

Non-Statutory Licensing Committee

20 March 2019

Report Title	Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators	
Wards affected	All	
Accountable Director	Ross Cook, Service Director of City Environment	
Originating service	Licensing Services	
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Report to be considered by	None	

Recommendations for action or decision:

The Non-Statutory Licensing Committee is recommended to:

- (i) Agree and approve the proposed amendments to the Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators.
- (ii) Agree and approve that the Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators become effective from 1 April 2019.

Recommendations for noting:

The Non-Statutory Licensing Committee is asked to note:

- (i) That the proposed amendments have been subject to full external consultation.

1.0 Purpose

1.1 This report is intended to:

- (a) Request Councillors to approve and agree the proposed amendments to the Guidelines Relating to the Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators. The document indicating all changes is attached at Appendix 1.

2.0 Background

- 2.1 On 26 September 2018, Licensing Committee requested that employees undertake a consultation exercise on the proposed amendments to the Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators.
- 2.2 The Council has a duty to protect the general public from harm when using Hackney Carriage or Private Hire Vehicles. In order to do this the Council must satisfy itself that all drivers and operators are 'fit and proper' persons.
- 2.3 Guidelines for Hackney Carriage and Private Hire Vehicle Proprietors, Drivers and Private Hire Vehicle Operators (the Guidelines) are used to provide the Council with a written framework which allows employees and Councillors to make fair and consistent decisions when assessing the suitability of applicants for hackney carriage or private hire licences. The Guidelines also cover existing drivers, proprietors and operators when they breach conditions, are convicted/cautioned for relevant offences or behave in a manner that is inconsistent with that expected from a licence holder.
- 2.4 The Guidelines are reviewed on a periodic basis to ensure that they take into account revised and current legislation along with local and national licensing priorities and technological advancements. The last review of these Guidelines was undertaken in 2017 and revisions were agreed by Licensing Committee on 12 July 2017.

3.0 Consultation

- 3.1 The proposed amended Guidelines relating to Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators have been subject to a 12 week consultation.
- 3.2 Consultees included the trade, other local authorities, police, magistrates and the Institute of Licensing. All local authorities where the City of Wolverhampton Council licence vehicles have been consulted.
- 3.3 The consultation period closed on 31 December 2018 and responses commenting on the proposals have been received. A summary of responses is attached at Appendix 2. A full set of responses received is available in the Members area in paper format.

4.0 Financial implications

4.1 There are no direct financial implications arising from this report. [MK/12032019/X]

5.0 Legal implications

5.1 The following legislation governs the licensing of Hackney Carriage and Private Hire Vehicle Proprietors, Drivers and Private Hire Vehicle Operators.

Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence.

"Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence".

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 states that a Council, before granting a Hackney Carriage Driver's Licence must be satisfied that an applicant is a fit and proper person to hold such a licence and that the applicant has for at least 12 months prior to the date of the application, been authorised to drive a motor car.

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 states a district council may suspend or revoke or on application, refuse to renew a licence of a driver of a Hackney Carriage or a Private Hire Vehicle on any of the following grounds:-

- That since the grant of the licence he/she has been convicted of an offence involving dishonesty, indecency or violence; or
- That since the grant of the licence he/she has been convicted of an offence under, or has failed to comply with the provisions of the Town & Police Clauses Act 1847 or this part of the Act; or
- Any other reasonable cause

Section 55(1) of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate Private Hire Vehicles grant to that person an operator's licence.

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may suspend or revoke or refuse to renew a vehicle if:-

- The Hackney Carriage or Private Hire Vehicle is unfit for use as a Hackney Carriage or Private Hire Vehicle
- An offence has been committed under the Town, Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976
- Any other reasonable cause

5.2 What constitutes fit and proper is not defined in legislation however, case law states Councils are entitled to have their own policy (Guidelines) to specify how it determines

whether a person is fit and proper. In addition, there is a legal requirement to ensure all applicants/licence holders are given a fair hearing and guidelines help to ensure consistency in decision making.

- 5.3 Although there are no legal requirements to review the Guidelines relating to the Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators it is good practice to do so particularly when there have been changes in legislation. [SH/07032019/A]

6.0 Equalities implications

- 6.1 There are no equalities implications to this function.

7.0 Environmental implications

- 7.1 There are no environmental implications to this function.

8.0 Human resources implications

- 8.1 There are no human resources implications to this function.

9.0 Corporate landlord implications

- 9.1 There are no landlord implications to this function.

10.0 Schedule of background papers

- 10.1 Licensing Committee 26 September 2018 – Consultation on Guidelines Relating to the Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators.
- 10.2 Licensing Committee 12 July 2017 - Amendment to Guidelines Relating to the Relevance of Convictions and Breaches of Licence Conditions relating to Hackney Carriage and Private Hire Vehicle Proprietors and Drivers and Private Hire Vehicle Operators.
- 10.3 Licensing Committee 26 September 2018 – Consultation on Guidelines.