

REPORT TO	DATE OF MEETING
GENERAL LICENSING COMMITTEE	21st MARCH 2017

Report template revised July 2004



SUBJECT	PORTFOLIO	AUTHOR	ITEM
GENERAL LICENSING COMMITTEE – PROCEDURAL UPDATES / CLARIFICATION	PUBLIC HEALTH, SAFETY AND WELLBEING	PETER HAYWOOD	7

SUMMARY AND LINK TO CORPORATE PRIORITIES

This report sets out proposed changes to and clarification of the procedures to be followed by the General Licensing Committee in dealing with matters under the statutory “fit and proper” test.

RECOMMENDATIONS

The Committee is requested to:

- i) consider the revised protocols / procedures identified in the body of this report and in the appendices attached; and
- ii) determine whether they should be adopted for future use by officers and members at meetings of the General Licensing Committee.

DETAILS AND REASONING

Over the past 12 months, the work of the General Licensing Committee has attracted considerable local interest, with particular regard to its application of the statutory “fit and proper” test. As a result, a number of action plans have been developed; these have now been compiled into a composite Implementation Plan (considered elsewhere on the agenda for the March meeting of this Committee). As part of the process of re-visiting the Committee’s formal procedures, officers have examined the approach taken in a number of aspects of the Committee’s work and are now in a position to put forward a range of additional documents. In some instances, the Committee’s procedures have not previously been formally set out, and the purpose of the proposed documents is to provide written guidance which the Committee should follow in future (with a view to giving transparency to its work and ensuring greater consistency in decision-making). In other areas, procedures have previously been in place - in such instances, the purpose of the exercise is revisit and update protocols as appropriate.

Members are asked to consider the revised procedures / protocols with a view to their formal adoption.

REFERRALS TO GLC

The authority’s current Taxi and Private Hire Licensing Enforcement Policy (approved by General Licensing Committee in July 2016 as part of the overall Licensing Policy) states:

Referral to General Licensing Committee

Licence holders will be referred to the General Licensing Committee for a decision on whether they remain a fit and proper person to be licensed. Decisions to refer will be made on a case by case basis taking into account the nature and seriousness of the alleged conduct/non-compliance and the licence holder's previous history.

Officers are keen to ensure that any referrals to members under the Enforcement Policy are made consistently, appropriately and speedily. Therefore a checklist has been drafted (attached as Appendix 1) which will be completed in all instances where a referral to GLC is being considered. This will provide a documented record that a discussion with Legal Services has taken place and offer reassurance to members that – when they are asked to deliberate on a matter – all appropriate factors have been taken into consideration.

FORMAT OF REPORTS SUBMITTED TO MEMBERS

It is proposed to retain the current practice of ensuring that all drivers / applicants invited to appear before members receive (i) a clear indication of the date on which they are expected to attend and (ii) a copy of the report detailing the matters to be considered by the Committee 14 days in advance of the hearing.

Previously, the report to members of the GLC has been on the standard report template and has included key information for members such as:

- details of any criminal convictions incurred by the driver / applicant, along with any penalties imposed by the courts;
- relevant extracts from the Convictions Policy; and
- any relevant medical information relating to the driver / applicant.

It is proposed that this approach should continue moving forward, with the addition of one extra element. It is common practice in other authorities for drivers / applicants appearing before committee to be interviewed by Licensing staff prior to their appearance before members. The purpose of this is for Licensing staff to ensure that all relevant information has been obtained / disclosed; to understand any relevant background / mitigation; and to ensure that all relevant facts are therefore placed before members at the time of a hearing.

In serious matters where there is an allegation of sexual impropriety and/or where vulnerable victims are involved, it is usual for such interviews to be conducted under caution. This enables recordings of any taped comments made by the driver / applicant at that time to be played directly to committee members, thereby enabling them to hear the driver / applicant's reaction at the time and assist the decision-making process.

It is proposed that, in future, any reports put before the committee will include a summary of any key points which have emerged during the interview process. (These will also be referred to in the presentation given by the Licensing Manager – see following section). A copy of the proposed proforma for use by officers when carrying out interviews not under caution is attached as Appendix 2. When officers are conducting interviews under caution, a typed transcript of the full interview will be produced in accordance with standard procedure under the Police and Criminal Evidence Act 1984, the contents of which will be referred to as appropriate.

PROCESS TO BE ADOPTED AT HEARINGS UNDER THE FIT AND PROPER TEST

In order to clarify the process to be followed at hearings, 2 revised templates have been compiled. The first of these (Appendix 3) outlines the procedure to be followed by the Committee when (i) determining whether an applicant should be granted a licence under the statutory fit and proper test, or a driver should retain / lose his licence on this basis; or (ii) when a vehicle is put forward for examination by the Committee. Appendix 4 sets out an alternative procedure to be followed when there is a complaint to be heard against the driver and the complainant wishes to appear before the Committee in person, or where there is a need for an “ex parte hearing” (ie where the information to be presented is so sensitive that it cannot be given in the presence of the driver / applicant

These written procedures will provide consistency during hearings and also be a useful reference document in the event of an appeal to a higher court against a decision of the committee.

As part of the above processes, the Licensing Manager will present the officer report to members, outlining the matter to be determined and how it relates to the Convictions Policy. It is proposed to refresh the form of presentation, with a summary of key issues and relevant points forming the basis of a brief Powerpoint presentation to members.

A copy of the proposed Powerpoint format is attached as Appendix 5.

Hearings will continue to be conducted under Part 2 procedures (ie with the exclusion of members of the public and elected members who do not sit on the General Licensing Committee, with the exception of the Portfolio Holder).

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas shown below. A risk assessment has also been carried out. The table shows the implications in respect of each of these.

FINANCIAL	There are no financial implications arising from this report.		
LEGAL	The revised procedures /protocols will provide an assurance to all parties of greater transparency, clarity and consistency in decision-making.		
RISK	Given the events of the past 12 months, the revised procedures and protocols are required to provide a robust approach when considering the fit and proper test.		
THE IMPACT ON EQUALITY	None		
OTHER (see below)			
<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

Appendix 1 – checklist to be completed prior to submission to elected members

Appendix 2 – interview proforma

Appendix 3 – procedure for committee hearings (driver / applicant, vehicles)

Appendix 4 – procedure for committee hearings (complaints, ex parte)

Appendix 5 - proposed Powerpoint format