

## Appendix 2

### Guideline Consultation

The following were invited to respond to the consultation:

- All English police forces
- All English licensing authorities
- The Black Country Magistrates' Courts
- Age UK
- Associated Taxis
- Beacon Centre
- Institute of Licensing
- International Guide Dog Federation
- Leonard Cheshire
- Mencap
- Mind
- National Private Hire Association
- National Society for the Prevention of Cruelty to Children (NSPCC)
- NAWG
- Rainbow Taxis
- Royal National Institute of Blind People
- Scope
- Suzy Lamplugh Trust
- Taxi Owners Association (Wolverhampton) Limited
- The Gem Centre
- West Midlands Combined Authority
- Wolverhampton Councillors and Members of Parliament
- Wolverhampton Hackney Carriage Drivers Association
- Wolverhampton Hackney Carriage Working Group
- Wolverhampton Private Hire Working Group

| Consultee     | Issues raised                    | Response   |
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| Mobility Cabs | Drivers' ability to communicate. | Section 4.8 of the existing guidelines states, "Hackney carriage and private hire vehicle drivers should be able to communicate satisfactorily in English with customers, in order to be considered a fit and proper person to hold a Licence. Not being able to communicate to a satisfactory level may result in refusal to grant or renew, suspension or revocation of a licence".  |
|               | Drivers' dress.                  | Section 4.1 of the existing 'Conditions Relating To The Issue Of A Licence To Drive A Private Hire Vehicle' states, "The holder of this licence shall maintain a high standard of personal hygiene and he/she shall wear freshly laundered respectable clothing, with the upper part of the arms being covered. This could include for example, a shirt, polo shirt or t-shirt and single colour trousers or for female drivers a blouse or t-shirt and single colour trousers or skirt or alternatively a dress". |

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|  | Requiring drivers to hold a 'Driver Certificate of Professional Competence' (Driver CPC).                        | The Driver CPC is for professional drivers of lorries over 3.5 tonnes or Passenger Carrying Vehicles (PCV) with 9 or more seats.  |
|  | Monitoring drivers' hours of work.   | Recommendation 34 in 'Taxi and private hire vehicle licensing: recommendations for a safer and more robust system' is that, "Government should urgently review the evidence and case for restricting the number of hours that taxi and PHV drivers can drive, on the same safety grounds that restrict hours for bus and lorry driver". We are awaiting the results of the review into whether there is any evidence that driving time restrictions for hackney carriage and private hire drivers is required on safety grounds and if a workable and proportionate way of doing so can be found. |
|  | Fare equity between private hire and hackney carriages.  | This is outside the scope of the guidelines. However, whilst licensing authorities have the authority to set hackney carriage fares, there is no provision in legislation to set private hire fares. These must be agreed between the customer and the operator at the time of booking.   |
|  | Geographical restrictions on licences to drive hackney carriage and private hire vehicle.                        | There is no provision in the law for City of Wolverhampton Council to restrict journeys to within Wolverhampton.  |
| Joint response from: <ul style="list-style-type: none"> <li>• Albatross Cars</li> <li>• Go Carz</li> <li>• Diamond Cars</li> <li>• Boro Cars</li> <li>• Nova Rides</li> <li>• Star Cars</li> </ul> | Rehabilitation period required before granting a licence to an applicant who has been disqualified from driving. | The Council has changed the guidelines to read, "A new licence will not normally be granted for 7 years following the expiration of the disqualification period or if not disqualified 7 years from the date of the conviction, caution or in the absence of these the date of the offence or relevant incident and a road risk assessment will may have to be satisfactorily completed prior to a licence being granted".  |
|  | Bespoke 'Fitness and Propriety Policy' document submitted to replace guidelines.                                 | The policy was considered. Wolverhampton's policy is equal on treatment of sex offenders, those on a barred list, the revocation of the licences of drivers who were disqualified from driving and the treatment of applicants' medical conditions.   |

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|                  |  | <p>The policy recommended that applicants who have ever committed a drug related offence be refused a licence. The Council's guidelines on drug related offences have been amended so that licensed drivers who offended will normally have their licence revoked. The rehabilitation period for drug related offences has been increased to match the Institute of Licensing (IoL) guidelines. For repeat offences, the Council's rehabilitation period is now 7 years.</p> <p>The policy suggested the refusal to licence any applicant with an unspent conviction. The rehabilitation periods until convictions are considered spent listed in The Rehabilitation of Offenders Act 1974 are shorter than the rehabilitation periods in CWC's guidelines and these applicants would not normally be granted a licence.</p> <p>The policy recommended the referral of applicants with nine or more current penalty points on their driving licence to Non-Statutory Licensing Sub-committee. Authority is delegated to officers to make a decision on these applicants.</p> <p>The policy recommended that applicants who had been disqualified from driving under the totting-up provisions be granted a licence upon restoration of their licence. It recommended that applicants who had been disqualified from driving under other circumstances be granted a licence until after three times the period for which they were disqualified had passed. The council has increased the rehabilitation period for anyone disqualified due to the totting up procedure, from a period equal to the length of disqualification to 7 years.</p> |
| Elite Radio Cars | The length and complexity of the document. | To ensure that we have robust guidelines which can be used to defend against a legal appeal, the document is necessarily specific. Simplification of the guidelines may leave gaps which mean that offences cannot easily be considered. Under City of Wolverhampton Council's guidelines, any  |

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|                                |   | offence(s)/conviction(s) / cautions relating to terrorism will normally result in revocation or refusal to renew and a new licence will not normally be granted. Other guidelines make no mention of terrorism.  |
|                                | Adoption of Uttlesford District Council's Licensing Standards for drivers.  | The rehabilitation periods of many offences in Uttlesford's standards are shorter than Wolverhampton's.<br><br>The rehabilitation periods until convictions are considered spent listed in The Rehabilitation of Offenders Act 1974 are shorter than the rehabilitation periods in CWC's guidelines and would result in a lowering of standards. |
|                                | Complexity of treatment of driving licence penalty points.  | The treatment of applicants with penalty points in 5.1.1 has been simplified.  |
| Telford & Wrekin Council       | Adoption of the Institute of Licensing's 'Guidance on the suitability of applicants in the taxi and private hire trades'. | The rehabilitation periods for all offences have been increased so that they are at least as long as the IoL's guidance and in many cases Wolverhampton's rehabilitation periods are longer. The IoL's guidelines do not advise on how to treat hate crimes, nor do they take into consideration the severity of repeat offences.                |
| Uber                           | Applicants who have made a dishonest application.   | Applications which are dishonest will normally result in a licence being refused, or if already granted, revoked and may result in prosecution.  |
| Greater Manchester Authorities | Adoption of the Institute of Licensing's 'Guidance on the suitability of applicants in the taxi and private hire trades'. | The rehabilitation periods for all offences have been increased so that they are at least as long as the IoL's guidance and in many cases Wolverhampton's rehabilitation periods are longer. The IoL's guidelines do not advise on how to treat hate crimes, nor do they take into consideration the severity of repeat offences.                |
|                                | Refusal or revocation of licence with six penalty points  | This has been changed to will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years and a road risk assessment may have to be successfully completed prior to a licence being granted.  |
|                                | Increase in rehabilitation period for applicants with convictions for drink whilst intoxicated.                           | This has been increased to 7 years.  |
|                                | Increase in rehabilitation period for applicants with convictions for   | The existing rehabilitation periods are currently considered satisfactory.   |

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|  | anti-social behaviour and public order offences.   |  |
|  | Treatment of all indecency offences as sexual offences.  | Where the offence was sexual in nature, this will be considered as a sexual offence.   |
| The Guide Dogs for the Blind Association | Display of a medical exemption certificate, issued in accordance with Section 37A of Disability and Discrimination Act 1995, in licensed vehicles of drivers who are exempt. | This has been made explicit in in Section 5.1.28 of the guidelines.  |
|  | Completion of a qualification in Equality and Diversity for drivers who are in breach of guideline 5.1.28.   | Applicants must successfully complete a driver training programme before receiving a licence to drive a private hire vehicle. This includes a comprehensive module on drivers' legal obligations to carrying assistance dogs.  |
|  | The inclusion of a guideline relating to repeat offences under The Disability and Discrimination Act.  | The guidelines have now been updated so that those who commit repeat offences under The Disability and Discrimination Act will not normally be granted a licence or will have their licence revoked or renewal application refused.  |
|  | Treatment of repeat offenders for refusing to carry an assistance dog.   | This has been changed so repeat offences will normally revoke or refuse to renew. A new licence will not normally be granted.  |
| Anonymous                                | Recommending basic DBS certification of private hire operators' staff is positive.   | Agreed.  |
| 247 Cars                                 | Requiring basic DBS certification on office staff is not necessary.  | The guidelines recommend operators require a basic DBS certificate from their staff, however it is not a requirement that this is done. However, if an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that may lead to the operator's licence being revoked. |

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| Avon and Somerset Constabulary | Adoption of the Institute of Licensing's 'Guidance on the suitability of applicants in the taxi and private hire trades'.   | The rehabilitation periods for all offences have been increased so that they are at least as long as the IoL's guidance and in many cases Wolverhampton's rehabilitation periods are longer. The IoL's guidelines do not advise on how to treat hate crimes, nor do they take into consideration the severity of repeat offences. |
| Kettering Borough Council      | Adoption of the Institute of Licensing's 'Guidance on the suitability of applicants in the taxi and private hire trades'.   | The rehabilitation periods for all offences have been increased so that they are at least as long as the IoL's guidance and in many cases Wolverhampton's rehabilitation periods are longer. The IoL's guidelines do not advise on how to treat hate crimes, nor do they take into consideration the severity of repeat offences. |
| Shropshire Council             | Details of the delegations of authority to officers.  | These are included in the City of Wolverhampton Council's Constitution and are not in scope of the purpose of this document.  |
|                                | The wording 'reasonable' should be reconsidered.  | The Council is satisfied with the wording used in the document.   |
|                                | Section 1.4 does not state if no action; providing written or verbal advice or a written warning will be considered or not. | Drivers who receive written, verbal advice or a written warning will be considered fit and proper, hence the receipt of a licence.  |
|                                | CWC should take advice from its safeguarding board.   | Licensing Services has a close working relationship with the Council's Safeguarding team and regularly receive the latest advice.   |
|                                | Vehicle safety.   | The guidelines relate to the licensee, rather than the vehicle that is licensed. It is a requirement of a vehicle licence that a valid MOT certificate no more than 10 days old is provided with the application.   |
|                                | List at 1.6 is narrow and should include non conviction information.  | The Council is satisfied with the list included in the document.  |

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|  | All behaviour should be considered, not just that in the guidance.                                     | Regards will be made to all other relevant circumstances as stated in the guidelines.   |
|  | Need to decide if using wording 'safe and suitable' or 'fit and proper'.                               | Safety and suitability has been changed to fit and proper.  |
|  | A certificate of good conduct is not requested from applicants.  | This is requested by our DBS provider.  |
|  | Does not consider isolated convictions/ incidents.   | All convictions/ incidents are taken into account.  |
|  | Include a glossary of terms in the document  | The Council does not deem this is necessary.  |
|  | What is deemed as 'appropriate' training?  | Appropriate training will be determined once the review hearing takes place.  |
|  | Needs to be made clear that operators are responsible for processing information in line with GDPR.    | This is not the document to include this information.   |
|  | List operator responsibilities at 1.20   | Operator responsibilities will be outlined in their conditions of licence and therefore it is not required in this document.  |
|  | The entire history of an applicant should be considered on the occasion of each and every application. | Section 1.9 states the local authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending. |

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|  | Wording of 4.7 should be replaced with wording in paragraph 4.23 of IoL guidance.  | The Council is satisfied with the current wording.  |
|  | An explanation should be provided of what a 'review' is.   | This is deemed as not necessary.  |
|  | Does not state what happens to applicants with 4,5,7 or 8 penalty points.  | Anyone with three or more penalty points which is not classed as a minor traffic offence, will be considered under section 5.1.3.                   |
|  | Table at 5.1.3 should be removed.  | The Council is satisfied with the table included.   |
|  | Rehabilitation periods for 5.1.4 are not the same as those in 5.1.3 and do not align with IoL guidance.  | This has been changed for a first offence and has been increased to 7 years.  |
|  | Wording of 'may' should be replaced with 'will' or 'must' in section 5.1.6.<br>Consideration should be given to paragraph 4.37 of IoL guidance. Sanction to suspend a licence can create difficulties if the licence holder cannot demonstrate they are not using controlled drugs.<br>Needs to include revocation for existing licence holders. | This has been noted and wording of 'may' has been replaced with 'will normally' in section 5.1.6.<br>Repeat offences has been increased to 7 years. |



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|  | Wording of 5.1.7 would benefit as being the same as paragraph 4.36 in IoL guidance  | The Council is satisfied with the current wording.  |
|  | Indecency offences should be addressed in the same way as sexual offences.  | This is dealt with as a separate issue and has been clarified in the guidelines.  |
|  | Concerns raised in section 5.1.9 over wording of 'not normally be granted'. IoL guidance states a licence will not be granted.  | The Council is satisfied with the current wording.  |
|  | List of offences classed as dishonesty should be removed and paragraph 4.35 of IoL guidance should be followed.   | The Council is satisfied with the list included.  |
|  | Rehabilitation periods in section 5.1.11 do not align with the Rehabilitation of Offenders Act 1974 (as amended).   | The Council is satisfied with the rehabilitation periods.   |
|  | Remove list of violent offences at section 5.1.12 and 5.1.13 and follow paragraph 4.31 of IoL guidance.<br>Concerned violence is split into two categories – should be made into one section.<br>The rehabilitation periods do not align with the IoL guidance or the | The Council is satisfied with the lists included and the rehabilitation periods.<br>When considering repeat offences, it can include a situation where an applicant or licence holder has a conviction/caution or there is other information which relates to one incident of violence together with one incident of serious violence defined under guidelines 5.1.12 and 5.1.13. |

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|  | Rehabilitation of Offenders Act 1974 (as amended).   |  |
|  | Remove question mark at end of first paragraph in section 5.1.14.  | Comment noted and document updated.  |
|  | Remove list used to define crimes resulting in loss of life or intent to cause loss of life and follow paragraph 4.29 of loL guidance.<br>Concerns raised over wording 'will normally result' and 'not normally be granted' as under loL guidance a licence will not be granted. | The Council is satisfied with the list and wording used.   |
|  | Revert back to original heading of 5.1.14 using word 'Violence' not 'Crime' or reword heading to 'Convictions'.  | Heading has been changed to 'Offences or unlawful act resulting in Loss of Life or with the Intent to Cause Loss of Life'.   |
|  | Concerns raised over wording in section 5.1.15. Encourage that a licence will not be granted or an existing licence will be revoked.   | The Council is satisfied with the existing wording. Guidelines state 'Any offence(s)/conviction(s) / cautions relating to terrorism will normally result in revocation or refusal to renew. A new licence will not normally be granted.' |
|  | Rehabilitation periods for plying for hire are less than that of the loL guidance.   | The rehabilitation periods for this offence have been increased so that they are at least as long as the loL's guidance.   |
|  | Clarity requested regarding the 'targeted enhanced training course' in Section 5.1.19  | Depending on the offence, the driver may be asked to attend a training course relevant to that offence. This will be decided by Councillors or authorised officers at the time of decision.  |

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|  | That the inclusion of 'Section 5.1.21 Physical Fitness and Medical Conditions' is redundant.  | The guidelines are used in hearings to determine fitness and propriety; where an applicant is deemed unfit by a medical practitioner, this guideline is provided to the applicant upon refusal.                      |
|  | Section 5.1.22 should include information from any relevant source.   | This section relates to persons under investigation and only the police or enforcement bodies would be conducting a relevant investigation.  |
|  | Reference to 'mobile phones' in Section 5.1.23  | Heading has been changed to 'Breach of Requirements as to Control of the Vehicle, such as using a Mobile Phone etc'.   |
|  | Reference to smoking needs to include clarity over electronic cigarettes etc.   | Using electronic cigarettes is not an offence under the Health Act. Use of electronic cigarettes is a breach of a driver's conditions of licence (Section 3.2).  |
|  | No details given as to what the occupational competence/road risk assessment is.  | Details of the occupational competence/ road risk assessment will be provided at the time of the review hearing if this option is taken.   |
|  | Equality Act 2010 sets out that a proven medical condition is only acceptable where the local authority has issued a certificate exempting the driver from carrying assistance dogs on medical grounds – this is not clear in section 5.1.28 of the CWC guidelines. | This has been made explicit in in Section 5.1.28 of the guidelines.  |
|  | Concerns over wording of 'normally' and 'not normally' and inclusion of an exception to address human rights perspective.   | The Council is satisfied with the existing wording. Section 1.4 states the application of the Human Rights Act will be considered carefully and balanced against the overriding consideration to protect the public. |

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|  | Section 5.1.26 should state that each case will be considered on its own merits. | Section 1.3 of the guidelines states, "Whilst employees and Councillors will have regard to the guidelines, each case will be considered on its individual merits, and where reasonable, the Employees/ Committee may depart from the guidelines." |
|  | Rationale used for specified sanctions and rehabilitation periods is unclear.    | Sanctions and rehabilitation periods are decided on several factors and through consultation with stakeholders.  |