

Review of Conviction and Caution Policy in respect of Hackney Carriage and Private Hire Drivers.

Licensing Committee

Date: 14 March 2019

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Wards: All
Parishes Affected: All

1. Purpose and Reasons

- 1.1 The purpose of this report is to consider adopting the Institute of Licensing 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades'.

2. Recommendations

That the Licensing Committee:

- 2.1 Consider the request for adoption of the 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades' and agree it replacing the current policy in respect of convictions. The proposed guidance is attached as **Appendix A**
- 2.2 It is recommended that the Committee continue to grant delegated authority to the Licensing Manager to assess new and existing drivers in accordance with the guidelines and take appropriate action in order to safeguard the fare paying public.

3. Detail

- 3.1 The requirement to hold a licence is contained in the Local Government (Miscellaneous Provisions) Act 1976,s 46(1)(b)(Local Government (miscellaneous provisions)Act 1976):
- 3.2 No Person shall in a controlled district act as a driver of any private hire vehicle without having a current licence under section 51 of the LG(MP)A 1976,s51;
- 3.3 The function of this Licensing Authority is the protection of the public. The public are entitled to be protected when stepping into a vehicle driven by a stranger and they should be able to trust the driver. The Licensing Authority is bound to treat the safety of the public as the paramount consideration and overarching principle.
- 3.4 Currently the Licensing Authority has guidelines to assess a 'safe and suitable' person to drive a licensed vehicle however, these guidelines are dated back to 2013 and this is the first review for several years taking into account recent cases nationally.

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3.5 The new guidance has been produced by the Institute of Licensing in partnership with other agencies and has taken into account the recent safeguarding cases such as the events of Rotherham. It should not be forgotten that this is local policy but it is hoped that more authorities will adopt a uniform approach to the suitability of licensees and giving more confidence nationally. Should this be adopted it would be used to assess new drivers, proprietors, Operators and existing applicants throughout the course of their licence.

3.7 The proposed guidance to replace the existing policy is attached as **Appendix A.**

4.0 Options

4.1 The Licensing Committee determine the existing policy of 2013 remains the same.

4.2 The Licensing Committee agree to replacing the existing policy with the new guidelines 2018 to ensure latest developments and cases are addressed by updated guidance.

5.0 Consultation with the trade

5.1 There has been no separate formal consultation by the Licensing Authority directly. As of this date there are 41 Operators licensed by SBC, 104 hackney carriage drivers and 1003 private hire drivers.

6. Conclusion

6.1 It is intended that if Members agree to the proposal, any change in will be implemented no sooner than 1st June 2019.

7. Implications, Diversity Impact Assessment and Risk Management

8 Financial and Procurement Implications

8.1 There are no direct financial implications arising from the report.

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9 Legal and Human Rights Implications

- 9.1 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

10.0 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

11.0 Consultees

The Director of Law (Monitoring Officer) is consulted in respect of all reports.

12.0 Appendices

- 12.1 **Appendix A** – Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades.ew guidelines

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