

REPORT TO	DATE OF MEETING
General Licensing Committee Council	21 February 2017 1 March 2017

Report template revised June 2008



SUBJECT	PORTFOLIO	AUTHOR	ITEM
Hackney Carriage and Private Hire Vehicle Licensing Policy – Proposed Changes to Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and Other Matters which may impact on the Granting of a Licence	Public Health, Safety and Wellbeing	Peter Haywood	8

SUMMARY AND LINK TO CORPORATE PRIORITIES

The key aim of the Licensing service is to protect the public. This report introduces proposed changes to the Hackney Carriage and Private Hire Vehicle Licensing Policy, specifically the Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and Other Matters which may impact on the Granting of a Licence (otherwise referred to in this report as the Convictions Policy and attached as Appendix 1). Changes to the Convictions Policy are aimed at making it more robust and to reflect best practice. In particular, the revised Convictions Policy emphasises the need to take into account “soft intelligence” and sources of information which are wider than the traditional ones previously relied on (prosecutions, cautions etc). The revised Convictions Policy will replace that previously adopted by Council (as Appendix 1 to the Hackney Carriage and Private Hire Vehicle Licensing Policy) on 20 July 2016.

RECOMMENDATIONS

That the General Licensing Committee:

1. notes the expiration of the 4 week consultation period previously required by General Licensing Committee;
2. considers the revised Convictions Policy (Appendix 1) and agrees its content to enable its adoption for use in considering whether drivers / applicants meet the statutory “fit and proper” test;
3. agrees the date of 1 March 2017 for Council to adopt the revised Convictions Policy attached as Appendix 1 to this report; and
4. agrees to adopt the internal protocol under Standing Order 38 in relation to emergency action in relation to the statutory “fit and proper” test.

That Council:

1. formally adopts the revised Convictions Policy attached as Appendix 1 to this report (replacing the Statement of Policy and Guidelines previously adopted by Council on 20 July 2016 as Appendix 1 to the Hackney Carriage and Private Hire Vehicle Licensing Policy).

DETAILS AND REASONING

The Council's first Hackney Carriage and Private Hire Vehicle Licensing Policy was approved by Council on 20 July 2016; this document brought together in one place policies that had been adopted by the General Licensing Committee over a number of years. Appendix 1 to that Policy set out an initial "Statement of Policy and Guidelines relating to the relevance of Convictions, Formal / Simple Cautions, Complaints and Other Matters which may impact on the Granting of a Licence". This document – referred to in this report as the Convictions Policy - set out guidance on the factors which should be taken into account when determining whether a driver / applicant meets the statutory "fit and proper" test.

Since its introduction, officers have undertaken work to identify ways of further strengthening the Convictions Policy and to reflect best practice. A revised version setting out amended and strengthened guidance to assist officers and members in assessing the "fit and proper" test is attached to this report as Appendix 1. This latest version emphasises the importance of taking into account soft intelligence when determining whether a driver or applicant will meet the statutory "fit and proper" test. Traditionally, Licensing Authorities would rely on harder evidence (such as convictions or cautions issued) when making such decisions. However, it is increasingly recognised that a simple reliance on this harder evidence may not equip members with the full picture needed to make a fully-informed decision under the civil law burden of proof (ie that a driver or applicant is fit and proper on the balance of probabilities). The revisions to the Convictions Policy as set out in Appendix 1 will enable members to take all appropriate information into account when reaching their decision, as well as bringing the Council's approach fully into line with the approach taken by other local authorities.

CONSULTATION PROCESS

At General Licensing Committee on 22 November 2016, members considered the proposed Convictions Policy with its draft revisions, and authorised officers to undertake a four week period of consultation.

On 21 December 2016, a letter was sent to all 267 Private Hire and Hackney Carriage drivers currently licensed with the authority, advising them of the period of consultation and telling them how to access a copy of the proposed Policy. On 22 December 2017, a similar e-mail was sent to all Private Hire operators currently licensed with the authority.

The 4 week period of consultation closed on 20 January 2017. No responses were received from either licensed drivers or licensed operators.

In light of this, the Committee is now requested to adopt the attached Convictions Policy, and to agree to forward it to Council on 1 March 2017 for final endorsement.

STANDING ORDER 38

On occasions, the Council will need to respond to emergency intelligence (eg when information is received that requires urgent action against a driver). In such circumstances, a hearing will be convened in accordance with the process set out in Appendix 2. Members are asked to note this process and agree to adopt it in such circumstances.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

FINANCIAL	None
LEGAL	The Policy will be used to assist Members in their deliberations, in order to ensure that the safety of the travelling public is a paramount consideration. However, the Committee may depart from the Policy where they are satisfied that there are exceptional circumstances in a particular case, which warrant it. All such departures and the reasons for them should be clearly documented in the decision notice.
RISK	By broadening the information which can be taken into account when determining whether the statutory “fit and proper” test is met, the proposed Policy will provide a greater level of protection for members of the public.
THE IMPACT ON EQUALITY	A completed Equalities Impact Assessment is attached as Appendix 3.

OTHER (see below)	
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<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

BACKGROUND DOCUMENTS

- Proposed Policy - Appendix 1
- Standing Order 38 – Appendix 2
- Equalities Impact Assessment – Appendix 3