

Regulatory Committee

Wednesday 21 March 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 S M Mackay.

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.
- 5) **Filming, Audio-Recording, Photography, Tweeting and Blogging of Meetings**

Members of the public are permitted to film, audio record, take photographs or make use of social media (tweet/blog) at Council and Committee meetings provided that this does not disturb the business of the meeting. If you wish to film a particular meeting, please liaise with

the Council Officer listed on the front of the Agenda prior to the start of the meeting so that the Chairman is aware and those attending the meeting can be made aware of any filming taking place.

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

Matters in respect of which reports have been made available for public inspection

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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 meetings held on 2 and 14 November 2017, which were circulated to all Members by email in December 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 THE CONVICTIONS POLICY AND THE INTRODUCTION OF SAFEGUARDING TRAINING FOR DRIVERS AND OPERATORS (ENVIRONMENTAL SERVICES)

Synopsis of report:

This report details the results of a consultation on proposed amendments to the Hackney Carriage and Private Hire Licensing Policy in relation to convictions and Child Sexual Exploitation (CSE) / safeguarding training to help prevent the sexual exploitation of children by introducing consistent standards across Surrey.

Recommendation that-

- i) the amended version of the Hackney Carriage and Private Hire Licensing Convictions Policy be approved;**
- ii) the requirement for all existing taxi drivers, private hire drivers and operators undertake mandatory CSE training by 1 May 2019, be approved; and**

- iii) the requirement for all new taxi drivers, private hire drivers and private hire operators undertake mandatory CSE training from 1 April 2018 be approved**

1. Context of report

- 1.1 This report provides the Committee with 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.
- 1.3 Achieving the aforementioned 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 promote welfare effectively. Delivery of the strategy supports the SCCB's statutory duties to co-ordinate activities to safeguard and promote the welfare of children in Surrey, as well as ensure 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 changes 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. It introduced positive changes to protect public safety by introducing a comprehensive convictions policy and mandatory CSE training (when it became available) for all hackney carriage and private hire drivers and operators.
- 2.2 Local Authorities across Surrey are now seeking to introduce a common Surrey-wide convictions policy and CSE training package for all drivers and operators.
- 2.3 Details of the changes to Runnymede's convictions policy along with proposals for CSE training were approved for public consultation by this Committee in September 2017.

Consultation

- 2.4 Reigate and Banstead Borough Council hosted a six week consultation on behalf of all 11 Surrey Local Authorities, from 23 October to 4 December 2017. Each Local Authority publicised the consultation. Runnymede:
- Advertised the consultation on the Council's website
 - Promoted it through social media
 - Sent a newsletter to all private hire and taxi drivers inviting them to participate in the consultation

2.5 The following organisations were also invited to respond to the consultation:

- Institute of Licensing
- Transport for London
- Local Government Association
- National Association of Licensing and Enforcement Officers
- All District and Borough Councils in the South East of England
- Surrey Police

2.6 The consultation asked for views on six specific points around the convictions policy and CSE/Safeguarding training.

2.7 A total of 393 consultation responses were received. These have been analysed collectively and are summarised in the following sections.

2.8 There were 17 responses in total from Runnymede. Of these, 17 responses, 11 (65%) were from the trade. The remaining mainly came from people who live or work in the borough.

2.9 All consultation comments can be found at:

http://www.reigate-banstead.gov.uk/info/20119/taxi_and_private_hire_licensing/902/taxi_and_private_hire_policy_consultation_2017_results

and a copy is also available to view in the Members' Room.

Convictions Policy - Consultation results

2.10 Local Authorities across Surrey are seeking to standardise the information they take into account when determining if someone is 'fit and proper' by adopting the same convictions policy.

2.11 The consultation results showed strong support across Surrey for introducing a policy where relevant convictions and conviction timescales are included and used when determining if a person is 'fit and proper'. Of the 374 responses to this proposal, 273 (73%) were in agreement (97 were from the trade and 176 were those who work or live in Surrey). Within the 17 responses from Runnymede, 13 (76%) agreed (8 trade and 5 work and live).

2.12 There was also strong support for not normally granting a licence to those banned from working with children and vulnerable adults. Of the 269 responses to this proposal, 219 (81%) were in agreement (65 were from the trade and 144 were those who work or live in Surrey). Within the 17 responses from Runnymede, 13 (76%) agreed, (8 trade and 5 work and live).

2.13 Several respondents wished to see a blanket ban for applicants with certain convictions. When applying the convictions policy, all Licensing Authorities must judge each case on its merits and an absolute prohibition cannot be imposed. Therefore, a mandatory ban is not appropriate. Instead, the phrase 'normally would be refused' is used within the policy.

2.14 A number of respondents felt that common assault is different from other offences in the 10 year category and a lower number of years would be more appropriate. However, it is not proposed to lower the period for common assault as Officers consider this to be a relevant serious offence and Local Authorities have discretion, as they must judge each case on its merits.

Mandatory CSE and Safeguarding Training – consultation results

- 2.15 Surrey Local Authorities want to take appropriate steps to protect the most vulnerable in our society by introducing mandatory training for taxi drivers, private hire drivers and private hire operators. Runnymede had already introduced this requirement but implementation was delayed pending the availability of a suitable course.
- 2.16 Results of the consultation showed support for the proposal that all new drivers must complete this mandatory CSE and safeguarding training prior to becoming a driver. Of the 345 responses to this proposal, 239 (69%) were in agreement (79 were from the trade and 172 were those who work or live in Surrey). Within the 17 responses from Runnymede, 10 (59%) agreed (6 trade and 4 work and live).
- 2.17 In total 239 (64%) of the 341 of all respondents supported the proposal for mandatory CSE and safeguarding training for all existing drivers but there was a difference between responding groups, 72% of respondents who live and work in Surrey supported the proposal. There was less support, 41%, from trade respondents. A lower percentage of all Runnymede respondents supported this proposal (47%, made up of 6 members of the public and 2 existing drivers).
- 2.18 Whilst it is acknowledged there is not widespread support amongst trade respondents, the public were in strong support of the proposal and Local Authorities have a social responsibility to take steps to prevent CSE. Due to the nature of their work, the taxi trade are in a unique position to be able to identify CSE. Therefore, it is recommended that the proposal requiring existing drivers to complete the training be retained.

Post consultation

- 2.19 Following consultation, the key proposed changes to the policy are:
- a) (sections 1.1 and 1.9)
including the ability to consider relevant records or information from a reliable source other than the police when determining if an applicant is fit and proper
 - b) (section 1.7)
clarifying that the policy applies to applicants which includes operators
 - c) (section 2.2)
confirming Councils will only depart from the policy in exceptional circumstances
 - d) (section 7)
clarifying that the 'Offences involving a weapon' heading does not include firearms offences which are in a separate section
 - e) (section 7)
increase relevant years for offences involving weapons to 5 years, as consultation feedback highlighted the current standard is too low particularly compared with 5 years for obstruction offences
 - f) (section 10.6)
in the alcohol and drug offences section, drunkenness offences not involving a motor vehicle are an addition as they are already in one Local Authority's policy and excluding them would result in lowering the existing standard
 - g) minor grammatical changes
- 2.20 Following analysis of all the consultation responses amendments have been made to the draft convictions policy.

- 2.21 The revised version of the convictions policy, taking into account the consultation responses and proposed by all Surrey authorities is at Appendix 'A'.
- 2.22 The Committee's attention is drawn to sections 5.1 and 12.3 of the convictions policy which refer to a penalty points system. Runnymede does not currently have a penalty points system in place but this element is retained in the policy as it is relevant to other authorities and in the event that Runnymede decides to adopt a penalty points system in the future.
- 2.23 All existing and new drivers will be reminded via our regular news updates that until further notice this Council will not be adopting such a system.
- 2.24 Surrey Safeguarding Children Board have been involved throughout and endorse these proposals.
- 2.25 Having reviewed the consultation results, the Surrey Licensing Officers Group and Surrey Solicitors Group continue to support the introduction of a common convictions policy and mandatory CSE training across Surrey.
- 2.26 The Surrey Chief Executives Group supports the introduction of these proposals with one Chief Executive monitoring implementation of these proposals.

Implementation

- 2.27 The implementation date for new drivers is 1 April 2018.
- 2.28 If approved, Surrey Local Authorities are ready to implement an online training programme, which would be free for one year from 1 April 2018 to all existing drivers and operators only. The training includes guidance on how to spot signs of child sexual exploitation and how to report concerns of children or vulnerable persons at risk using agreed Surrey processes. There will be a multiple-choice assessment to ensure understanding of the subject matter and each Local Authority will make arrangements for completion of the course.
- 2.29 The training consists of an e learning course which would take approximately one hour to complete. This goes through different safeguarding scenarios and explains:
- What safeguarding is
 - How to identify vulnerable passengers
 - How to protect themselves when dealing with vulnerable passengers
 - What child sexual exploitation is
 - How to spot the signs of child exploitation
 - Where to report any concerns regarding vulnerable passengers and child sexual exploitation
- 2.30 The training has been developed in a way which explains the answers. This acts as a learning tool rather than being a straightforward test.
- 2.31 The benefits of this process are:
- Sustainable resource
 - Custom made for the taxi trade
 - Updated by experts

- e-learning
- Production of a pass certificate on successful completion

- 2.32 Implementation is to be arranged locally by individual authorities. Officers consider that it should be entrusted to and the responsibility of the individual driver or operator to take the training and produce the certificate to the licensing authority on successful completion. One of the areas discussed by the Surrey Licensing Officers group was that of implementation and the practicalities of putting so many drivers and operators through the training (approximately 7,500 in Surrey). One to one supervision and group supervision of those taking the training was considered but these would introduce additional costs for staff and IT resources which many authorities would simply not be able to manage. These would have added a considerable cost to the licensing process which would have to be recovered from drivers.
- 2.33 There is a certain degree of trust placed on those taking the training but in common with other requirements for driver and operator licences should any evidence of foul play come to light the licence may be considered for suspension or revocation. This will be emphasised during the implementation period and thereafter in licensing guidance notes.
- 2.34 Prior to the policy being implemented, Licensing Officers and legal advisors to the Licensing and Regulatory Committees will have undertaken training to help ensure consistency of application.
- 2.35 Further changes to the convictions policy may be required in the future to comply with guidance issued by organisations such as the Department for Transport or the Institute of Licensing to standardise the convictions policies across the Country.
- 2.36 In the future all 11 Local Authorities will aim to keep the convictions policy consistent across Surrey as guidance and best practice changes.

3. Resource Implications

- 3.1 There are minimal resource implications arising from these proposals. These involve amending guidance notes and forms to include mention of this training.

4. Legal implications

- 4.1 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.
- 4.2 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.
- 4.3 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).

5. Equality implications

- 5.1 An Equalities Impact Assessment was undertaken when the main policy was introduced last year and the amendments proposed are not so significant as to require a fresh EIA to be conducted at this time.
- 5.2 The proposed changes to the policy have a positive impact on the protected characteristic of age and disability as the reason for the policy is to provide greater protection to children and young people from potential CSE and safeguarding issues that might arise for vulnerable adults and/or people with a disability.

6. Conclusion

- 6.1 Adopting these two changes to the Taxi and Private Hire Licensing Policy will help ensure a co-ordinated and consistent response across Surrey to safeguarding vulnerable people and help prevent the sexual exploitation of children in Surrey.

(To resolve)

Background Papers

Minutes of Council meeting 26 September 2017 –
https://www.runnymede.gov.uk/media/17245/Regulatory-260917-Minutes/pdf/Regulatory_26.09.17_Minutes.pdf

Taxi and Private Hire Licensing Policy 2017-2020
https://www.runnymede.gov.uk/media/15247/Hackney-Carriage-and-Private-Hire-Licensing-Policy/pdf/Hackney_Carriage_and_Private_Hire_Policy_2017_to_2020.pdf

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>

7. 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)

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 police or other relevant records or information from a reliable source.
- 1.2 Whilst this policy primarily applies to the determination of driver licences, 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 exceptional 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 policy 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 Borough 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/applicant is fit and proper in accordance with Sections 51, 55 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 DVLA 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 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 an applicant 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 an applicant 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 will 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 Operator or 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.

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)].

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 which may include the use of enforcement penalty points
- 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
- Common assault
- Resisting arrest
- Any racially-aggravated offence against a person or property
- 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 (not a firearm)

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. For firearms offences see 6.2.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 5 years (or at least 5 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) or offences 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) or 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 normally be rejected or refused.

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 (drug or alcohol) then they would be required to show evidence of 8 years free from drug taking after detoxification treatment.

10.6 A licence will not normally be granted for drunkenness offences not involving a motor vehicle for a period of one year after a single conviction and 2 years after 2 or more convictions within 2 years of each other.

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 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.
- 12.2 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.
- 12.3 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. **However, with existing licensees they may be subject to separate consideration as part of the Penalty Points Enforcement Policy.**
- 12.4 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.
- 12.5 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.
- 12.6 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 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 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, civil penalties 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 should 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.
- 15.4 A licence will not normally be granted until at least 1 year has elapsed since a Criminal Behaviour Order.

16 Licensing Offences

- 16.1 Offences under taxi and private hire and associated 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, being in charge of a vehicle without insurance, or allowing person to drive whilst uninsured. 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 revocation and will not be permitted to hold a licence for a period of at least 3 years from the date of any revocation.
- 17.3 Where a specific offence is not mentioned, a suitable period of time 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 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.
- 18.2 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.

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.