing fees, there is an incentive for some licence holders to move to be licensed by a lower fee authority. We also know that some licence holders are motivated to be licensed in authorities with licensing conditions which are easier to meet.</i> <i>The licensing conditions which Leeds City Council has in place to there to maintain passenger safety and promote public confidence in the local taxi and private hire trade. The conditions which Leeds City Council has put in place which are higher than some other authorities, such as not permitting window tints in the rear of licensed vehicles which let less than 70% of light through.</i> <i>Leeds City Council maintains a high level of safety for the travelling public when using taxi and private hire vehicles. To support this, it is considered necessary to ensure that the Police, Council Enforcement Officers and members of the public can always see into a licensed vehicle in outside lighting conditions. This discourages crime from being carried out inside the licensed vehicle and it has also been established that women, vulnerable people and disability groups feel safer when they can easily see out of, and others can see into, the vehicle.</i> <i>It is now the current practice for different manufacturers to use glass with varying degrees of tint as standard. However, irrespective of the type of glass fitted by the manufacturer, Leeds City Council will not licence a vehicle unless the glass has a minimum light transmission which enables clear vision both into and from the vehicle at all times.</i> <i>In accordance with national regulations, the windscreen shall have a minimum light transmission value of 75% and the near and offside drivers windows 70%. The other windows must also have a minimum light transmission 70%.</i> <i>Leeds City Council has been in contact with vehicle manufacturers to check which vehicles are manufactured with levels of tint with meets the national regulations. We would advise anyone buying a vehicle for the</i>

Response/Objection	Leeds City Council response
	<i>first time or changing vehicle to check before buying that the window and windscreen tints are within acceptable levels.</i> <i>With respect to the age of vehicle, we recognise that Leeds has a vehicle age restriction at age of first licence and maximum age, which is more demanding than some other authorities. We will shortly be reviewing our vehicle policies and conditions, and will see how the conditions could be reviewed, while maintaining the focus on passenger safety and comfort.</i>
Drivers should not have to meet suitability standards (Suitability)	<i>We cannot agree that taxi and private hire drivers don't need to meet any test of their being safe to work (known as 'fit and proper'). We don't agree that a driving licence is sufficient evidence of someone's suitability to work as a taxi or private hire driver.</i> <i>Working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i> <i>The reason for the authorities in West Yorkshire and York consulting at the same time is to set some common minimum standards for licence holder suitability across the region. This should give the public confidence that drivers have met a common minimum standard, irrespective of where in the region they have been licensed, and that a driver who has been found unsuitable in one district will be able to get a licence in another district because a different test is used of their suitability.</i>
Once you have served your punishment you should be able to work (Suitability) You are innocent until proven guilty (Suitability) If the police drop a prosecution against a driver, you should get your licence back (Suitability)	<i>We agree that a conviction or caution doesn't necessarily means that a person can never be regarded as fit and proper to work as a taxi or private hire drivers. It will depend on the individual circumstances.</i> <i>However, working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i> <i>The proposed suitability policy would set down in broad terms the length of time a licence would be refused, depending on the type of conviction or caution. The policy is based on national review of individual councils' convictions policies.</i> <i>Criminal law uses a high burden of proof, which means for example, an allegation of inappropriate behaviour may not be prosecuted because of a lack of a witness. Licensing authorities can use a lower level of proof, which may mean that a case, which isn't seen as suitable for prosecution</i>

Response/Objection	Leeds City Council response
	<i>by the police and crown prosecution service, can be used to make a licensing decision on the basis of probability.</i>
The length of time a licence would be refused is too long for motoring points (Suitability) The length of time a licence would be refused is too long for driving with a mobile phone (Suitability) You should be able to drive unless you are disqualified (Suitability)	<i>We cannot agree that taxi and private hire drivers don't need to meet any test of their being safe to work (known as 'fit and proper'). We don't agree that a lower standard should be applied to people who drive for their living. The public have a right to expect that taxi and private hire drivers can drive professionally and safely for long hours and many thousands of miles without incurring minor traffic offences and points.</i> <i>Working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i> <i>We do recognise however, that the proposed refusal of a taxi or private hire licence for 5 years for minor traffic offences or driving with a mobile phone is a very long length of refusal, especially for drivers who may have attended speed awareness course or other remedial training as part of measures to ensure they satisfy their authority they remain fit and proper.</i> <i>The West Yorkshire and York authorities have proposed that this tariff be 3 years, which would also allow all endorsements to be viewed by licensing authority, for applicants and current licence holders renewing an existing licence.</i>
The length of time a licence would be refused is too long for violence (Suitability) The length of time a licence would be refused is too long for drugs (Suitability) The length of time a licence would be refused is too long for sexual offences (Suitability) The length of time a licence would be refused is too short for violence (Suitability) What are you going to do to keep drivers safe from violent passengers? (Suitability)	<i>We cannot agree that taxi and private hire drivers don't need to meet any test of their being safe to work (known as 'fit and proper'). We don't agree that a conviction or caution for violence, drug taking or supply, or sexual offences should be taken lightly when considering someone's suitability to work as a taxi or private hire driver.</i> <i>We recognise that taxi and private hire drivers come into contact with people who are sometimes violent or aggressive. We encourage all drivers to report violent passengers to the police, and we are looking to develop a new approach to encourage CCTV in vehicles, which should discourage violent behaviour against both drivers and passengers.</i> <i>However, working as a professional taxi or private hire driver is a notifiable occupation in terms of the trust which is placed in drivers, and their likelihood of coming into contact with vulnerable, elderly or people at risk of harm. Those people are entitled to expect high standards of their drivers.</i> <i>We do recognise that the categories used in the guidance are very broad, and that while all acts of violence are serious, terrorism should not necessarily be treated the same as assault. Each case will be judged on its</i>

Response/Objection	Leeds City Council response
The length of time a licence would be refused is too short for drugs (Suitability)	<i>merits, and if the officer determines, a shorter or longer tariff may be used.</i>
The length of time a licence would be refused is too short for sexual offences (Suitability)	<i>The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard is irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence has that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.</i>

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Appendix 2 Suitability Policy – Summary of consultation responses across West Yorkshire & York

	Crimes resulting in death or intended to cause death or serious injury– no elapsed period			Exploitation – no elapsed period			Offences involving violence – 10 years				Possession of a weapon or any other weapon related offence – 7 years				Sex and indecency offences – no elapsed period		
	Agree	Disagree	Not Answered	Agree	Disagree	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Disagree	Not Answered
Calderdale	115	63	7	111	63	11	65	86	28	6	85	52	42	5	107	75	3
Kirklees	111	45	1	116	39	2	69	61	26	1	73	43	40	1	110	46	1
Leeds	194	41	5	194	41	5	203	24	23	0	194	19	37	0	182	68	0
Wakefield	33	17	0	36	14	0	10	38	3	0	17	27	7	0	32	18	0
York	42	8	0	39	11	0	21	23	3	3	35	4	9	2	38	11	1
Combined Results	495	174	13	496	168	18	368	232	83	10	404	145	135	8	469	218	5

	Dishonesty offences – 7 years				Drugs supply – 10 years				Drugs use – 5 years				Discrimination – 7 years				Drink driving/ driving under the influence of drugs – 7 years			
	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered
Calderdale	86	81	13	5	115	28	35	7	110	33	36	6	106	60	15	4	105	32	42	6
Kirklees	75	62	19	1	95	34	27	1	88	36	33	0	91	54	12	0	84	32	39	2
Leeds	203	35	12	0	196	13	41	0	201	22	27	0	213	21	16	0	200	12	38	0
Wakefield	10	38	3	0	30	13	7	0	27	12	12	0	19	30	2	0	32	10	9	0
York	26	20	3	1	29	14	7	0	26	15	9	0	33	14	2	1	39	5	6	0
Combined Results	400	236	50	7	465	102	117	8	452	118	117	6	462	179	47	5	460	91	134	8

	Driving whilst using a hand-held telephone or other device – 5 years				Minor traffic or vehicle related offences – 5 years				Major traffic or vehicle related offences – 7 years				Hackney carriage and private hire offences – 7 years				Vehicle use offences – 7 years			
	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered	Agree	Too Long	Too Short	Not Answered
Calderdale	71	87	19	8	62	111	8	4	94	65	24	3	73	92	11	9	75	98	11	1
Kirklees	64	71	19	3	59	93	4	1	74	63	17	3	68	77	11	1	72	73	9	3
Leeds	200	44	6	0	185	61	4	0	201	28	12	0	199	42	9	0	212	29	9	0
Wakefield	5	45	0	0	4	46	1	0	12	37	2	0	7	39	4	0	12	39	0	0
York	14	34	0	2	17	32	0	1	33	10	3	4	19	28	0	3	26	22	0	2
Combined Results	354	281	44	13	327	343	17	6	414	203	58	10	366	278	35	13	397	261	29	6

	Requirement to subscribe to DBS Update Service			Certificate of good conduct		
	Yes	No	Not Answered	Yes	No	Not Answered
Calderdale	113	67	5	88	90	7
Kirklees	118	38	1	108	47	2
Leeds	235	15	0	6	9	235
Wakefield	31	20	0	24	27	0
York	46	4	0	48	1	1
Combined Results	543	144	6	274	174	245

	Represents a majority of the number of responses in favour of the proposal
	Represents a majority of the number of responses against the proposal

Summary of respondents

	Calderdale	Kirklees	Leeds	Wakefield	York
Total Number of Responses	185	168	250	51	50
Type:					
A licensed driver	116	93	-	42	17
A licensed private hire operator	4	13	-	1	3
A licensed vehicle proprietor	3	2	-	1	17
A member of the public	58	60	19	6	2
A licensed driver/ a proprietor	-	-	-	-	9
A licensed driver/private hire operator	-	-	-	-	1
A licensed driver/a proprietor/private hire operator	-	-	227	-	-
Other	4	-	4	1	1

A POLICY ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES AS DRIVERS IN TAXI & PRIVATE HIRE LICENSING.

Introduction

1. The West Yorkshire and City of York licensing authorities, which consists of Bradford, Calderdale, Leeds, Kirklees, Wakefield and York, recognises that the role of Hackney Carriage and Private Hire Drivers is a professional one. Hackney Carriage and Private Hire Drivers transport our most vulnerable persons and are often the first point of contact for visitors to each authority.
2. The reason for this policy is to ensure that the travelling public within West Yorkshire and York can be confident that the drivers licensed by each authority are suitable for this role, that the standards applied are consistent across each Authority area and that the requirements will be the same for whichever authority they choose to apply to.
3. It is a function of the Council to issue Hackney Carriage and Private Hire licences under the Local Government Miscellaneous Provisions Act 1976.
4. The overriding requirement of the Council when carrying out this function is the protection of the public and others who use (or can be affected by) Hackney Carriage and Private Hire services. The aim of this policy is to ensure that public safety is not compromised.
5. The Council must ensure that applicants/licence holders are and remain fit and proper persons to hold a licence. This policy will apply to all new applicant and to existing licensees on renewal. This requirement is contained within Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.
6. This policy categorises the types of issues including, crime and driving convictions, that form part of the “fit & proper” test to facilitate the assessment of the potential risk to the public. As part of this assessment the Council is concerned to ensure that
 - An individual does not pose a threat to the public.
 - The Council’s obligations to safeguard children and vulnerable adults are met.
 - The public are protected from dishonest persons.
7. The standards of safety and suitability are not set as a base minimum. They are set high to give the public the assurance it requires when using taxi services. The Council does **not** have to strike an even balance between the driver’s right to work and the public’s right to protection. The public are entitled to be protected. This means that the Council is entitled and bound to treat the safety of the public as the paramount consideration.
8. Taxis are used by almost everyone but they are used regularly by particularly vulnerable groups: children; the elderly; disabled people; and the intoxicated. A taxi driver has significant power over a passenger who places themselves, and their personal safety, in the driver’s hands.

9. As part of the assessment referred to in paragraph 4 above the Council can consider convictions and cautions but also other outcomes or actions taken by the Police, other agencies and the Civil Courts.
10. Reference to convictions in this policy also includes cautions, warnings, reprimands, all forms of fixed penalty notices, restrictive type orders and any other relevant information. **These must be reported to the Council in the format and timescales stated in the relevant policy.** In addition any circumstances relating to the licensee are potentially relevant if it relates to their safety and suitability to hold a licence.
11. Matters which have not resulted in a criminal conviction (whether as a result of an acquittal, a conviction being quashed, a decision not to prosecute or an investigation which is continuing where the individual has been bailed) may be taken into account by the Council. In addition, complaints where there was no police involvement may also be considered.
12. In the case of a new applicant who has been charged with any offences and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn.
13. In all cases, the Council will consider a conviction or relevant behaviour and what weight should be attached to it, and each case will be decided on its own merits and in line with this policy.
14. The licensing process places a duty on the Council to protect the public. Therefore it is essential that those seeking a licence as a driver meet the required standards. As previous offending and other behaviour can be considered as a predictor in determining future behaviour, it is important that the Council considers all relevant factors including previous convictions, cautions, complaints, failures to comply with licence conditions, and the time elapsed since these were committed.

Applying the Guidance

15. One of the purposes of this policy is to provide guidance to an applicant or existing licence holder on the criteria to be taken into account by the Council when determining whether or not an applicant, or an existing licensee on renewal, is a fit and proper person to hold a hackney carriage or private hire driver's licence.
16. When determining whether or not a person is "fit and proper" to become or remain a licensed driver, each case will be decided on its own merits and the Council shall only depart from this Policy in exceptional circumstances.
17. There must be clear and compelling reasons for the Council to depart from this policy. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered exceptional circumstances nor will the impact on the applicant and/or his family of losing (or not being granted) a licence.
18. The granting of a licence places an individual in a unique position of trust and they are expected to act with integrity and demonstrate conduct befitting of the trust placed in them. For this reason, whilst it is possible for an applicant or existing licence holder to have convictions that individually comply with the policy, the overall offending history and conduct of the applicant/licence holder will be considered.

Appropriate weight will be applied where a series of convictions/incidents have occurred over a period of time.

19. The Policy will also be applied if any additional issue arises that would call into question a person's suitability to continue to hold a licence. If an existing licence holder's conduct falls short of the "fit and proper" standard of behaviour at any time, their licence will be revoked.
20. Where a licence would normally be granted after the expiry of a specific period, there may be circumstances where the period will be extended.
21. Any foreign offence disclosed by the applicant/licence holder or revealed on an enhanced Disclosure and Barring Service Disclosure will be dealt with in line with this Policy.
22. Any concerns, issues, incidents or convictions/offences not covered by this Policy will not prevent the Council from taking them into account.

Disclosure and Barring Service

23. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, they are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that **ALL** convictions (including minor motoring convictions and fixed penalty notices) must be declared. The Secretary of State made this exemption because it is necessary to put public safety as the first consideration and to enable the Councils to take a wider view of the applicant over a longer timescale.
24. The Council conducts enhanced disclosures from the Disclosure and Barring Service ("DBS") of any applicant for a drivers licence. Applicants will be required to obtain an enhanced disclosure at their expense and to subscribe to the Disclosure and Barring Update Service.
25. Any information contained in the Enhanced DBS Certificate that identifies an individual as not suitable to work with children or vulnerable adults will normally result in the application being refused or existing licence being revoked.
26. The Council is also entitled to use other records and information including any complaints history that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Council or other Councils and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
27. In determining safety and suitability the Council is entitled to take into account all relevant matters concerning that applicant or licensee. This includes not only their behaviour whilst working in the hackney carriage or private hire trade, but also their character including, but not limited to, their attitude and temperament so far as relevant to an assessment of suitability.
28. Any applicant who has resided outside the UK for any period longer than 6 months within the preceding 3 years will be required to produce a **certificate of good conduct dated in the last 3 months** which details any convictions or cautions recorded against

the individual. It is the applicant's responsibility to obtain this evidence at his cost. This will be in addition to the Enhanced DBS. **Alternatively an applicant may be required to produce a Statutory Declaration dated in the last 3 months.**

29. It is the responsibility of the applicant/licence holder to satisfy the Council that they are a "fit and proper person" to hold a licence. Therefore the applicant/licence holder must ensure that all convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses are disclosed to the Council, including any incurred outside the UK. **A failure to report such convictions, cautions, warnings, reprimands, fixed penalties, arrests and summonses will be given significant weighting.**
30. Once a licence has been granted there is a continuing requirement on the part of a licensee to maintain their safety and suitability to meet the "fit and proper" test. The Council has the powers to take action against licence holders and any behaviour, incidents, convictions or other actions on the part of the licensee which would be likely to have prevented them from being granted a licence are likely to lead to the licence being revoked.
31. Any dishonesty or material non-disclosure by any applicant or other person acting on the applicant's behalf which occurs in any part of the application process will result in a licence being refused, or if already granted, revoked and may result in prosecution.
32. **An applicant must hold a full DVLA driver's licence, have the right to remain and work in the UK and be a "fit and proper" person.**
33. Under the Local Government (Miscellaneous Provisions) Act 1976 section 57, the Council 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 such licence."

The provision of this information can help to satisfy the Council that a person has the skills and competencies to be a professional driver to hold a licence. However, the concepts of "fit and proper" and "safety and suitability" go beyond this. There is the character of the person to be considered as well.

34. The character of the applicant is relevant when considering whether they should be licensed. The Council is not imposing an additional punishment in relation to previous convictions or behaviours. The information available to them is used to make an informed decision as to whether or not the applicant is a safe and suitable person to be licensed.
35. The fact that an offence was not committed when the applicant was driving a taxi or when passengers were aboard may be irrelevant. Speeding, drink driving and bald tyres are all dangerous, irrespective of the situation. Violence is always serious. A person who has a propensity to violence may have that potential in any situation. Sexual offences are always serious. A person who has in the past abused their position (whatever that may have been) to assault another sexually has demonstrated completely unacceptable standards of behaviour.

36. Licensees are expected to demonstrate appropriate professional conduct at all times, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive or exhibit prejudice in any way. Licensees are expected to act with integrity and demonstrate conduct befitting the trust that is placed in them.
37. There are those who seek to take advantage of vulnerable people by providing services they are not entitled to provide; for example, by plying for hire in an area where they are not entitled to do so. The Council expects licensees to be vigilant of such behaviour and to report any concerns to the Police and the relevant licensing authority. Passengers must feel able to check that the person offering a service is entitled to do so. Licensees must be willing to demonstrate that they are entitled to provide the service offered by, for example, showing their badge. Any applicant or licensee who does not comply with the requirements set out in this paragraph will be unlikely to meet the “fit and proper” test.

Criminal and Driving Convictions

38. The Council considers that a period of time should elapse after a conviction before a person can no longer be considered to be at risk of re-offending. The timescales set out in Table A are to reduce the risk to the public to an acceptable level.
39. In relation to single convictions, Table A sets out the time periods that should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.
40. The Council will look at the entirety of the individual circumstances and in some cases the suitability will not be determined simply by a specified period of time having elapsed following a conviction or the completion of a sentence. The time periods are a relevant and weighty consideration but they are not the only determining factor.
41. In addition to the nature of the offence or other behaviour, the Council will also consider the quantity of matters and the period of time over which they were committed. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate an increased propensity for such behaviour or offending to recur.
42. This policy does not replace the Council’s general duty 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 this policy the Council must consider the matter from first principles and determine the fitness of the individual.
43. Once a licence has been granted there is a continuing requirement on the part of the licensee to maintain their safety and suitability to meet the “fit and proper” person test.
44. Some offences on their own are serious enough for a licence not to be granted and these are identified in Table A. In the case of an existing licence “refused” in the Table means “revoked”.

45. Applicants and licensees should be aware that where they have been convicted of a crime which has resulted in the death of another person or was intended to cause the death or serious injury of another person they will almost certainly not be licensed.
46. Where an applicant or licensee has been convicted of a crime involving, related to, or which has any connection with abusive, exploitative, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will almost certainly not be licensed. This includes instances of slavery, child sexual exploitation, grooming, psychological or financial abuse.
47. The Council will almost certainly not grant a licence to any applicant who is currently on the Sex Offenders Register or on any "barred" list. Existing licensees who are placed on the Sex Offenders Register or on any "barred" list will almost certainly have their licence revoked.
48. Convictions for inciting, attempting or conspiring to commit an offence will be treated in the same way as convictions for the substantive crime. For these purposes, a caution may be regarded in the same way as a conviction. Fixed penalties and community resolutions may also be considered in the same way as convictions.
49. Road Safety is a major priority to the Council. A taxi driver has direct responsibility for the safety of his or her 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 driving convictions or unacceptable behaviour whilst driving will weigh heavily against a licence being granted or retained.
50. Taxi drivers are professional drivers charged with the responsibility of safely conveying the public. Any motoring convictions may demonstrate a lack of professionalism and will be considered seriously. Whilst 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 being taken in respect of an existing licence, subsequent convictions would indicate that the licensee does not take their professional responsibilities seriously and is therefore not a fit and proper person to be granted or to retain a licence.

Decision and Right of Appeal

51. Where the Council is minded to refuse an application or suspend or revoke an existing licence in line with this policy the applicant or existing licence holder will be informed and be given an opportunity to provide any additional written evidence in support of their application or retention of their licence.
52. The Council, at its absolute discretion, may determine to meet with the applicant or existing licence holder for the purpose of clarifying information provided or received. The applicant can be accompanied by one individual at the meeting who is not permitted to make comment or enter into any part of the discussion.
53. The Applicant or existing licence holder will be notified in writing of the Council's final decision within 14 days of completion of the procedures set out in paragraphs 43 and/or 44 above.

54. Any person whose application is refused or licence suspended or revoked by the Council has a right of appeal to the Magistrates' Court. An Appeal must be lodged within 21 days of the decision at the appropriate Magistrates' Court. Applicants may wish to obtain professional and independent advice.

TABLE A

Offence	Period Elapsed
Crimes resulting in the death of another person or which was intended to cause death or serious injury to another person.	No period is thought sufficient to have elapsed and the application will be refused.
Exploitation – any crimes involving, related to, or which have any connection with abuse, exploitation, misuse or mistreatment of another individual irrespective of whether the victims were adults or children including, for example: slavery, child sexual exploitation, grooming, psychological, emotional, or financial abuse.	No period is thought sufficient to have elapsed and the application will be refused.
More serious Offences involving violence (including arson, riot, terrorism offences, grievous bodily harm, wounding, actual bodily harm) or connected with an offence of violence.	10 years
Less serious Offences involving violence (including harassment, battery, common assault & criminal damage) or connected with an offence of violence.	5 years
Possession of a weapon or any other weapon-related offence.	7 years
Sex and indecency offences – any offence involving or connected with illegal sexual activity or any form of indecency.	No period is thought sufficient to have elapsed and the application will be refused.
Dishonesty – any offence of dishonesty, or any offence where dishonesty is an element of the offence.	7 years
Drugs supply – any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply.	10 years

Drugs use – any conviction for possession of drugs, or related to possession of drugs.	5 years
Unlawful discrimination – any conviction involving or connected with unlawful discrimination in any form.	7 years
Drink driving/driving under the influence of drugs.	7 years
Driving whilst using a hand-held telephone or other device.	5 years
Minor traffic or vehicle related offences – offences which do not involve loss of life, driving under the influence of drink or drugs, driving whilst using a hand held telephone or other device and has not resulted in injury to any person or damage to any property (including vehicles) resulting in 7 or more points on a DVLA licence.	3 years
Major traffic or vehicle related offences – offences not covered under minor traffic or vehicle-related offences and also any offence which resulted in injury to a person or damage to any property (including vehicles), driving without insurance or any offence relating to motor insurance.	7 years
Hackney carriage and private hire offences.	7 years
Vehicle use offences, for example being carried in vehicle without the owner's consent.	7 years.

LICENSING COMMITTEE WORK PROGRAMME 2018/19 - LAST UPDATED 22/08/19 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 8th October 2019			
The Victoria Gate Casino - Schedule 9 Agreement - Social Inclusion Funding and the new Northern Gambling Clinic	To consider a report by the Chief Officer Elections and Regulatory which provides details of the benefits to the Council associated with the Schedule 9 Agreement: Social Inclusion Funding and the new Northern Gambling Clinic	N Raper	B
Policing and the Night Time Economy	To receive a presentation from Sergeant Martin Mynard, West Yorkshire Police on the issues of "Policing and the Night Time Economy"	M Mynard	B
Meeting date: 5th November 2019			

Key:

RP – Review of existing policy

DP – Development of new policy

PM – Performance management

B – Briefings

SC – Statutory consultation

LICENSING COMMITTEE WORK PROGRAMME 2018/19 - LAST UPDATED 22/08/19 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 10th December 2019			
Draft Report of the findings of the CCTV Working Group	To consider a report by the Chief Officer Elections and Regulatory which sets out the initial findings of the CCTV Working Group and the plan for consultation	A White	DP
Debrief Report following the Ed Sheeran event at Roundhay	To consider a report by the Chief Officer Elections and Regulatory which provides a de-brief following the Ed Sheeran event at Roundhay Park in August 2019.	N Raper	B
Meeting date: 28th January 2020			
Meeting date: 3rd March 2020			
Annual Licensing Report	To consider a report by the Chief Officer, Elections and Regulatory which present the Annual Licensing Report for 2019	N Raper/ A White	PM
Meeting date: 7th April 2020			

Key:

RP – Review of existing policy

DP – Development of new policy

PM – Performance management

B – Briefings

SC – Statutory consultation

Key:
RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

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