



Committee: LICENSING REGULATORY COMMITTEE

Date: THURSDAY, 2 JUNE 2016

Venue: LANCASTER TOWN HALL

Time: 1.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Appointment of Vice-Chairman**

To appoint a Vice-Chairman for the 2016/17 municipal year.

3. **Minutes**

Minutes of the meeting held on 24 March 2016 (previously circulated).

4. **Items of Urgent Business authorised by the Chairman**

5. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Whilst not a legal requirement, in accordance with Council Procedure Rule 9 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register at this point in the meeting.

In accordance with Part B, Section 2 of the Code of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

6. **Broadfields Park Caravan Site Licence Review (Pages 1 - 11)**

Report of Chief Officer (Health & Housing)

Exclusion of the Press and Public

7. **Exempt Items**

The Committee is recommended to pass the following recommendation in relation to the following items:

“That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, on the grounds that they could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act.”

Members are reminded that, whilst the following items have been marked as exempt, it is for Committee itself to decide whether or not to consider them in private or in public. In making the decision, Members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion Members should also be mindful of the advice of Council Officers.

8. **Existing Private Hire Driver's Licence - Allan Stocks** (Pages 12 - 23)

Report of the Licensing Manager

9. **Notification of Decision taken under the Urgent Business Procedure - Existing Hackney Carriage and Private Hire Dual Driver's Licence - Amilton De Matos Rodrigues** (Pages 24 - 26)

Report of the Chief Executive

10. **Public Items**

The press and public will be readmitted to the meeting at this point.

11. **Hackney Carriage and Private Hire Licensing Convictions Policy Update** (Pages 27 - 50)

Report of the Licensing Manager

12. **Child Sexual Exploitation Presentation for the Hackney Carriage and Private Hire Trade** (Pages 51 - 56)

Report of the Licensing Manager

13. **Local Government (Miscellaneous Provisions) Act 1976 - Proposed Variation of Hackney Carriage Fares** (Pages 57 - 62)

Report of the Licensing Manager

14. **Local Government (Miscellaneous Provisions) Act 1976 - Consideration of Objections to Proposed Variation of Hackney Carriage and Private Hire Vehicle and Private Hire Operator Licence Fees** (Pages 63 - 77)

Report of the Licensing Manager

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors Colin Hartley (Chairman), Susie Charles, Sheila Denwood, Charlie Edwards, Mel Guilding, Tim Hamilton-Cox, Terrie Metcalfe, Margaret Pattison and Robert Redfern

(ii) Substitute Membership

Councillors Alan Biddulph, Joan Jackson, Rebecca Novell, Thynne and John Wild

(iii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068, or email jglenton@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Democratic Support - telephone (01524) 582170, or email democraticsupport@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Tuesday, 24 May 2016.

LICENSING REGULATORY COMMITTEE**Broadfields Park Caravan Site Licence Review
2 June 2016****Report of Chief Officer (Health & Housing)****PURPOSE OF REPORT**

To seek decisions about varying the licence conditions on the caravan site licence for Broadfields Park.

This report is public.

RECOMMENDATIONS

- (1) **That Members approve the variation of licence conditions on the Broadfields Park caravan site licence to improve standards relating to drainage and sanitation.**

1.0 Introduction

- 1.1 Broadfields Park, Oxcliffe Road, Heaton with Oxcliffe, Morecambe LA3 3EH is a 'relevant protected site' as defined in the Mobile Homes Act 2013, operated by Britaniacrest Ltd. Relevant protected sites were formerly called permanent residential caravan sites. All caravan sites must be licensed by the local authority under the Caravan Sites and Control of Development Act 1960. The Council has adopted the Model Standards for Caravan Sites in England 2008 which require a good standard of services, facilities, and amenities provision, for example in relation to spacing, lighting, electrical installations and drainage & sanitation. It is a condition on all site licences that sites must comply fully with the standards and the Council can take formal action for breaches of licence conditions. Where appropriate, additional non-standard conditions specific to a site may also be placed on a licence.
- 1.2 Commonly, residents on relevant protected sites in the Lancaster district enjoy legally compliant standards as witnessed during Environmental Health inspections and by the very low number of complaints received.
- 1.3 The Council has, however, received numerous complaints from residents of one particular site, Broadfields Park, relating to their toilets and showers backing up after periods of intense or sustained rainfall. Reports have also been received of residents having to wade through ponded surface water. Although Britaniacrest Ltd has taken some action to resolve the issues on each of these occasions, this has not always been speedy or had a lasting effect, and a longer-term and more proactive solution is needed.
- 1.4 During 2015 Environmental Health Services identified the need for Broadfields Park's site operators to survey, review, and where necessary alter and improve the surface and foul water drainage system due to serious and

persistent failures of capacity and technical issues.

- 1.5 Members are advised for information that a number of residents of the site are dissatisfied with progress made to date on resolving the drainage problems and there is a current Ombudsman complaint against the Council under investigation.

2.0 Proposal Details

- 2.1 In 2015 the Council held discussions with Britaniacrest Ltd, being the operator and licensee at Broadfields Park. The Council advised that in its view the drainage system was unsuitable, insufficient and/or defective, warranting full investigation and permanent resolution. This raised the question whether specific licence conditions needed to be added to the Broadfields Park caravan site licence, as it was felt that the wording of the existing licence conditions about drainage were capable of improvement.
- 2.2 Britaniacrest Ltd, however, gave firm assurances that they were prepared to carry out all necessary works without the need for them to be added to the licence conditions. They expressed in strong terms their wish to do the works voluntarily rather than under imposed conditions. The Department for Communities and Local Government, in 'Mobile Homes Act 1913 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing regime', states that 'Where possible, an informal approach to enforcement should be taken in the first instance.' An informal approach to regulation is also advocated by the Enforcement Concordat and the Regulator's Code, both of which local authorities must have regard to when pursuing enforcement.
- 2.3 The Council therefore agreed in writing a number of actions and associated deadlines, to be fully completed by 28 February 2016 (see full copy forming Appendix 1). These actions included carrying out a detailed survey of the site's drainage system to assess its adequacy, suitability, effectiveness and weaknesses, and to make recommendations for permanent resolution of the problems. Secondly, a scheme should be implemented for the improvement of on-site drainage, to eliminate or minimise the risks of future blockage and flooding. Thirdly, a programme should be adopted for regular inspection, servicing and maintenance of the drainage system, and records kept of all such activities. Finally, arrangements should be made to secure urgent remedial action promptly in the event of further drainage backing up, for example, removal of effluent by tanker. Documented records of remedial action should be kept.
- 2.4 In response to these agreed actions, Britaniacrest Ltd carried out a drain survey of a small section of the on-site sewerage network. There is still uncertainty however regarding where the site sewerage drains to and the Council are working with United Utilities on this issue. Britaniacrest Ltd also carried out partial improvement works to the surface water drainage in one part of Broadfields Park, being the worst impacted location, but they did not complete all the actions. This failed to resolve adequately the problems complained of by site residents.
- 2.5 On 14 April 2016 the Council wrote to Britaniacrest Ltd informing them of intentions to request a Formal Licence Review and alter site conditions, and

gave Britaniacrest twenty-eight days to make any representations. Representations by the site operator were received on 16 May 2016 (dated 11 May 2016), see full copy forming Appendix 2. Officers reject the representations made by Britaniacrest Ltd as factually incorrect in suggesting that the problems have been resolved.

- 2.6 Under the Caravan Sites and Control of Development Act 1960 a local authority may vary conditions in a site licence at any time. It does not require the site owner’s agreement to vary the site licence, although consultation is required and the owner has a right of appeal should new conditions be imposed. Government advice is that any alterations need to be justified, relevant to the particular circumstances of the site and proportionate. The Council is satisfied that its proposals meet these requirements.
- 2.7 Site owners have a right of appeal to a First Tier Tribunal against decisions to vary licences. When determining an appeal against a condition the tribunal may, if it finds the condition is unduly burdensome, cancel or vary it. Otherwise the tribunal must confirm the condition. In the eventuality of an appeal being upheld by a tribunal, if the council were judged to have acted reasonably then it is unlikely that costs would be awarded.
- 2.8 Should Britaniacrest Ltd breach any licence conditions after variation, the local authority can serve a compliance notice, which sets out the steps required in order for the breach to be remedied. In the case of an emergency the authority has powers to enter the site and do the works. Failure to take the action required under a compliance notice within the timescale required is a criminal offence and the local authority can prosecute for non-compliance. Site owners have a right of appeal to a First Tier Tribunal against a compliance notice.

3.0 Details of Consultation

- 3.1 There is a duty to consult a site owner and permit representations to be made if the local authority intends to alter conditions in an existing licence. There is no statutory consultation time frame, however the Government recommends that site owners are given a minimum period of 28 days. In this case the 28 day consultation period ended on 13 May 2016 and representations dated 11 May 2016 were received from Britaniacrest Ltd on 16 May 2016 (see Appendix 2).

4.0 Options and Options Analysis (including risk assessment)

	Option 1: Vary the site licence conditions to enable enforcement action to be taken as appropriate	Option 2: Leave the site licence conditions as existing and continue relying on the co-operation of the site operator
Advantages	<ul style="list-style-type: none"> • Ultimately provides a long-term proactive solution to the site drainage problems, benefitting residents • Costs of improvements 	<ul style="list-style-type: none"> • No advantages have been identified

	<p>cannot be passed on to residents when carried out as a result of formal action</p> <ul style="list-style-type: none"> Once the long-term solution is in place, reduced workload implications to the Council. 	
Disadvantages	<ul style="list-style-type: none"> Initial increased workload implications would be met as a matter of course within Environmental health. 	<ul style="list-style-type: none"> Residents continue to experience drainage & sanitation problems on regular basis, with only short-term resolution on each occasion Costs of improvements can be passed on to residents when works carried out not as result of formal action Ongoing workload implications to the Council, particularly in responding to potential ward councillor, MP and Ombudsman complaints, as well as officer time in dealing with complaints.
Risks	<ul style="list-style-type: none"> May result in further difficulty in the working relationship between site operator and the Council, however the site operator has offered very limited and slow co-operation with the council's requirements subject to this report.. In the event of appeal, a tribunal may cancel or vary the proposals. 	<ul style="list-style-type: none"> If site operator fails to rectify problems informally, formal process would need starting afresh, leading to delays

4.1 Officers have provided the suggested wordings in Appendix 3 for proposed additional licence conditions and identified two options – either to vary the licence as recommended or not to do so. It should be noted that the Committee is free to determine a different form of words however this would involve technical and legal considerations.

4.2 Option1 would secure a licensing resolution to the current site drainage and associated problems addressed in this report. This is the officer preferred option.

5.0 Conclusion

5.1 Caravan site licence conditions serve an important beneficial purpose to protect site residents from poor standards. In the case of Broadfields Park, residents have experienced problems relating to their toilets and showers backing up, and flooding on site, but the ambiguous wording of the licence conditions has left the Council unable to take formal action to permanently rectify the unusual situation of rainwater overwhelming the foul drainage system, which to officers' knowledge affects no other relevant protected site. The proposed conditions detailed at Appendix 3 are justified, relevant and proportionate to securing suitable standards for affected residents of Broadfields Park. Appropriately varying the licence conditions would enable the Council to use compliance notices if necessary to address any breaches of conditions, and to prosecute for any breach of a compliance notice. In the view of licensing officers it is necessary and proportionate to impose the conditions as recommended.

**CONCLUSION OF IMPACT ASSESSMENT
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

This is a regulatory matter and no significant impact assessment implications have been identified.

LEGAL IMPLICATIONS

As set out in the report, the licence holder has a right of appeal to the First Tier Tribunal against the imposition of any conditions.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report and any officer time and any expenses relating to varying the licence will be contained within existing budgets.

BACKGROUND PAPERS

Broadfields Park correspondence
 Mobile Homes Act 2013
 Caravan Sites and Control of Development Act 1960
 Model Standards for caravan Sites in England 2008
 DCLG Mobile Homes 2013 – A Best Practice Guide for Local Authorities on Enforcement of the New Site Licensing Regime
 DCLG Mobile Homes Act 2013 – Advice to local authorities on the new regime for applications for the grant or transfer of a site licence

Contact Officer: Susan Clowes

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E-mail: sclowes@lancaster.gov.uk
Ref: LRC11

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E-mail: sclowes@lancaster.gov.uk
Website: www.lancaster.gov.uk
Our reference: R:212136
Your reference:

Mr Richard Hill
Britaniacrest Ltd
304 Oxcliffe Road
Heaton With Oxcliffe
Morecambe
LA3 3EJ

**Environmental Health
Services**

**Suzanne Lodge
Chief Officer (Health and Housing)**

Morecambe Town Hall
Marine Road East
MORECAMBE
LA4 5AF

Date: 2 September 2015

Dear Sirs,

**CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960
BROADFIELDS CARAVAN PARK, 276 OXCLIFFE ROAD, HEATON WITH OXCLIFFE,
MORECAMBE, LA3 3EH**

I write to confirm the matters discussed at the meeting of 24 July 2015 held at the Britaniacrest offices on Oxcliffe Road, Morecambe, which was attended by Richard Hill (Director, Britaniacrest Ltd), Phil Jenkinson (Director, Wyre Surfacing), Nick Howard (Environmental Health Manager, Lancaster City Council) and myself. The purpose of the meeting was to discuss licensing issues and concerns being raised by the council relating to Broadfields Caravan Park, 276 Oxcliffe Road, Morecambe LA3 3EH (which subsequently in this letter is referred to as 'the Park').

Drainage / flooding problems

Over the last few years Lancaster City Council has received numerous complaints from residents of the park relating to their toilets and showers backing up after periods of intense or sustained rainfall, leaving them with limited access to essential facilities for periods of time. Reports have also been received of residents having to wade through ponded surface water to access caravans. Although Britaniacrest Ltd has taken some action to resolve the issues on each of these occasions, a longer-term and more proactive solution is needed.

Prior to the meeting the council officers had been supplied with a copy of the CCTV report of the drainage system dated 11/06/15, carried out by Drain Doctor on behalf of Britaniacrest. This reported a build-up of fat inside the pipes and a failed pump in the pumping station. The report recommended that the fat be removed by high pressure jetting and that the failed pump be repaired or replaced. These problems, which were subsequently attended to, appear to the council to be symptoms of an unsuitable, insufficient and/or defective drainage system warranting full investigation and permanent resolution. The suggestion made during the meeting that residents are largely responsible for causing the site's drainage problems by pouring fats and oils down the sink (the evidence for this being presence of fats identified in the drainage survey) gives the council cause for concern about the park management's attitude towards care for site residents.

Residents' health, safety and welfare must not be compromised and local authorities are expected to effectively carry out their licensing and enforcement functions. The history of repeat drainage problems and sometimes protracted resolution, leaving some residents with compromised sanitary facilities or surface flooding, raises the question whether licence conditions now need to be added to the Broadfields Park caravan site licence. During our meeting, however, you gave firm assurances that you were prepared to carry out all necessary works without the need for them to

be added to the licence as conditions. You expressed in the strongest terms your wish to do the works voluntarily rather than under imposed conditions.

The actions which we consider necessary now are as follows.

Action 1: Carry out a full drainage survey to the satisfaction of the licensing authority

Carry out a detailed survey of the site's drainage system to assess its adequacy, suitability, effectiveness and weaknesses, and make recommendations for permanent resolution of the problems which have occurred over recent years in blockage and surface flooding. Agree the scope, approach and detail of this survey in advance with the council as licensing authority. The survey to be completed and a full report submitted to the council as licensing authority by 30th November 2015.

Action 2: Implement a scheme of improvements to site drainage

Implement a scheme for the improvement of on-site drainage to the satisfaction of the council as licensing authority. Carry out effectively and to a high standard all works forming part of the scheme to eliminate or minimise the risks of future blockage of the drainage system and flooding of the site. Agree the scope and approach for implementing this scheme in advance with the council as licensing authority. All works to be completed, commissioned and tested by 28th February 2016 with written confirmation provided promptly to the council as licensing authority.

Action 3: Implement a programme of site drainage inspection, servicing and maintenance

On completion of 1 and 2 above, adopt a programme of regular inspection, servicing and maintenance of the drainage system in order to ensure its continued serviceability and freedom from recurrent problems, and keep records of all such activities available to inspecting council officers. A full and final proposal for the inspection, servicing and maintenance of site drainage to be submitted to the council as licensing authority by 28th February 2016.

Action 4: Remedial removal of backed-up drainage effluent in the event of further backing up

Pre-plan and make arrangements to secure urgent remedial action that is implemented promptly in the event of further drainage backing up on site. This remedial action must include if necessary repeated removal of backed up effluent by tanker to maintain serviceable foul drainage for all residential units on the Park, without them being impacted by any backing up of sanitary facilities. A documented record of remedial action to be kept in a site log by the company and made available to inspection on request by officers of the council as licensing authority.

Emergency Contact

Lancaster City Council has received complaints that residents are unable to fully establish contact with the site operator out-of-hours and this is borne out by officers' experiences. Although three contact numbers are given and it is possible to leave voicemail messages (although we have been told that sometimes there is no message taking service), you accepted that no confirmation acknowledgements or responses by site management are provided to individual callers as a firm commitment. This provides inadequate means for emergency contact. Residents are entitled to effective means successfully contacting the site operator and receiving suitable assurances in the event of emergency.

Action 5: Emergency contact, personal acknowledgement and response

Put in place an effective and reliable system to receive, acknowledge and respond urgently to emergency telephone calls from residents of the Park.

Please confirm in writing to me no later than 22nd September 2015 your intentions to fully implement these requirements now. If you require any clarification then please do not hesitate to contact me by telephone on 01524 582740.

After careful consideration we have decided to give you the opportunity to complete actions 1 and 2 above on condition (a) that they be fully completed and the outcomes confirmed as required

above in this letter, and (b) that meanwhile that the contingencies in actions 4 and 5 be put in place by Friday 18th September 2015.

Should these actions not be completed within the timescales specified then we will have no alternative but to pursue them as conditions being added to the Broadfields Caravan Site Licence under the Caravan Sites and Control of Development Act 1960. Please note that the council is empowered to make licence condition changes. The council's Licensing Regulatory Committee takes the final decision on licensing conditions and there is a subsequent right of appeal to a tribunal for site operators wishing to dispute imposed conditions.

Yours faithfully,

Susan Clowes,
Public Health Team Leader

[cc. rachel.whaley@gva.co.uk](mailto:cc.rachel.whaley@gva.co.uk)

cc. cheralyn@caravans.com

Britaniacrest Ltd

P.O. Box 214, Morecambe, Lancs LA4 9BB Tel: 01524 831182 Fax: 01524 831152

Environmental Health Services
Susan Clowes - Public Health Team Leader
Morecambe Town Hall
Marine Road East
Morecambe
Lancashire
LA4 5AF

11th May 2016

Dear Susan,

Thank you for your letter dated 14th of April 2016,

For the avoidance of doubt I strongly disagree that any of the proposed requirements should be added to the site licence. As you are aware one of our directors met yourself and another person from the council at the Broadfields Park since the writing of the above dated letter.

During this meeting it was agreed with both parties that United Utilities could come out and take a look at the parks drains and Green Lane pumping station which was left to yourselves to organise.

United Utilities have since been out to the park, of which you arranged and observed the drains working during heavy rain. They tested from the flushing from mobile homes, to observing the onsite pumping station pumping away, to the new surface water drainage system taking the top water of the park all of which was working adequately of which they had no problems with.

Unfortunately where the sewage leaves the park they were unsure as to who owns the land and who's responsibility it would be from that point, maybe you could clarify who's ownership Green lane is in?

Obviously I strongly disagree with the contents of your letter, and believe that we have met all the council's action requirements. We have had the park surveyed by Drain Doctor & Wyre Surfacing plus on the recommendation having carried out improvements by introducing a separate surface water drainage system which we intend to extend even further. We have a maintenance system in place along with records, all of which has costs us a considerable amount of money. We have tried previously to get written confirmation as to what extent of a survey (that would have to have been reasonable) the council required, but unfortunately we have not received a response from the council of which we have evidence of.

I note that you reject the statement that we haven't had any drainage problems on park since Wyre Surfacing carried out the improvements last year, a statement that still stands even till today and can be proven with the records kept. As you reject this statement please provide us with dates and times when a council employee has been on park and witnessed a failure since the works was carried out.

Please find our reply to the proposed additional unfair obligations on our site Licence that should not be put on our site licence.

The drains are adequate and are working on Broadfields Park, proof of this is the fact that they haven't failed since the improvements were carried out, along with United Utilities having no issue with the parks drains.

Britaniacrest Ltd.

Registered Office: P O Box 214, Morecambe Lancashire LA4 9BB Registered in England & Wales No. 04347115 VAT No. 790 8650 93

We have installed drainage at the bottom of the park that deals separately with surface water, which has had issues in the past due to the land level being the lower than the surrounding areas and residents on park making the areas outside their home impermeable for water to pass through. This improvement has already been carried out and is satisfactory as far as United Utilities is concerned.

We already have sufficient procedures in place to deal with any backup and could only work to the time scales permitted by local contractors, realistically speaking if there was a failure there would be times where it would not be possible to have effluent removed within 24 hours. There is a limited amount of local contractors that can deal with effluent removal who give priority to the council and United utilities when there is an issue for obvious reasons, any timescale limitation would be unworkable other than to as soon as reasonably possible.

All residents have a list of emergency contact details already.

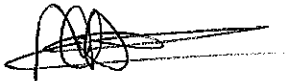
Already have a system in place to deal with any issues on park and don't believe that this is what the site licence should be used for, and the wording any concerns is too vague and could be widely interpreted to be anything.

I believe that the inclusion of any of the above worded terms is not only unnecessary but also unfair on ourselves as we agreed to carry out the above improvements on a voluntary basis on the back of not having any additional requirements added to our site licence.

In the event that our site licence has imposed on us the additional proposed site licence conditions we reserve the right to make a future claim against Lancaster City Council for costs incurred by ourselves of carrying out improvements on the basis of no change being made to the site licence.

I believe that you should be making it 100% clear to the licensing regulatory committee that we have always worked with the council, and that United Utilities have visited the park at your request had no issues with the park, and that the only potential issue that remains is regarding the drainage going through Green Lane, Which is probably the responsibility of the Lancaster City Council or alternatively United Utilities.

Regards

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

On behalf Britaniacrest Ltd
01524 831182

Proposed Licence Conditions to be added to Broadfields Park Caravan Site Licence

1. To carry out a detailed survey to the reasonable satisfaction of the licensing authority of the site's drainage system to assess its adequacy, suitability, effectiveness and weaknesses, and to make recommendations for permanent resolution of the blockage and surface flooding problems.
2. To have and maintain in good working order a suitable and sufficient surface and foul water drainage system which is capable of servicing all the caravans/mobile homes on the site.
3. The surface and foul water drainage system must have adequate provision to protect against flooding and the loss of facilities that may reasonably be caused by flooding.
4. To have sufficient procedures and systems in place to ensure that any backed-up drainage effluent is removed immediately and in any event within 24 hours of notification of blockage.
5. To provide all residents with emergency contact details for the site manager and to ensure that the residents' emergency contact details are kept up-to-date.
6. To display on a public notice board on or near the site reception area the emergency contact details for the site manager.
7. To have a suitable sufficient emergency response system in place which ensures that residents' concerns are logged and responded to accordingly.

Document is Restricted

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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LICENSING REGULATORY COMMITTEE**Hackney Carriage and Private Hire Licensing –
Convictions Policy Update
2nd June 2016****Report of Licensing Manager****PURPOSE OF REPORT**

The report seeks Members' approval of the adoption of the attached updated Draft Convictions Policy.

This report is public.

RECOMMENDATIONS

That the attached Draft updated Convictions Policy for private hire and hackney carriage licensing be approved.

1.0 Introduction

- 1.1. Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) provides that a district council shall not grant a licence to drive a hackney carriage unless they are satisfied that the applicant is a fit and proper person. Section 51 of the Act sets out the same provision in relation to private hire drivers.
- 1.2 The Council has a duty to ensure so far as possible that drivers and operators are fit and proper persons to hold licences. One aspect of that is the extent to which previous convictions, including but not limited to convictions for offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs indicate that a person is not a fit and proper person, and would not take advantage of passengers or abuse or assault them.
- 1.3 One of the checks that is in place to enable the Council to determine whether a person is a fit and proper person to be granted a licence is the requirement to carry out an enhanced criminal record check, now known as a Disclosure and Barring Check (DBS Check)
- 1.4 In order that decisions can be transparent and consistent, whilst still considering all applications on their individual merit, it is best practice for all Councils to have a Convictions Policy which sets out to all applicants what parameters the Council works within.
- 1.5 The current Convictions Policy was introduced in January 2007. A copy of that policy is attached at appendix 1 to this report.

- 1.6 Following the serious case review in Rotherham the Local Government Association have advised that all Local Authorities review and update their Convictions Policies to ensure that they are fit for purpose.
- 1.7 An updated draft Convictions Policy has been prepared for members' comments and approval. The policy is intended to provide transparency and consistency in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes. A copy of the policy is attached at appendix 2 to this report.

2.0 Conclusion

- 2.1. Members are recommended to approve the proposed updated Convictions Policy in relation to hackney carriage and private hire licensing.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing) The proposed policy does not have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), sexual orientation, or rural isolation.	
FINANCIAL IMPLICATIONS There are no financial implications as a result of this report.	
LEGAL IMPLICATIONS Legal Services have been consulted and have no further comments.	
BACKGROUND PAPERS None	Contact Officer: Wendy Peck Telephone: 01524 582317 E-mail: wpeck@lancaster.gov.uk Ref: WP



APPENDIX 1

STATEMENT OF POLICY CONCERNING THE RELEVANCE OF CRIMINAL CONVICTIONS RELATING TO THE DETERMINATION OF APPLICATION OR RENEWAL FOR A HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE DRIVER'S LICENCE

1. When submitting an application for the grant or renewal of a Hackney Carriage/Private Hire Vehicle Driver's Licence, applicants are required to declare all convictions and cautions they may have.
2. The Council recognises that employment plays an important part in preventing ex-offenders from reoffending. Therefore we will also pay due attention to the principles of rehabilitation, so there are no unnecessary barriers for the employment of ex-offenders. However, the Council's role as licensing authority is to protect members of the public who travel in Hackney Carriages and Private Hire Vehicles.
3. Applicants need to be aware that as a consequence of the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002, applicants for a licence are excluded from the provisions of the Rehabilitation of Offenders Act 1974 in relation to spent convictions and that **all** convictions and cautions (including motoring convictions and fixed penalties) **must** be declared.
4. We will in all cases verify an applicant's identity and require an enhanced criminal record check (CRB) to be undertaken. Where the check reveals that the applicant has a record of convictions or cautions and warnings, we will consider these carefully on the basis of:-
 - How relevant the offences were to the licence applied for;
 - How serious the offences were; and
 - How recent they were.

We reserve the right to seek intelligence from all 'approved sources' such as the Police, Social Services Alcohol and Drug Rehabilitation Units, Probation Services, Child Protection Agency, General Practitioners, etc.

5. We will consider all convictions based upon the City Council's guidelines. However we will pay special attention to criminal offences involving dishonesty, violence, drugs, alcohol, criminal damage and sexual offences, together with serious offences connected with the driving of a motor vehicle.
6. Whilst a licence is in force, we shall receive updates from the Police and Courts, of new convictions and cautions for licence holders. This will allow us to decide whether action needs to be taken on the continuation of the licence. It is the responsibility of each licence holder to inform the Council of any conviction, caution or fixed penalty arising during the currency of the licence. A criminal record check is required on application, and the first renewal of a licence, and thereafter every three years.
7. Any applicant refused a driver's licence on the ground that he/she is not a fit and proper person to hold such a licence has the right of appeal to a Magistrates' Court. Such appeal must be made within 21 days of being notified of the Council's decision.

GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS

NOTE:

For the purpose of these guidelines formal cautions and endorsable fixed penalties shall be treated as though they were convictions.

A. General Arrangements for Determining an Application when a Criminal Conviction has to be taken into account.

- A.1 All convictions will be considered on merit, having regard to the Council's Statement of Policy and these guidelines relating to the Relevance of Criminal Convictions, and will be weighed against the need to protect the public.
- A.2 The application will be determined by the Licensing Section and if any conviction or caution, as laid down in the following relevant conviction guidance, is disclosed through either the application or the Criminal Records Bureau check, the application will be referred to the Licensing Regulatory Committee.

Specific Guidance on the Relevance of Convictions

B.1.1 Traffic Offences

B.1.2 Traffic Offences [Minor]

- B.1.2.1 Isolated convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc., should not normally prevent a person from being granted a licence.
- B.1.2.2 If an applicant has received more than six points within the last two years for speeding or other minor offences, the application will be considered by the Licensing Regulatory Committee to determine his/her suitability.
- B.1.2.3 Convictions relating to minor driving offences committed when the applicant was driving a Hackney Carriage or Private Hire vehicle will be considered in a more serious light.

B.1.3 Traffic Offences [Major]

- B.1.3.1 More than one conviction for driving without due care and attention or similar offence etc., within the last two years will usually merit refusal and normally no further application will be entertained until a period of at least three years free from convictions has elapsed.
- B.1.3.2 Convictions for more serious motoring offences such as causing death by dangerous, careless driving or manslaughter will be treated more seriously and a longer period free of conviction (normally a period of between 5 and 10 years) will be required before an application is entertained.
- B.1.3.3 If an applicant has been disqualified from driving, a period of at least 12 months (after the restoration of the driving licence) should normally be required before an application is entertained.
- B.1.3.4 Any convictions committed when the applicant was driving a Hackney Carriage or Private Hire Vehicle whilst engaged on licensed activities will be considered

in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

C Drunkenness & Drugs

C.1 With a Motor Vehicle

C.1.1 A serious view will be taken of convictions of driving or being in charge of a vehicle under the influence of drink or drugs. A conviction for these offences will raise grave doubts as to the applicant's fitness to hold a licence. A period of 3 years (after restoration of the driving licence) would normally be required before a licence application is entertained.

C.1.2 If there is any suggestion that the applicant is an alcoholic or has a drug problem, a medical examination with a doctor nominated by the Council will be arranged (the costs of which will be born by the applicant) before an application is entertained. If the applicant is found to be an alcoholic or a drug addict, normally a period of between 5 to 10 years will need to elapse after completion of treatment before a further licence application is entertained.

C.1.3 Convictions for offences relating to alcohol or drug abuse commissioned when the applicant was driving a Hackney Carriage or Private Hire will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

C.1.4 In this instance confirmation may be sought from a doctor nominated by the Council that the rehabilitation programme has been effective.

C.2 Not in a Motor Vehicle

C.2.1 An isolated conviction for drunkenness or drugs need not debar an applicant from gaining a licence, although further consideration of the application should be required having regard to the circumstances of the offence. However, a number of convictions would usually merit refusal and normally no further application will be entertained until a period of at least 3 years free from convictions has elapsed.

D Indecency Offences

D.1 As Hackney Carriage and Private Hire Vehicle drivers often carry unaccompanied passengers, applicants with convictions for sexual offences will normally be refused until they can show a substantial period free of such offences.

D.2 Applications will be refused in cases where the applicant remains on the Sex Offenders Register.

D.3 Convictions relating to offences of indecency committed when the applicant was driving a Hackney Carriage or Private Hire Vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

E Violence and Abusive Behaviour

- E.1 As Hackney Carriage and Private Hire Vehicle drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for violent or abusive offences. This category includes public order offences and criminal damage.
- E.2 At least five years free of such convictions will normally be necessary before an application is entertained and even then a strict warning as to future conduct will be given.
- E.3 Convictions for offences relating to violence committed when the applicant was driving a Hackney Carriage or Private Hire vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

F Dishonesty

- F.1 Hackney Carriage and Private Hire Vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. Foreign visitors can be confused by the change in currency and become "fair game" for an unscrupulous driver.
- F.2 For these reasons a serious view will be taken of any conviction involving dishonesty. Normally, a period of three to five years free of conviction will be required before entertaining an application.
- F.3 Convictions for offences relating to dishonesty committed when the applicant was driving a Hackney Carriage or Private Hire Vehicle will be considered in a more serious light and a much longer period of rehabilitation will need to be demonstrated before a licence application will be entertained.

G Offences Under The Town Police Clauses Act 1847 And Part II Of The Local Government (Miscellaneous Provisions) Act 1976 And Any Hackney Carriage Byelaws (The Acts).

- G.1 One of the main purposes of the licensing regime set out in "the Acts" is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under the legislation, particularly offences of illegal plying for hire, when deciding if a person is a fit and proper person to hold a licence.
- G.2 In particular, an application will normally be refused where an applicant has more than one conviction for an offence under "the Acts" in the five years preceding the date of the application.
- G.3 Convictions for offences relating to 'The Acts' committed while licensed as a Hackney Carriage or Private Hire Driver, Proprietor or Operator will be considered in a more serious light and a revocation of the appropriate licences may be instigated.



**STATEMENT OF POLICY AND GUIDELINES
RELATING TO THE RELEVANCE OF
CONVICTIONS, FORMAL / SIMPLE CAUTIONS,
COMPLAINTS AND OTHER MATTERS WHICH MAY
IMPACT ON THE GRANTING OR RENEWAL OF A
LICENCE**

STATEMENT OF POLICY ABOUT RELEVANT CONVICTIONS

NOTE: In the Council’s view this statement and the guidelines that follow are compatible with the rights and freedoms under the European Convention on Human Rights.

This document aims to provide guidance to any person with an interest in public and private hire licensing. In particular, but not exclusively:

- Applicants for drivers’ licences
- Existing licensed drivers whose licences are being reviewed
- Applicants for operators licences
- Existing licensed operators whose licences are being reviewed
- Licensing Officers
- Members of the Licensing Regulatory Committee (hereinafter referred to as the “Committee”)
- Magistrates hearing appeals against local authority decisions

Thereby providing transparency and consistency in accordance with the principles of good enforcement and relevant Regulatory Compliance Codes.

DRAFT

Background

1. In this policy the word “individual” includes an existing licence holder, an applicant for a new licence, and an applicant for the renewal of an existing licence.
2. Licences for drivers of hackney carriages, private hire vehicles or private hire operator may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
3. In this policy the word “issue” is used. This includes complaints made to the Council, Police, Operators or any other agency, breaches of licensing conditions and intelligence received from other agencies (including circumstances which have not resulted in a criminal conviction, caution or other disposal). E.g. incidents which have resulted in a police investigation where there has been no further action due to the criminal burden of proof will still be considered if the Committee is satisfied that the incident occurred based on the balance of probabilities)
4. Licences for operators of private hire vehicles may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence.
5. The document is intended to give guidance on one aspect of whether a person is or is not a fit and proper person namely the situation where a person has previous convictions and cautions.
6. The Council is concerned to ensure:
 - a. That a person is a fit and proper person.
 - b. The public are not exposed to persons with a history of dishonesty, indecency or violence.
 - c. The safeguarding of children and young persons and vulnerable adults.
7. The public are not normally permitted to attend Committee hearings for private hire, hackney carriage driver applications or private hire operator applications or reviews, however, in determining whether to grant, renew or revoke a licence the Committee and Officers will take into account the human rights of the wider public and balance these against the human rights of the applicant.
8. When submitting an application for a licence to drive a hackney carriage or private hire vehicle, or for an operator’s licence, individuals are required to declare all previous convictions they may have. Individuals are also required to declare all formal/simple cautions, any matters of restorative justice and all fixed penalties and all endorsable fixed penalties they have received and to provide details of all criminal matters of which they are currently the subject of criminal investigation or prosecution.

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9. The information given will be treated in confidence and will only be taken into account in relation to the relevant application to assist the Council in determining whether the applicant is a fit and proper person to hold a licence for the purposes of sections 51, 55 and 59 of the Local Government (Miscellaneous Provisions) Act 1976, or whether the Council should exercise any of its powers under section 61 and 62 of the Act (i.e. suspension, revocation or refusal to renew a licence).
10. Applicants for a licence to drive a hackney carriage or private hire vehicle should be aware that the Council is empowered by law to check with the Disclosure Barring Service for the existence and content of any criminal record and other intelligence held in their name. Officers from the licensing section will where appropriate contact other agencies for any other information which they may hold for instance, Housing Service, Children's Services and Lancashire Constabulary. Information received from the Disclosure Barring Service or other agency will be kept in strict confidence while the licensing process takes its course and will be retained no longer than is necessary and in any event will be destroyed in accordance with the requirements of the Data Protection Act 1998 and in accordance with good practice after the application is determined or any appeal against such determination is decided.
11. The disclosure of a criminal convictions/fines or cautions or other relevant information relating to an individual's conduct will not necessarily debar an individual from being granted, retaining or renewing a licence. It will depend on whether or not the individual can satisfy the Council that they are a fit and proper person to hold such a licence.
12. The Council may fail to be satisfied that an individual is a fit and proper person to hold a driver's licence or an operator's licence for any good reason. If adequate evidence that a person is a fit and proper person is not adduced or if there is good reason to question or doubt the evidence provided, then that could amount to good reason to refuse a licence.
13. In considering evidence of an individual's good character and fitness to hold a driver's licence or operator's licence, where previous convictions/cautions or other information relating to criminal matters/character is disclosed, the Council will consider the nature of the offence/issue and penalty. When it was committed/took place, the date of conviction/issue and the length of time which has elapsed, the individuals age when the offence was committed/issue took place whether or not it is part of a pattern of criminal behaviour, the intent, the harm which was, or could have been caused and any other factors which might be relevant. Where an individual has been convicted of a criminal offence, the Council cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq (1998)*].
14. The Council has adopted the following guidelines relating to the relevance of convictions to which it refers in determining new/renewal applications for drivers' licences and operators licences and when considering whether to take any action against an existing licence holder.

15. The guidelines do not deal with every type of offence, and do not prevent the Council from taking into account offences not specifically addressed in the guidelines, or other conduct, which may be relevant to an individual, If an individual has a conviction for an offence not covered by the guidelines regard will be given to the factors at paragraph 10 when deciding whether any action should be taken.

Offences described in the guidelines and similar offences, though differently entitled in any statutory provision, modification or re-enactment, will be taken into account in accordance with the guidelines

16. The guidelines are not an attempt to define what a “fit and proper person” is.
17. Any individual who is refused a driver’s licence or has such a licence suspended or revoked on the ground that the Council is not satisfied he/she is a fit and proper person to hold such a licence has a right of appeal to the Magistrates’ Court within 21 days of the notice of refusal.
18. Any individual who is refused an operator’s licence has a right of appeal to the Magistrates’ Court within 21 days of the notice of refusal.
19. The guidance will be used for the determination of new applications, the renewal of existing licences and the review of existing licences in relation to hackney carriage drivers, private hire drivers and operator licences.

GUIDELINES ON THE RELEVANCE OF PREVIOUS CONVICTIONS and OTHER INFORMATION

General Policy

1. Each case will be decided on its own merits.
2. The Council has a duty to ensure so far as possible that drivers and operators are fit and proper persons to hold licences. One aspect of that is the extent to which previous convictions, including but not limited to convictions for offences against children and young persons, dishonesty, sexual offences, traffic offences, violence and drugs indicate that a person is not a fit and proper person, and would not take advantage of passengers or abuse or assault them.
3. Restorative justice and other criminal disposals are increasingly used by the police as a less formal way of dealing with issues and as an alternative to the criminal court system. The Council recognises that restorative justice and other out of court disposals tend to be applied in less serious cases or for first time offenders, nevertheless all such disposals will be taken into account when determining if a person is a fit and proper person.
4. A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
 - a. Remain free of conviction for an appropriate period; and

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- b. Show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). A person with a conviction for a single serious offence or a number of separate offences is not barred from applying for a private hire or hackney carriage driver licence, but would normally be expected to remain free from conviction for an appropriate period (which will depend on the nature of the offence).
 - c. Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
5. Amongst situations where it may be appropriate to depart from the general policy, for example, may be situations where the offence is an isolated one with mitigating circumstances or where a conviction defaults outside of the policy between the application and determination date. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour, which will be taken into account. In any case which involves certain specified sexual offences, murder or manslaughter a licence will normally be refused.
6. The Council will consider any information/ representations received that a person is not/ no longer a “fit and proper” person or a breach of a condition of a licence has been proved they may refuse, revoke or suspend a licence for any specified period.
- a. Hearing with notice – Where the Committee is to consider whether or not a person is a “fit and proper” person, notice of the time and date when a committee will be convened will then be given ahead of the date listed in order to allow the person to seek independent legal advice and to attend and be represented at the hearing.
 - b. Ex-parte hearing – Where the Committee is convened as a result of sensitive information being received by the Council an assessment will be undertaken in balancing a person’s right to a fair hearing against whether or not it is in the public interest to hold the hearing ex-parte.
 - c. Where new offences are created or existing offences are consolidated or re-enacted etc. they will be treated in a manner appropriate to their severity whether or not this guidance has been updated to reflect the changes.

The following examples afford a general guide on the action, which might be taken where convictions are disclosed:

1. Offence of Dishonesty

Drivers of hackney carriage and private hire vehicles are expected to be persons of trust. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and in other ways.

Passengers may include especially vulnerable people and children.

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Members of the public entrust themselves to the care of drivers both for their own safety and for fair dealing, passengers may include especially vulnerable people. In certain situations drivers will know that a property is empty whilst the occupants are away on holiday for a set period of time after taking them to the airport or railway station.

The widespread practice of delivering unaccompanied property is indicative of the trust that businesses put into drivers.

For these reasons a serious view is taken of any convictions involving dishonesty. In particular, an application will normally be refused where the individual has a conviction for an offence or similar offences or offences which replace the below offences and the conviction is less than 3 years prior to the date of application

- i. Theft
- ii. Burglary
- iii. Fraud
- iv. Benefit fraud (including offences under ss.111A and 112 of the Social Security Administration Act 1992)
- v. Handling or receiving stolen goods
- vi. Forgery (e.g. producing false insurance policy)
- vii. Conspiracy to defraud
- viii. Obtaining money or property by deception
- ix. Other deception
- x. Blackmail

2. Violence

Members of the public and in particular, the elderly, infirm and children or vulnerable adults entrust their personal safety to private hire and hackney carriage drivers whenever they take a journey.

Passengers often travel alone and are vulnerable to physical attack etc.

Users of private hire and hackney carriage vehicles have a right to expect that drivers are not individuals with a predisposition towards or a propensity for violent behaviour at any level.

a) Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)

Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons.

It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

The Council seeks to minimise risks associated with children and young persons and for that reason a more serious view will be taken where offences of violence involve children or young persons.

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Where the commission of an offence involved loss of life a licence will normally be refused. If a conviction is more than 10 years old the application will be referred to the Licensing Manager for determination. If a conviction less than 5 years old the application will generally be refused.

b) Offences against Other Persons

As hackney carriage and private hire vehicle drivers maintain close contact with the public, where the commission of an offence involved loss of life a licence will normally be refused.

In other cases where the conviction is less than 10 years prior to the date of the application will be referred to the Licensing Manager for determination. If a conviction is less than 3 years old the application will generally be refused.

In particular:

- i. An application will normally be refused where the individual has a conviction for an offence or similar offence(s), or similar offence(s) which replace the below offences:
 - Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving

- ii. An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences and the conviction is less than 10 years prior to the date of application:
 - Arson
 - Malicious wounding or grievous bodily harm (s.20 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(a) Crime and Disorder Act 1998)
 - Actual bodily harm (s.47 Offences Against the Person Act 1861) which is racially aggravated (s.29(1)(b) Crime and Disorder Act 1998)
 - Grievous bodily harm with intent (s.18 Offences Against the Person Act)
 - Grievous bodily harm with intent (s.20 Offences Against the Person Act)
 - Robbery
 - Possession of firearm
 - Riot
 - Assault Police
 - Common assault with racially aggravated (s.29(1)(c) Crime and Disorder Act 1998)
 - Violent disorder
 - Resisting arrest

- An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which

replace the below offences and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage (s.30 Crime and Disorder Act 1998)
- Racially-aggravated s.4 Public Order Act 1986 offence (fear of provocation of violence) (s.31(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4A Public Order Act 1986 offence (intentional harassment, alarm or distress (s.31(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.2 Protection from Harassment Act 1997 offence (harassment) (s.32(1)(a) Crime and Disorder Act 1998)
- Racially-aggravated s.4 Protection from Harassment Act 1997 offence (putting people in fear of violence) (s.32(1)(b) Crime and Disorder Act 1998)
- Racially-aggravated s.5 Public Order Act 1986 offence (harassment, alarm or distress) (s.31(1)(c) Crime and Disorder Act 1998)

iii. An application will also normally be refused where the individual has a conviction for an offence or similar offence(s) or similar offence(s) which replace the below offences and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm (s.47 Offences Against the Person Act)
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S.4 Public Order Act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
- Harassment- breach of restraining order- on conviction Protection from Harassment Act 1997 s5(5) = s. 5(6)
- Obstruction
- Possession of offensive weapon
- Criminal damage

3. Drugs

An application will normally be refused where the individual has a conviction for an offence related to the supply of drugs and the conviction is less than 5-10 years prior to the date of application.

After 5 years, consideration will be given to the circumstances of the offence and any evidence demonstrating that the person is now a fit and proper person to hold a licence.

An application will normally be refused where the individual has more than one conviction for offences related to the possession of drugs and the convictions are less than 5 years prior to the date of the application.

An offence related to the supply of drugs and the conviction is less than 10 years prior to the date of application will be referred to the Licensing Manager for determination. A conviction less than 5 years old will generally be refused.

An application from an individual who has an isolated conviction for an offence related to the possession of drugs within the last 5 years will be referred to the Licensing Manager for determination. If a conviction is less than 3 years old the application will generally be refused.

If any applicant was an addict then they will normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

4. Sexual and Indecency Offences

Any individual currently on the sex offenders' register would not normally be granted a licence.

a) Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years)

Drivers of hackney carriage and private hire vehicle are often entrusted with the care of children and young persons. It is comparatively easy for an unscrupulous driver to take advantage of such vulnerable persons.

Where the commission of a sexual offence involves a child or young person an application for a licence will normally to be refused.

b) Offences against persons other than children / young persons

As hackney carriage and private hire vehicle drivers often carry unaccompanied passengers, individual with a conviction for rape, indecent assault, or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be refused a licence.

Individuals with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences or similar offences under the Sexual Offences Act 2003, will normally be referred to the Licensing Manager for determination where the conviction is less than 10 years prior to the date of the application. Applicants on the sex offenders register or with a conviction less than 5 years old will generally be refused.

c) Intelligence and other information which has not resulted in a criminal conviction

The Council will sometimes be made aware of other intelligence or low level information about an individual which has not resulted in the conviction of that person but is relevant in relation to their character. Officers will give appropriate consideration to this information and will seek to consult with other appropriate agencies in order to ensure that they have a comprehensive understanding. Where appropriate, officers will refer such information/ intelligence to the Licensing Manager. Any additional information gathered through this process may then be taken into account by the Licensing Manager when determining whether an applicant/driver/operator is fit and proper.

5. Drunkenness

Driving whilst under the influence of drink is unacceptable under any circumstances and puts not only the driver, but passengers and other road users at risk. Such irresponsible behaviour is not conducive with the responsibilities of a private hire or hackney carriage driver.

The Council takes a serious view of anyone who attempts to drive a licensed vehicle whilst under the influence of alcohol. If a driver is reported to the Council by the police for having alcohol in his/her system whilst in control of a licensed vehicle, whether over the legal limit or not, the matter will be referred to the Licensing Regulatory Committee for consideration. It is recommended that alcohol should not be consumed for up to 12 hours before driving a hackney carriage or private hire vehicle.

i. With a motor vehicle (No Disqualification)

A serious view will be taken of convictions of driving or being in charge of a vehicle while under the influence of drink.

An application will normally be refused where the individual has a conviction, which does not result in disqualification, for an offence within 2 years of the date of the application.

More than one conviction for this type of offence, within the last 5 years of the date of conviction is likely to merit refusal.

ii. With a motor vehicle (Disqualification)

Where a disqualification has occurred as a result of a drink-driving offence, at least 5 years free from conviction should normally elapse from the date of the restoration of the DVLA licence before an applicant is considered for a licence.

In addition, individual will normally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

iii. Not in a motor vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. In some cases, a warning may be appropriate.

More than one conviction for drunkenness could indicate a medical problem necessitating critical examination and refusal of a licence.

In addition, individual will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

6. MOTORING CONVICTIONS

a) Major Traffic Offences

New applicants and existing licensed drivers with a conviction for a 'Major Traffic Offence' as defined below, which is less than 5 years prior to the date of the application (the present date in relation to existing licensed drivers) will be referred to the Committee (renewal) or Licensing Manager (grant) for determination. A conviction less than 2 years prior to the date of the application will generally be refused.

Where the conviction resulted in a period of disqualification, an application will normally be refused unless a period of 3 years free from conviction has lapsed from the restoration of the DVLA licence and 5 years where the disqualification relates to driving whilst unfit through drink or drugs.

In addition, applicants will generally be required to show a period of at least 5 years has elapsed after completion of detoxification treatment if they were an alcoholic.

For the purposes of these guidelines the following motoring offences are classed as 'Major Traffic Offences':

AC10	Failing to stop after an accident
AC20	Failing to give particulars or to report an accident within 24 hours
AC30	Undefined accident offences
BA10	Driving while disqualified by order of Court
BA30	Attempting to drive while disqualified by order of Court
CD40	Causing death through careless driving when unfit through drink
CD50	Causing death through careless driving when unfit through drugs
CD60	Causing death through careless driving with alcohol level above the limit
CD70	Causing death through careless driving then failing to supply a specimen for alcohol analysis
CD71	Causing death through careless driving the failing to supply a specimen for drug analysis
DD40	Dangerous driving
DD60	Manslaughter or culpable homicide while driving a vehicle
DD80	Causing death by dangerous driving
DR10	Driving or attempting to drive with alcohol level above limit
DR20	Driving or attempting to drive while unfit through drink

DR30	Driving or attempting to drive then failing to supply a specimen for analysis
DR31	Driving or attempting to drive then refusing to give permission for analysis of a blood sample that was taken without consent due to incapacity
DR40	In charge of a vehicle while alcohol level above limit
DR50	In charge of a vehicle while unfit through drink
DR60	Failure to provide specimen for analysis in circumstances other than driving / attempting to drive
DR61	Failure to provide specimen for drug analysis in circumstances other than driving / attempting to drive
DR70	Failing to provide specimen for breath test
DR80	Driving or attempting to drive when unfit through drugs
DR90	In charge of a vehicle when unfit through drugs
IN10	Using a vehicle uninsured against third party risks
LC20	Driving otherwise than in accordance with a licence
LC30	Driving after making a false declaration about fitness when applying for a licence
LC40	Driving a vehicle having failed to notify a disability
LC50	Driving after a licence has been revoked or refused on medical grounds
MS50	Motor racing on the highway
MS60	Offences not covered by other codes
MS90	Failure to give information as to identity of driver, etc.
UT50	Aggravated taking of a vehicle

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but with 0 changed to 2 (e.g. IN10 becomes IN12).

Causing or Permitting

Offences as coded above, but with 0 changed to 4 (e.g. IN10 becomes IN14).

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. IN10 becomes IN16).

Or similar offences or offences which replace the above offences.

b) Intermediate Traffic offences

Any Intermediate Traffic Offence, which has attracted 4 or more penalty points will be treated as though it were a Major Traffic Offence.

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One Conviction

Where an individual has a single Intermediate Traffic Offence within the 12 months immediately preceding the date of application, they will normally be expected to show a period of at least 6 months free from conviction before an application is considered.

Two or more Convictions

Where an individual has 2 or more Intermediate Traffic Offences in the 12 months immediately preceding the date of application, the individual will normally be expected to show a period of at least 12 months free from conviction before an application is considered.

If any conviction for an Intermediate Traffic Offence results in a disqualification, the individual should refer to the section of these guidelines entitled “disqualification”.

An applicant who has received a disqualification owing to the totting up system for any period of disqualification, will not normally be granted a licence unless they have held a DVLA licence for at least 12 months following the expiry of the period of the disqualification.

For the purposes of these guidelines the following motoring offences are classed as ‘Intermediate Traffic Offences’:

CU10	Using vehicle with defective brakes
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicle or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition
CU30	Using a vehicle with defective tyres
CU40	Using a vehicle with defective steering
CU50	Causing or likely to cause danger by reason of load or passengers
CU80	Breach of requirements as to control of the vehicle mobile phones etc
CD10	Driving without due care and attention
CD20	Driving without reasonable consideration for other road users
CD30	Driving without due care and attention or without reasonable consideration of other road users
SP10	Exceeding goods vehicle speed limit
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)
SP30	Exceeding statutory speed limit on a public road – not resulting in a fixed penalty
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence

Aiding, Abetting, Counselling or Procuring

Offences as coded above, but with 0 changed to 2 (e.g. CU10 becomes CU12).

Causing or Permitting

Offences as coded above, but with 0 changed to 4 (e.g. CU10 becomes CU14).

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. CU10 becomes CU16).

Or similar offences or offences which replace the above offences.

c) Minor traffic Offences

Any Minor Traffic Offence which has attracted 4 or more penalty points will be treated as though it were an Intermediate Traffic Offence

Single conviction

Where an individual has a single Minor Traffic Offence in the 12 months immediately preceding the date of application, the application will normally be granted with a letter of warning being placed on the file.

Two or more Convictions

Where an individual has two or more Minor Traffic Offences in the 12 months immediately preceding the date of application an individual will normally be expected to show a period of at least six months free from conviction before an application is considered.

For the purposes of these guidelines the following motoring offences are classed as ‘Minor Traffic Offences’:

MS10	Leaving a vehicle in a dangerous position
MS20	Unlawful pillion riding
MS30	Play street offences
MS70	Driving with uncorrected defective eyesight
MS80	Refusing to submit to an eyesight test
MW10	Contravention of Special Road Regulations (excluding speed limits)
PC10	Undefined contravention of Pedestrian Crossing Regulations
PC20	Contravention of Pedestrian Crossing Regulations with moving vehicle
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle
SP30	Exceeding statutory speed limit on a public road resulting in a fixed penalty
TS10	Failing to comply with traffic light signals
TS20	Failing to comply with double white lines
TS30	Failing to comply with a “Stop” sign

TS40	Failing to comply with direction of a constable or traffic warden
TS50	Failing to comply with traffic sign (excluding “Stop” sign, traffic lights or double white lines)
TS60	Failing to comply with school crossing patrol sign
TS70	Undefined failure to comply with a traffic direction sign

Aiding, abetting, counselling or procuring

Offences as coded above, but with 0 changed to 2 (e.g. PC10 becomes PC12)

Causing or permitting

Offences as coded above, but with 0 changed to 4 (e.g. PC10 becomes PC14)

Inciting

Offences as coded above, but with 0 changed to 6 (e.g. PC10 becomes PC16)

Or similar offences or offences which replace the above offences.

d) Totting up without Disqualification

There may be occasions where an applicant has accrued sufficient points under totting up for the court to consider disqualification, but successfully argues that exceptional hardship should apply and the court has not, therefore, imposed a disqualification. In these circumstances the Council expects the individual to supply full details of each of the matters that led to the totting up. The Council will take those matters into account in accordance with this policy when deciding whether to grant or refuse an application or whether to take action against an existing licence. Should the individual not supply full details of each of these matters then the Council will take the failure to supply such information into account when deciding whether to take any such action.

e) Plying for Hire

In the case of a private hire driver found guilty of an offence of plying for hire, the Committee would normally order the licence to be revoked or suspended.

7. Breach of Conditions, Bye-laws and complaints

Any breach of conditions, breach of bye-laws or complaint relating to a licence holders conduct may be referred to the Committee. A licence holder brought before the Committee will be dealt with by either no further action, a formal warning, period of suspension or revocation. N.B. This does not influence any decision which may be made to instigate prosecution procedures for any offence committed.

8. Guidance

Licence holders will be referred to the Committee in situations where it is clear that the holder has failed to moderate their behaviour following verbal or written warnings administered by Licensing Officers. In any event, any licence holder who receives a third warning [verbal or written] in respect of a breach or complaint occurring within a 12 month period [calculated by reference to the date of the breach/complaint] will be referred to the Committee.

All genuine complaints are investigated as far as it is reasonably practicable to do so.

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Where the Council administers a caution to a licence holder this does not preclude a referral to the Committee for the matter for which the licence holder has been cautioned.

In other cases an investigation may result in a warning, such warnings will be relevant to the rolling 12 month period.

In certain situations the breach or complaint may be deemed so serious that an immediate referral to the Committee is warranted. In those cases the reasoning for the decision for the immediate referral will be recorded within the formal report to Committee.

9. Reapplication

Individuals are advised that Council guidelines are that where an individual has had an application refused or a licence revoked, the Council would normally refuse any subsequent application made within 12 months of the date of the previous refusal or revocation unless there are substantial material changes in the circumstances affecting the individual's fitness and propriety.

10. Spent Convictions

By virtue of the Rehabilitation of Offenders Act 1974 (Exemptions) (Amendment) Order 2002 taxi drivers are an exempted occupation for the purposes of the 1974 Act and convictions are therefore never spent.

The Council will only consider spent convictions if it appears to be relevant for deciding whether the individual is a fit and proper person to hold a licence and that justice cannot be done in the case, except by admitting or requiring evidence relating to that spent conviction. The Council will in its consideration the nature of the offence(s), the history or pattern of offending, the lapse of time and whether all the convictions have previously been considered.

FORMAL/ SIMPLE CAUTIONS AND ENDORSABLE FIXED PENALTIES

For the purpose of these guidelines formal/simple/conditional cautions and endorsable fixed penalties shall be treated as though they were convictions.

11. Multiple convictions from Single Incident

Where an individual has multiple convictions arising from a single incident, the convictions will generally be treated as one conviction for the purposes of these guidelines.

In these circumstances the period for which the individual would normally be expected to show free from conviction will be the longest applicable period calculated by reference to each offence.

12. Other Offences

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Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 and Hackney Carriage Byelaws and Section 167 Criminal Justice and Public Order Act 1994.

One of the main purposes of the licensing regime set out in the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (“the Acts”) and Hackney Carriage Byelaws, is to ensure the protection of the public.

For this reason a serious view is taken of convictions for offences under the Acts (including illegally plying for hire and/or touting) when deciding whether an individual is to be treated as a fit and proper person to hold a licence.

In particular, an individual will normally be refused a licence if (s)he has been convicted of an offence under the Acts at any time during the 2 years preceding the application or has more than one conviction within the last 5 years preceding the date of the application.

Contact details:

Licensing Services
Lancaster City Council
The Town hall
Dalton Square
Lancaster
LA1 1PJ

Telephone Number: 01254 582033

Email: licensing@lancaster.gov.uk

These guidelines to convictions supersede all others and take effect from:

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LICENSING REGULATORY COMMITTEE**Child Sexual Exploitation Presentation for the
Hackney Carriage and Private Hire Trade
2nd June 2016****Report of the Licensing Manager****PURPOSE OF REPORT**

To give feedback to members about the recent Child Sexual Exploitation (CSE) presentation delivered to the hackney carriage and private hire trade and to ask members to determine what fee if any should be charged to those who failed to attend any of the fifteen free sessions.

This report is public

RECOMMENDATIONS

- (1) **Members are asked to note the information in relation to the numbers of the hackney carriage and private hire trade that attended the recent Child Sexual Exploitation (CSE) presentations.**
- (2) **Members are asked to reaffirm whether or not a fee should be charged to any member of the taxi and private hire trade who failed to attend any of the initial fifteen free presentations, to attend a future presentation. If members reaffirm that a fee should be charged they are asked to determine at what level the fee should be set**

1.0 Report

- 1.1 Members may recall that at a meeting of the Licensing Regulatory Committee held in November 2015 they approved an amendment to the Rules Regulations and Procedures for Hackney Carriage and Private hire licensing in relation to drivers, proprietors and operators.
- 1.2 The condition stated that all licence holders, including drivers, proprietors and operators, must undergo CSE training before the first renewal of their licence after the end of January 2016. It was also determined that the first few sessions would be provided free of charge and after that there would be a fee associated with attending.
- 1.3 The reason for the introduction of the new condition was that the importance of the role of licensing in safeguarding vulnerable children and adults had been highlighted by recent events in Rotherham, Rochdale and Oxford. Many councils around England and Wales were and still are reviewing their policies and taking them back

to first principles, so they can make best use of the powers they have to protect the public. A copy of the report considered is attached at appendix 1 to this report.

- 1.4 As a result of that resolution licensing officers have delivered 15 sessions of the CSE presentation over 3 full days in January, February and April. The sessions were spread out over the day to try and provide adequate opportunity for everyone in the taxi and private hire trade to attend and each session lasted approximately 30 minutes. All members of the trade were written to and asked to contact licensing to make an appointment to attend one of the presentations. After the sessions in February, all members of the trade who had not already attended were contacted and told that the last free day would be held in April and they would need to book on to one of the five sessions.
- 1.5 Over the fifteen sessions, 545 members of the trade attended and only 61 members of the trade did not attend any of the presentations.
- 1.6 Further presentations will now have to take place to ensure that all members of the hackney carriage and private hire trade are CSE aware.
- 1.7 Members are now asked to reaffirm that a fee should be charged to the 61 members of the trade who did not attend any of the presentations. The cost of delivering further presentations is difficult to calculate as it would depend upon the numbers attending. However, officers consider that a £10 fee would be adequate to cover the cost of providing the room and officer time in delivering the presentation. The fee should only be set at an appropriate level to cover the costs involved.

2.0 Conclusion

- 2.1 Members are asked to reaffirm that a fee should be charged to the 61 members of the hackney carriage and private hire trade who have failed to attend any of the CSE presentations already delivered by officers, to attend one of the further proposed presentations.
- 2.2 If members are minded to introduce a fee for future presentations for the people who failed to attend the previous presentations, they are asked whether the £10 fee proposed by officers is acceptable or whether a different fee to be determined by members should be charged.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p>

<p>Councils play a crucial, statutory role in safeguarding children. The introduction of Child Sexual Exploitation training for all hackney carriage and private hire licence holders will help to ensure that the Council is complying with that statutory duty.</p>

<p>FINANCIAL IMPLICATIONS</p>

<p>If a £10 fee was imposed it could produce additional income of in the region of £600 if all the remaining members undertook the training and this would need to be built into the budget as part of the 2017/18 budget process.</p>
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SECTION 151 OFFICER'S COMMENTS

The s151 Officer has no comments to add, other than highlight that based on best estimates, a charge of £10 is considered to be the maximum to be charged and this would be a reasonable approach, given the scale of that charge, the Committee's previous decisions and the measures taken to provide free training in recent months.

LEGAL IMPLICATIONS

Under Section 61 of the Local Government (Miscellaneous Provisions) Act 1976, a district Council has the power to suspend or revoke or refuse to renew the licence of a private hire or hackney carriage driver for any reasonable cause. Should this happen a driver has a right of appeal within 21 days to the Magistrates Court against the

MONITORING OFFICER'S COMMENTS

The monitoring officer has been consulted and has no further comments

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck
Telephone: 01524 582317
E-mail: wpeck@lancaster.gov.uk
Ref: WP/CSE

LICENSING REGULATORY COMMITTEE

**Child Sexual Exploitation (CSE) Training for
Hackney Carriage and Private Hire Drivers
26th November 2015**

Report of Licensing Manager

PURPOSE OF REPORT
<p>To seek approval from members for the proposals set out in the report in relation to the delivery of CSE training to all members of the hackney carriage and private hire trade.</p> <p>To approve an amendment to the Rules, Regulations and Procedures for Hackney Carriage and Private Hire Licensing to include a condition making it a requirement for all holders of hackney carriage and private hire licences (drivers, operators and proprietors) to undergo the CSE training before a licence can be renewed.</p>
<p>This report is public.</p>

RECOMMENDATIONS

- (1) **Members are requested to approve the proposals set out in the report in relation to the delivery of CSE training to all hackney carriage and private hire licence holders (drivers, operators and proprietors).**
- (2) **Members are requested to approve the following addition to the Rules, Regulations and Procedures for Hackney carriage and Private Hire Licensing:**

All licence holders, including drivers, proprietors and operators, must undergo CSE training before the first renewal of their licence after the end of January 2016.

1.0 Report

- 1.1 The importance of the role of licensing in safeguarding vulnerable children and adults has been highlighted by recent events in Rotherham, Rochdale and Oxford. Many councils around England and Wales are now reviewing their policies and taking them back to first principles, so they can make best use of the powers they have to protect the public
- 1.2 An example of this work is the compulsory safeguarding training that is being delivered in many authorities for Hackney Carriages and Private Hire licence holders.
- 1.3 CSE has a devastating impact on children, young people and their families. It should be a concern for everyone. CSE is largely a hidden crime, and raising awareness of

this type of abuse is essential to preventing it and stopping it early when it does happen.

- 1.4 Members may recall that at a meeting of this committee held on 3rd September they resolved to authorise the licensing manager in conjunction with the safeguarding officer and the Lancashire Officers Group to develop a suitable CSE training package which can be delivered to hackney carriage and private hire drivers and to report back to this committee at a later date to seek approval of implementation of the training. A copy of the report considered is attached at appendix 1 to this report.
- 1.5 As a result of that resolution officers have been working closely with neighbouring authorities and police officers from the Lancashire Constabulary Public Protection Unit, and a package has now been developed. This will be in the form of a presentation followed by questions which are aimed at encouraging discussion and thought rather than being a pass/fail situation.
- 1.6 It is proposed that all existing licence holders, including operators, proprietors and drivers will be invited to attend one of 5 free training sessions which will be held on one day in January with the support of DCI Tony Baxter of the Lancashire Constabulary Public Protection Unit. Members of the Committee will also be invited to attend. It is further proposed that 2 more free training days are offered, one in February and one in March. Both days will offer 5 sessions for members of the trade to book on to. In total that will be 15 free training sessions that will be offered. The training sessions in February and March will be carried out by licensing officers who have completed training on delivering the sessions.
- 1.7 After the free training sessions have been delivered it is proposed that a cost should be associated with any further training sessions for those who have not taken advantage of the offer of free training. This should encourage a greater uptake of the free training than could ordinarily be the case. The cost will need to be calculated and will be included in the fees report due to be submitted in the New Year.
- 1.8 This offer is more generous than some other neighbouring authorities for example Blackpool, who only intend to deliver one five session day of free training and then charge after that.
- 1.9 It is proposed that new drivers will be given a booklet which is being produced by Lancashire County Council, as part of the application pack and CSE will form part of the knowledge test which is already carried out. This will not require a change of condition.

2.0 Conclusion

- 2.1 Members are asked to approve the proposals as set out in the report.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Councils play a crucial, statutory role in safeguarding children. The introduction of Child Sexual Exploitation training for all hackney carriage and private hire licence holders will help to ensure that the Council is complying with that statutory duty.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report at this time. The initial training will be delivered free of charge by officers. A further report will be submitted in relation to any costs to those who have not taken up the offer of free training.

LEGAL IMPLICATIONS

There are no direct legal implications arising from this report.

BACKGROUND PAPERS

None.

Contact Officer: Wendy Peck
Telephone: 01524 582317
E-mail: wpeck@lancaster.gov.uk
Ref: WP

LICENSING REGULATORY COMMITTEE**Local Government (Miscellaneous Provisions) Act 1976 –
Proposed Variation of Hackney Carriage Fares
2nd June 2016****Report of Licensing Manager****PURPOSE OF REPORT**

The report is to inform Members of the results of the consultation with hackney carriage proprietors in relation to the proposed variation of the current level of hackney carriage fares.

This report is public.

RECOMMENDATIONS:

1. **That Members note the results of the ballot, which has just taken place with hackney carriage proprietors in relation to a fare increase, as set out in appendix 2 to the report, and that the proposed table of fares will now be advertised as required by the legislation.**

1.0 Introduction

- 1.1 The current Hackney Carriage Table of Fares initially came into effect from 7th February 2014. A copy of the current fare card is attached as appendix 1 to this report. A copy of the proposed table of fares is attached at appendix 2 to this report.
- 1.2 Members will recall that, at the meeting of the Licensing Regulatory Committee in March, they authorised the licensing manager to carry out a ballot of all hackney carriage proprietors in relation to a variation of the table of fares. The ballot is in line with the process approved by this committee in February 2014. Although it was determined that due to the low rate of RPI an alternative option would be given on this occasion.
- 1.3 Two options were put to the proprietors. The first option was for an increase in line with the current Retail Price Index 1.3% across all of the fares. The second proposal was that 10p be added to each flag fall rate. This effectively means that the cost of every taxi journey will be increased by 10p.
- 1.4 A ballot has now taken place with hackney proprietors. All proprietors were informed of the proposed variation, and were sent ballot papers. Ballot boxes were placed on the 29th March at both Lancaster and Morecambe Town Halls and at the VMU garage where the vehicles are tested. Proprietors were asked to respond by the close of business on the 29th April. Ninety-eight papers were sent out to the owners of the 108 hackney carriage vehicles currently licensed and 14 ballot papers were returned. The proprietors were asked if they agreed that an increase in hackney carriage fares in line with the RPI is appropriate for the financial year 2016/17. Alternatively they were asked, did they want an increase of 10p on each flag fall. They were also told to indicate no to each option if they did not think an increase was appropriate at this time. Of the 14 papers returned 12 elected to vote for the 10p increase on the flag fall.

There were no votes for an increase in line with the RPI and 2 voted for no increase at all. A copy of the letter sent to the proprietors as well as a copy of the ballot slip is attached at appendix 3 to this report.

2.0 Conclusion

2.1 As the majority of those that voted were in favour of the 10p increase in the flag fall, the licensing manager will now advertise the proposed table of fares in line with the current legislation. Any objections received within the 21 day representation period will be reported back to this committee. If no objections are received the table of fares will come into force at the end of the representation period or as soon as it is practicable for the proprietors to have their meters calibrated to the new rates.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)	
None applicable to this report.	
FINANCIAL IMPLICATIONS Financial Services have advised on the relevant RPI rate.	
LEGAL IMPLICATIONS The legal requirement to advertise any proposed change is covered in the report.	
BACKGROUND PAPERS None.	Contact Officer: Wendy peck Telephone: 01524 582317 E-mail: wpeck @lancaster.gov.uk Ref: WP

HACKNEY CARRIAGE TABLE OF FARES

Applicable from 7th February 2014



Promoting City, Coast & Countryside

Tariff 1

For hirings commenced between 07.01 and 23.59	
If the distance does not exceed 660 yards for the whole distance:	£2.40
For each of the subsequent 310 yards or uncompleted part thereof:	30p
Waiting Time: For each period of 40 seconds or uncompleted part thereof	10p

Tariff 2

For hirings commenced between midnight and 07.00 For hirings commenced between 19.00 and midnight on the 24 th December For hirings commenced between 19.00 and midnight on the 31 st December For hirings commencing on any Bank Holiday or Public Holiday	
If the distance does not exceed 660 yards for the whole distance:	£3.60
For each subsequent 220 yards or uncompleted part thereof:	30p
Waiting time: For each period of 40 seconds or uncompleted part thereof	10p

Tariff 3

For hirings commenced between 00.01 25 th December and 07.00 27 th December For hirings commenced between 00.01 1 st January and 07.00 2 nd January	
If the distance does not exceed 880 yards for the whole distance:	£4.80
For each subsequent 220 yards or uncompleted part thereof:	40p
Waiting time: For each period of 40 seconds or uncompleted part thereof	10p

For each passenger in excess of one [for the purpose two children aged 11 or under to count as one passenger for the whole distance]	20p
For each perambulator or article of luggage carried outside the passenger compartment of the vehicle	20p
Soiling Charge: A charge may be requested if the passenger[s] soils the vehicle. This will not exceed £75.00	

The driver may at his/her discretion require the payment of an agreed amount in advance of the journey. A receipt will be given. The amount will be set against the metered fare.

A booking fee up to a maximum of £4.00 may be charged where:

- (a) The Hackney carriage is booked in advance; and
- (b) (i) The Customer shall be told the cost of the booking fee at the time that the booking is taken and the amount recorded in the booking log; and
(ii) The customer shall be told that the booking fee is in addition to the fare for the journey; and
- (c) The hiring involves a separate journey of at least one mile, starting from the taxi rank or the operator's premises, to the pick up point.

Any complaints regarding the vehicle and/or driver should be addressed to the Licensing Section, Governance, Town Hall, Dalton Square, Lancaster, LA1

1PJ. Telephone [01524] 582033. Email licensing@lancaster.gov.uk

Sarah Taylor, Chief Officer, Governance

**PROPOSED HACKNEY CARRIAGE TABLE OF FARES
2016/17**

Tariff 1

For hirings commenced between 07.01 and 23.59	
If the distance does not exceed 660 yards for the whole distance:	£2.50
For each of the subsequent 310 yards or uncompleted part thereof:	30p
Waiting Time: For each period of 40 seconds or uncompleted part thereof	10p

Tariff 2

For hirings commenced between midnight and 07.00 For hirings commenced between 19.00 and midnight on the 24 th December For hirings commenced between 19.00 and midnight on the 31 st December For hirings commencing on any Bank Holiday or Public Holiday	
If the distance does not exceed 660 yards for the whole distance:	£3.70
For each subsequent 220 yards or uncompleted part thereof:	30p
Waiting time: For each period of 40 seconds or uncompleted part thereof	10p

Tariff 3

For hirings commenced between 00.01 25 th December and 07.00 27 th December For hirings commenced between 00.01 1 st January and 07.00 2 nd January	
If the distance does not exceed 880 yards for the whole distance:	£4.90
For each subsequent 220 yards or uncompleted part thereof:	40p
Waiting time: For each period of 40 seconds or uncompleted part thereof	10p

For each passenger in excess of one [for the purpose two children aged 11 or under to count as one passenger for the whole distance]	20p
For each perambulator or article of luggage carried outside the passenger compartment of the vehicle	20p
Soiling Charge: A charge may be requested if the passenger[s] soils the vehicle. This will not exceed £75.00	

The driver may at his/her discretion require the payment of an agreed amount in advance of the journey. A receipt will be given. The amount will be set against the metered fare.

A booking fee up to a maximum of £4.00 may be charged where:

- (a) The Hackney carriage is booked in advance; and
- (b) (i) The Customer shall be told the cost of the booking fee at the time that the booking is taken and the amount recorded in the booking log; and
(ii) The customer shall be told that the booking fee is in addition to the fare for the journey; and
- (c) The hiring involves a separate journey of at least one mile, starting from the taxi rank or the operator's premises, to the pick up point.

Any complaints regarding the vehicle and/or driver should be addressed to the Licensing Section, Environment, Town Hall, Dalton Square, Lancaster, LA1 1PJ. Telephone [01524] 582033. Email licensing@lancaster.gov.uk

Appendix 3

At the recent meeting of the Licensing Regulatory Committee it was agreed that a consultation should commence with hackney proprietors in relation to the level of fares to be set for 2016/17.

You may recall that in March 2014 the Committee approved a new procedure for the setting of fares which would be in line with the current Retail Price Index (RPI). The RPI at January this year was only 1.3% and therefore based on that rate as you will see from Tariff card A enclosed, any increase would be minimal. Members therefore approved that an alternative should be offered to you as part of this consultation and therefore you are also asked to consider whether you would like the Council to introduce a 10p increase on each flag fall as set out in Tariff card B enclosed.

Could you please therefore complete the enclosed ballot slip and return it as instructed on the form. Please only mark a cross in your one preferred option if you would like an increase. If you do not think an increase is appropriate at this time please put a cross in the No section for both options.

Yours sincerely

Wendy Peck

Licensing Manager

Do you agree that an increase in hackney carriage fares in line with the RPI rate as set out in the enclosed table of fares marked A is appropriate for the financial year 2016/17?

Yes	
No	

Alternatively do you agree that an increase of 10p in the flag fall at each tariff should be introduced for the financial year 2016/17 as set out in the table of fares marked B?

Yes	
No	

Please put a cross in one box only and return the slip to one of the ballot boxes which are situated at Lancaster Town Hall, Morecambe Town Hall and the VMU centre.

Please return the slip by the close of business on the 29th April

Do you agree that an increase in hackney carriage fares in line with the RPI rate as set out in the enclosed table of fares marked A is appropriate for the financial year 2016/17?

Yes	
No	

Alternatively do you agree that an increase of 10p in the flag fall at each tariff should be introduced for the financial year 2016/17 as set out in the table of fares marked B?

Yes	
No	

Please put a cross in one box only and return the slip to one of the ballot boxes which are situated at Lancaster Town Hall, Morecambe Town Hall and the VMU centre.

Please return the slip by the close of business on the 29th April

LICENSING REGULATORY COMMITTEE

**Local Government (Miscellaneous Provisions) Act 1976 –
Consideration of Objections to Proposed Variation of
Hackney Carriage and Private Hire Vehicle and
Private Hire Operator Licence Fees
2nd June 2016**

Report of Licensing Manager**PURPOSE OF REPORT**

The report is to enable Members to consider objections to the proposed variation in licensing fees in relation to hackney carriage and private hire vehicle licences approved in principle by the Committee in March.

This report is public.

RECOMMENDATIONS:

That the Committee consider the objections received to the proposed variation in licensing fees in relation to hackney carriage and private hire vehicles and determine whether or not to modify the fees approved in principle by the Committee at its last meeting.

1.0 Introduction

- 1.1 Members will recall that at its last meeting held on 24th March 2016, the Committee considered a proposed variation of the current level of fees in relation to hackney carriage and private hire licences and miscellaneous licences. A copy of the March report is attached at Appendix 1 for ease of reference.
- 1.2 The Committee approved in principle the variation in fees as set out in the report. A copy of the proposed fees sheet is attached at Appendix 2 to this report.
- 1.3 Section 70(3) of the Local Government (Miscellaneous Provisions) Act 1976 requires any increase in the licence fees in respect of private hire operators and hackney carriage and private hire vehicles to be advertised, and a period of 28 days allowed for objections. If no objections are received the fees then come into force. The proposed fees were duly advertised, and relevant objections from seven hackney carriage proprietors have been received. Copies are attached at Appendix 3. Members will note that two of the emails received did not set out any reason for objecting and although asked to elaborate, nothing was forthcoming.
- 1.4 Under Section 70(5) of the Local Government (Miscellaneous Provisions) Act 1976, if an objection is made and not withdrawn, the district council is required to consider the objection and then set a date, not later than 2 months after the first specified date on which the variation of fees should come into force with or without modification as decided after consideration of the objection. The first specified date in this instance

was the 29th May 2016. Although ordinarily the variations to fees have come into force from the 1st April in line with other Council fees and charges.

- 1.5 It should be noted that the legislation only allows for objections in relation to hackney carriage and private hire vehicle licence fees and private hire operator licence fees, and therefore they are the only matters that are the subject of this report.

2.0 Details

- 2.1 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may charge such fees for the grant of hackney carriage and private hire vehicle and private hire operator licences as may be sufficient in the aggregate to cover in whole or in part the reasonable costs of carrying out inspections of Hackney Carriages and Private Hire vehicles to determine whether a licence should be granted or renewed, the reasonable costs of providing Hackney Carriage stands, and any reasonable administrative or other costs in connection with the foregoing and in connection with the control and supervision of Hackney Carriages and Private Hire vehicles. In essence, this means that overall fee income must not exceed relevant costs incurred. Fees charged for drivers' licences may also be set at an appropriate level to cover the cost of issue and administration.
- 2.2 As set out in the March report, following an on-going assessment of time allocations for licensing staff, together with recharges from other Services, and other costs borne by the licensing service, the current cost of administering hackney carriages and private hire vehicle licensing has been reviewed. As a result of this exercise, the costs of various activities were re-calculated and the proposed fees were set to recover those costs and remove the deficit.
- 2.3 Recently a new time recording system has been implemented in the licensing department which has enabled officers to give a more accurate breakdown of time allocations to each separate licence as they have been issued. The results of that recording system have been analysed and a detailed breakdown of the cost of each licence associated with hackney carriage and private hire licensing was attached to that report at Appendix 3 along with proposed fees which would meet the costs of providing each individual licence. For ease of reference the breakdowns in relation to hackney carriage vehicles and private hire vehicles have been attached at Appendix 4 to this report.
- 2.4 It should be emphasised that it is for the Committee, on behalf of the Council as licensing authority, to determine the level of fees to be charged. The Committee must consider the objections received, but it is not for the trade to "agree" the level of fees. The Committee will need to consider the merits of any specific objections received, but will also need to be mindful of the burden on the tax payers as a whole if the costs referred to in Section 70 are not fully recovered through the licence fees.
- 2.5 All of the objections have been submitted by hackney carriage proprietors. The objections received do not provide any evidence or figures to indicate why the fees should not be increased. Furthermore, generally a number of the objections do not appear to object to the specific proposals regarding hackney carriage vehicle licence fees. Instead, they appear to be objecting to the difference between the cost of a private hire vehicle licence and a hackney carriage vehicle licence. One of the objectors does make reference to the increase being higher than the rate of inflation, however there is no requirement to set any of the fees in line with inflation. Fee setting should be based on cost recovery, and clearly inflation is not the only factor influencing the cost of each licensing function.

- 2.6 The report in March and accompanying breakdowns clearly set out why the fees for hackney carriage vehicle licences and private hire vehicle licences should be different and that is based on actual allocations of cost. The objections wrongly state that both vehicle licences should cost the same as the cost of issuing is the same. They have not taken into consideration that the cost involved in the provision and control and supervision of ranks should be taken into consideration when setting the fees for hackney carriage vehicle licences. This is not the case for private hire vehicle licences. There are also additional costs generated when administering hackney carriage vehicle licences due to the requirement to set and advertise fares and to administer the hackney carriage unmet demand survey. All of these costs are clearly broken down in Appendix 3 to this report.
- 2.7 Recently the cost involved in the control and supervision of ranks has been quite high due to the high rate of non-compliance. This will be continuously monitored and if a reduction in enforcement in that area due to better compliance results in a reduction in cost, the fees in relation to hackney carriage vehicle licences would be reviewed accordingly.
- 2.8 One of the objections is partly in relation to the reduction in private hire vehicle fees, however as they have been set at cost it would be unlawful to charge more. Not to reduce these fees would leave this Council in danger of legal challenge by charging more than the actual cost.
- 2.9 The fees in relation to operators' licences have already been implemented as there were no objections received in relation to these.

3.0 Conclusion

- 3.1 Members are asked to consider the objections appended to this report, and to determine in the light of those objections whether or not to modify the table of fees in relation to hackney carriage vehicle licences which were approved in principle in March.
- 3.2 Officers would recommend that members do not make any changes to the fees approved in March as the objections received do not provide any evidence or other information to indicate why the fees should not be varied. The legislation provides for the Council to recover prescribed licensing costs through the licence fees, that is, from those who are regulated by the legislation. At present, taking into account the increases approved in principle in March, the Council would only be recovering those costs. Taking account of updated and improved cost apportionments and allocations over the various licensing activities, as reported to the last Committee, is a justifiable basis on which to base future fees and this has been the intention for some time. Reducing the proposed increases would put further pressure on the already difficult financial situation faced by the Council.
- 3.3 Officers recommend that the fees as approved in March should be implemented from the 3rd June.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None applicable to this report.

FINANCIAL IMPLICATIONS

As contained within the March report. A breakdown of the cost of providing each licence was appended and based on these costs members agreed to amend the licence fees in order to meet the cost of provision. Any reduction in the fees would result in the cost of providing the licences not being met.

LEGAL IMPLICATIONS

These are contained within the report.

SECTION 151 OFFICER'S COMMENTS

The s151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The monitoring officer has been consulted and has no further comments.

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck
Telephone: 01524 582317
E-mail: wpeck @lancaster.gov.uk
Ref: WP

LICENSING REGULATORY COMMITTEE

**Proposed Licensing Fees 2016/17
24th March 2016**

Report of Licensing Manager

PURPOSE OF REPORT

The report is to enable Members to consider the level of fees to be charged for 2016/17.
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This report is public.

RECOMMENDATIONS

- (1) **Members are recommended to approve an increase in the fees for hackney carriage and private hire licence fees for 2016/17 as set out in Appendix 1 and to authorise Officers to advertise the proposed increases for vehicle and operator licences in accordance with the statutory requirement.**
- (2) **Members are recommended to approve an increase for miscellaneous licence fees for 2016/17, as set out in Appendix 2.**
- (3) **Members are requested to approve the payment of the initial operator's licence and driver's licence renewal following the introduction of the new fees structure in 2 annual instalments.**

1.0 Introduction

- 1.1 The report is concerned with the setting of the licence fees for Hackney Carriage and Private Hire licences and miscellaneous licences issued by the Council. The setting of such fees is by law a non-executive function, and therefore a matter for this Committee. As Members will be aware, licences issued under the Licensing Act 2003 and the Gambling Act 2005 fall within the remit of the Licensing Act Committee and not this Committee, but in any event these fees are fixed or influenced by central Government.
- 1.2 As Members are aware, it has for many years been a policy aim of the Council for the licensing service to be self-financing. However, it has always been acknowledged that there are some licences or permits, for example street collection permits, where no fee may be charged. As a consequence, there will inevitably be a deficit in respect of these miscellaneous licences.
- 1.3 Further, it is not lawful for the Council to seek to make a profit from licence fees that are within its discretion. In particular, with regard to Hackney Carriage and Private Hire licensing, Section 70 of the Local Government (Miscellaneous Provisions) Act

1976 provides that a District Council may charge such fees for the grant of vehicle and operator licences as may be sufficient to cover in whole or in part the reasonable costs of carrying out inspections of Hackney Carriages and Private Hire vehicles, the reasonable costs of providing Hackney Carriage stands, and any reasonable administrative or other costs in connection with the control and supervision of Hackney Carriages and Private Hire vehicles. Fees charged for drivers' licences may be set at an appropriate level to cover the cost of issue and administration.

- 1.4 As Members are aware, whilst the setting of the fees is a matter for this Committee, the level of service provision, which directly influences the costs of the service, is a matter for Cabinet. At its meeting in September 2015, Cabinet resolved not to explore any options to reduce or increase the level of service provided by the Council with regard to the licensing of hackney carriages and private hire vehicles. This was on the basis that protecting the most vulnerable in our society is an underlying principle of the Council's Corporate Plan. Many taxi passengers are vulnerable persons and an effective licensing and enforcement regime is crucial for their protection and the safety of the public in general. Accordingly, the proposals for the licence fees for 2016/17 are set out below, and have been prepared on the basis of ensuring that the costs of the service are met, so far as is lawful, from the fee income.

2.0 Proposals

- 2.1 Following an ongoing assessment of time allocations for licensing staff, together with recharges from other Services, and other costs borne by the licensing service, the current cost of administering Hackney Carriages and Private Hire vehicle licensing and miscellaneous licensing has been reviewed. As a result of this exercise, the costs have been calculated as follows:

	16/17	17/18	18/19	19/20
Hackney Carriage/Private Hire				
Central Overhead	138,400	142,400	147,100	151,600
Misc. Licences				
Central Overhead	20,200	20,800	21,500	22,100

Recently a new time recording system has been implemented in the licensing department which has enabled officers to give a more accurate breakdown of time allocations to each separate licence as they have been issued. The results of that recording system have been analysed and a detailed breakdown of the actual cost of each licence associated with hackney carriage and private hire licensing is attached at Appendix 3 of this report along with proposed fees which would meet the actual cost of providing each individual licence.

- 2.2 Although the miscellaneous licence fees are based on officer time allocations it is intended to carry out a similar more detailed exercise in relation to miscellaneous licence fees during the next financial year as that carried out for hackney carriage and private hire licensing, and in the interim officers would recommend that a 5% increase be implemented for all miscellaneous licences as set out in Appendix 2 to this report.
- 2.3 It is of course impossible to estimate with any degree of certainty the amount of income from licence fees, given that some licence holders may decide not to renew their licence, and there may or may not be a number of new applications for licences.

However, on the basis of the best possible estimate of the average number of licences that will be issued in future years, it is estimated that, if the fees remained at the same levels as in 2015/16 (together with an annual inflation increase) income from hackney carriage and private hire licensing would be as follows:

	16/17	17/18	18/19	19/20
Hackney Carriage/Private Hire				
Licensing Income	(113,800)	(104,400)	(91,300)	(97,300)
Misc. Licences				
Licensing Income	(14,500)	(9,800)	(9,400)	(15,300)

- 2.4 The following table brings together the allocated staff costs (central overhead), other direct costs for vehicle inspections, DVLA check, printing and stationery, the above income projections and other income from vehicle inspections and the sale of badges and taxi plates. It should also be noted that there are non-recoverable costs shown in the table in relation to hackney carriage and private hire licensing in respect of driver enforcement. It is only legitimate for the Council to charge for the administration of drivers' licences and not enforcement of drivers. Likewise, in relation to miscellaneous licences non-recoverable costs have been deducted in respect of work on charitable licences.

Hackney Carriage/Private Hire	16/17	17/18	18/19	19/20
Central Overhead	138,400	142,400	147,100	151,600
Other Direct Costs	47,300	48,100	49,000	49,900
Licence Income	(111,700)	(102,300)	(89,100)	(95,000)
Other Income	(47,500)	(48,400)	(49,200)	(50,100)
Deficit	26,500	39,800	57,800	56,400
Less Non-Recoverable Costs	(15,800)	(16,000)	(16,200)	(16,400)
Revised Deficit	10,700	23,800	41,600	40,000
Average Deficit	29,025			
Misc. Licences				
	16/17	17/18	18/19	19/20
Central Overhead	20,200	20,800	21,500	22,100
Other Direct Costs	200	200	200	200
Licence Income	(14,500)	(9,800)	(9,400)	(15,300)
Deficit	5,900	11,200	12,300	7,200
Less Non-Recoverable Costs	(3,100)	(3,100)	(3,100)	(3,100)
Revised Deficit	2,800	8,100	9,200	4,100

- 2.5 The table shows that both functions are operating at a deficit. For Hackney Carriage and Private Hire on average this is £29K. An average position is shown due to the fluctuations in the number of renewals and the introduction of 3 and 5 year licences. The deficit on miscellaneous licences ranges from £3K to £9K.

- 2.6 Members may recall that as a result of the Deregulation Act 2015, private hire operator licences must be issued for 5 years and driver licences must be issued for 3 years, although individual circumstances may be considered.
- 2.7 The proposed fees therefore set out the default position, which is the cost of a 5 and 3 year licence respectively, and also include the cost of a 1 year licence should individual circumstances justify the grant of a licence for 1 year.
- 2.8 Circumstances it is envisaged where requests may be made for a 1 year licence would be, for instance, when an operator or driver is reaching retirement age and would not require a 5 year licence, or where a new operator may request a 1 year licence so that they can determine whether operating a vehicle is a viable business for him/her. It is recommended that these requests are dealt with by officers.
- 2.9 Officers recognise that the sudden introduction of a 5 year fee may cause some financial hardship for some of the smaller operators. It is therefore proposed that to ease the burden initially, there should be an option allowing for the first licence to be paid for in 2 yearly instalments. This would then give the operator 3 years free of paying a fee to save up to pay the full amount when the licence becomes due again.
- 2.10 Likewise, officers acknowledge that in order to recover the full cost of the driver licence fee, the increase would be substantial, and it is proposed that the same provision is made for payment of the initial fee for renewal should the proposed fees be approved. However Members should note that if the proposal set out in the report in relation to the rise in the Hackney Carriage flag fall are approved, this would generate more than enough income to cover the proposed increase in the cost of the licence.
- 2.11 The control of Hackney Carriage and Private Hire vehicles, and operators, is a time consuming and costly exercise, and it is quite legitimate for a local authority to recover as much of their costs as they are able to in relation to this in accordance with the provisions of the 1976 Act.

3.0 Options and Analysis

- 3.1 The options are as follows:-

Members approve the proposed fees in relation to hackney carriage and private hire licensing, as set out in Appendix 1 of this report, and the deficit in relation to hackney carriage and private hire licensing is removed with the exception of driver enforcement that is not recoverable.

Members approve the fees for miscellaneous licences, as set out in Appendix 2 to this report.

Alternatively, it would be open to the Committee to consider alternative fee structures.

- 3.2 Officers could not recommend an alternative fee structure at this stage, Officers' preferred option would be that the proposed fees are accepted, as the Council should aim to recover as much of its costs in relation to licensing as possible. Based on the suggested fees, the deficit would be minimised as shown below:

Hackney Carriage/Private Hire	16/17	17/18	18/19	19/20
Central Overhead	138,400	142,400	147,100	151,600
Other Direct Costs	47,300	48,100	49,000	49,900
Licence Income	(122,600)	(126,400)	(130,300)	(134,400)
Other Income	(47,500)	(48,400)	(49,200)	(50,100)
Deficit	15,600	15,700	16,600	17,000
Less Non-Recoverable Costs	(15,800)	(16,000)	(16,200)	(16,400)
Revised Deficit	(200)	(300)	400	600
Average Deficit	125			

- 3.3 If Members do not approve the proposed increases, the shortfall in licensing fees would have to be met by council tax payers. Those involved in the Hackney Carriage and Private Hire trades are in a business and it would be difficult to justify an approach whereby a local authority subsidises private enterprise by failing to recover as much of the costs associated with its statutory duties as it is legally able to. Particularly, Members should note that if the increase in the flag fall/Hackney Carriage table of fares is approved, as set out in a previous report considered by this committee, the additional income generated would more than cover the proposed increases in fees.
- 3.4 If Members are minded to approve the fee structure, as set out in relation to Private Hire operators, and the renewal of Hackney Carriage and Private Hire drivers (this will include dual licences), it is recommended that an option should be given upon first renewal to pay the fee in 2 yearly instalments, thus allowing a period when no fee is payable to save for the next licence fee which would then be paid in full.

4.0 Conclusion

- 4.1 Members are requested to consider the licence fees for 2016/17. The legislation requires any increase in the licence fees in respect of Private Hire operators and Hackney Carriage and Private Hire vehicles to be advertised, and a period of 28 days allowed for objections, which must then be considered. Members are therefore recommended to authorise Officers to advertise their proposed increases as required by statute.
- 4.3 Members are reminded that if the fees are not increased to the proposed level there would be an average shortfall in relation to Hackney Carriage and Private Hire licensing of £29K, which could lawfully be recovered through the fees, but which would in fact have to be met by council tax payers.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None.

FINANCIAL IMPLICATIONS

The licensing section has monitored the costs of issuing the licences attached and calculated an average cost per licence based on these estimates. Some, such as the Private Hire Operator Licence is a new 5 year licence and the cost has been calculated for these. Others, such as the Drivers Licences and Vehicle Licences and Scrap Metal Dealer Licences have been recalculated and the costs are shown for each, together with the cost of producing the licence.

The revised income figures above are based on an average of £122K/annum, inflated at a 3.1% and results in average annual increase of £29K for hackney carriage and private hire with Miscellaneous Licences increasing income by £2,600 in 2016/17 and 2019/20 and a smaller £300 in other years - and if approved future years budgets will need to be updated as part of the budget process.

LEGAL IMPLICATIONS

Legal Services have been consulted and their comments have been incorporated in the report.

MONITORING OFFICERS COMMENTS

The Monitoring Officer has been consulted and has no further comments.

S.151 OFFICERS COMMENTS

The Deputy Section 151 Officer has been consulted. He advises that, in making their decision, Members give due consideration to:

- Cabinet's decisions regarding the level of service to be provided;
- the work undertaken by Officers to assess the costs of providing the services;
- the legal framework concerning the recovery of costs; and
- the implications for the District's Council Tax payers of setting fees at a level below those proposed.

BACKGROUND PAPERS

None

Contact Officer: Wendy Peck

Telephone: 01524 582317

E-mail: wpeck@lancaster.gov.uk

Ref: WP

Type of licence	Current Fee £	Proposed Fee £
Hackney Carriage Licence (annual)	200.40	245.00
Hackney Carriage Licence (6 monthly)	100.20	123.00
Hackney Carriage Licence (4 monthly)	66.80	82.00
HC/PH Drivers Licence Renewal (annual)	58.90	120.00
HC/PH Drivers Licence Renewal (3 yearly)	109.60	221.00
HC/PH Drivers Licence Grant (3 yearly)	N/A	292.00
HC/PH Drivers Licence Grant (annual)	64.80	191.00
Private Hire Vehicle Licence (annual)	200.40	189.00
Private Hire Vehicle Licence (6 monthly)	100.20	95.00
Private Hire Vehicle Licence (4 Monthly)	66.80	63.00
Duplicate Badge	11.75	11.75
Online drivers licence checks	5.90	5.90
Private Hire operator's Licence Current		
0-10 Vehicles (annual)	117.80	
11-25 Vehicles (annual)	150.10	
26 and over (annual)	200.30	
Private hire Operator's Proposed		
1 vehicle (annual)		134.00
1 vehicle (5 yearly)		419.00
2 – 10 vehicles (annual)		155.00
2 – 10 vehicles (5 Yearly)		523.00
11 – 25 vehicles (annual)		190.00
11 – 25 vehicles (5yearly)		697.00
26 vehicles and over (annual)		263.00
26 vehicles and over (5 yearly)		1064.00

Figures in bold indicate the default licence length with corresponding fee as introduced by the Deregulation Act.

Mrs Peck

I would like to object to your current licence fee request as I cannot see how you justify it

Regards
M Booth
HV 207

Dear Mr Davies

Thank you for your email nothing was meant to be personal and if you wish me to re write my objection not a problem.

I am writing to to you to object to the increase in Hackney carriage vehicles fees and the reduction to Private hire vehicles

It amazes me how this council treats the trade as one regards to meetings and invites private hire owners and drivers to vote on how hackneys carriages operate and increase or decrease the number of hackneys as well as deregulation issues, so if you wish to continue to do this then everyone should be treated fairly and in the same way when the process for both Hackney carriage and private hire vehicles are exactly the same process.

Some of the decisions made never cease to amaze me.

I object to the vehicle fare increase to Hackney carriage vehicles

This is not aimed at anybody or group of people it's a fact

Regards

Peter Hobart

I object to fee increase for Hackney carriage vehicles reason being because it's so far above the rate of inflation its seems to be subsidising a reduction to the private hire vehicles Kind regards
Dilaver Hussain Patel

Sent from my iPhone

Hi Wendy

With reference to the above subject, I would like to put forward my objection of increase to costs, as a proprietor of two vehicles the increase is out of proportion of financial percentage to adhere to the working policies of the licencing dept, as biased opinions should not take preference over straight forward office procedure as it takes exactly the same amount of time to process both hackney and private hire. Without a legitimate reason for unfair rise, I see this as not being a cost effective move

but one that will take more time to set up and undoubtedly cause unnecessary mistakes whilst getting into routine. Why?

Regards

Elleran Hobart

From: Stephen Wilkinson [<mailto:s.>]
Sent: 23 April 2016 15:56
To: licensing <licensing@lancaster.gov.uk>
Subject:

I strongly object to the license increases.

I would like to object to the proposed variation to Hackney carriage and private hire vehicle fees. My objection is aimed on the cost to process a license for either vehicle, be it a Hackney or private hire. The license and the process to issue must be the same,
Many thanks Kevin Chamberlain

Dear Ms Peck

I am writing directly to you as stated in the advert to exercise my lawful right to object to the proposed increase in license fees. I believe the proposed fees are unlawful and have requested an internal audit to account for the discrepancies demonstrated in the advertised fees. If the internal audit doesn't show the fees to be correctly calculated I will insist the district auditor be called in.

[REDACTED]

May I remind you that proposed fees cannot be introduced until objections have been dealt with by the Committee. Hence the fees cannot be brought in until after the next meeting following the advertised period. Can you please therefore deal with renewals at the current rates notably in the case of [REDACTED]

Regards

Andy Kay

Breakdown of Cost – renewal of Private Hire Vehicle Licence

Proposed fee for renewal of private hire vehicle licence = £189 per year.

1. Plates and door signs = 25 mins = **£14.14¹**
2. Sending out renewal papers and receiving application = 40 mins = **£22.63²**
3. Issuing licence = 10 mins = **£5.66**
4. Printing and postage cost including tariff card (not required but always requested) = **£5³**
5. Administration of vehicle tests = 40 mins = **£22.63⁴**
6. Complaints, inspections, suspensions, committee = 60 mins enforcement officer plus 15 mins manager = £47.95 plus committee time as set out in calculations below = £1.21 total **£49.18⁵**
7. Policy and service development, consultation, = 30 mins manager 20 mins enforcement/admin = **£37.15**
8. Setting Fees = **£1.06⁶**
9. Additional items during period of licence = **£32⁷**

Actual cost for one year = £189.45

See footnote for calculations

¹ Making plates and door signs if required

² Sending out pre populated renewal papers, checking application and taking payment

³ For sending out application forms and other communication

⁴ Admin work includes communication with garage, booking vehicle tests, receiving and matching compliance certificates, data input and subsequent referral to enforcement in event of failures.

⁵ Enforcement officer work = 394 hours on vehicle inspection approximately 60 minutes per vehicle. Manager approximately 50 hours = 15 minutes per vehicle (based on 214 private hire vehicle and 108 hackney carriage vehicles). = £47.97 plus 5 hours manager time preparing reports and presenting to committee in relation to suitability of vehicle = 258.40 divided by 214 private hire vehicles = £1.21 makes a total of £49.18

⁶ 14 manager hours per year at £723.52 plus £300 advertisement costs = £1023.52 divide by 3 licence types (driver, operator and vehicle) = £341.17 divided by 322 vehicles = £1.06

⁷ Change of ownership, change of address, chasing up to date insurance policies.

Breakdown of Cost – renewal of Hackney carriage Vehicle Licence

Proposed fee for renewal of hackney carriage vehicle licence = **£245** per year.

1. Sending out renewal papers and receiving application = 40 mins = **£22.63¹**
2. Issuing licence = 10 mins = **£5.66**
3. Printing and postage cost including tariff card = **£5²**
4. Administration of vehicle tests = 40 mins = **£22.63³**
5. Complaints, inspections, suspensions, committee = 60 mins enforcement officer plus 15 mins manager plus committee time as set out in calculations below = **£58.44⁴**
6. Court = **£23.75⁵**
7. Policy and service development, consultation, unmet demand survey = 60 mins manager + 40 mins enforcement/admin = **£74.31**
8. Setting Fees = **£1.06⁶**
9. Additional items during period of licence = **£32⁷**

Actual cost for one year = **£245.48**

See footnote for calculations

¹ Sending out pre populated renewal papers, checking application and taking payment

² For sending out application forms and other communication

³ Admin work includes communication with garage, booking vehicle tests, receiving and matching compliance certificates, data input and subsequent referral to enforcement in event of failures.

⁴ Enforcement officer work = 394 hours on vehicle inspection approximately 60 minutes per vehicle. Manager approximately 50 hours = 15 minutes per vehicle (based on 214 private hire vehicle and 108 hackney carriage vehicles). = £47.97. Plus allowances for 6 committee reports based on an average from the past 3 years relating to fares, ranks and the control and supervision of ranks to include time spent by licensing manager (12hours) and enforcement officers (6 hours) in delivering hearing and preparing paperwork = 830.46 plus £300 to advertise tariff change = £1130.46 divided by 108 vehicles = £10.47. Both together total £58.44

⁵ Allowance for 13 court cases in relation to the control and supervision of ranks. 32 manager hours = £1653.76 plus 26 enforcement officer hours = £911.30 divided by 108 hackney carriage proprietors = £23.75

⁶ 14 manager hours per year at £723.52 plus £300 advertisement costs = £1023.52 divide by 3 licence types (driver, operator and vehicle) = £341.17 divided by 322 vehicles = £1.06

⁷ Change of ownership, change of address, chasing up to date insurance policies.