

Licensing Committee

2 November 2016

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	Kevin O'Keefe, Governance	
Originating service	Licensing Services	
Accountable employee(s)	Rob Edge Tel Email	Section Leader Licensing Services 01902 550106 rob.edge@wolverhampton.gov.uk
Report to be/has been considered by	Internal consultation with all Responsible Authorities - September 2016	

Recommendation(s) for action or decision:

Councillors are recommended to:

- I. Agree 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 should be the subject of a consultation exercise.
- II. Request that employees undertake a consultation exercise.
- III. Receive a further report following completion of the consultation exercise.

Recommendations for

Councillors are asked to note:

- I. That the proposed amendments have been subject to an internal consultation with employees.

1.0 Purpose

1.1 This report is intended to:

- a) Request Councillors to approve the draft proposals to amend 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.
- b) Advise Councillors of the need to consult on draft proposals to amend 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.
- c) Request that a further report be presented to Councillors following a consultation to approve the amendments.

2.0 Background

2.1 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.

2.2 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.

2.3 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 proprieties and technological advancements. The last review of these guidelines was undertaken in 2012 and revisions were agreed by Licensing Committee on 25 July 2012.

3.0 Consultation

3.1 It is proposed to consult as widely as possible and publish the consultation document on the Council's website.

3.2 A consultation draft of 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 has been produced and is attached at Appendix 1 (to follow). The original guidelines date from July 2012 and were approved by the Licensing Committee, licensing services are now looking to review and revise some elements of the document [see tracked changes].

4.0 Financial implications

4.1 There are no direct financial implications arising from this report [TT/02112016/H]

5.0 Legal implications

5.1 There is a legal requirement to ensure that all drivers are given a fair hearing and entitled to make representations before a determination is made on an application or when a licence is reviewed.

5.2 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.

5.3 The following legislation governs the licensing of hackney carriage and private hire vehicle proprietors, driver and private hire 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 of the Local Government (Miscellaneous Provisions) Act 1976
- Any other reasonable cause [JB/25102016/Z]

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 Resource 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 Not applicable