

Regulatory Committee

Tuesday 26 September 2017 7.30pm

**Council Chamber
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors Mrs J Gracey (Chairman), D W Parr (Vice-Chairman), Mrs D V Clarke, Mrs M T Harnden and P S Sohi.

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

A G E N D A

Notes:

- 1) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- 2) The relevant 'background papers' are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Democratic Services, Law and Governance Business Centre, Runnymede Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk)**.
- 3) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on www.runnymede.gov.uk.
- 4) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.
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Filming should be limited to the formal meeting area and not extend to those in the public seating area.

The Chairman will make the final decision on all matters of dispute in regard to the use of social media, audio-recording, photography and filming in the Committee meeting.

LIST OF MATTERS FOR CONSIDERATION

PART I

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PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

- a) Exempt Information
(No reports to be considered under this heading)
- b) Confidential Information
(No reports to be considered under this heading)

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions which set out the procedures to be followed in the event of fire or other emergency.

2. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

3. MINUTES

To confirm and sign as a correct record, the Minutes of the meeting held on 27 June 2017, which were circulated to all Members by email in July 2017.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

If Members have an interest in an item please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Democratic Services Officer at the start of the meeting. A supply of the form will also be available from the Democratic Services Officer at meetings.

Members are reminded that a non pecuniary interest includes their appointment by the Council as the Council's representative to an outside body and that this should be declared as should their membership of an outside body in their private capacity as a director, trustee, committee member or in another position of influence thereon.

Members are advised to contact the Council's Legal section prior to the meeting if they wish to seek advice on a potential interest.

Members who have previously declared interests which are recorded in the Minutes to be considered at this meeting need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is a disclosable pecuniary interest or if the interest could reasonably be regarded as so significant as to prejudice the Member's judgement of the public interest.

6. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – PROPOSED AMENDMENTS TO CONVICTIONS POLICY AND THE INTRODUCTION OF SAFEGUARDING TRAINING FOR DRIVERS AND OPERATORS (ENVIRONMENTAL SERVICES)

Synopsis of report:

This report details proposed amendments to the Hackney Carriage and Private Hire Licensing Policy in relation to convictions. It also sets out our plans regarding Child Sexual Exploitation (CSE)/safeguarding training to help prevent the sexual exploitation of children by introducing consistent standards across Surrey.

Recommendations: that;

- i) the amended version of the Hackney Carriage and Private Hire Licensing Policy in relation to convictions be approved for public consultation;**
- ii) the results of the consultation be brought back to this Committee in January 2018 for further discussion; and**

iii) the amendment to the Hackney Carriage and Private Hire Licensing Policy in relation to CSE and safeguarding training be approved

1. Context of report

- 1.1 This report informs the Committee on the background to the proposed amendments to the Hackney Carriage and Private Hire Licensing Policy 2017-2020.
- 1.2 Since the introduction of the RBC policy, Surrey Safeguarding Children Board (SSCB) and its partners, including all 12 Surrey Local Authorities, have agreed a Child Sexual Exploitation Strategy and action plan, which aims to develop a co-ordinated response to Child Sexual Exploitation (CSE) across Surrey. Licensing targets within this strategy and action plan include hackney carriage and private hire licensing, premises licensed under the Licensing Act 2003, participation in Operation 'Make safe' and information sharing.
- 1.3 Achieving the targets, helps enable Surrey Local Authorities to fulfil their statutory responsibilities defined in Section 11 of the Children's Act 2004 to safeguard children and to promote welfare effectively. Delivery of the strategy supports the SSCB's statutory duties to co-ordinate activities to safeguard and promote the welfare of children in Surrey, as well as ensuring the effectiveness of what is being done by partners.
- 1.4 Two actions identified within the CSE action plan are related to hackney carriage and private hire. These are:
 1. Adopting a consistent hackney carriage and private hire convictions policy across Surrey
 2. Mandatory CSE training for all hackney carriage and private hire drivers in Surrey
- 1.5 These two measures will raise the standards of public safety across Surrey and build on the steps already taken to protect the most vulnerable in our communities.

2. Report

- 2.1 Runnymede's current Hackney Carriage and Private Hire Policy 2017-2020 was adopted on 2 March 2017 and introduced positive changes to protect public safety by introducing a comprehensive convictions policy (Appendix 'A') and mandatory CSE training for all hackney carriage and private hire drivers and operators.

Convictions Policy

- 2.2 Following recent cases of licensed drivers and operators across the country being involved in sexual exploitation of children, it is important that Local Authorities take appropriate steps to prevent future cases by ensuring that licensed drivers are 'fit and proper'. Consideration of a person's criminal convictions and other relevant character or behavioural information is a key part of the 'fit and proper' assessment.
- 2.3 Local Authorities across Surrey are now seeking to standardise the information taken into account when determining if someone is 'fit and proper' by adopting a Surrey wide convictions policy. The proposed policy for consultation is attached at Appendix 'B'.

- 2.4 Currently, applicants for a hackney carriage/private hire drivers and operator's licence may not be permitted to drive in one particular Surrey Borough or under a Surrey Council (SCC) contract but could potentially be granted a licence by another Surrey District or Borough Council. This is an unacceptable risk, which can be avoided by the introduction of the Surrey wide policy.
- 2.5 Whilst there are significant similarities in the majority of the existing conviction policies, there are some differences which could be exploited. The differences between Runnymede's existing policy and the proposed Surrey wide policy mainly relate to the number of years an offence is considered relevant; these being greater in the Surrey wide policy. There are also differences to the general wording and explanation of the policy but in essence the meaning remains the same.
- 2.6 Both Runnymede's existing policy and the proposed Surrey wide policy were constructed using the information contained in the sample Convictions Policy produced by the Local Government Association. This is heavily based on the Rotherham Metropolitan Borough Council (RMBC) policy which was introduced following the Jay report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Corporate Governance Inspection.
- 2.7 When applying the convictions policy, all Licensing Authorities are mindful that each case must be considered on its merits and, where the circumstances demand, may depart from its policy.

Mandatory CSE and Safeguarding Training

- 2.8 Surrey Local Authorities want to take appropriate steps to protect the most vulnerable in our society by introducing mandatory CSE and safeguarding training for hackney carriage and private hire drivers and operators. Following recent examples of sexual exploitation of children in our communities, a number of Local Authorities, including Runnymede, have already introduced this requirement.
- 2.9 Runnymede's requirement for mandatory CSE training was introduced with the Hackney Carriage and Private Hire Policy 2017-2020 parts 5.113, 5.147 and 7.56. This specified that the training would be a requirement for new drivers, existing drivers and operators.
- 2.10 The details of this training were still being decided on when Runnymede's policy came into effect. However, it was made clear within the policy that the introduction of this requirement would be announced in due course when the content and administration of the training had been clarified.
- 2.11 The fine detail of the training is now being finalised. It includes how to spot signs of child sexual exploitation and how to report concerns about children or vulnerable persons at risk using agreed Surrey processes.
- 2.12 The training will consist of an online assessment to ensure understanding of the subject matter. This has been developed by Barnardo's children's charity in conjunction with a number of local authority licensing officers and it is considered well suited for the task. Anyone taking the test who requires assistance with the on-line process will be given help accordingly.
- 2.13 The benefits of this process are:
- Sustainable resource
 - Updated by experts
 - e-learning/testing
 - Production of a pass certificate

- 2.14 Surrey Safeguarding Children Board has agreed this is suitable for use. It is planned that Tandridge District Council conducts the procurement, acquisition and purchase on behalf of the 11 Districts/Boroughs and SCC. The timetable for introduction will depend on the procurement process and Members will, in due course, be updated on the timescales and content.
- 2.15 The Surrey wide requirement for the introduction of this training proposes a one year period for those existing drivers to complete the training successfully. Officers recommend this is also adopted by Runnymede and that those drivers and operators who do not complete the training successfully have their Hackney Carriage/Private Hire drivers/operator's licence suspended until such time as they have completed the training.

Summary of Recommendations

- 2.16 With regard to the Convictions Policy, Officers recommend that a six week consultation period is approved, in conjunction with other Surrey Licensing Authorities, on the proposed changes to the hackney carriage /private hire policy.
- 2.17 Officers consider that six weeks will ensure we conduct a suitable consultation for consideration in advance of proposing changes to the policy.
- 2.18 Subject to approval of the consultation, this Committee will receive a report on its findings at its meeting on 11 January 2018.

CSE training requirement

- 2.19 Officers consider that introducing mandatory training for drivers and operators will ensure we are working in a consistent manner with the rest of the County.

3. Policy framework implications

Consultations

- 3.1 Surrey Safeguarding Children Board has been involved throughout the process and endorses these proposals.
- 3.2 The Surrey Licensing Officers Group and Surrey Solicitors Group have both been consulted and have approved the proposed Convictions policy and training package.
- 3.3 The Surrey Chief Executives Group also support the proposed changes, have made resources available and pledged a financial contribution to help ensure that the CSE/Safeguarding project is delivered in a timely manner.

4. Resource implications

- 4.1 There are no financial implications of conducting the public consultation as Tandridge District Council is hosting the web-based consultation for all Surrey Local Authorities.

5. Legal implications

- 5.1 The basis for the changes within the policy is to ensure that the Council fulfils its statutory safeguarding obligations to prevent the exploitation of children and vulnerable persons more effectively.
- 5.2 There is no statutory requirement to have a hackney carriage and private hire licensing policy; however, it is good practice to do so. A policy assists with consistent decision making. However, each case must be considered on its own

merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.

- 5.3 In relation to hackney carriage and private hire licensing, there are specific powers contained in the Town Police Clauses Act 1847, Transport Act 1985 and Local Government (Miscellaneous Provisions) Act 1976. These allow the Council to specify the requirements that vehicles and drivers must meet in order to be licensed, and to refuse a licence to drivers if we are not satisfied that the drivers are fit and proper persons to hold a licence. They also allow conditions to be attached to licences (with the exception of hackney carriage driver's licences).

6. Equality implications

- 6.1 The Council has a public sector equality duty under the Equality Act 2010. Section 149 of the Act provides that we must have due regard to the need to;
- a) eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act
 - b) advance equality of opportunity
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share protected characteristics.
- 6.2 The Council's Equalities Group is currently being consulted to ensure that the proposals comply with the Council's Equality Policy.
- 6.3 The proposed changes to the Convictions policy have a positive impact on the protected characteristic of age as the reason for the policy is to provide greater protection to children and young people from potential CSE.

7. Conclusions

- 7.1 Approving consultation on the amendment to the Hackney Carriage and Private Hire Licensing Convictions Policy and placing a time limit on CSE training will help ensure a co-ordinated and consistent response across every Borough and District in the County as well as SCC which will help to prevent the sexual exploitation of children in Surrey.

(To resolve)

Background Papers

Hackney carriage and Private Hire Licensing Policy 2017-2020
<https://www.runnymede.gov.uk/CHttpHandler.ashx?id=15247&p=0>

Report of Professor Jay into Child Sexual Exploitation in Rotherham (September 2014)
http://www.rotherham.gov.uk/downloads/file/1407/independent_inquiry_cse_in_rotherham

Casey report into Rotherham Metropolitan Borough Council (February 2015)
<https://www.gov.uk/government/publications/report-of-inspection-of-rotherham-metropolitan-borough-council>

Surrey Safeguarding Children Board, Child Sexual Exploitation Strategy 2016-17
<http://www.surreyscb.org.uk/wp-content/uploads/2016/05/SSCB-CSE-Strategy-2016-17.pdf>

Surrey Safeguarding Children Board, Child Sexual Exploitation Action Plan 2016-17
<http://www.surreyscb.org.uk/wp-content/uploads/2016/12/Updated-joint-Surrey-CSE-Plan-Dec-2016-v.4.0.pdf>

Rotherham Metropolitan Borough Council (RMBC) policy
https://www.rotherham.gov.uk/downloads/file/2473/rotherham_mbc_taxi_and_hackney_carrriage_policy

Local Government (Miscellaneous Provisions) Act 1976 part (ii)
<http://www.legislation.gov.uk/ukpga/1976/57/part/II>

Transport Act 1985
<http://www.legislation.gov.uk/ukpga/1985/67/contents>

Town Police Clauses Act 1847
<http://www.legislation.gov.uk/ukpga/Vict/10-11/89>

7. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – PLATE EXEMPTION (ENVIRONMENTAL SERVICES)

Synopsis of report:

This report details proposed amendments to the Hackney carriage and Private Hire Licensing Policy in relation to plate exempt vehicles.

Recommendation:

that the Committee approves the following amendment to the Hackney Carriage and Private Hire Licensing Policy in relation to plate exempt vehicles:-

'The windscreen and front side windows must meet current legislation while the rear side windows and screen can be fitted with tinted glass to any degree of tint including privacy glass'.

1. Context of report

- 1.1 Runnymede's Hackney Carriage and Private Hire Licensing Policy came into effect on 2 March 2017 and contains requirements for 'plate exempt' private hire vehicles, as attached at Appendix 'C'.
- 1.2 When private hire vehicles are licensed, they are 'plated' with a windscreen sticker and a sticker on the rear bodywork of the vehicle, displaying the vehicle's unique plate number, date of expiry and the number of passengers it is licensed to carry.
- 1.3 Plate exempt vehicles do not have to display the rear body sticker and the driver does not have to display their driver's badge. They are predominately used for account customers who require a degree of anonymity.

2. Report

- 2.1 To date the policy has worked well, although a few irregularities have surfaced which require clarification or amendment concerning the use of the vehicle and privacy glass. These are contained within:

- part 14 – use of vehicle
- part 15 – tinted windows

Use of vehicle

- 2.2 Part 14 of Appendix 'A' states:-

'The proprietor shall not use the vehicle for private hire purposes other than for contract use (i.e. not for routine airport journeys or daily private hire use).'

- 2.3 Plate exempt vehicles are higher specification, top of the range vehicles, which cater for a particular market and our policy determines the quality of vehicle required. Operators would not want to use such vehicles for general daily private hire use as their running and upkeep costs would make that untenable.
- 2.4 However, in an increasing competitive market, some operators are seeing a demand for their particular type of vehicle for pre booked work from non-account customers. Refusal of this kind of work leads to the business being lost to out of area operators who have conditions which allow for the display and removal of plates depending on the type of work they are carrying out.
- 2.5 To support these businesses and give them the opportunity to compete in this market it is proposed that Runnymede 'plate exempt' vehicles be permitted to display a magnetic plate when required and then carry out any non-account work if the demand arises. This of course would also necessitate that the driver displays their badge.
- 2.6 Only 13 vehicles are licenced as 'plate exempt' and this would only be of assistance to a very few of their operators but it does give that extra flexibility.

Tinted windows

- 2.7 Part 15 of Appendix 'A' states:-

'The driver and passenger front side window glass and the front windscreen must be clear. However, tinted windows can be fitted to the side and rear window glass of the vehicle provided that they comply with current legislation.'

- 2.8 Officers consider that, on reflection, this should be clearer in its meaning and propose that the wording is altered to make it so. Current legislation allows a degree of tint on the windscreen and front side windows (25% and 30% respectively) and there is no legal limit on the amount of tint on the rear side windows or screen. Therefore, it is proposed the wording is amended as follows:-

'The windscreen and front side windows must meet current legislation while the rear side windows and screen can be fitted with tinted glass to any degree of tint including privacy glass'

3. Policy framework implications

- 3.1 The policy on this requirement remains relevant.

4. Resource implications

- 4.1 The cost to operators would be minimal and there would be little additional workload for the licensing section. This is not a requirement which would have any impact on licensing fees.

5. Equality implications

- 5.1 An EIA screening was carried out prior to the current Hackney Carriage and Private Hire policy being introduced. This small amendment does not affect any of the protected characteristics defined by the Equality Act 2010.

6. Conclusions

- 6.1 When Runnymede introduce its policy on 1 March 2017 it created for the first time an evidence based set of conditions and requirements. The Licensing section is always open to new ideas and suggestions. It was realised that introducing a new policy would inevitably mean there may have to be some changes as we all adapt to new ways of working and new challenges, particularly in the form of intense competition from operators licenced in other boroughs.
- 6.2 It is only right that when we have new ideas or better ways of regulating the trade we look at these carefully, with public safety foremost. The proposed amendments do not affect public safety.
- 6.3 The proposed amendments make good sense and demonstrate how Councils can work with the trade and help business adapt.

(To resolve)

Background papers

Runnymede Hackney Carriage and Private Hire Licensing Policy
<https://www.runnymede.gov.uk/CHttpHandler.ashx?id=15247&p=0>

8. HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY – PRE BOOKED ONLY SIGNAGE (ENVIRONMENTAL SERVICES)

Synopsis of report:

This report details proposed amendments to the Hackney Carriage and Private Hire Licensing Policy in relation to pre booked only signage.

Recommendation:

the amendments to the Hackney Carriage and Private Hire Licensing Policy, to include the wording ‘pre booked only’ on the operator’s magnetic door signs and the use of the words ‘private hire’ be removed, in relation to pre booked only signage, be approved.

1. Context of report

- 1.1 Runnymede’s Hackney Carriage and Private Hire Licensing Policy contains a requirement around the identification of private hire vehicles in that they must have the words ‘Private Hire Vehicle Pre-Booked Only’ on the vehicle’s front doors.
- 1.2 This is to ensure a positive statement that the vehicle is only for pre booking and cannot be hired immediately through the driver and helps to avoid confusion with a hackney carriage.
- 1.3 Prior to the introduction of this requirement the trade was consulted and no adverse comments were received about this requirement.

2. Report

- 2.1 Prior to bringing this part of the policy into force some further groundwork was required to finalise design and implementation. All private hire operators were invited to attend the Civic Centre on 4 July 2017 to discuss design of the signage and implementation. Those operators with an interest, including the two largest

operators in the Borough, Gemini and Image cars, attended and a very open and useful discussion followed.

- 2.2 It transpired that most operators had not taken part in the consultation and only recently had they become aware of its implication for their business. Operators were not against the requirement. However, they did come forward with suggestions which would reduce the cost for both business and the Council by simplifying the design and implementation of the wording.
- 2.3 Some of the operators with one or two vehicles felt that this requirement would have a serious impact on their particular niche markets. Some had already been informed by clients that they would no longer have their business should they have this signage on their vehicles. Naturally, this was of great concern to these operators and Officers believe that exceptions can be made where there is an identified business case for it.
- 2.4 There are two matters to consider. Firstly the design and implementation of the requirement and secondly exceptions to the requirement. These are explained in more detail below.

Design and Implementation

- 2.5 Currently the policy (part 6.70 - 6.71 and Appendix F sub-section (t) state:

'An adhesive sign (the size of the lettering which shall be as specified by the Council) containing the wording "Private hire vehicle Pre-Booked Only" printed in black against a white background with a black boundary is displayed on both front doors of private hire vehicles apart from those which are plate exempt.

The operator's name, phone number and internet address can be displayed below this sign, providing such lettering is no larger than the lettering on the adhesive sign'.

- 2.6 Practically, this would increase costs to the operators in terms of time and would mean many of them losing the ability to display their own magnetic signs, as the door space would have been taken by the 'pre booked only' signs. The Council would be similarly affected in terms of time and materials which would, in turn, be passed onto the trade through fees.
- 2.7 A simpler and cheaper method would be to include the wording 'pre booked only' on the operator's magnetic door signs. This is common practice in many other boroughs. All operators use magnetic door signs to advertise the name of their business and phone number; these are bespoke to the operator concerned and vary in size and design. These magnetic signs are replaced through natural wear and tear on a regular basis so operators would have no difficulty in amending their signage and replacing them over a reasonable period of time.
- 2.8 It is also felt that the use of the words 'private hire' should be removed as they mean little to the travelling public; having 'pre booked only' is considered ample and informative.
- 2.9 To reduce costs it is proposed that the required wording should be amended to 'pre booked only' and that it would then be the responsibility of the operator to include this within their magnetic door signage. In doing so, operators must gain prior approval from the Licensing authority. Officers will assess the size and design of the door sign to ensure the wording is easily read and distinguishable. For those operators in the future who do not have a magnetic door sign, the size and design of the wording would need to be displayed by another method, such as a sticker and approved by the Licensing authority.

- 2.10 Introduction of this signage by operators should be completed no later than 31 December 2017.

Exceptions

- 2.11 Some smaller independent operators with one or two vehicles have identified a niche market where there is a call for an executive service where customers are willing to pay more for a better standard of vehicle and driver although they are not requiring an exempt plate executive vehicle. Much of this type of work comes from agencies who have a requirement for high specification plated vehicles that are free from any signage on the door. There is also work available in the funeral trade for this type of vehicle and the idea of having 'pre booked' only on a vehicle hired for this use would be inappropriate.
- 2.12 There is intense competition from operators licenced in other boroughs for this kind of executive work and it would undoubtedly be lost to them should the requirement for pre booked signage be in place for those few local operators in this particular market.
- 2.13 Following discussion with the trade, it is proposed that all operators should be permitted to have a maximum of two vehicles exempt from the pre booked only signage requirement with prior approval from the Licensing authority.

3. Policy framework implications

- 3.1 The policy on this requirement remains relevant as described in 1.2 and that part 6.70 -6.71 and Appendix F sub-section (t) be amended to read as follows:

'An adhesive or magnetic sign must be placed on both front doors of private hire vehicles containing the wording "Pre-Booked Only". This can be on the same sign as used by the operator to advertise their business or a separate sign. It must be printed in such a way as to make the wording 'Pre-Booked Only' clear, legible and distinguishable from any other signage. All such signage must be approved by the Licensing authority prior to use.

Operators can with permission from the Licensing authority have a maximum of two vehicles registered as exempt from this requirement, where these vehicles undertake specialist pre bookings where this signage may not be appropriate.'

4. Resource implications

- 4.1 The cost to operators would be minimal and there would be little additional workload for the Licensing section. This requirement would not have any impact on licensing fees.

5. Equality implications

- 5.1 An EIA screening was carried out prior to the current Hackney Carriage and Private Hire Policy being introduced. This small amendment does not affect any of the protected characteristics as defined by the Equality Act 2010.

6. Conclusions

- 6.1 When Runnymede introduced its policy earlier this year it created for the first time an evidence based set of conditions and requirements. The Licensing section is always open to new ideas and suggestions and it was realised that introducing a new policy would inevitably mean there may have to be some changes as we all

adapt to new ways of working and new challenges, particularly in the form of intense competition from operators licenced in other boroughs.

- 6.2 It is only right that when we have new ideas or better ways of regulating the trade we look at these carefully, with public safety foremost. The proposed amendments do not affect public safety and fulfil the aim of the requirement to inform the public.
- 6.3 The proposed amendments make good sense and demonstrate how Councils can work with the trade and help businesses adapt. We should be ready, willing and able to adapt to changing circumstances and offer the trade as much assistance as possible in cost saving and retaining/increasing existing business

(To resolve)

Background papers

Runnymede Hackney Carriage and Private Hire Licensing Policy

<https://www.runnymede.gov.uk/CHttpHandler.ashx?id=15247&p=0>

9. EXCLUSION OF PRESS AND PUBLIC

If Members are minded to consider any of the foregoing items in private, it is the

OFFICERS' RECOMMENDATION that -

the press and public be excluded from the meeting during discussion of the report(s) under Section 100A(4) of the Local Government Act 1972 on the grounds that the report(s) in question would be likely to involve disclosure of exempt information of the description specified in the relevant paragraphs of Part 1 of Schedule 12A of the Act.

(To resolve)

PART II

Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.

a) Exempt Information

(No reports to be considered under this heading)

b) Confidential Information

(No reports to be considered under this heading)

Regulatory Committee

Tuesday 26 September 2017

Appendices

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POLICY RELATING TO THE RELEVANCE OF CONVICTIONS, CAUTIONS AND DRIVING LICENCE ENDORSEMENTS

1. Introduction

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

2. General policy

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

remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

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

3. Appeals

- 3.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied they are a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [LGMPA 1976, part II, section 77 (1)].

4. Powers

- 4.1 Section 61 and Section 62 of the LGMPA 1976 part II allow the licensing authority to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the LGMPA 1976 part II; or any other reasonable cause.

- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.

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

5. Consideration of disclosed criminal history

- 5.1 As an organisation using the DBS to assess applicants' suitability for positions of trust, RBC's Environmental Services Department complies fully with the DBS Code of Practice and undertakes to treat all applicants for licences fairly.

- 5.2 We ensure that all those in the Environmental Services Department who are involved in the licensing decision making process have been suitably trained to identify and assess the relevance and circumstances of offences. We also ensure that they have received appropriate guidance and training in the relevant legislation relating to the licensing of ex-offenders.

- 5.3 At interview, or in a separate discussion, we ensure that an open and measured discussion takes place on the subject of any offences or other matter that might be relevant to the grant of a licence. Failure to reveal information that is directly relevant to the application could lead to refusal of the application.

- 5.4 Under the provisions of Sections 51, 55, and 59, LGMPA 1976 part II, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney

carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

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

- 5.5 Existing holders of a drivers licence are required to notify the licensing authority in writing within 7 days of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).
- 5.6 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer in confidence for advice.
- 5.7 The licensing authority conducts enhanced disclosures from the DBS of any applicant for a driver licence. The licensing authority follows the DBS Code of Practice on the fair use of disclosure information. A copy is available on request or on the DBS website
- 5.8 Applicants applying for the grant or a renewal of a drivers' licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the DBS Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.9 More information about the DBS can be found on their website at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>
- 5.10 The licensing authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the licensing authority or other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations or any other scheme which supersedes it.
- 5.11 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence of similar offence(s) which replace the offences below and the conviction is less than 10 years prior to the date of application:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm which is racially aggravated
 - Grievous bodily harm with intent
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Common assault which is racially aggravated
 - Violent disorder
 - Resisting arrest
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage
 - Racially-aggravated offence
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.6 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence(s) which replace the offences below and the conviction is less than 3 years prior to the date of application:
- Common assault
 - Assault occasioning actual bodily harm
 - Affray
 - S5 Public Order Act 1986 offence (harassment, alarm or distress)

- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Obstruction
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

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

7. Possession of a weapon

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

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

8. Sex and indecency offences

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences will normally have their application refused (unless there are exceptional circumstances) where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- Possession of indecent photographs, child pornography etc.
- Exploitation of prostitution
- Trafficking for sexual exploitation
- Sexual assault
- Indecent assault
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.3 Before an application is allowed, an applicant should be free of conviction for at least 7 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling)
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

8.5 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence

9. Dishonesty

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 48 hours.. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

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

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

10. Drugs

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

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

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

10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.

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

11 Driving offences involving the loss of life

- 11.1 A very serious view is taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if they have a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he has a conviction for:

- Causing death by careless driving
- Causing death by driving: unlicensed, disqualified or uninsured drivers

12 Drink driving/driving under the influence of drugs

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. At least 3 years, after the restoration of the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13 Other driving offences

- 13.1 Private hire and hackney carriage drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences could show a lack of responsibility whilst driving either due to the maintenance and safety of their vehicles or in the manner of their driving.

13.2 New applicants

13.3 Endorsable traffic offences

We will normally refuse your application if you have a conviction for a major traffic offence (more than six penalty points) in the last 2 years.

If you have 6 or fewer penalty points, we will not normally refuse your application for this reason alone.

13.4 Disqualification

Where an applicant has been disqualified from driving because of a major traffic offence the application will generally be refused unless a period of 2 years free from conviction has elapsed from the restoration of the DVLA licence.

13.5 Where several minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 2 years free from conviction must have elapsed from the restoration of the DVLA licence.

13.6 In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

13.7 Existing Licence Holders

13.8 Convictions for traffic offences may not automatically prevent a person from proceeding with a renewal of their licence, or from keeping their licence. An existing licence holder who has more than 6 penalty points or more on their driving licence due to multiple offences, or where a Court has considered disqualification due to 'totting up' (as per paragraph 13.6 of this Appendix) or for one isolated offence, will be required to appear before the Regulatory Committee to explain their convictions. The Committee then has the option to:

- a. Take no further action
- b. Give a written warning
- c. Suspend the Licence upon conditions or for a period of time
- e. Revoke the licence.
- f. Refuse to renew the licence (if such an application is being considered)

13.10 Where an existing licence holder is convicted of an offence under, or has failed to comply with, the provisions of the Town Police Clauses Act 1847 or Part II of the LGMPA 1976 part II, an application for review of their licence will normally be referred to a Regulatory Committee who will consider whether to take any steps in relation to the licence.

The Committee will then have regard to all the circumstances including:-

- a. The seriousness of the offence (including the sentence imposed)
- b. Whether the offence was committed whilst acting as a hackney carriage or private hire driver
- c. Any previous convictions, cautions or fixed penalties received
- d. The licence holder's previous compliance record
- e. Evidence of previous good character
- f. Any mitigating factors involved in the commission of the offence

- 13.11 The Committee will then take such of the following steps as they feel are necessary, reasonable and proportionate, having regard to the need to protect the public and ensure that licences are only held by fit and proper persons:-
- a. Take no further action
 - b. Issue a written warning
 - c. Suspend the Licence
 - d. Revoke the licence
 - e. Refuse to renew the licence (if such an application is being considered)

13.12 Endorsement codes and penalty points

Each endorsement has a special code and is given 'penalty points' on a scale from 1 to 11. There are more points for more serious offences.

The table on the link below shows the offence codes that can be put on your driving record. It also shows how many penalty points you can get for them. Some offences may also involve a disqualification.

<https://www.gov.uk/penalty-points-endorsements/endorsement-codes-and-penalty-points>

Offence codes and penalty points must stay on your driving record for 4 or 11 years depending on the offence.

14. Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976

- 14.1 One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the LGMPA 1976 part II ("the Acts") is to ensure the protection of the public. For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire) when deciding whether an applicant for a new licence or an existing driver is to be treated as a fit and proper person to hold a licence.
- 14.2 In particular, an applicant will normally be refused a licence where they have been convicted of an offence under the Acts at any time during the 6 months preceding the application or have more than one conviction within the last 2 years preceding the date of the application.
- 14.3 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme (or any scheme which replaces this) on existing licence holders, consideration will be made at committee.
- 14.4 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety any new application may be refused until proceedings are concluded.
- 14.5 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the

licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

15 Non-conviction information

- 15.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for an offence which suggests they could be a danger to the public, consideration should be given to refusing any application or seeking revocation or suspension of an existing licence. Such offences would include serious violent offences and serious sex offences.
- 15.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

16 Cautions

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

17 Licensing offences

- 17.1 Certain offences under taxi legislation such as illegally plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since .

18 Insurance offences

- 18.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years; however strict warning should be given as to future behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.
- 18.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty of aiding and abetting the driving passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for 3 years.

19 Licences issued by other licensing authorities

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

20 Summary

- 20.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years,

according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.

- 20.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 20.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Hackney Carriage & Private Hire Licensing

Policy regarding the relevance of convictions and other related information

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1. Introduction

- 1.1 This policy sets out the criteria to be taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to be granted, have renewed or continue to hold a Hackney Carriage and/or Private Hire Driver Licence. In addition to criminal convictions the Council will also take into account other factors such as demeanour, attitude, general character, non-criminal behaviour and other police information etc.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, however, where a conviction (as defined below) is considered relevant to the fitness and propriety/suitability of an individual to hold or be granted a Private Hire Operator Licence or vehicle licence, then this policy must be referred to in the determination of that licence/application.
- 1.3 The Council is mindful that each case must be considered on its merits and where the circumstances demand, the Council may depart from this policy.
- 1.4 This policy provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
 - Applicants for a driver's, vehicle or private hire operator licence
 - Existing licensees whose licences are being reviewed or renewed
 - Licensing officers
 - Members of the licensing committee/sub-committee
 - Magistrates and Judges hearing appeals against local authority decisions
- 1.5 For renewal applications and current licence holders the guidance will not be applied retrospectively. However the policy will be applied if any additional convictions are incurred or brought to the attention of the Council that would call into question a person's suitability to hold a licence.
- 1.6 It is the responsibility of Runnymede Council (referred to as the Council) to issue Hackney Carriage and Private Hire licences under the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Act 1847 and the Hackney Carriage Byelaws. In exercising this duty the Council must consider the need to ensure the safety of the public its' primary consideration. Licences cannot be issued unless the person is considered to be 'fit and proper'.
- 1.7 In seeking to safeguard the safety of the public. The council will be concerned to ensure:
 - That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II)
 - That the person does not pose a threat to the public
 - That the public are safeguarded from dishonest persons
 - The safety of children, young persons and vulnerable adults

1.8 There is no judicially approved test of fitness and propriety and, accordingly, a number of local tests have developed. These tend to be based on a test similar to the following:

'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 in to a vehicle with this person alone?'

If the answer to this question (or a similar test) is an unqualified 'Yes' then the test is probably satisfied. If there are any doubts in the minds of those who make the decision, then further consideration should be given as to whether this person is a fit and proper person to hold a hackney carriage driver's licence.

1.9 The Council will undertake whatever checks it considers necessary to ensure that licences are not issued to unsuitable people. In assessing the suitability of an applicant or licence holder, the council will take into consideration the following factors:

- Criminality
- Number of endorsed DVSA driving licence penalty points
- The conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process).
- The previous licensing history of existing / former licence holders.

In addition, the Council will also consider further information from sources such as, but not limited to, the Police (including abduction notices), Children and Adult Safeguarding Boards, Multi Agency Safeguarding Hub, Social Services other licensing authorities, other departments within the Council, and statutory agencies.

1.10 In this policy, the word "applicant" refers to either new applicants, existing licence holders who are seeking renewal and existing licence holders that are the subject of periodic auditing or having their licence reviewed by the council as part of the policy implementation process. It also includes existing licence holders who are being considered by the Council by virtue of offending activity having recently come to light.

1.11 In this policy, the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.

1.12 The Council reserves the right to overturn or annul a decision that has previously been made, or refuse a renewal of a licence, where clear errors are discovered.

1.13 As licensed drivers often carry unaccompanied and vulnerable passengers, the council will take a strong line in relation to applicants or existing licence holders with convictions for sexual offences. A licensed PHV or taxi driver is expected to be trustworthy. In the course of their working duties drivers will deal with cash transactions and valuable property may be left in their vehicles. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. Taking drugs and driving poses an

obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should also be treated with considerable concern, The nature and quantity of the drugs, whether for personal use or supply are issues which will be considered carefully. As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public.

2 General Policy

- 2.1 Whilst the Council may consider that a person with a conviction for a serious offence may not need to be automatically barred from obtaining a licence, it is however to be normally expected that the applicant would be required to:
- a. Remain free of conviction for an appropriate period as detailed below; and
 - b. Show adequate evidence that they are a fit and proper person to hold a licence (the onus will be on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.2 The standards and criteria set out in paragraphs 4 to 18 below are those that would normally be applied to applications and licences. The Council may depart from these criteria, however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not ordinarily be considered as exceptional circumstances.

3 Powers

- 3.1 Section 61 of the Local Government Miscellaneous Provisions Act 1976 allow the council to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence, of failure to comply with the provisions of the Town Police Clauses Act 1847 or of failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976, or if he/she has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty, or for any other reasonable cause.
- 3.2 The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, allows the council to take into account all convictions recorded against an applicant or the holder of a Private Hire or Hackney Carriage driver's licence, whether spent or not. Therefore the council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. Applicants need to be aware that, in accordance with this Act, all convictions, cautions, warnings and reprimands must be declared.

4 Consideration of disclosed criminal history

- 4.1 Under the provisions of Sections 51, 55 and 59, Local Government (Miscellaneous Provisions) Act 1976, the council is required to ensure that an applicant for the grant or renewal of a Hackney Carriage and/or a Private Hire Vehicle driver's licence is a "fit and proper" person to hold such a licence. However, if an applicant has any convictions, warnings, cautions or charges awaiting trial, the council will look at:
- How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were
 - When the offence(s) were committed
 - The date of the conviction, warning, caution etc.
 - Circumstances of the individual concerned
 - Any sentence imposed by the court
 - The applicant's age at the time of offence / incident leading to the conviction, warning, caution etc.
 - Whether they form part of a pattern of offending
 - The applicant's attitude
 - Any other character check considered reasonable (e.g. personal references if requested by the Council)
 - Any other factors that might be relevant, for example:
 - The previous conduct of an existing or former licence holder,
 - Whether the applicant has intentionally misled the council or lied as part of the application process,
 - Information provided by other agencies/council departments.
- 4.2 In this policy 'from date sentence has ended' is taken to be the date which is reached once the whole of the period as sentenced by the court has elapsed and not necessarily the length of time served by the applicant. For example, if a sentence is five years imprisonment then the date that the sentence ends will be five years from the date of sentencing – regardless of the amount of time actually served by the applicant. If the sentence is amended by a court at a later date then this new sentence becomes relevant for the purposes of this policy. The term 'since completion of sentence' is to be construed in a similar way.
- 4.3 Existing holders of driver's licences are required to notify the council in writing within five working days of receiving a driving licence endorsement, fixed penalty notice, warning, reprimand, police caution, criminal conviction or other criminal proceedings (including their acquittal as part of a criminal case). In addition, licence holders must inform the council within 3 working days of their arrest for any matter (whether subsequently charged or not). To fail to do so, will raise serious questions for the Council as to the honesty of the licence holder and will be taken into account as part of any subsequent renewal applications.
- 4.4 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (s57 Local Government (Miscellaneous Provisions) Act 1976). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

4.5 Any offences or behaviour not expressly covered by this Policy may still be taken into account.

5 Options when determining an application/licence

5.1 When determining an application or reviewing an existing licence in relation to convictions or other relevant information the Council have the following options:

- grant the licence or take no further action
- grant the licence with additional conditions
- refuse, revoke, or suspend the licence
- issue a warning

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

6. Offences involving violence

6.1 Licensed drivers have close regular contact with the public. A licence will not normally be granted if the applicant has a conviction for an offence that involved the loss of life such as:

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.2 A licence will not normally be granted until at least 10 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm
- Assault occasioning actual bodily harm
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Violent disorder
- Resisting arrest

- Any racially-aggravated offence against a person or property
- Common assault
- Affray
- Any offence that may be categorised as domestic violence
- Harassment, alarm or distress, intentional harassment or fear of provocation of violence
- Any offence (including attempted or conspiracy to commit offences) similar to those above.

6.3 A licence will not normally be granted until at least 5 years have passed since the completion of any sentence and / or licence period following conviction for an offence shown below:

- Obstruction
- Criminal damage
- Any offences (including attempted or conspiracy to commit offences) that are similar to those above.

6.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature.

7. Offences involving a weapon

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

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

7.3 2 or more convictions for a violent offence will normally result in an application being refused.

8. Sexual and indecency offences

8.1 All sexual and indecency offences will be considered as serious. Applicants with convictions for sexual or indecency offences that involve a third party will normally be refused. Such offences include:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Trafficking, sexual abuse against children and / or vulnerable adults and preparatory offences (as defined within the Sexual Offences Act 2003).

- Making or distributing obscene material
- Possession of indecent photographs depicting child pornography.
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Soliciting (kerb crawling)
- Any sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Making obscene / indecent telephone calls
- Indecent exposure
- Any similar offences (including attempted or conspiracy to commit) which replace the above

8.2 In addition to the above the council will not normally grant a licence to any applicant who is or has ever been on the Sex Offenders Register or similar register.

9. Dishonesty

9.1 A serious view is taken of any conviction involving dishonesty.

9.2 A minimum period of 5 years free of conviction or at least 5 years since the completion of sentence (whichever is longer) is required to have passed before a licence is granted. Offences involving dishonesty include:

- theft
- burglary
- fraud
- benefit fraud
- handling or receiving stolen goods
- forgery
- conspiracy to defraud
- false representation
- obtaining money or property by deception
- other deception
- taking a vehicle without consent
- fare overcharging
- or any similar offences (including attempted or conspiracy to commit) offences which replace the above

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

9.4 Applicants or existing licence holders that are found to have intentionally misled the

council, or lied as part of the application process, will not be issued with a licence.

10. Alcohol and Drugs

- 10.1 A serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs or where the driver has been found to be under the influence of psychoactive substances.
- 10.2 At least 5 years, after the restoration of the DVLA driving licence following a drink drive or driving when under the influence of drugs conviction should elapse before an application will be granted.
- 10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 10 years or at least 10 years have passed since the completion of any sentence and/or licence period, whichever is the greater. There will then be full consideration of the nature of the offence and the quantity /type of drugs involved.
- 10.4 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs.
- 10.5 If there is evidence of persistent drugs or alcohol use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) and a satisfactory medical report may be required before the licence is granted. If the applicant was an addict then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

11. Driving offences involving the loss of life

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.
- 11.2 A licence will not normally be granted if an applicant has a conviction for:
- Causing death by dangerous driving
 - Causing death by careless driving whilst under the influence of drink or drugs
 - Causing death by careless driving
 - Causing death by driving: unlicensed, disqualified or uninsured drivers
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

12 Other traffic offences

- 12.1 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would be granted for a Hackney Carriage or Private Hire drivers licence.

- 12.2 Traffic offences such as obstruction, some speeding offences (usually dealt with by means of a fixed penalty), pedestrian crossing offences, traffic light offences waiting in a restricted area, or offences of a similar nature may not ordinarily merit refusal.
- 12.2 Traffic offences such as driving without due care and attention, reckless driving, more serious speeding offences (usually dealt with by a court), or offences of a similar nature will give rise to serious doubts about the applicant's suitability to be a driving professional. An applicant with any such convictions will be required to show a period of at least 1 year free of such convictions. For applicants with more than one offence this should normally be increased to 2 years.
- 12.3 In cases where the courts have imposed a disqualification in respect of the DVLA driving licence, the periods stated above should normally commence from the date of the restoration of the licence.
- 12.4 In this policy, the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 12.5 In "totting up" cases where disqualification is considered by the Court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the licensing authority is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply. An applicant will normally be expected to show a period of 12 months free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification.

13 Outstanding Charges or Summonses

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

14 People banned from working with children and vulnerable adults

- 14.1 A serious view is to be taken of any applicant or licence holder who has been banned from working with children or vulnerable adults. A licence will not be normally be granted if an applicant has been found unfit to work with children or vulnerable adults.

15 Non-conviction information

- 15.1 The Council will take into account intelligence which has not led to a conviction. This may include but not be limited to information regarding acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged, and complaints from the public. In considering the most appropriate action to take following the receipt of information), the credibility of both the witness / complainant and the licence holder will be taken into account.
- 15.2 If an applicant has been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration may be given to refusing the application or revoking an existing licence.
- 15.3 In assessing the action to take, public safety will be the paramount concern. Decisions will be taken on balance of probability.

16 Licensing Offences

- 16.1 Offences under taxi and private hire legislation such as plying for hire without a licence, overcharging and refusing to carry disabled persons will prevent a licence being granted or renewed until a period of 3 years has passed since conviction.

17 Insurance Offences

- 17.1 A serious view will be taken of convictions for driving or being in charge of a vehicle without insurance. A previous isolated incident will not necessarily stop a licence being granted provided an individual has been free of conviction for 3 years. However strict warning should be given as to future behaviour. More than one conviction for these offences will prevent a licence being granted or renewed.
- 17.2 An operator found guilty of aiding and abetting the driving of passengers for hire and reward without insurance will have his Operator's Licence reviewed with a view to immediate revocation and will not be permitted to hold a licence for a period of at least three years from the date of any revocation.
- 17.3 Where a specific offence is not mentioned, a suitable period will be determined by reference to offences described. The Council reserves the right to refuse a licence where there are aggravating circumstances, even where these guidelines would otherwise indicate that a licence might be granted.

18 Applicants with periods of residency outside the UK

- 18.1 If an applicant has spent six continuous months or more overseas (since the age of 16) the council will expect to see evidence of a criminal record check from the country / countries visited covering the period.

18.2 Because of the potential lifetime relevance for some of the most serious offences mentioned in this policy, the Council will need to ensure that sufficient background checks are conducted for those applicants who have lived overseas. For EU nationals a disclosure that is similar to the UK DBS will be required, for those countries for which checks are not available, the council will require a certificate of good conduct authenticated by the relevant embassy.

19 **Summary**

19.1 Whilst a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed, in most cases, an applicant would be expected to have remained free from conviction for 3 to 10 years (detailed above), before an application is likely to be successful. If there is any doubt about the suitability of an individual to be licensed, the Council will be mindful of the need to protect the public and caution will be exercised.

19.2 While it is possible that an applicant may have a number of convictions that, individually, do not prevent a licence from being granted, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

PRIVATE HIRE VEHICLE PLATE EXEMPTIONS

All exempt vehicles and operators must comply with the following policy requirements in addition to those for plated private hire vehicles.

1. Exemptions from displaying external identification plates (vehicle licence plates) may be in respect of individual vehicles only. Applications for exemptions relating to a fleet of vehicles will not be allowed.
2. Each application will be assessed on its own merit and each vehicle will be inspected by an authorised Council officer to ensure that it is fit for purpose.
3. Applications for exemption from the requirement to display an external identification plate will only be considered where the work undertaken is exclusively where the driver and vehicle are specifically hired to provide transport to a company or person by corporate or account holders only and where the safety of the public is not compromised. The operator will be required to satisfy the licensing officer prior to licensing that the use of the vehicle is by corporate and account holders and must be able to provide evidence to enable the licensing officer to determine the genuine requirement for plate exemption. This will typically be by reference to the operator's records showing the account and corporate work carried out.
4. Vehicles must be in pristine condition with no visible defects, dents or blemishes to the external bodywork, wheels or internal trim and seating. They must comply with the current Runnymede conditions relating to private hire vehicles. Additional requirements for plate exemption will centre on the luxury aspect of the vehicle; this will be expected to have increased legroom over a standard vehicle coupled with increased seat support and seat width from the current standard of 41 cm, a lower level of noise when travelling and superior internal accessories for the passenger and driver. It is not intended that we have a definitive prescriptive list of what is and what is not luxury. The aforementioned items are examples but other equipment or designs can exist which also fit the luxury tag. It is for the licensing officer to make the decision as to whether a vehicle meets the exempt plate requirements in each case.
5. Age limits - These will be in line with our current licensing requirements for private hire vehicle in that no age limit is in place and the condition of the vehicle is considered the prime factor.
6. An application for a vehicle to be exempted from displaying an external identification plate must be made by the vehicle proprietor using the appropriate application form.
7. Additional documentation may be requested as reasonably necessary to allow the Council to make an informed decision. Where such documentation is not provided to the satisfaction of the Council the application will be refused. The Council will maintain commercial confidentiality.
8. Where an application is granted and a vehicle is exempted from displaying its external identification plate an exemption notice will be issued as soon as practical after the decision is made.

9. Where a vehicle is exempted from the requirement to display an external identification plate the vehicle will be required to display a window disc identifying the vehicle as a licensed vehicle, positioned on the top nearside of the front windscreen and facing outwards.
10. Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicle's current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for a period of time that is coterminous with that vehicles private hire licence unless either the licence or notice is otherwise surrendered or revoked.
11. Exemption notices may be renewed annually subject to the vehicle undergoing a re-inspection by a licensing officer to ensure that it continues to be fit for purpose.
12. The exemption notice issued by the Council must be carried in the vehicle at all times and will be produced upon request to an authorised officer of the Council or any Police Officer.
13. During the period of the exemption notice, the driver shall not be required to wear the private hire driver's identification badge. However this must be in the possession of the driver at all times and produced upon request to an authorised officer of the Council or any Police Officer.
14. The proprietor shall not use the vehicle for private hire purposes other than for contract use (i.e. not for routine airport journeys or daily private hire use).
15. The driver and passenger front side window glass and the front windscreen must be clear. However, tinted windows can be fitted to the side and rear window glass of the vehicle provided that they comply with current legislation.
16. In the event of an applicant being dissatisfied with the decision of the officer, the applicant may make a written application for a review of the decision by the Regulatory Committee.
17. The Regulatory Committee, when considering a review of the Officer's decision, will hear oral or written representation made by the proprietor of the vehicle.
18. If the Regulatory Committee is satisfied a genuine operational business need exists and the vehicle is suitable for its purported purpose a plate exemption notice may be issued for the specified vehicle. The Regulatory Committee can specify the dates and times the exemption will apply or exempt the vehicle for the whole period the vehicle licence is in force and attach any conditions to the exemption.
19. If the Regulatory Committee considers no genuine operational business need exists for a plate exemption the vehicle proprietor will be notified of the refusal and advised there is no statutory right of appeal against the decision.
20. The exemption will cease to have effect on selling or transferring the vehicle to another party. The person to whom the exemption is granted must inform the Council of the sale/transfer of ownership immediately and in writing and provide details of the new owner. The exemption notice must be returned to the Council along with the window disc within 48 hours of sale or transfer.