

A meeting of the **LICENSING AND PROTECTION SUB-COMMITTEE** will be held in the **CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON, PE29 3TN** on **THURSDAY, 16 MARCH 2023** at **10:30 AM** and you are requested to attend for the transaction of the following business:-

AGENDA

1. MINUTES (Pages 3 - 4)

To approve as a correct the Minutes of the meeting held on 13th October 2022.

Contact Officer: Democratic Services - (01480) 388169

2. MEMBERS INTERESTS

To receive from Members, declarations as to disclosable pecuniary, other registerable and non-registerable interests in relation to any Agenda Item. See Notes below.

Contact Officer: Democratic Services - (01480) 388169

3. EXCLUSION OF PRESS AND PUBLIC

To resolve –

that the press and public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

4. LICENSING AND PROTECTION SUB-COMMITTEE PROCEDURE (Pages 5 - 8)

5. CONVICTIONS GUIDANCE (Pages 9 - 18)

6. REVIEW OF A HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE
(Pages 19 - 32)

To consider a report by the Licensing Team.

Contact Officer: Licensing - (01480) 387075

7th day of March 2023

Oliver Morley

Head of Paid Service

Disclosable Pecuniary Interests and other Registerable and Non-Registerable Interests.

Further information on [Disclosable Pecuniary Interests and other Registerable and Non-Registerable Interests is available in the Council's Constitution](#)

Filming, Photography and Recording (including Live Streaming) at Council Meetings

Please contact Democratic Services, Tel: 01480 388169 / email: Democratic.Services@huntingdonshire.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Sub-Committee.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Agenda and enclosures can be viewed on the [District Council's website](#).

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING AND PROTECTION SUB-COMMITTEE held in the CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN on Thursday, 13 October 2022

PRESENT: Councillor B S Banks – Chair.

Councillors J Clarke, S A Howell and C H Tevlin.

1 MINUTES

The Minutes of the meeting of the Sub-Committee held on 16th November 2021 were approved as a correct record and signed by the Chair.

2 MEMBERS INTERESTS

No declarations were received.

3 EXCLUSION OF PRESS AND PUBLIC

RESOLVED

that the press and public be excluded from the meeting because the business to be transacted contains exempt information relating to individuals and is subject to an obligation of confidentiality.

4 LICENSING AND PROTECTION SUB-COMMITTEE PROCEDURE

The Licensing and Protection Sub-Committee's Procedure was received and noted.

5 CONVICTIONS GUIDANCE

The Council's Guidelines relating to the relevance and treatment of convictions was received and noted.

6 REVIEW OF A HACKNEY CARRIAGE AND PRIVATE HIRE LICENCE

With the assistance of a report by the Licensing Team (a copy of which is appended in the Annex to the Minute Book) the Sub-Committee considered the case of Mr AM which had been referred to the Licensing and Protection Sub-Committee for consideration.

Following an introduction by the Licensing Officer, Members were advised of the options available to them in respect of this case.

Mr AM was then offered the opportunity to address the Sub-Committee and explain the circumstances surrounding his situation and why he believed that his licence should not be revoked. Having outlined the severity of the situation

within which the driver now found himself and made further attempts to obtain information, the Sub-Committee took a brief adjournment.

Upon resumption, the Sub-Committee confirmed they wished to continue the proceedings and offered a further opportunity to the driver to make his case to the sub-committee.

The driver then left the meeting to enable Members to make their determination.

The Sub-Committee gave careful consideration to the case. The Sub-Committee also took into account the District Council's guidelines relating to the relevance and treatment of convictions, the District Council's Schedule of Conditions of licence, the legislative and policy provisions, statutory guidance, the conditions of licensing and advice from their legal representative.

Whereupon, it was

RESOLVED

that the Hackney Carriage / Private Hire Driver Licence be revoked.

The Driver was advised of his right of appeal to the Magistrates Court within 21 days.

Chair

HUNTINGDONSHIRE DISTRICT COUNCIL

LICENSING AND PROTECTION SUB COMMITTEE PROCEDURE

1. Introduction

- 1.1 The following proceedings apply to the Licensing Sub-Committees established by the Licensing and Protection Committee of Huntingdonshire District Council acting as the Licensing Authority.

2. Membership

- 2.1 Each Licensing Sub Committee shall comprise four members appointed from the Licensing and Protection Committee. In the event of the Chairman of the Licensing and Protection Committee not being present at a meeting, the Sub-Committee shall elect a chairman from among its members for the purpose of that meeting.
- 2.2 The quorum for meetings of a sub-committee shall be three members but a sub- committee shall make every endeavour to ensure that each meeting is conducted when four members are present.
- 2.3 Members shall endeavour to be present throughout an individual meeting of a sub-group. If a member of a sub-committee is required to leave a meeting temporarily, the Chairman shall adjourn the hearing for the duration of the period whilst that member is unavailable. Any member who is absent from a meeting for any reason whilst that meeting is taking place shall be precluded from commencing or continuing to take part in the matter under debate upon his arrival/return and from voting upon the matter at the conclusion of that item of business.
- 2.4 Where the Sub-Committee undertakes a site visit prior to a meeting, a member shall be precluded from taking part in the meeting if he has not attended that site visit.
- 2.5 A member will not take part in a meeting at which a matter is being discussed which relates to an application where either the applicant is resident in or the premises is situated in the ward which he represents.

3. Notice of Meetings

- 3.1 Upon the date of a meeting of a sub-committee being arranged, notice shall be given to the parties to the meeting.
- 3.2 The notice of the meeting shall be followed by a copy of the meeting agenda 5 working days prior to the meeting.

4. The Meeting

- 4.1 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing or that part of the hearing taking place in public. The Sub-Committee will normally resolve to exclude the public from that part of the hearing during which the Sub-Committee determines the matter which is the subject of the hearing.
- 4.2 Subject to the above, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified
- 4.3 At the commencement of the meeting, the Chairman shall introduce the members of the Sub-Committee and any officers in attendance to support the Sub-Committee and shall ask the parties and any persons accompanying them to state their names and addresses or who they represent. The Chairman shall explain to the parties present that the hearing is subject to this procedure, copies of which will have been distributed to the parties with the notice of the hearing, and shall enquire of the persons present whether there are any questions of clarity or explanation about its contents.
- 4.4 The Licensing Officer will present the application. The Chairman will then invite the applicant or his representative to address the Sub-Committee on his application, to respond to any point(s) upon which notice has been given that clarification is required by the licensing authority and to call any person(s) to whom permission has been granted to appear in support of his application.
- 4.5 The applicant or his representative or any person called on his behalf may then be asked any questions upon their presentation by any member of the Sub-Committee or by an officer of the Council.
- 4.6 The party or his representative or any of his witnesses may be asked any questions upon their presentation by any member of the Sub-Committee or by the applicant or his representative or any of the other parties present at the hearing or their representatives.
- 4.7 After the applicant or his representative has addressed the Sub-Committee and after comments and questions have been invited, the applicant or his representative will be invited by the Chairman to leave the meeting and await the decision of the Sub-Committee. An officer

from legal services will remain with the Sub-Committee to provide legal advice only.

5. Determination of Applications

- 5.1 At the conclusion of the meeting, the Sub-Committee will determine the application and will endeavour to do so as soon as practicable after the meeting has concluded.
- 5.2 The Licensing Authority will notify the applicant and parties of its decision forthwith upon the making of the decision.

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LICENSING POLICY – RELEVANCE AND TREATMENT OF CONVICTIONS

Under the provisions of Sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, the Council is required to ensure that an applicant for the grant or renewal of a hackney carriage/private hire driver's licence and private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence.

The purpose of this document is to offer guidance on how Huntingdonshire District Council will determine whether a particular person is safe and suitable either to be granted a licence in the first place or to retain such a licence. Each case is then considered on its own merits in the light of this policy.

This policy contains no detailed list of offences. All offences are allocated to a general category such as 'dishonesty' or 'drugs'. This prevents it being argued that a specific offence is not covered by the Policy as it 'is not on the list' and also prevents arguments that a firearm is more serious than a knife and should lead to differentiation. In each case, appropriate weight should be given to the evidence provided.

1. OFFENDERS AND OFFENDING – AN OVERVIEW

- 1.1 The aim of local authority licensing of the hackney carriage and private hire trades is to protect the public. With this in mind, Public Protection will be at the forefront of the decision maker's mind when determining whether an individual is considered a "fit and proper person" to hold a licence.
- 1.2 The licensing process places a duty on the local authority to protect the public. Given the nature of the role, it is paramount that those seeking a living in the trades meet the required standards. As the previous offending behaviour can be considered as a predictor in determining future behaviour as well as culpability.
- 1.3 This authority will consider all relevant factors including previous convictions, cautions, warnings and complaints as well as the time elapsed since these were committed.

- 1.4 This authority recognises that it is not possible to determine the future behaviour of an individual, however, taking steps to reduce risk and protect the public can be achieved by following correct processes and guidance. Having regard to an individual's previous behaviour and their potential to cause harm as a result of the choices they have, will play a significant part when making a decision as to whether to grant a licence. Being able to evidence change in behaviour will involve consideration of the circumstances at the time of the offence, steps taken to address any issues identified and that person's ability to sustain such change.

2. Pre-application requirements

- 2.1 Licensing authorities are entitled to set their own pre-application requirements. These will vary depending upon the type of licence in question but can include some or all of the following (these are not exhaustive lists):

Vehicles:

- Basic DBS checks;
- Specifications e.g. minimum number of doors, minimum seat size, headroom, boot space etc;
- Mechanical tests and tests of the maintenance of the vehicle e.g. ripped seats etc;
- Emission limits/vehicle age limits;
- Wheelchair accessibility requirements.

Drivers:

- Enhanced DBS checks with update service;
- Checks made to the National Anti Fraud Network database on refusals and revocations of hackney carriage and private hire licences (when available);
- Medical checks;
- Knowledge of the geographic area;
- Spoken and written English tests;
- Disability awareness training;
- Child sexual exploitation and safeguarding training.

Operators:

- Basic DBS checks;

- Details of their vetting procedures for their staff;
- Knowledge of the licensing area.

In relation to each of these licences, the licensing authority has discretion as to whether or not to grant the licence.

3. GENERAL GUIDANCE

- 3.1 There is no evidence which can provide precise periods of time that must elapse after a crime before a person can no longer be considered to be at risk of reoffending, but the risk reduces over time. In light of that, the suggested timescales below are intended to reduce the risk to the public to an acceptable level.
- 3.2 Drivers and operators cannot be granted a licence unless this authority is satisfied that they are a “fit and proper person” to hold that licence (see Local Government (Miscellaneous Provisions) Act 1976 ss 51 and 59 in respect of drivers; s55 in respect of operators).
- 3.3 There are no statutory criteria for vehicle licences, therefore this authority has an absolute discretion over whether to grant either a hackney carriage or private hire proprietor’s licence.
- 3.4 “Fit and proper” also known as “safe and suitable” means that the individual (or in the case of a private hire operator’s licence, the limited company together with its directors and secretary, or all members of a partnership) is “safe and suitable” to hold the licence.
- 3.5 In determining safety and suitability this licensing authority is entitled to take into account all matters concerning that applicant or licensee. We are not simply concerned with that person’s behaviour whilst working in the hackney carriage or private hire trade. This consideration is far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual will be considered. This can include, but is not limited to, the individual’s attitude and temperament.
- 3.6 Convictions, cautions or warnings for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction. It is important to recognise that matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by this authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to “conviction” will also include matters that amount to criminal behaviour, but which have not resulted in a conviction

- 3.7. In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for this authority to decide what action to take in the light of this policy.
- 3.8 In all cases, this licensing authority will consider the conviction or behaviour in question and what weight should be attached to it. Each and every case will be determined on its own merits, and in the light of this policy.
- 3.9 Any offences committed, or unacceptable behaviour reported whilst driving a hackney carriage or private hire vehicle, concerning the use of a hackney carriage or private hire vehicle, or in connection with an operator of a private hire vehicle will be viewed as aggravating features, and the fact that any other offences were not connected with the hackney carriage and private hire trades will not be seen as mitigating factors.
- 3.10 As the licensing authority we will be looking at the entirety of the individual, in many cases safety and suitability will not be determined by a specified period of time having elapsed following a conviction or the completion of a sentence. Time periods are relevant and weighty considerations, but they are not the only determining factor. In addition to the nature of the offence or other behaviour, the quantity of matters and the period over which they were committed will also be considered. Patterns of repeated unacceptable or criminal behaviour are likely to cause greater concern than isolated occurrences as such patterns can demonstrate a propensity for such behaviour or offending.
- 3.11 Most applicants or licensees will have no convictions and that is clearly the ideal situation. In relation to other people, it is accepted that human beings do make mistakes and lapse in their conduct for a variety of reasons, and it is further accepted that many learn from these experiences and do not go on to commit further offences. Accordingly, in many cases an isolated conviction, especially if committed some time ago, may not prevent the grant or renewal of a licence.

4. Relevance of offences

- 4.1 Once a licence has been granted, there is a continuing requirement on the part of the licensee to maintain their safety and suitability. This licensing authority has powers to take action against the holder of all types of licence (driver's, vehicle and operator's) and it must be understood that any convictions or other actions on the part of the licensee which would have prevented them being granted a licence on initial application will lead to that licence being revoked.
- 4.2 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references) will result in a licence being refused, or if already granted, may lead to revocation and may result in prosecution.
- 4.3 Where a person has more than one conviction, this will raise serious questions about their safety and suitability. This licensing authority is looking for safe and suitable

individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed

- 4.4 Where an applicant/licensee is convicted of an offence which is not detailed in this guidance, this licensing authority will take that conviction into account and use these guidelines as an indication of the approach that should be taken.
- 4.5 These guidelines do not replace the duty of this licensing authority to refuse to grant a licence where they are not satisfied that the applicant or licensee is a fit and proper person. Where a situation is not covered by these guidelines, the authority will consider the matter from first principles of public safety and determine the fitness and propriety of the individual.

5. DRIVERS

- 5.1 As the criteria for determining whether an individual should be granted or retain a hackney carriage driver's licence are identical to the criteria for a private hire driver's licence, the two are considered together as part of this document.
- 5.2 Drivers have direct responsibility for the safety of their passengers, direct responsibility for the safety of other road users and significant control over passengers who are in the vehicle. As those passengers may be alone, and may also be vulnerable, any previous convictions or unacceptable behaviour will weigh heavily against a licence being granted or retained.
- 5.3 As stated above, where an applicant has more than one conviction showing a pattern or tendency irrespective of time since the convictions, serious consideration will be given as to whether they are a safe and suitable person and therefore fit and proper to hold a licence.

6. Single convictions

- 6.1 In relation to single convictions, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence will be granted.
- 6.2 **Crimes resulting in death:-** Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they **will not be licensed**.
- 6.3 **Exploitation :-** Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, **they will not be licensed**. This includes slavery, child sexual exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.
- 6.4 **Offences involving violence :-** Where an applicant has a conviction for an offence of violence, or connected with any offence of violence, **a licence will not be granted until at least 10 years** have elapsed since the completion of any sentence imposed.

- 6.5 **Possession of a weapon** :- Where an applicant has a conviction for possession of a weapon or any other weapon related offence, **a licence will not be granted until at least 7 years** have elapsed since the completion of any sentence imposed.
- 6.6 **Sex and indecency offences** :- Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, **a licence will not be granted.**
- 6.7 In addition to the above, the licensing authority **will not grant a licence** to any applicant who is currently on the **Sex Offenders Register or on any 'barred' list.**
- 6.8 **Dishonesty**:- Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, **a licence will not be granted until at least 7 years** have elapsed since the completion of any sentence imposed.
- 6.9 It is an offence for any person knowingly or recklessly to make a **false declaration or to omit any material particularly in giving information** required on the application form for a licence. Where an applicant has made a false statement, false declaration or omitted to include information on their application for the grant or renewal of a licence, **the licence will normally be refused.**
- 6.10 **Local Authority offences** :- Local Authority offences such as benefit fraud, health and safety and food hygiene although not necessarily directly relevant to taxi licensing should not be discounted lightly and should be considered when deciding whether or not an applicant is a fit and proper person.
- 6.11 **Drugs** :- Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence **will not be granted until at least 10 years have elapsed** since the completion of any sentence imposed.
- 6.12 Where an applicant has a conviction for **possession of drugs**, or related to the possession of drugs, a licence **will not be granted until at least 5 years have elapsed** since the completion of any sentence imposed. In these circumstances, any applicant will also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.
- 6.13 **Discrimination** :- Where an applicant has a conviction involving or connected with discrimination in any form, a licence **will not be granted until at least 7 years have elapsed** since the completion of any sentence imposed.
- 6.14 **Motoring convictions** :- Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence or may not result in action against an existing licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

- 6.15 **Drink driving/driving under the influence of drugs/using a hand-held telephone or hand held device whilst driving :-** Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until **at least 7 years have elapsed** since the completion of any sentence or driving ban imposed. In these circumstances, any **applicant will also have to undergo drugs testing** at their own expense to demonstrate that they are not using controlled drugs.

Hand held telephone;-Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted **until at least 5 years have elapsed** since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Other motoring offences

- 6.1 A minor traffic or vehicle related offence is one which does not involve loss of life, driving under the influence of drink or drugs, driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant **has 7 or more points on their DVLA licence** for minor traffic or similar offences, a licence **will not be granted until at least 5 years have elapsed** since the completion of any sentence imposed.
- 7.2 A **major traffic or vehicle related offence** is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until **at least 7 years have elapsed** since the completion of any sentence imposed.

7. Hackney carriage and private hire offences

- 8.1 Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until **at least 7 years have elapsed** since the completion of any sentence imposed.

9. Vehicle use offences

- 9.1 Where an applicant has a conviction for any offence which involved the use of a vehicle (including hackney carriages and private hire vehicles), a licence will not be granted until **at least 7 years have elapsed** since the completion of any sentence imposed.

10. Private Hire Operators

- 10.1 A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver).

However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or other unacceptable purposes.

- 10.2 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person.
- 10.3 Operators must ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate.
- 10.4 If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria that will lead to the operator's licence being revoked.
- 10.5 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers, which are outlined above.

11. Vehicle proprietors

- 11.1 Vehicle proprietors (both hackney carriage and private hire) have two principal Responsibilities:
- Firstly, they must ensure that the vehicle is maintained to an acceptable standard at all times.
 - Secondly, they must ensure that the vehicle is not used for illegal or illicit purposes.
- 11.2 As stated above, where an applicant has more than one conviction, serious consideration will need to be given as to whether they are a safe and suitable person to be granted or retain a vehicle licence.
- 11.3 As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to proprietors as those applied to drivers, which are outlined above.

14. Non conviction information

- 14.1 On the occasion of information being supplied by the Chief Officer of Police either as the result of information contained on a DBS Disclosure or under the 'Notifiable Occupations Scheme' which relates to an alleged serious offence which resulted in no action being taken, consideration should be given to refusing or suspending/revoking the application/ licence. Such offences would include those of a violent or a sexual nature. Every case will be considered on its own merits.

15. **CONCLUSION**

- 15.1 A criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for a period of time, according to circumstances before an application can be considered.
- 15.2 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give more cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration must be the protection of the public.

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