

LICENSING COMMITTEE AGENDA



Wednesday, 13 April 2011

at 2.00 pm

in Committee Room B, Civic Centre, Hartlepool

MEMBERS: LICENSING COMMITTEE:

Councillors Aiken, Atkinson, Barclay, Brash, Fleet, Griffin, Hall, Jackson, Laffey, Lawton, G Lilley, London, Morris, Rogan and Sutheran

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 19 January 2011

4. ITEMS REQUIRING DECISION

4.1 Proposed amendment to Hackney Carriage tariffs – *Assistant Director (Regeneration and Planning)*

4.2 House to House Collections – *Assistant Director (Regeneration and Planning)*

4.3 Criminal Records Checks and the Relevance of Previous Criminal Convictions – *Assistant Director (Regeneration and Planning)*

5. ITEMS FOR INFORMATION

No items

6. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

19 January 2011

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

Present:

Councillor Pauline Laffey (Chair)

Councillors: Martyn Aiken, Reuben Atkinson, Mary Fleet, Sheila Griffin, Ged Hall, Trisha Lawton, Geoff Lilley, Trevor Rogan, Lil Sutheran

Officers: Ian Harrison, Principal Trading Standards and Licensing Officer
Tony Macnab, Solicitor
Sarah Bird, Democratic Services Officer

15. Apologies for Absence

Councillors Barclay, London and Morris

16. Declarations of interest by members

None

17. Confirmation of the minutes of the meeting held on 13 October 2011

Approved.

18. Licensing of Sex Entertainment Venues - Assistant Director (Community Safety and Protection)

Purpose of Report

To inform Members of the results of a consultation exercise relating to the licensing of sex entertainment venues and to seek Members' views on the future licensing of sex entertainment venues.

Issues for Consideration by the Committee

The Principal Trading Standards and Licensing Officer reminded Members that the provision of live adult entertainment from venues such as lap dancing and strip clubs was classified by the Licensing Act 2003 as a

'performance of dance' and as such, must be licensed via that Act and this was limited to the imposition of conditions requested by Responsible Authorities which must relate to one or more of the Act's licensing objectives. New powers had been introduced to allow local licensing authorities to control the provision of sexual entertainment by a Sexual Entertainment Venue (SEV) licence. However, premises would be exempt from the requirement to obtain such a licence if entertainment of a sexual nature was provided on no more than 11 occasions in any 12 month period if such occasions last less than 24 hours and were at least one month apart. Licences would need to be renewed every 12 months. A consultation exercise had been carried out and the responses received were summarised in the report. Members were asked to consider:-

- The appropriate number of SEVs to be permitted in the town
- The location of any SEVs
- Whether there should be a ban on certain activities
- What conditions should be applied
- What matters should be taken into account when considering the fitness of an applicant

Members views would be fed to Council who would make a decision based on their recommendations. There was however no statutory requirement for a policy and in either case, each application would be considered on its own merits.

A discussion ensued which covered the following issues:-

- i) If legislation was not adopted by this authority could it still consider the same sort of criteria in looking at each application? The Principal Trading Standards and Licensing Officer clarified that if there was no specific legislation within the Authority then licences could only be refused if they were in contravention of the four licensing objectives. Licensing of SEVs would give the Authority greater control over venues.
- ii) Workingmen's Clubs would be required to comply with any legislation if sexual entertainment was provided more than 11 occasions in one year. Any restriction on location may also affect Workingmen's Clubs which were not usually in a town centre location.
- iii) Would a licence be required for Life Classes at the College of Art? The Principal Trading Standards and Licensing Officer confirmed that as this was not for sexual entertainment and therefore would not need to be licensed.
- iv) How would any changes to the licensing policy be advertised? Any changes would be publicised by the Authority but it was the responsibility of licensees to ensure that premises complied with these.
- v) Would venues which allowed strippergrams on a regular basis require an SEV licence? The Principal Trading Standards and Licensing Officer advised that if this was happening on a weekly

- basis then an SEV licence could be applicable.
- vi) How much would a licence cost? The Principal Trading Standards and Licensing Officer advised that this would ultimately be determined by the Portfolio Holder.
 - vii) Who would guarantee the safety of performers? This would be the responsibility of the licence holder.
 - viii) Would the Authority need to inspect premises? If a license was issued then premises would have to pay an inspection fee.
 - ix) What would be an appropriate number of premises in the town? It was suggested that it was possible that the town could not sustain more than one venue, although workingmen's clubs may require a licence dependent on what entertainment was offered. However the Committee was also able to have a policy which said that no SEVs would be allowed although each application would be considered on its merits.
 - x) Whether it was preferable to limit the location of SEVs to the town centre area? Members were informed that the current club which was operating in the town had received no complaints from any residents.
 - xi) Should there be a banning of live sex shows or peep shows? Members discussed the issue and were reminded if there was no policy on this then an application would be considered on whether they were compliant with the four licensing objectives.
 - xii) Whether the setting of the fee for such a license be the responsibility of the Committee or the Portfolio Holder? Discussion ensued as to which was more apt.

Decision

Members agreed to recommend to full Council the adoption of legislation to control Sex Entertainment Venues and that responsibility for the administration of the new controls be delegated to the Licensing Committee.

Members agreed to recommend to full Council that:-

- There should be no specified number on the number of licenses to be issued by the Authority
- There should be no restriction on the location of any SEVs
- There should be a prohibition on live sex shows, peep shows and any live entertainment which depicted non simulated sexual acts between two or more people
- The General Conditions (Appendix II of the report) should be accepted
- The matters to be taken into account when considering the suitability of an applicant (Appendix III of the report) be accepted

Members agreed that the determination of licence fees be a matter for the Adult and Public Health Services Portfolio Holder.

19. Hackney Carriage and Private Hire Licensing Policy

– Assistant Director, Community Safety and Protection

Purpose of Report

To inform Members of the results of a consultation exercise carried out with the hackney carriage and private hire trade and to seek Members' approval for the amendment of the current hackney carriage and private hire licensing policy.

Issues for consideration by the Committee

The Committee had been asked to consider the merits of harmonising Hartlepool's hackney carriage and private hire licensing policy with other Tees Valley authorities. A framework document was attached to the report detailing how each Tees Valley licensing authority currently approached a range of licensing and procedural issues. 650 questionnaires had been circulated to all licensed hackney carriage and private hire drivers, vehicle owners and operators. 54 responses had been received. The report detailed the results of the consultation. The framework document categorised current policy requirements and service delivery standards into Levels 1,2 and 3 with Level 1 being a minimum standard and level 3 being the most comprehensive standard currently being delivered by one or more Tees Valley authorities. Level 2 represented what is considered to be a balance between achieving a high level of public protection without creating a disproportionate burden for the taxi trade. However in order to achieve a Level 2 standard, Hartlepool would require a significant change to some areas of its licensing policy. This included the introduction of the requirement to complete a Driving Standards Agency Taxi Test. Currently the Hartlepool test centre did not offer this test, but had indicated that they would be willing to do so if the Authority wished. Further issues which would bring Hartlepool in line with other Tees Valley Authorities would be the requirement to inform the Authority should a driver attain 9 points or more on their licence and be brought before a Licensing sub committee and that vehicle owners were allowed to advertise anywhere on a vehicle other than those locations where official Council branding was required.

Members queried whether the Agency Taxi test would only apply to new applicants. The Principal Trading Standards and Licensing Officer confirmed that this would be so although those drivers whose licence had expired would also have to sit the test if they wished to reapply.

Members discussed the pros and cons of whether or not to allow advertising on vehicles which would bring Hartlepool in line with other Tees Valley authorities.

Decision

Members agreed:

- The amendment of the hackney carriage and private hire licensing policy so as to require, as of 1 April 2011, all new hackney carriage and private hire drivers to produce a DSA Taxi Test pass certificate before a licence may be issued.
- The amendment of the aforementioned policy so as to require all drivers to inform the licensing office whenever they attain 9 points or more on their DVLA licence and that such drivers be referred to a licensing sub committee for consideration.
- The insertion of new paragraphs into the aforementioned policy '*signs, notices or advertisements must not be of a content that an authorised officer deems to be offensive or abusive. Further guidance as to the content of an advertisement may be found by visiting the Advertising Standards Authority website on www.asa.org.uk*

No advertisements on vehicles shall be affixed to any door or panel on which the Council issued roundel or sign is located.

Advertisements in vehicle windows are prohibited.

With respect to hackney carriage vehicles, reasonable steps must be taken to ensure that the vehicle remains predominantly yellow in colour.' So as to permit a greater degree of flexibility in the use of external advertisements on licensed vehicles.

The meeting concluded at 4.22 pm.

CHAIR

Report of: ASSISTANT DIRECTOR, REGENERATION & PLANNING

Subject: Proposed amendment to Hackney Carriage tariffs

1. PURPOSE OF REPORT

1.1 To consider an amendment to the current tariffs for licensed hackney carriage vehicles.

2. BACKGROUND

2.1 Licensing Committee has previously agreed to an annual review of hackney carriage tariffs following the consideration and recommendations of the Hackney Carriage/Private Hire Vehicle Owners Working Group.

2.2 At a meeting of the above group on 15th February 2011 it was proposed that there should be no general increase in hackney carriage fares with the exception of the introduction of a surcharge of £1.50 for vehicles carrying five or more passengers.

2.3 Hackney carriage tariffs in Hartlepool remain among the lowest in the country but the general opinion of the trade is that an increase in standard tariffs would undermine demand during the current difficult economic climate.

2.4 Committee has previously agreed to a £1.50 surcharge for purpose built wheelchair accessible vehicles when they carry five or more passengers. Members felt this was appropriate as it would assist in covering the extra costs incurred in purchasing and maintaining this type of vehicle.

2.5 As the requested surcharge is already in place for purpose built wheelchair accessible vehicles there will be a minimal impact in applying it to all other vehicles capable of carrying five or more passengers. At the time of writing this report there were only two such vehicles – both of the minibus type.

3. ISSUES FOR CONSIDERATION

3.1 Current tariffs in Hartlepool are still among the lowest in the country according to the trade magazine 'Private Hire and Taxi Monthly'.

3.2 Members previous decision to allow a £1.50 surcharge for wheelchair accessible vehicles carrying five or more passengers was introduced to allow the owners of such vehicles to generate additional revenue in order to cover

higher costs as it is a policy requirement for all new vehicles to be wheelchair accessible.

- 3.3 Minibuses and other large non-wheelchair accessible vehicles are not a policy requirement and have been purchased voluntarily for commercial reasons. It may therefore be felt that there is no obligation on the authority to allow such vehicles to charge a higher fare when carrying extra passengers.
- 3.4 It may also be argued however that there is an environmental advantage in encouraging larger capacity vehicles as it allows groups of five or more passengers to be transported in one vehicle rather than two. A surcharge of £1.50 would represent a saving for the fifth passenger who would otherwise have to hire a second vehicle whose minimum fare would be at least £2.
- 3.5 Larger vehicles are less fuel efficient however and, if the majority of their journeys are to carry four passengers or less, Members may feel that there are no compelling reasons to encourage the use of larger vehicles.
- 3.6 Members are reminded that hackney carriage tariffs only apply to journeys that both begin and end within the borough of Hartlepool. The fare for journeys to airports and other locations outside Hartlepool can generally be set at any rate agreed by both parties.

4. RECOMMENDATIONS

- 4.1 That Members approve the adoption of a £1.50 surcharge for hackney carriage vehicles when carrying five or more passengers.

Report of: ASSISTANT DIRECTOR, REGENERATION & PLANNING

Subject: House to House Collections

1. PURPOSE OF REPORT

1.1 To seek Members approval for the adoption of a policy to control the licensing of charitable house to house collections in Hartlepool.

2. BACKGROUND

2.1 By virtue of the House to House Collections Act 1939 a licence is required to promote a collection for charitable purposes. Purely commercial collections (i.e. where no reference is made to a charity or good cause) are not licensable activities.

2.2 House to house collections regularly take place in Hartlepool and typically involve the unsolicited delivery of plastic bags and, sometimes leaflets, to local residents asking for donations of clothing and other items such as books, shoes or anything of value in order to benefit a good cause or charity.

2.3 Residents are asked to leave bags of donations on their street or doorstep and these are then collected by professional collection companies and transported to regional centres where they are sorted and sold for a profit.

2.4 The profit, or more usually a proportion of the profit, is then donated to the good cause or charity with the remainder being retained to cover collection costs.

2.5 Donation levels vary from 10% or less up to 90% or more. Whilst the often low levels of donation may seem unsatisfactory the charity concerned may still see this as income that would not otherwise have been generated and therefore worthy of their continued support.

2.6 In some cases collections are now carried out for purely commercial reasons and where there is no charitable benefit whatsoever. In Darlington, for example, there is a trader who will pay residents 40p for every kilogram of clothing 'donated'.

2.7 As the potential value of collections has increased significantly over recent years the number of applications for licences has increased also

(often two or more per week) and, as such, Members may wish to consider whether a policy should now be adopted to ensure that the best possible value is obtained for both local residents and the good causes that benefit from their generosity.

- 2.8 House to house collections organised by established national charities can apply to the Home Office for an exemption from the requirement to obtain a local authority licence.
- 2.9 The Council cannot make a charge for granting house to house collection licences and therefore any change to the current licensing process will not have any impact on income generation.
- 2.10 Some neighbouring authorities have policies in place in order to maximise charitable benefit. For example, Redcar & Cleveland Council require the good cause to receive a minimum of 75% of the proceeds whilst Stockton insists on 85%. Middlesbrough and Darlington currently do not have policies in place.

3. ISSUES FOR CONSIDERATION

- 3.1 The House to House Collections Act 1939 states that a licensing authority shall grant a licence for a collection unless it appears to the authority that:
 - a) the total amount likely to be applied for charitable purposes is inadequate in proportion to the value of proceeds likely to be received; or
 - b) the remuneration retained out of the proceeds of the collection is excessive.
- 3.2 Whilst the primary purpose of a house to house collection is to generate revenue for good causes, Members may feel that there is a secondary benefit in that it allows residents to dispose of their unwanted goods free of charge. Adopting a policy that requires a high charitable benefit may significantly reduce the number of such collections and thereby make the disposal of such goods more difficult.
- 3.3 Alternatively, reducing the number of collections through the adoption of a policy may increase the size and value of donations for those good causes that still qualify for a licence – thereby benefiting those charities who seek to make maximum value from the donations they receive.
- 3.4 Recognising that there are potentially both advantages and disadvantages to adopting a strict policy it is proposed that an alternative be offered whereby the potential donor is clearly informed of the financial arrangements surrounding the collection so as to allow them to make their own informed choice.

- 3.5 The precise wording of any policy is crucial as there is a significant difference between the definition of *proceeds* and *profits*. *Proceeds* would be the full realised value of the goods donated without any deductions whilst *profits* would be the value of the proceeds less the deductions for costs incurred.
- 3.6 As the level of costs incurred would be entirely a matter for the collection company (as they could set their own remuneration levels) it is proposed that requiring a percentage of *proceeds* to be donated would be a more meaningful requirement.
- 3.7 Members may wish therefore to consider adopting a policy as follows: -
- a) That a minimum of 50% of the proceeds of the goods collected will be donated to the good cause; or
 - b) That, where the value of the donation is less than 50% of the proceeds, the collection bag or collection leaflet clearly and prominently states the percentage to be donated.

4. RECOMMENDATIONS

- 4.1 That Members agree to the adoption of a policy in relation to the consideration of House to House Collection licences as detailed in paragraph 3.7 above.

Report of: ASSISTANT DIRECTOR, REGENERATION & PLANNING

Subject: Criminal Records Checks and the Relevance of Previous Criminal Convictions

1. PURPOSE OF REPORT

- 1.1 To seek Members approval for the amendment of the current Hackney Carriage and Private Hire Licensing Policy to reflect a change in the rules concerning the disclosure of criminal records.
- 1.2 To seek Members approval for the adoption of a new policy relating to the relevance of previous criminal convictions for taxi drivers.

2. BACKGROUND

2.1 Enhanced CRB Checks

- 2.2 The current hackney carriage and private hire licensing policy (Taxi Policy) requires applicants for driving licences to provide the authority with an Enhanced Disclosure from the Criminal Records Bureau (CRB).
- 2.3 Enhanced disclosures contain details of any convictions, cautions, reprimands or warnings that the applicant may have and also other information that the Police consider may be relevant to the position being applied for and whether the applicant is registered or barred from working with children or vulnerable adults.
- 2.4 The CRB has now indicated that licensing authorities will no longer be permitted to apply for enhanced disclosures for taxi drivers unless the applicant will be working with children or vulnerable adults as part of a specific contract.
- 2.5 The only disclosure available for taxi drivers who will not be working under contract will be the 'Standard' type which contains details of convictions, cautions, reprimands and warnings but does not include additional information provided by the Police or reveal whether the applicant is barred from working with children or vulnerable adults.
- 2.6 This change to the rules by the Criminal Records Bureau will apply to every licensing authority in the country and could result in important information not being disclosed prior to a licence being granted.

2.7 Relevance of Previous Convictions

- 2.8 Members of the licensing committee may from time to time be called upon to consider whether a hackney carriage or private hire driver's licence should be granted, suspended or revoked.
- 2.9 Such matters generally appear before committee when the applicant or licence holder has been convicted of a criminal offence or other information has come to light that may cast doubt on their suitability to hold such a licence.
- 2.10 In July 2008 Licensing Committee approved the adoption of revised policy guidelines that would be used when considering the suitability of those who had applied, or already held, taxi driver licences and who had previous criminal convictions. Committee also approved the adoption of a protocol to allow for those with minor convictions to have their applications considered by an 'officer panel'.
- 2.11 As it is now three years since the adoption of the current guidelines and protocol it is prudent to revisit them to ensure they remain proportionate and relevant.
- 2.12 The law relating to hackney carriage and private hire drivers requires licence holders to be 'fit and proper' and committee is required to make decisions with this in mind.
- 2.13 When considering the suitability of applicants with previous criminal convictions Members are referred to guidelines previously approved by Licensing Committee.
- 2.14 These guidelines are based on recommendations previously published by the Department for Transport but which have subsequently been withdrawn.
- 2.14 The adoption of policy guidelines may be considered beneficial as it provides:
- Clarity and a degree of certainty for applicants and other interested parties
 - Transparency
 - Guidance for committee itself
 - Consistency of decision
- 2.15 Sub-committees are asked to consider the suitability of, on average, 25 applicants per year – almost all of which have their applications approved.
- 2.16 Members may wish to consider whether the current guidelines accurately reflect the seriousness of the various categories of offence and whether, in some cases, the requirement to demonstrate a longer period free from conviction would be appropriate.

- 2.17 **Appendix I** details proposed new guidelines that place a greater weight on offences of drink driving, indecency and the more serious convictions for violence.

Protocol for Applicants with Minor Convictions

- 2.18 In July 2008 Committee also approved the adoption of a protocol whereby offences that were either so insignificant or so old that granting the licence was, in effect, inevitable would be referred to an 'officer panel' made up of the Principal Licensing Officer and at least one representative from Child & Adult Services Department for consideration and approval.
- 2.19 Adopting the use of an 'officer panel' has allowed applicants with very minor convictions to have their applications considered and approved quickly. If the officer panel have any doubts about an applicant's suitability the matter is referred back to a licensing sub-committee for consideration.
- 2.20 The protocol currently prevents the officer panel from considering applications from those with convictions for violence, indecency or drunkenness with a motor vehicle – regardless of when those offences may have taken place.
- 2.21 Whilst it is proposed that this approach remains appropriate for both indecency and drunkenness with a motor vehicle, there have been many occasions where applicants have been brought to a sub-committee for a minor violence conviction or caution that happened many years in the past – sometimes 20 or 30 years ago. Indeed, there has been two occasions where applicants were brought to committee for convictions/cautions obtained whilst fighting in the school playground when they were children.
- 2.22 Members may wish therefore to consider an amendment to the current protocol in order to allow those with minor violence convictions from many years in the past to be considered by the officer panel in future.
- 2.23 **Appendix II** details the circumstances under which applicants are currently referred to a sub-committee and it is proposed that this be amended to recognise a distinction between minor and major violence convictions. **Appendix III** provides details of the proposed new protocol.
- 2.24 The adoption of a protocol that allowed such applications to be considered by an officer panel would allow for the least contentious of applications to be granted without reference to a sub-committee.

3. ISSUES

3.1 Enhanced CRB Checks

- 3.2 As the CRB is the only Agency that can provide comprehensive information regarding an individual's criminal past there is no alternative but to accept their new rules and apply for Standard disclosures in the future.
- 3.3 As the current taxi licensing policy requires applicants to provide the Council with an Enhanced CRB disclosure it has become necessary to amend the policy to reflect the change in CRB rules.
- 3.4 It is therefore proposed that the policy be amended so as to require future applicants to provide a Standard CRB disclosure.
- 3.5 Standard CRB disclosures cost £26 whilst Enhanced CRB checks rose to £44 on 6th April 2011. CRB costs are payable by the applicant and, as such, this amendment to the policy will result in a saving of £18 for drivers.
- 3.6 Whilst there have been no occasions in Hartlepool where an Enhanced CRB check has revealed an applicant to be barred from working with children or vulnerable adults the change in rules could deny the Council vital information about a potentially unsuitable applicant.
- 3.7 Members may wish to consider instructing officers to make representations to Government highlighting the potential risks of not carrying out thorough checks on the criminal history of taxi drivers and urging a change to the current system so as to allow licensing authorities to make fully informed decisions as to an applicants fitness to drive members of the public.
- 3.8 Relevance of Previous Convictions
- 3.9 The Rehabilitation of Offenders Act 1974 provides a mechanism whereby certain previous convictions may be disregarded or considered 'spent'. Convictions may be regarded as 'spent' if a person does not re-offend within a prescribed period of time relative to the original sentence imposed.
- 3.10 There are however, certain circumstances where a convicted person cannot rely on the protection offered by the Rehabilitation of Offenders Act. Following an amendment to the law in 2002, taxi drivers (hackney carriage and private hire drivers) may no longer regard past convictions as being 'spent'.
- 3.11 Whilst the exception to the Rehabilitation of Offenders Act means that for taxi drivers, no convictions shall be regarded as 'spent', subsequent court decisions have indicated that judicial and quasi-judicial bodies, such as licensing committees, should consider whether every offence is relevant for the matter at hand.
- 3.12 Procedures for reporting previous convictions to Licensing Committee and the policies considered during the decision making process were last examined in July 2008 and Members are asked to review whether they remain up to date, relevant and proportionate.

- 3.13 Members are asked to consider whether the current guidelines relating to the relevance of previous criminal convictions should be amended to place a greater degree of importance on the most serious of offences.
- 3.14 Members are also asked to consider whether the current protocol which allows certain driver applications to be considered by an officer panel should be amended so as to allow those applications which are very unlikely to be refused to be considered by that panel.

4. RECOMMENDATIONS

- 4.1 That Members agree to the amendment of the current hackney carriage and private hire licensing policy so as to require applicants to provide Standard Criminal Records Bureau disclosures.
- 4.2 That Members instruct the Public Protection Manager to make representations to Government expressing the Committee's disappointment at the recent change to rules concerning Enhanced Criminal Records Bureau disclosures and urging a return to the previous position as soon as possible.
- 4.3 That Members agree to the adoption of new guidelines relating to the relevance of previous criminal convictions as detailed in **Appendix I**.
- 4.4 That Members agree to the amendment of the protocol detailing which previous convictions should be brought to a licensing sub-committee for consideration as detailed in **Appendix III**.
- 4.5 That Members agree that any licence applications received may be approved by authorised officers, without reference to licensing committee, if there are no criminal convictions that, by reference to the adoption of recommendation 2 above, are not required to be disclosed to committee.

Appendix I

Relevance Of Convictions, Cautions, Reprimands, Warnings and Complaints

www.hartlepool.gov.uk/licensing

Bryan Hanson House, Hanson Square, Hartlepool, TS24 7BT
(01429) 523354

Hartlepool Borough Council use the following guidelines to make fair and consistent decisions when considering the suitability of those who wish to be, or who currently are, Private Hire or Hackney Carriage Drivers or Private Hire Operators. Any reference in this policy to a licence applicant shall also apply to those who currently hold a licence and shall apply to licences to drive or operate vehicles.

The guidelines shall be applied strictly and shall only be deviated from in exceptional circumstances.

The Council may fail to be satisfied that an applicant is a fit and proper person to hold a drivers licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.

The overriding consideration is the safety of the public. The Council has a duty to ensure so far as possible that those licensed to drive Hackney Carriage and Private Hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers.

The Council uses the Disclosure service from the Criminal Records Bureau to assist in its consideration of the suitability of applicants for Hackney Carriage and Private Hire Driver Licences.

The Council will comply fully with the Criminal Records Bureau Code of Practice and the requirements of the Data Protection Act. Disclosure information will be used fairly, stored securely and only be handled by authorised persons. Please see guidance leaflet on "Handling, Storage and use of Disclose Information Received from the Criminal Records Bureau" for further information.

For the purpose of these guidelines formal cautions, endorsable fixed penalties and public order fixed penalties shall be treated as though they were convictions and they shall be disclosed to the Council accordingly.

General

Each case will be decided on its merits. The Council will endeavour to make consistent decisions but is not bound by, or obliged to follow, previous decisions.

It may be appropriate to depart from these guidelines in some cases, for example, situations where the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. Where there has been a conviction for a sexual offence, murder or manslaughter a licence will normally be refused. Where an applicant has served a custodial sentence the Council will consider the number of years since their release and the period for which they have been free of conviction when determining their fitness to be licensed. Time spent in custody will generally be discounted from the conviction free period.

These guidelines are not an attempt to define what is a fit and proper person.

The guidelines do not deal with every type of offence. However, offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with these guidelines.

The following examples afford a general guide on the action to be taken where convictions, cautions, reprimands or warnings are admitted.

(a) Minor Traffic Offences

Convictions, cautions, reprimands or warnings for minor traffic offences will not prevent a person from being considered for a licence. If an applicant has 9 or more "live" penalty points on their driving licence for such offences then the application may be referred to a Licensing Committee. Where an applicant has more than 9 penalty points for such convictions they must normally show a period of 12 months free from any such conviction before their application is considered. Even then the application will be referred to the Licensing Committee and may be refused.

(b) Major Traffic Offences

Major traffic offences include those on the attached list of offences that have the following codes. Please note that the Council appreciates there is a difference in the level of seriousness of these offences and will consider each on its merits.

DVLA CODE	DESCRIPTION OF OFFENCE
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink
DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR40 (See Section C and D Below)	In charge of a vehicle while alcohol level above limit
DR50 (See Section C and D Below)	In charge of a vehicle while unfit through drink
DR60	Failure to provide a specimen for analysis in circumstances than driving or attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
BA10	Driving whilst disqualified by order of court
BA30	Attempting to drive while disqualified by order of court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death by careless driving with alcohol level above the limit
CD60	Causing death by careless driving with alcohol level above the limit
CD70	Causing death by careless driving then failing to supply a specimen for analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
IN10	Using a vehicle uninsured against third party risks
IN14	Causing or permitting the use of a vehicle uninsured against third party risks
UT50	Aggravated taking of a vehicle
TT99	To signify a disqualification under totting-up procedure. If the total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified

Note: Should the Courts decide not to disqualify a driver under the totting up procedures the Council may still consider that the applicant is not a fit and proper person to carry fare paying members of the general public.

If an applicant has an endorsement in respect of a major traffic offence then the application will be referred to the Licensing Committee and will normally be refused until at least three years after the most recent conviction, caution, reprimand, or warning or if the person was disqualified, after the restoration of their driving licence.

(c) Alcohol Related Offences

A person who has been disqualified from driving as a result of a drink driving offence must show at least five years free from conviction after the restoration of their driving licence before their application will be considered.

(d) Drug Offences

An applicant with a conviction, caution, reprimand or warning for a drug driving related offence should be required to show a period of five years free of a conviction, caution, reprimand or warning before an application is considered, or five years after detoxification treatment if the applicant is an addict.

An applicant with a conviction, caution, reprimand or warning for a drug related (non driving) offence should be required to show a period of at least five years free of a conviction, caution, reprimand or warning before an application is considered or five years from completion of any custodial sentence imposed, whichever is the later.

If the conviction, caution, reprimand or warning relates to the supply of prohibited drugs then it is unlikely that even after this period the application will be granted.

(e) Indecency Offences

Applicants with a conviction, caution, reprimand or warning for indecent exposure, indecent assault, importuning or any sexual offence, will normally be refused a licence. In exceptional circumstances an application will be considered on its merits when the applicant can show a substantial period (of at least seven years) free of such conviction, caution, reprimand or warning from either the date of conviction, caution, reprimand or warning or five years from completion of any custodial sentence imposed, whichever is the latter.

(f) Violence

Applicants with a conviction, caution, reprimand or warning for grievous bodily harm, wounding, serious assault, or possession of a dangerous weapon will normally be refused a licence. An application may be granted if the applicant can show at least five years free of such conviction, caution, reprimand or warning or from completion of any custodial sentence imposed, whichever is the latter. Applicants with a conviction, caution, reprimand or warning for assault occasioning actual bodily harm or battery will be expected to show at least 3 years free of any further offence.

Please note that the Council deems incidents of domestic violence to be extremely serious as it may indicate a propensity for using violence in order to resolve conflict.

(g) Dishonesty

Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver.

In addition to this, taxi drivers often collect holidaymakers from their homes and transport them to airports or railway stations. This gives them a unique insight into which premises may be vacant for periods of time and therefore possible targets for burglary. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

(h) Public Order Offences

Applicants with a conviction, caution, reprimand or warning involving public order offences such as affray, fear of provocation of violence, criminal damage will have their application referred to the Licensing Committee for consideration and will normally be refused a licence. An application will be considered where the applicant can show at least 2 years free of such conviction, caution, reprimand or warning from either the date of conviction, caution, reprimand or warning or 2 years from completion of any custodial sentence imposed, whichever is the latter.

Any conviction, caution, reprimand or warning which results from an offence committed by any person while working as a Hackney Carriage or Private Hire Proprietor, Driver or a Private Hire Operator is regarded as extremely serious and may lead to a licence being revoked or in an application to renew the licence being refused.

Offences Against The Town Police Clauses Act 1847, The Local Government (Miscellaneous Provisions) Act 1976, Or Any Breach Of The Conditions Or Byelaws Made Under The Relevant Legislation

The following examples afford a general guide to what action the Council may take in relation to existing Hackney Carriage and Private Hire Licence holders:-

Proprietor Offences

Any person convicted, cautioned, reprimanded or given a warning of an offence relating to a Hackney Carriage or Private Hire vehicle of which they are the proprietor may have their licence(s) suspended or revoked.

Driver Offences

Any person convicted, cautioned, reprimanded or given a warning of an offence whilst acting as the driver of a Hackney Carriage or Private Hire vehicle may have their driver licence revoked.

Operator Offences

Any person convicted, cautioned, reprimanded or given a warning for an offence relating to their operation of Private Hire vehicles or Drivers may have their Private Hire Operators Licence suspended or revoked.

Should the Council choose to take action short of revocation then more than one such conviction, caution, reprimand or warning will normally lead to the licence being revoked.

Appendix II**EXISTING PROTOCOL**

Offence Category	Details to be provided to committee offence committed within: -
Minor Traffic Offences e.g. speed obstruction etc	Not to be provided
Major Traffic Offences e.g. dang driving, inc. disqualification	Five Years
Drunkenness with motor vehicle	All occasions
Drunkenness not involving motor vehicle	Three Years
Drugs	Seven Years
Indecency	All occasions
Violence	All occasions
Dishonesty	Seven years
Any other serious crime not detailed above	All occasions

Appendix III

PROPOSED PROTOCOL

Offence Category	Details to be provided to committee if most recent of committed within: -
Minor Traffic Offences e.g. speeding, obstruction etc	Not to be provided – unless 9 accrued on DVLA penalty points
Major Traffic Offences e.g. dangerous driving, inc. disqualification	Seven Years
Drunkenness with motor vehicle	All occasions
Drunkenness not involving motor vehicle	Three Years
Drugs	Seven Years
Indecency & Sexual Assault	All occasions
Violence – Category 1	All occasions
– Category 2	Seven Years
Dishonesty	Seven years
Public Order/Damage to Property	Five Years
Any other serious crime not detailed above	All occasions

Definitions: -

Violence – Category 1	Murder
	Rape
	Manslaughter
	Malicious wounding or grievous bodily harm which is racially aggravated
	Grievous bodily harm with intent
	Possession of firearm
	Arson & Arson with intent to endanger life

	Grievous bodily harm
	Actual bodily harm which is racially aggravated Robbery
	Racially aggravated crimes including criminal damage, fear or provocation of violence, intentional or aggravated harassment, alarm or distress
	Assault on police or assault on an enforcement authorised officer or other public servant acting in the course of their duties.
	Possession of an offensive weapon other than a firearm
Violence – Category 2	Common Assault
	Battery
	Assault Occasioning Actual Bodily Harm
	Criminal Damage
	Obstruction
	Violent Disorder
	Resisting Arrest