

<b>Report Title</b>	<b>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</b>	
<b>Wards affected</b>	All	
<b>Accountable Director</b>	Ross Cook, Place	
<b>Originating service</b>	Licensing Services	
<b>Accountable employee</b>	Chris Howell	Licensing Manager, Licensing Services
	Tel	01902 554554
	Email	chris.howell@wolverhampton.gov.uk
<b>Report to be considered by</b>	Extensive internal and external consultation.	

---

## Recommendations 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 noting:

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) Inform Councillors of the Institute of Licensing's guidance on determining the suitability of applicants and licensees in the hackney and private hire trade document.
- (d) 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 proprietors and technological advancements. The last review of these Guidelines was undertaken in 2017 and revisions were agreed by Licensing Committee on 12 July 2017.
- 2.4 The Institute of Licensing (IoL) is the professional body for licensing practitioners across the UK. The IoL membership comprises practitioners from regulatory, industry and legal fields. The IoL exists for its members in pursuit of its stated objectives and operates both regionally and nationally across the UK with established regions covering England, Wales and Northern Ireland, and members in Scotland.
- 2.5 In December 2015 the IoL established a Working Party to look at the creation of a model or standard set of guidelines in relation to assessing the suitability of applicants and licence holders in relation to taxi drivers, operators and vehicle proprietors, taking into account the character of the applicant or licensee. The guidance on determining the suitability of

applicants and licensees in the hackney and private hire trade (Appendix 2) was produced as a result of the work of the Working Party.

- 2.6 The IoL guidance has been consulted on widely and appropriate weight is given to its content. The structure is very similar to our current guidelines. The time periods that should elapse follow conviction or completion of a sentence do differ and the proposed amendments look to address that in bring our guidelines into line with the IoL.

### **3.0 Consultation**

- 3.1 It is proposed to publish the consultation document on the Council's website. It is proposed to consult widely, including the trade, other local authorities, police, magistrates and the Institute of Licensing. All local authorities where the City of Wolverhampton Council licence vehicles shall also be consulted. The consultation period will be 12 weeks.
- 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. The proposed revisions in the draft document are shown in a red and in a different font to highlight the changes.

### **4.0 Financial implications**

- 4.1 There are no direct financial implications arising from this report. [MK/19092018/U]

### **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/12092018/T]

## **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**

This report is PUBLIC  
[NOT PROTECTIVELY MARED]

10.1 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.