



Licensing and Safety Committee

21 February 2024 at 18:00hrs

Meeting Venue: Conference Room 2 at the Council House, Lichfield Street,
Walsall

[Livestream Link](#)

Membership:

Councillor N. Gandham (Chair)
Councillor S. Cooper (Vice-Chair)
Councillor B. Bains
Councillor C. Bott
Councillor P. Gill
Councillor A. Hussain
Councillor K. Hussain
Councillor P. Kaur
Councillor R. Martin
Councillor A. Nawaz
Councillor W. Rasab
Councillor K. Sears
Councillor M. Ward
Councillor R. Worrall

Quorum: Five Members

Democratic Services, The Council House, Walsall, WS1 1TW
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[Walsall Council Website](#)

**If you are disabled and require help to and from the meeting room,
please contact the person above**

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Schedule 12A to the Local Government Act, 1972 (as amended)

Access to information: Exempt information

Part 1

Descriptions of exempt information: England

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
 - (a) to give any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information being disclosed during a meeting of a Scrutiny and Performance Panel when considering flood risk management functions which:
 - (a) Constitutes a trades secret;
 - (b) Its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the risk management authority);
 - (c) It was obtained by a risk management authority from any other person and its disclosure to the public by the risk management authority would constitute a breach of confidence actionable by that other person.

Part 1 – Public Session

1. Apologies
2. Substitutions
To receive notice of any substitutions for meeting.
3. Minutes of the last meeting – 13 September 2023
 - To approve the minutes as a correct record - **enclosed**
4. Declarations of Interest
5. **Local Government (Access to Information) Act, 1985 (as amended):**
To agree that the public be excluded from the private session during consideration of the agenda items indicated for the reasons shown on the agenda.
6. Membership of Taxi Licensing Sub-committees – review
 - Report of the Director of Governance – **enclosed**
7. Taxi and Private Hire Licensing policies – Fit and Proper Person Test for Licensed Drivers, Operators and Proprietors and convictions policy – outcome of consultation on draft policies.
 - Report of the Director, Resilient Communities - **enclosed**

Date of next meeting – 3 April 2024 at 18:00hrs

Licensing and Safety Committee

Minutes of the meeting held on Wednesday 13 September 2023 in a Conference Room at the Council House, Lichfield Street, Walsall at 6.00pm.

Present: Councillor N. Gandham (Chair)
Councillor S. Cooper (Vice-Chair)
Councillor P. Gill
Councillor K. Hussain
Councillor P. Kaur
Councillor R. Martin
Councillor S. Nasreen
Councillor A. Nawaz
Councillor K. Sears

In Attendance: David Elrington, Head of Community Safety and Enforcement
Mr S. Alom, Team Leader, Licensing
Ms S. Heath, Community Protection Officer
Mrs H. Owen, Democratic Services Officer

010 Welcome and changes in membership

Introductions took place. and a quorum of members present in-person was established.

011 Apologies

An apology for non-attendance was received from Councillor Bains, Councillor C. Bott, Councillor A Hussain and Councillor Worrall.

012 Minutes of the last meeting

Resolved:

That the minutes of the last meeting held on 7 June 2023, copies having previously been circulated to each member of the Committee, be approved and signed by the Chair as a correct record.

013 Declarations of Interest

Councillor Nawaz declared an interest regarding each of the items on the agenda as he held a taxi licence with Walsall Council.

014 Local Government (Access to Information) Act, 1985

There were no items to be considered in private session

015 **Taxi and Private Hire Licensing – Fit and Proper Test for Licensed Drivers, Operators and Proprietors**

The Team Leader, Licensing, Mr S. Alom presented a report which sought approval to undertake consultation on a draft fit and proper person policy.

(see annexed)

A discussion took place, during which time Mr Alom and the Head of Community Protection and Enforcement, Mr Elrington, responded to questions and points of clarification. Mr Elrington confirmed that the Council currently had a criminal convictions policy however it did not apply to all three parts of the trade so this was a new policy catering for all. Members were advised that consultation on the draft policy would be undertaken with all relevant parties including, but not limited to, internal council services, statutory consultees such as the police and fire service, trade representatives, Safeguarding Partnership, internal services such as the Safeguarding team. With regard to consultation with the trade, Mr Alom advised that in addition to consulting at the Taxi/Private Hire Liaison Group, every licensed person in the borough would be consulted individually via an online consultation method and if needed, by individual text messages.

Members then briefly discussed the system of DBS checks. Mr Alom provided assurance that there was a robust checking mechanism which included declarations of previous names, National Insurance number, passports, DVLA checks which all formed part of the approval.

It was **Moved** by Councillor Gandham, duly seconded and upon being put to the vote was:

Resolved (unanimously)

- 1) That approval be given to undertake consultation on the draft convictions policy as appended to the report
- 2) That the results of the consultation be reported back to this committee at a future meeting.

016 **Taxi and Private Hire Licensing – Convictions Policy**

The Team Leader, Licensing, Mr S. Alom presented a report which sought approval to undertake consultation on the draft policy.

(see annexed)

Mr Alom responded to questions and points of clarification during which time he advised that the new policy was intended to update the current policy, making it clearer and more detailed, including new offences such as those around modern slavery, to help members when considering licensing applications. He referred members to Pages 92-94 which set out those new offences.

During further discussion, Mr Elrington gave assurances that the current system regarding delegations would not materially change but the new policy would enable members and officers to be more informed about options available to them

and be able to track trends in behaviours. Mr Alom undertook to make clearer the list of convictions taken from the DVLA website, particularly those involving red and yellow lines on page 93.

Members noted that whilst there was no statutory requirement to consult on this updated policy, it was good practice to do so and that there would be assistance available via the Walsall Connected service and individual text messaging for those who found it difficult to access online.

It was **Moved** by Councillor Gandham, duly seconded and upon being put to the vote was:

Resolved:

- 1) That approval be given to undertake consultation on the draft convictions Policy as appended to the report.
- 2) That the results of the consultation be reported back to this committee at a future meeting.

Date of next meeting: 22 November 2023

The Meeting terminated at 6.33pm

Chair:

Date:

Licensing and Safety Committee

Membership of Taxi Licensing Sub-Committees

1. Aim

- 1.1 To provide an opportunity to review the membership of Taxi Licensing Sub-committees 'A' and 'B' following the political balance review and changes to the membership of committees made at the Council meeting on 8 January 2024.

2. Summary

- 2.1 Taxi Sub-committees were established by the Licensing and Safety Committee at its first meeting of the municipal year on 6 June 2023 to deal with taxi/private hire applications under the Local Government (Miscellaneous Provisions) Act, 1976. Members were appointed thereto reflecting the political balance of the Licensing and Safety Committee.
- 2.2 Due to the formation of a new political group, the Council has subsequently reviewed political balance on committees.
- 2.3 Paragraph 4.2 of the report sets out the current membership of the sub committees. Paragraph 4.3 sets out the changes following the Council meeting. Paragraph 5 sets out options for members to consider.

3. Recommendations

- 3.1 That members of the Licensing and Safety Committee:-

a) be appointed to each of the sub committees, Taxi 'A' and Taxi 'B', for the remainder of the Municipal Year, in accordance with the revised political balance which is currently:

- 4 Conservative
- 2 Labour
- 1 Independent Group;

Or:

b) That the membership of the Taxi A and B sub-committees remain unchanged for the remainder of the municipal year;

- 3.2 Appoint to the vacant position on Taxi Licensing Sub-committee 'A'.
- 3.3 Note that the Chairs and Vice-chairs of each sub-committee remain unchanged.

4. Report detail

Context:

- 4.1 Taxi Sub-committees were established by the Licensing and Safety Committee at its first meeting of the municipal year on 6 June 2023 to deal with taxi/private hire applications under the Local Government (Miscellaneous Provisions) Act, 1976. A copy of the report is attached which contains the background information relating to the purpose and remit of the sub committees.
- 4.2 It was resolved that 7 members should form each sub-committee and that the membership should reflect the political balance of the main committee. Therefore, taxi sub-committees consisted of:-
 - 4 conservative; and
 - 3 labour members.

Members were appointed as follows:

Taxi A:

Conservative (4)	Labour (3)
Cooper (Ch)	K. Hussain
Bains (VC)	Nawaz
Gandham	Nasreen
Martin	

Taxi B:

Conservative (4)	Labour (3)
Rasab (Ch),	K. Hussain
A Hussain (VC)	Nawaz
Gill,	C. Bott
Kaur	

- 4.3 Following the Council meeting, the allocation of political balance to the sub-cttees is now:
 - 4 Conservative
 - 2 Labour
 - 1 Independent Group

Should sub committees remain unchanged, arrangements would be as follows:-

Taxi A

Conservative (4)	Labour (2) *Underrepresented by 1	Independent Group (1) *overrepresented by 1
Cooper (Ch)	Vacant (Cllr Nasreen no longer a member)	K. Hussain
Bains (VC)		Nawaz
Gandham		
Martin		

Taxi B

Conservative (4)	Labour (2) *Underrepresented by 1	Independent Group (1) *overrepresented by 1
Rasab (Ch), A Hussain (VC)	C. Bott	K. Hussain Nawaz
Gill		
Kaur		

- 4.4 This is the first meeting of the Licensing and Safety Committee since the review of political balance and changes to the membership of its committees by Council on 8 January 2024 and therefore the committee is asked to consider these changes and confirm or make new appointments to the sub-committee, to reflect the new political balance of the Council.
- 4.5 Taxi Licensing Sub Committee 'A' convenes at 10 a.m. and Taxi Licensing Sub Committee 'B' convenes at 6 p.m.

5. Financial implications

- 5.1 None arising directly from this report

6. Legal implications

- 6.1 Taxi sub-committees are not required to be politically balanced as they are not ordinary or advisory, they are quasi-judicial in nature. However, the Licensing and Safety committee has each year decided that political balance should apply.

7. Staffing implications

- 7.1 Taxi sub-committees are supported by officers from Democratic Services, Regulatory Services and Legal services.

8. Consultation

- 8.1 The leaders of the relevant political groups are aware of the position.

9. Decide

- 9.1 The Committee has discretion to decide whether it wishes to carry out its duties itself or delegate to a sub-committee and if so, to appoint members thereto.

Options:

1. To appoint members to the sub-committees in accordance with political balance; or
2. To make no changes to the existing membership except to appoint to the vacant position on Taxi sub-committee A.

10. Respond

- 10.1 Any changes to the membership will be implemented immediately. There are two meetings of each sub-committee scheduled until the end of the municipal year.

11. Review

- 11.1 The appointment and membership of sub-committees is decided upon at the first meeting of the Licensing and Safety Committee each Municipal year.

Appendices

Report to Licensing and Safety Committee, 6 June 2023

Background papers

None

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REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

LICENSING AND SAFETY COMMITTEE

20 FEBRUARY 2024

TAXI AND PRIVATE HIRE LICENSING

DRAFT CRIMINAL & MOTORING CONVICTIONS POLICY DRAFT FIT & PROPER PERSON POLICY

1.0 Summary of report

- 1.1 At the Licensing & Safety committee held on the 13 September 2023, a report was presented to members seeking permission to publicly consult on two draft policies relating to the private hire and hackney carriage trade.
- 1.2 The draft Fit & Proper Person policy and draft Motoring & Criminal Convictions policy are part of a set of documents that will bring together the council's procedures on taxi and private hire vehicle licensing as recommended by statutory guidance issued by the Department for Transport.
- 1.3 Public consultation began on the 16 November 2023 and ended on the 28 December 2023. The consultation questions accompanied by a copy of the draft policies were uploaded on to the council's webpage and a link to this information was sent via text to all licensed drivers, proprietors of vehicles and private hire operators.

2.0 Recommendations

- 2.1 To note that following evaluation of the responses to the consultation, attached at appendix 2 to this report, no changes are recommended to the draft policies as consulted upon.
- 2.2 That the following draft policies be approved as appended to this report to be implemented within 14 days of the date of this meeting:
 - Criminal and Motoring Convictions Policy – Appendix 3
 - Fit and Proper Person Policy – Appendix 4

3.0 Background information

3.1 The statutory taxi and private hire vehicle standards were published by the Department for Transport in July 2020. The councils licensing service familiarised itself with the document and referred to it when assessing the suitability of an individual to hold a licence or when acting against a licence holder in breach of licence conditions. The document was also referred to in any relevant committee reports pertaining to applicants for licences or licensed drivers. A copy of the report to the Licensing and Safety Committee on 13 September 2023 is attached at **Appendix 1**

3.2 As a result of the decision to consult on these policies a link to the web page containing the consultation survey and policy documents was sent via text message to all licensed drivers, vehicle proprietors and private hire operators. A link to the relevant web page was also included in the December issue of the Taxi and Private Hire newsletter published by the councils licensing team. In terms of the public the consultation was promoted in the media and published on the council's taxi licensing page as well as the council's main consultation page. The policies were discussed with responsible authorities prior to the consultation and Children services commented on the policies confirming that they met their requirements. Partner agencies and relevant services such as the Police, Trading Standards and Childrens services were emailed on the 17 November 2023 with a link to the consultation to complete.

3.3 During the consultation period, a total of 84 responses were received. The responses are broken down in the table below:

Licensed Drivers	Licensed Drivers living in Walsall	Licensed Drivers living outside Walsall	Walsall Residents	Other (Operator)
65	56	9	17	2

3.4 Walsall Council currently licence 1507 hackney carriage, private hire, and dual licensed drivers, which means approximately 5% of licensed drivers have responded to the consultation.

3.5 A copy of the consultation responses in contained at **Appendix 2**. The responses show that most of the respondents are in favour of the reviewed policies and therefore no amendments to the policies have been necessary.

3.6 Appendix 3 is a copy of the Draft Fit & Proper Person Policy.

3.7 Appendix 4 is a copy of the Draft Motoring & Convictions Policy.

4.0 Resource considerations

- 4.1 **Financial:** The costs involved in carrying out the consultation has been met from existing budgets held by the licensing services.
- 4.2 **Legal:** Members of the public, the trade or responsible authorities can appeal against the policy. The policy could also be judicially reviewed.
- 4.3 The Department for Transport Statutory taxi and private hire vehicle standards were published in July 2020 under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).

In section 2. Consideration of the statutory taxi and private hire vehicle standards the documents states

‘The standards set out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. Having regard is more than having a cursory glance at a document before arriving at a preconceived conclusion.

Having regard to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking, the standards must be considered rigorously and with an open mind.

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the statutory taxi and private hire vehicle standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in statutory taxi and private hire vehicle standards, and the policies and delivery plans that stem from these. The department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The statutory taxi and private hire vehicle standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.’

- 4.4 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence.
- 4.5 A district council may attach to the grant of a licence such conditions as they may consider reasonably necessary.
- 4.6 Section 52 of the 1976 Act states that any person aggrieved by: -
- (1) The refusal of the district council to grant a licence under Section 51 of the Act, or
 - (2) Any conditions attached to the grant of a driver's licence, may appeal to a Magistrates Court.

Any appeal must be made to the Magistrates Court within 21 days of notification of such a decision.

- 4.7 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.8 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he/she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 4.9 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore, the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.10 There is no statutory definition of Fit & Proper Person but within the Department for Transport Statutory Standards it is suggested that the basis for such a definition would be.

'Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.'

- 4.11 In a legal case relied upon by many in the licensing regime *McCool v Rushcliffe Borough Council* (1998) the decision arrived at included the following

'it is for the applicant to establish that he is a fit and proper person on the balance of probabilities. The real question to be decided is whether or not, on the balance of probabilities, the applicant is a fit and proper person to be granted a licence. This does not require the view to be formed as to whether the person had, in all likelihood, committed a specific offence'

- 4.12 Another key case includes *Leeds City Council v Hussain* (2002) where the following was determined

"the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers."

- 4.13 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq* (1998)]

5.0 Staffing:

- 5.1 Nothing arising from this report.

6.0 Citizen Impact

- 6.1 Walsall Councils Taxi and PHV Licensing, Criminal & Motoring Convictions Guidelines state that: -

The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest person.
- The safeguarding of children and young persons.

- 6.2 As set out by Phillip Kolvin QC in his foreword to the Institute of Licensing document 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade' (April 2018) stated

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger may be you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

6.3 The Department for Transport Statutory Standards make clear the impact on citizens from adopting these policies including

The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday – and the term vulnerable individual has the same meaning as the definition of a vulnerable adult for the purpose of Section 42 of the Care Act 2014, which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

- has needs for care and support (whether or not the authority is meeting any of those needs)
- is experiencing, or is at risk of, abuse or neglect
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it

7.0 Community Safety

7.1 The introduction of the policy is for the benefit of the community and people of Walsall. As set out in section 6 the impact on individuals and whole communities is significant particularly vulnerable members of the community.

7.2 The development of this policy is of particular interest to partners such as Walsall Police, Childrens Services, Adult Services, Public Health, Community Safety and others. This is because Community Safety strategic and operational issues including exploitation, violence, county lines, human trafficking and a host of other social ills have been associated with the taxi trade historically in other areas of the country. The taxi trade in Walsall consists of many honest and diligent individuals who we must work with to drive out poor performers,

criminals and others who spoil the reputation of the trade and have detrimental impacts on our communities.

8.0 Environmental Impact

There is no environmental impact as a consequence of this report or policy adoption.

9.0 Performance and Risk Management Issues

9.1 The statutory standards were published in 2020 and the authority is now seeking to develop and publish its policy changes as a result of those standards. Since 2020 in all decision making either at officer level or committee/subcommittee level due regard has been paid to the standards and relevant extracts have been included in all relevant decision making.

9.2 To ensure the council's decision making is formally updated and to ensure any challenges to decision making can be robustly defended it is important this Policy receives due consideration and is published expeditiously.

10.0 Equality Implications

None arising from this report

11.0 Consultation

11.1 The Statutory Standards state with regard to Consultation

Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (such as the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy's activities.

Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas – and licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings – this should be adopted by all authorities.

11.2 The service will ensure this consultation meets the requirements of this and any other corporate consultation requirements.

12.0 Appendices

Appendix 1 – Report to Licensing & Safety

Appendix 2 – Consultation responses

Appendix 3 – Draft Fit & Proper Person Policy

Appendix 4 – Draft Criminal & Motoring Convictions Policy.

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REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

LICENSING AND SAFETY COMMITTEE

13 SEPTEMBER 2023

TAXI AND PRIVATE HIRE LICENSING – CONVICTIONS POLICY

1.0 Summary of report

- 1.1 September 2023 at the last Licensing & safety committee, a report was presented to members with the draft Fit & Proper policy and also the revised Draft Motoring and Criminal Convictions policy. Both policies were presented for members to go out to consultation and included sections from the Statutory Guidance that was released in July 2020.
- 1.2 Walsall Council has for many years used as a mainstay of its decision-making process its Taxi and PHV Licensing, Motoring and Criminal Convictions Guidelines. It is however right that periodically and particularly following changes in national guidance that these policies are reviewed and updated. The existing policy is contained at Appendix 1.

2.0 Recommendations

- 2.1 Members of the Licensing & Safety Committee consider the draft Convictions Policy and agree that public consultation should be started.
- 2.2 That the result of the consultation be reported back to this Committee at a future meeting with a view to adopting the Policy.

3.0 Background information

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that in considering applications for taxi driver and operator licences the Council must not issue a licence unless it is satisfied that the applicant is 'fit and proper'. In this regard the consideration of an applicant's criminal convictions and other relevant character or behaviour information is a key part of the 'fit and proper' assessment.
- 3.2 The taxi trade is vital to the UK's transport infrastructure and the majority of drivers are honest and hard working. However there have in recent years been cases across the country of licensed drivers and

operators being involved in criminal activity including the sexual exploitation of children. It is important that as a licensing authority Walsall Council take appropriate steps to prevent future cases occurring in its area by ensuring that licensed drivers are 'fit and proper.' Consideration of a person's criminal convictions and other relevant character or behaviour information is a key part of the 'fit and proper' assessment.

3.3 Walsall Council, in common with many other licensing authorities, has for many years used a convictions policy based upon Home Office guidance dating from the 1990s. The Department for Transport published its latest statutory taxi and private hire vehicle standards guidance document in July 2020 and the part of the document relevant to the assessment of previous convictions is contained at Appendix 3.

3.4 The use of the Department for Transport statutory guidance will mean Walsall Councils convictions policy is based upon the same statutory framework as other local authorities. This type of standardisation is always useful in ensuring consistent decisions are made across the country and not encouraging applicants to choose the 'softest' council to apply for a licence. The draft policy is contained at Appendix 2.

3.5 The Department for Transport's statutory guidance makes the following points clearly.

In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

3.6 The Institute of Licensing have also published guidance on Convictions in which they say,

A licensing authority policy can take a 'bright line approach' and say "never" in a policy, but it remains a policy, and as such does not amount to any fetter on the discretion of the authority. Each case will always be considered on its merits having regard to the policy, and the licensing authority can depart from the policy where it considers it appropriate to do so. This will normally happen where the licensing

authority considers that there are exceptional circumstances which warrant a different decision.

3.7 Walsall Councils current Convictions policy states

...if an applicant has any convictions, warnings, cautions or charges awaiting trial, the licensing authority will look into:

- How relevant the offence(s) are to the licence being applied for.
- How serious the offence(s) were.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned.
- Sentence imposed by the court.
- The applicant's age at the time of conviction.
- Whether they form part of a pattern of offending.
- Any other character check considered reasonable (e.g. personal references).
- Any other factors that might be relevant.

This is sensible way to approach decision making and consistent with statutory guidance.

3.8 The importance of a licensing regime and convictions policy which takes into account a great many factors not just the convictions themselves has been highlighted by a number of key documents.

3.9 In a letter to Chief Executives from Baroness Kramer, Minister of State for Transport in November 2014 she said "In the interests of public safety and the reputation of the licensed trade, I encourage you all to use all the tools available to ensure that all licensed drivers have undergone a thorough vetting process, their conduct is monitored once licensed and all available information is fully considered when making licensing decisions.

3.10 In February 2015 a report was published on the review of Rotherham Council on its handling of child sexual exploitation. A section of the report written by Louise Casey, a Director General working for the Department for Communities and Local Government, commented "In our view, the reliance on convictions alone will not provide a strong message to the trade on acceptable standards or reassure parents and the public that drivers are safe to transport their children.

3.11 The Department for Transport in its Statutory Standards states;

Licensing authorities have to make difficult decisions but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given the benefit of doubt. If the committee or delegated officer is only

50/50 as to whether the applicant or licensee is fit and proper, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

4.0 Resource considerations

- 4.1 **Financial:** The costs involved in carrying out the consultation will be met from existing budgets held by the licensing services.
- 4.2 **Legal:** Members of the public, the trade or responsible authorities can appeal against the policy. The policy could also be judicially reviewed.
- 4.3 The Department for Transport Statutory taxi and private hire vehicle standards were published in July 2020 under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).

The document sets out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. Having regard is more than having a cursory glance at a document before arriving at a preconceived conclusion.

Having regard to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking, the standards must be considered rigorously and with an open mind.

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the statutory taxi and private hire vehicle standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in statutory taxi and private hire vehicle standards, and the policies and delivery plans that stem from these. The department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The statutory taxi and private hire vehicle standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

- 4.4 Under the provisions of Sections 51, 55, and 59, Local Government

(Miscellaneous Provisions) Act 1976, the licensing authority is required to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence.

- 4.5 A district council may attach to the grant of a licence such conditions as they may consider reasonably necessary.
- 4.6 Section 52 of the 1976 Act states that any person aggrieved by:-
- (1) The refusal of the district council to grant a licence under Section 51 of the Act, or
 - (2) Any conditions attached to the grant of a driver's licence, may appeal to a Magistrates Court.

Any appeal must be made to the Magistrates Court within 21 days of notification of such a decision.

- 4.7 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town Police Clauses Act 1847; failure to comply with the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.8 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he/she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal [Local Government Miscellaneous Provisions Act 1976, s 77 (1)].
- 4.9 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore, the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.10 There is no statutory definition of Fit & Proper Person but within the Department for Transport Statutory Standards it is suggested that the basis for such a definition would be.

'Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.'

- 4.11 In a legal case relied upon by many in the licensing regime *McCool v Rushcliffe Borough Council* (1998) the decision arrived at included the following

'it is for the applicant to establish that he is a fit and proper person on the balance of probabilities. The real question to be decided is whether or not, on the balance of probabilities, the applicant is a fit and proper person to be granted a licence. This does not require the view to be formed as to whether the person had, in all likelihood, committed a specific offence'

- 4.12 Another key case includes *Leeds City Council v Hussain* (2002) where the following was determined

"the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers."

- 4.13 Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction [*Nottingham City Council v. Mohammed Farooq* (1998)]

5.0 Staffing:

- 5.1 Nothing arising from this report.

6.0 Citizen Impact

- 6.1 Walsall Councils Taxi and PHV Licensing, Motoring and Criminal Convictions Guidelines state that:-

The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest person.
- The safeguarding of children and young persons.

- 6.2 As set out by Phillip Kolvin QC in his foreword to the Institute of Licensing document 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade' (April 2018) stated

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger maybe you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

6.3 The Department for Transport Statutory Standards make clear the impact on citizens from adopting these policies including

The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday – and the term vulnerable individual has the same meaning as the definition of a vulnerable adult for the purpose of Section 42 of the Care Act 2014, which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

- has needs for care and support (whether or not the authority is meeting any of those needs)
- is experiencing, or is at risk of, abuse or neglect
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it

7.0 Community Safety

7.1 The introduction of the policy is for the benefit of the community and people of Walsall. As set out in section 6 the impact on individuals and whole communities is significant particularly vulnerable members of the community.

7.2 The development of this Policy is of particular interest to partners such as Walsall Police, Childrens Services, Adult Services, Public Health, Community Safety and others. This is because Community Safety strategic and operational issues including exploitation, violence, county lines, human trafficking and a host of other social ills have been associated with the taxi trade historically in other areas of the country. The taxi trade in Walsall consists of many honest and diligent individuals who we must work with to drive out poor performers,

criminals and others who spoil the reputation of the trade and have detrimental impacts on our communities.

8.0 Environmental Impact

8.1 There is little environmental impact as a consequence of this report or policy adoption.

9.0 Performance and Risk Management Issues

9.1 The statutory standards were published in 2020 and the authority is now seeking to develop and publish its policy changes as a result of those standards. Since 2020 in all decision making either at officer level or committee/subcommittee level due regard has been paid to the standards and relevant extracts have been included in all relevant decision making.

9.2 To ensure the councils decision making is formally updated and to ensure any challenges to decision making can be robustly defended it is important this Policy receives due consideration and is published expeditiously.

10.0 Equality Implications

10.1 None arising from this report

11.0 Consultation

11.1 The Statutory Standards state with regard to Consultation

Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (such as the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy's activities.

Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas – and licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings – this should be adopted by all authorities.

11.2 The service will ensure this consultation meets the requirements of this

and any other corporate consultation requirements.

12.0 Appendices

12.1 Appendix 1 Current Walsall Council Taxi and PHV Licensing, Motoring and Criminal Convictions Guidelines

12.2 Appendix 2 Draft Convictions Policy

12.3 Appendix 3 Department for Transport Statutory taxi and private hire vehicle standards annex assessment of previous convictions

13.0 Contact Officer:

13.1 Sayful Alom Licensing Team Leader Taxilicensing@walsall.gov.uk



REPORT OF THE DIRECTOR OF RESILIENT COMMUNITIES

LICENSING AND SAFETY COMMITTEE

13 SEPTEMBER 2023

TAXI AND PRIVATE HIRE LICENSING – FIT AND PROPER TEST FOR LICENSED DRIVERS, OPERATORS AND PROPRIETORS.

1.0 Summary of report

In the statutory guidance issued by the Department for Transport in July 2020 a recommendation was made that all licensing authorities make publicly available a cohesive policy document bringing together all their procedures on taxi and private hire vehicle licensing. It recommended that this should include but not be limited to policies on convictions, a fit and proper person test, licence conditions and vehicle standards. This report sets out a Fit and Proper Policy drafted by the Licensing Service for future use in relation to private hire and hackney carriage licensing.

2.0 Recommendations

- 2.1 Members of the Licensing & Safety Committee consider the Fit and Proper Policy and agree that public consultation should be started.
- 2.2 That the result of the consultation be reported back to this Committee at a future meeting.

3.0 Background information

- 3.1 The Council as the licensing authority requires applicants and licence-holders to conduct themselves appropriately and honestly in their dealings both with the public, statutory agencies and the Council. It cannot grant (or allow a licence to remain in force) a hackney carriage or private hire driver or operator's licence unless they determine that the applicant is a fit and proper person.
- 3.2 It is the responsibility of the applicant or licence holder to satisfy the licensing authority that they are a fit and proper person by complying with various requirements. Previously in Walsall these requirements were part of the authority's application, renewal and compliance processes and included checks such as the following

- Right to work in the UK
- Driving licence and endorsements
- Enhanced DBS
- Medical fitness
- Practical driving test
- Driver Training Course
- Hackney Carriage Drivers test
- Tax code check
- National Register for Refusals, Revocations and Suspension.
- Data protection Requests to other Local Authorities
- Relevant insurance documents

These checks and tests are now being brought together in one policy as recommended by the Department for Transport. The draft policy is attached at Appendix 1. It will be used in conjunction with the 'Convictions Policy'

- 3.3 There is no statutory definition of Fit & Proper Person but within the Department for Transport Statutory Standards it is suggested that the basis for such a definition would be.

'Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?'

'If, on the balance of probabilities, the answer to the question is no, the individual should not hold a licence.'

- 3.4 In a legal case relied upon by many within the licensing regime *McCool v Rushcliffe Borough Council* (1998) the decision arrived at included the following:

'it is for the applicant to establish that he is a fit and proper person on the balance of probabilities. The real question to be decided is whether or not, on the balance of probabilities, the applicant is a fit and proper person to be granted a licence. This does not require the view to be formed as to whether the person had, in all likelihood, committed a specific offence'

- 3.5 Another key case includes *Leeds City Council v Hussain* (2002) where the following was determined:

"the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose [and], therefore [the test of fitness and propriety], is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are

people who would not take advantage of their employment to abuse or assault passengers.”

- 3.6 In a letter to Chief Executives from Baroness Kramer, Minister of State for Transport in November 2014 she said “In the interests of public safety and the reputation of the licensed trade, I encourage you all to use all the tools available to ensure that all licensed drivers have undergone a thorough vetting process, their conduct is monitored once licensed and all available information is fully considered when making licensing decisions.”
- 3.7 In February 2015 a report was published on the review of Rotherham Council on its handling of child sexual exploitation. A section of the report written by Louise Casey, a Director General working for the Department for Communities and Local Government, commented “In our view, the reliance on convictions alone will not provide a strong message to the trade on acceptable standards or reassure parents and the public that drivers are safe to transport their children.”
- 3.8 In April 2018, the Institute of Licensing (IOL) put together some guidance in determining the suitability of applicants and licensees in the hackney and private hire trades. The IOL is a leading institute that work together with the Local Government Association (LGA) and local authorities on licensing matters. Local Authorities throughout the country have adopted the relevant parts of the guidance within their policies. A copy of the guidance is attached as **Appendix 3**.
- 3.9 It is clear that Members and Officers, in reaching decisions, should have regard not only to convictions but to any other information which would not make the applicant a fit and proper person to hold a licence. Protection of the public and their safety is of paramount consideration in such matters. Decisions are made on the civil standard of proof which is ‘on the balance of probabilities’ rather than the higher criminal threshold. Again, as stated by the Department for Transport in its Statutory Standards:

Licensing authorities have to make difficult decisions but the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be given the benefit of doubt. If the committee or delegated officer is only 50/50 as to whether the applicant or licensee is fit and proper, they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

- 3.10 **Appendix 2** is a table showing the types of Disclosure and Barring Service checks that are available and what they include.

4.0 Resource considerations

4.1 **Financial:** The costs involved in carrying out the consultation will be met from existing budgets held by the licensing service.

4.2 **Legal:** Members of the public, the trade or responsible authorities can appeal against the policy. The policy could also be judicially reviewed.

4.3 The Department for Transport Statutory taxi and private hire vehicle standards were published in July 2020 under section 177(1) of the [Policing and Crime Act 2017](#) following consultation in accordance with section 177(5). The document states in the chapter Consideration of the statutory taxi and private hire vehicle standards: -

The document sets out a framework of policies that, under section 177(4), licensing authorities must have regard to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. Having regard is more than having a cursory glance at a document before arriving at a preconceived conclusion.

Having regard to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated. It is not a question of box ticking, the standards must be considered rigorously and with an open mind.

Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the statutory taxi and private hire vehicle standards might be drawn upon in any legal challenge to an authority's practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority's defence. In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in statutory taxi and private hire vehicle standards, and the policies and delivery plans that stem from these. The department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).

The statutory taxi and private hire vehicle standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

4.4 Section 51 (1) of The Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive Private Hire vehicles, grant to that person a driver's licence: -

Provided that a district council shall not grant a licence.

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car or is not at the date of the application for a driver's licence so authorised.

4.5 A district council may attach to the grant of a licence such conditions as they may consider reasonably necessary.

4.6 Section 52 of the 1976 Act states that any person aggrieved by: -

- (1) The refusal of the district council to grant a licence under Section 51 of the Act, or
- (2) Any conditions attached to the grant of a driver's licence, may appeal to a Magistrates Court.

Any appeal must be made to the Magistrates Court within 21 days of notification of such a decision.

5.0 Staffing:

Nothing arising from this report.

6.0 Citizen Impact

6.1 Walsall Councils Taxi and PHV Licensing, Motoring and Criminal Convictions Guidelines state that: -

The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:

- That a person is a fit and proper person.
- That the person does not pose a threat to the public.
- That the public are safeguarded from dishonest person.
- The safeguarding of children and young persons.

6.2 As set out by Phillip Kolvin QC in his foreword to the Institute of Licensing document 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trade' (April 2018) stated

The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must be able to trust the driver. Are they honest? Are they competent? Are they safe? Are they trustworthy? When we transact with others, we usually have

time and opportunity to make such assessments. When we transact with taxi drivers, we don't. Therefore, we must, and do, rely on the licence as the warranty of the driver's safety and suitability for the task at hand.

It follows that a licensing authority has an onerous responsibility. In making decisions regarding grant and renewal of licences it is, in effect, holding out the licensee as someone who can be trusted to convey the passenger from A to B in safety. That passenger maybe you, or your elderly mother, or your teenage daughter, or a person who has had too much to drink, or who is vulnerable for a whole host of other reasons.

- 6.3 The Department for Transport Statutory Standards make clear the impact on citizens form adopting these policies including

The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday – and the term vulnerable individual has the same meaning as the definition of a vulnerable adult for the purpose of Section 42 of the Care Act 2014, which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):

- has needs for care and support (whether or not the authority is meeting any of those needs)
- is experiencing, or is at risk of, abuse or neglect
- as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it

7.0 Community Safety

- 7.1 The introduction of the policy is for the benefit of the community and people of Walsall. As set out in section 6 the impact on individuals and whole communities is significant particularly vulnerable members of the community.
- 7.2 The development of this Policy is of particular interest to partners such as Walsall Police, Childrens Services, Adult Services, Public Health, Community Safety and others. This is because Community Safety strategic and operational issues including exploitation, violence, county lines, human trafficking and a host of other social ills have been associated with the taxi trade historically in other areas of the country.
- 7.3 The taxi trade in Walsall consists of many honest and diligent individuals who we must work with to drive out poor performers, criminals and others who spoil the reputation of the trade and have detrimental impacts on our communities.

8.0 Environmental Impact

There is little environmental impact as a consequence of this report or policy adoption.

9.0 Performance and Risk Management Issues

9.1 The statutory standards were published in 2020 and the authority is now seeking to develop and publish its policy changes as a result of those standards. Since 2020 in all decision making either at officer level or committee/subcommittee level due regard has been paid to the standards and relevant extracts have been included in all relevant decision making.

9.2 To ensure the council's decision making is formally updated and to ensure any challenges to decision making can be robustly defended it is important this Policy receives due consideration and is published expeditiously.

10.0 Equality Implications

None arising from this report

11.0 Consultation

11.1 The Statutory Standards state with regard to Consultation

Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (such as the Campaign for Better Transport and other transport providers), women's groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy's activities.

Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas – and licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change. Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings – this should be adopted by all authorities.

11.2 The service will ensure this consultation meets the requirements of this and any other corporate consultation requirements.

12.0 Appendices

Appendix 1 – Draft Fit & Proper Policy

Appendix 2 – Types of checks available

Appendix 3 – IOL guidance in determining the suitability of applicants and licensees

13.0 Contact Officer:

Sayful Alom

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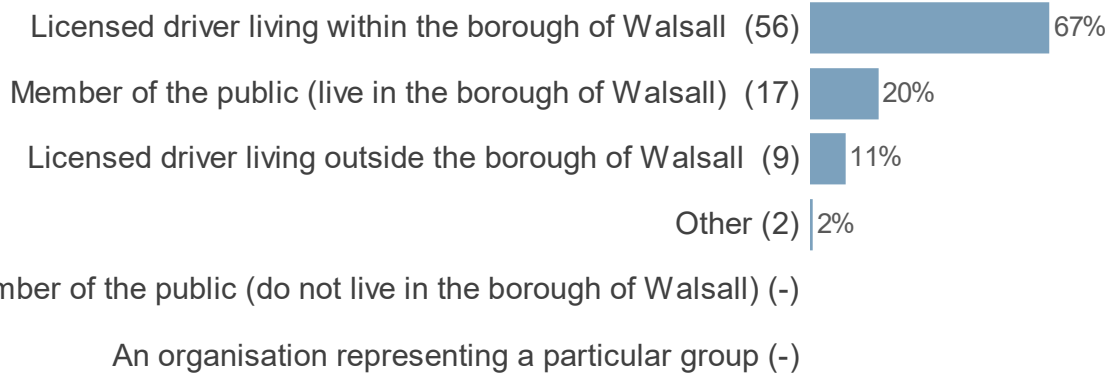
01922 652742

Final Summary report - Taxi Licensing_All respondents 2023

Taxi Licensing 2023 (Public questionnaire)

This report was generated on 04/01/24. Overall 84 respondents completed this questionnaire. The report has been filtered to show the responses for 'All Respondents'.

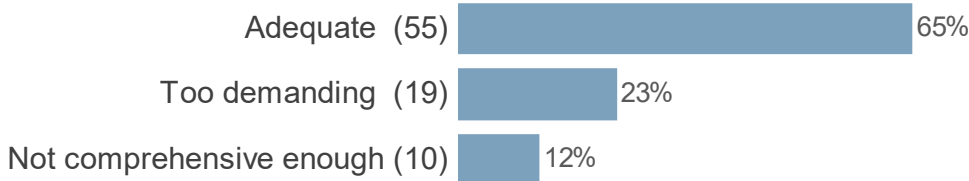
Are you responding as...?



Other, please state

Operator
Operator

Do you think the tests and checks outlined in the Fit and Proper Person policy (listed above) are.....?



If 'not comprehensive enough', what additional tests and checks do you think should be required?

I would ask of a knowledge test of the Walsall borough. So it does not flood the market also you choose the adequate and suitable people for the profession

Can they stick to the law?

Comprehensive understanding of the highway code

Driver CPC, similar to what a HGV driver would do. Working time directive should be inforced also.

Enhanced dbs

Yes

If 'too demanding', which tests and checks do you think should not be required?

I think the NR3 is too demanding because if a person has been arrested in the past but NOT being convicted of this offence and have not declared on a previous application but it is now a requirement.

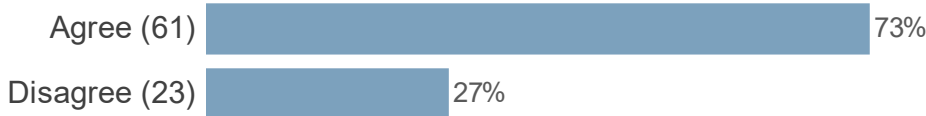
The English language test is fine, however, I don't think taking the test behind a PC might not be able to tell how drivers understand English in person to person interaction. maths tests does no hel

Shouldnt be required an driving test as u be passed by dvla

Satisfactory Level in English reading, English listening and maths

The English and Maths tests should be reconsidered. We operate via an app and so many of the tests are not required e.g. maths tests. It creates a burden and worry for drivers on their livelihoods.

Do you agree or disagree that convictions detailed in the Criminal & Motoring Convictions Guidelines (summarised above) should be taken into account when deciding if an applicant or licence holder is a fit and proper person to hold a licence?



Please explain why you say this.

It's is right

A safer environment for everyone

I agree all these criminal convictions where you are convicted need to be declared however these should appear on your DBS so if someone forgets to declare on application but it's on DBS this shouldn't be classed as dishonest.

As a driver I don't want to lose my basic human rights. Some of these potential offenses are too broad

I believe that any organisation should know who they are employing and this is why we have a DBS and anything above I agree with.

I think all this should be taken into account but also keep in mind that a person can change. That said i think that this checks are adequate.

Applicants will be transporting passengers that may be vulnerable. Vulnerability could be due to a number of reasons, and therefore as a society we need to ensure these people are adequately protected.

The person applying could be reformed settled, the convictions could have happened in the past, where he has paid for the faults he has made.

To ensure the safety for our community

Yes these should be taken into account but some of the guidelines are too much, example waiting at least 10 years from completion of sentence, I think it should be on an individual basis at the committee discretion, with the applicant to prove their competence.

I agree to some of them. However sometimes a mistake is made and the person be changed and not be that bad person anymore everyone deserves a second chance when offences like weapons etc but anything to do with morals and kids or sexual related should not be forgiven

To help older people and their safety

Agree as to any conviction is to be disclosed. To keep the public safe aswell as others.

I agree that a fit and proper person eligible to hold a licence should only be allowed if they have not been convicted of the above.

I agree

Please explain why you say this.

You need to know the driver is fit to drive the vehicle legally, without convictions and that you will be safe to travel, especially as a lone woman

Public need to feel confident that, when using a taxi, they will have a safe journey.

These people (taxi drivers) are representing and first contact with visitors. They need to be professional, have vehicles which are Walsall colour coded and have proper code of European approved dress.

Because they are driving the public around and should be very safe modes of transport

They are major offences

Safety of the public

As a driver they are put in a position of power and therefore should be safe and trusted members of society

Public safety comes first without the above checks one can only assume that the public are NOT in safe hands unless all checks are accommodated

For the safety of everyone

I agree with above statements all licensed drivers no matter which licensing authority they are licensed with should be convictions free.

Some of these convictions I agree like sexual offences, drugs or possession of weapons etc. but not all

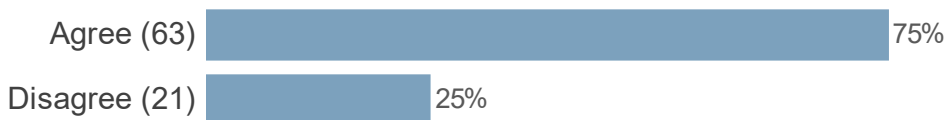
Safety

Such actions should be taken into account when dealing with the general public, as could pose a danger to certain individuals

All of the above is required for the safety of all.

They are appropriate considerations

Do you agree or disagree that it is reasonable that private hire base operators be required to ensure any person working for them is aware of their responsibilities in relation to the carriage of assistance dogs?



Please explain why you say this.

I agree

I think this lies ultimately with the person carrying the assistance dogs because as an operator you can do everything in your power to ensure your staff have the required skills to carry assistance dogs but if a driver refuses to carry the dog the onus should be on the driver

In any organization there should be a level of training especially English because a lot of drivers have difficulty speaking and training would be a great idea

I think that they should be aware because the assistance dogs have their specific Role

A driver should be adhering to laws at all times.

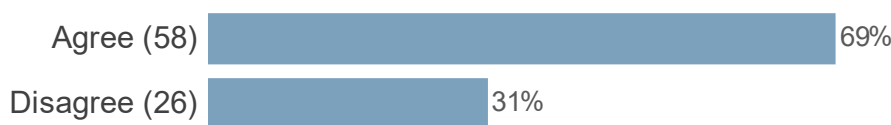
Most professional drivers adhere and know what they're doing, by giving refreshers in training could be a waste of time

Like uber offers new driver training course

Please explain why you say this.

- Yes this should be known and implemented
- Some people are idiots and try their luck so this would definately be good
- Guide dogs are very wise and friendly and helpful
- Totally agree as carriage of assistance dogs is a number one priority and should be honoured in all circumstances unless exempt from registered party.
- Most drivers are law abiding why make things tougher to catch minority law breakers. the cost of living has skyrocketed, most Walsall drivers already do two Mots in a year, and adding a new refresher training is not cost efficient to drivers which might force them to quit
- It should be the drivers responsibility to make themselves aware of all responsibilities in relation to their job, including carriage of assistance dogs.
- Yes as i have seen too many drivers refuse to take assistance dogs. Regular refresher training should be mandatory to ensure all drivers are aware of the legal requirements
- Assistance dogs provide a vital support for people with disabilities and these people will need to use taxis more to allow equal access.
- They need to fit for purpose to represent Walsall borough
- Shouldn't need to explain this, they should know, this is a basic British thing to do
- There are too many cases of drivers refusing guide dogs without due cause
- Can't discriminate
- People who have assisstance dogs often rely on taxis as their only form of transport to gain independence
- This is a must to prevent Discrimination against those who need assistance Dogs
- For the safety of everyone
- This is important
- It's important to keep drivers up to date on local issues. I would recommend that the refreshers are held virtually to ensure that drivers can fit them in around their varied schedules.

Do you agree or disagree that refresher training is important for licence holders so that they are aware of changes in law, policy and regulations?



Please explain why you say this.

- Yes I agree
- It's could to keep up to date with legislation.
- Yes I agree it will be a refresher every so often
- That ngs can change and drivers should be up to date.
- Drivers need to know of any changes to protect themselves and the public
- Majority of the drivers are clued on, would be a waste of time
- To update driver with any new laws
- It's better to keep operators upto date
- This should only be for any drivers that have had complaints during their license period

Please explain why you say this.

- Because some time the laws change
- It is important for licence holders to understand changes in law,policy and regulations. As circumstances around us do change.
- Most drivers are law abiding why make new laws to catch the minority offenders and make life tougher as if it's not hard already
- I agree because changes can occur at anytime and training is needed to be aware of such changes.
- Yes, as per my previous answer
- Refresher training is vital as the conditions on our roads demand highly skilled and responsible individuals to provide safe passage.
- Regular update. Everything must be measured to improve the taxi service
- Hgv drivers have to have refresher courses and they are not carrying people. They should go through rigorous training and refresher courses
- the refresher training should be mandatory and contain an examination conducted in English
- Keeping up to date with the law is never a bad thing
- Knowledge is power as one would say, with a ever changing world refresher training is a must to keep up with times..
- So we are aware of the new laws implemented
- This should be taken upon as a case by case approach. Should there be a need the council should notify a specific driver which needs additional training.
- This is important, drivers need to be aware of what is expected of them
- Can update policy changes and updates through a driver portal.

Do you agree or disagree that refresher training for licence holders is important so that licensing officers can be satisfied that licensed drivers in Walsall are fit and proper?



Please explain why you say this.

- I agree
- Again to keep up to date with licensing legislation.
- License issuers should have confidence the license driver is suitable and correctly eligible for a license.
- It would not prove nothing, most drivers would have the knowledge anyway. By training or refresher training is a waste of his time
- For safety reason
- Yes as long as it doesn't turn into a money making scheme as the current financial climate is very unsteady
- If theyve had no complaint or problems why would they need baby sitting by you again just to be told everything again
- If required
- Licensed Drivers need to understand there job role as we are dealing with members of public and as professional drivers we are Fit and proper to provide a service.

Please explain why you say this.

Most PH drivers are law abiding citizens why make tougher systems when it's much easier for the council to go after the bad drivers and catch them instead of make new laws summarily

This needs to be done more frequently as some drivers seem to think they are Lewis Hamilton when driving

Up to date information is vital to ensure suitable individuals provide a safe and professional service to transport vulnerable people.

They need to know the current regulation and made aware of their duty and responsibilities

These are stupid questions. These are bare minimum and of course they should be checked and have refresher courses

Important

Training minimises Health & safety related issues and drivers can be held accountable for issues knowing training was provided, if rules supporting training are breached

For the safety of everyone

Agree but this should be proportionate and consider impact on the driver.

Do you have any further comments you would like to add about the draft Fit and Proper Person policy or draft Criminal & Motoring Convictions Guidelines?

No I agree to everyone

No

No

No comments

No

I think when taking drivers they need to consider that they speak English correctly because at the moment the standard of English is poor

No

No

No

By trying to endorse your training, you're just trying to make something out of nothing. People that have held a license for over 5 years or over need to refresh this training the training. They simply going to transport a passenger from a to b destination, not carry out a bipass, or a surgery.

No

The guidelines are good in some cases too harsh, individual circumstances should be taken into account instead of tarring everyone with the same brush due to similarities, every person has a unique set of circumstances that lead to certain actions and consequences in their life, some beyond their control so shouldn't be penalised or deterred further on there journey to change.

No

As a Council support your people who arent in jobs charge for a fast track service or something as it took me 5 to 6 months to get everything sorted. Inwas struggling and didnt have a job while applying for this license. Charge alot more but provide a fast track service for people who are unemployed. Anyone with a primary job can do the normal way.

No

N/A

No

How come they are allowed to jump red lights and park on double yellow lines while they get their haircut

Taxi Licensing 2023 (Public questionnaire)

Do you have any further comments you would like to add about the draft Fit and Proper Person policy or draft Criminal & Motoring Convictions Guidelines?

No

Vulnerable Children are regularly transported in taxis to school so it is essential that all drivers are thoroughly checked to ensure the safety of everyone when using a taxi.

All individuals carrying passengers , local and visitors are representative of Walsall borough. They need to be fit and proper.

I take 4 taxis a week. I found 2 who have been smoking cannabis in their cars(reported), most drive like lunatics so they can get as many fares as possible, which puts them, their passengers and other road users at risk. Some drivers have very little English which is awkward, not all drivers help the elderly or disabled to put things in the boot. Some of the vehicles are disgusting and make feel dirty when you get out, cleaning their cars should be done more regularly. I think all taxis should be fitted with cameras for their safety and the publics. I think there should be more women drivers (severely lacking in this department) especially for young girls on nights out.

No

None

Local area knowledge not just trying to follow a sat nav

Dont back down and make sure you impliment it

No!

No

No

Some people are let down by the justice system and shouldn't be penalised for wanting to reform. And rebuild there lives,

There's already a shortage of drivers,

No

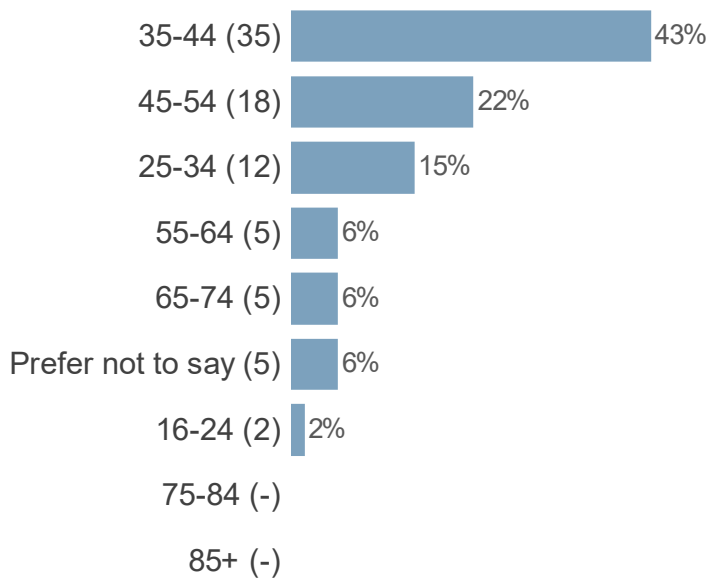
No

Are you?

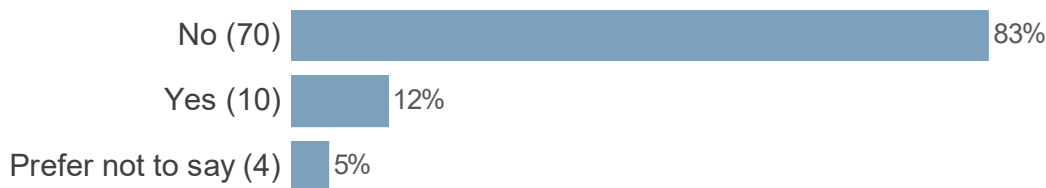


Taxi Licensing 2023 (Public questionnaire)

How old are you?



Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more? (Do you have any physical or mental health conditions or i...)

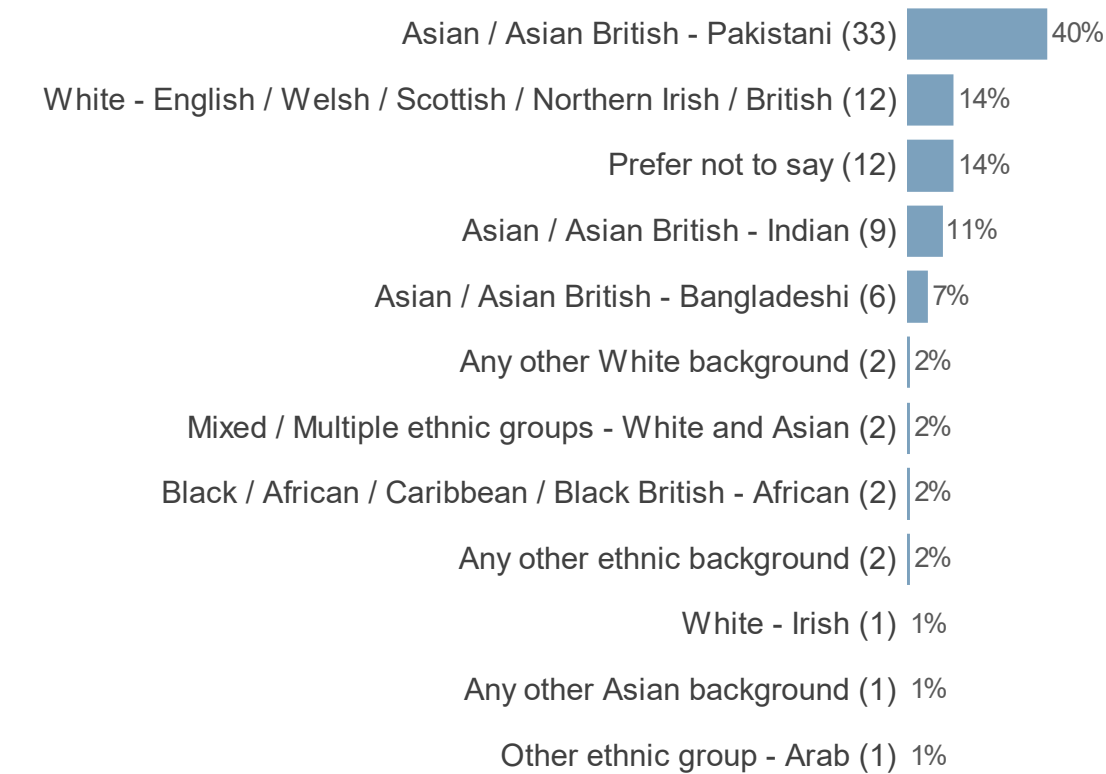


Does your condition or illness reduce your ability to carry out day-to-day activities? (Does your condition or illness / do any of your condition...)

- Yes, a lot (-)
- Yes, a little (-)
- Not at all (-)
- Prefer not to say (-)

Taxi Licensing 2023 (Public questionnaire)

To which of these groups do you consider you belong? (Ethnic background)



Are there any other particular equality characteristics you feel should be taken into account when finalising the policy and guidelines?

Yes just change the rule of car first registration to jot be older than 5y this industry is going down and not worth it to invest a lot of money in a new car

Know i do not

No

No

NA

No

No

Non

No

No

No

No

No

No

No

No

No

No

N/a

Taxi Licensing 2023 (Public questionnaire)

Are there any other particular equality characteristics you feel should be taken into account when finalising the policy and guidelines?

No

Disabled

Taxi drivers should be aware that they cannot refuse to transport individuals who have a protected characteristic.

Good command of languages, including English, formal dress, clean, hygienically suitable with fit and proper colour coded vehicle.

No you have too many as it is, maybe less!

No

Not sure

No

Yes

No

No

Private Hire and Hackney Carriage Licensing Fit and Proper Person Policy



Policy Adopted: ???



Walsall Council

Private Hire and Hackney Carriage Licensing

**DRAFT FIT AND PROPER PERSON
POLICY**

Introduction

The primary and overriding aim of Walsall Council when carrying out its functions as a licensing authority is the protection of the public.

Licences for drivers of hackney carriages, private hire vehicles or private hire operators may only be granted where the Council is satisfied that the individual is a fit and proper person to hold such a licence. Local Government (Miscellaneous Provisions) Act 1976 S51 (1)(a) and S59 (1)(a)

This policy is intended to show which tests and checks Walsall Council will use to determine the suitability of an applicant to be granted a licence. If a licence holder falls short of this fit and proper standard at any time, Walsall Council will give consideration based on all the evidence available to it as to whether the licence will be, suspended, revoked or not renewed on application.

In considering whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will ask themselves the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

All decisions on the suitability of an applicant or licence holder are made on the balance of probability. This means that an applicant or licence holder will not be 'given the benefit of doubt'. If the committee or authorised officer is only "50/50" as to whether the applicant or licence holder is 'fit and proper', they will not grant a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

If an applicant or current licence holder is not satisfied with a decision made by an authorised officer, they may appeal the decision to the Licensing and Safety Committee. The appeal should be set out in writing clearly explaining why the decision is unreasonable or what the exceptional circumstances are surrounding the case. The appeal should be addressed to the Director of Resilient Communities at Walsall Council.

Licence holders or applicants may also have the right to appeal to the Magistrates Court against certain decisions made by the licensing authority. The applicant or licence holder should take legal advice as to the most appropriate procedure to follow in these circumstances as appeals to the Magistrates Court are time limited and incur costs.

Unless specified elsewhere all checks and tests are undertaken at the applicant's own risk and must be paid for by the applicant.

1 Fit and Proper Person test at the application stage

- 1.1 Walsall Council requires applicants for all types of licence to complete the process relevant to their specific application as described in this policy.
- 1.2 In determining whether an applicant or licence holder is fit and proper, those making the decision on behalf of the Council will consider:
- Whether an applicant has met the Council's application requirements
 - Any information revealed by DBS certificates relating to the applicant / licence holder
 - Any information revealed under Common Law Police Disclosure provisions
 - Any information revealed by checks undertaken on the applicant or licence holder's DVLA driving licence records
 - Any information revealed on the medical fitness certificate
 - Any information revealed during checks on NR3s
 - Any information regarding complaints received about an applicant or licence holder
- 1.3 An application will normally be refused or action will be taken in relation to an existing licence if the applicant: -
- Fails any of the checks listed below.
 - Is in breach of the Taxi and PHV Licensing, Motoring and Criminal Convictions Guidelines (otherwise referred to as the Convictions Guidelines).
 - Has previously been a licence holder in this or any other borough and that licence has been revoked, suspended or refused.
 - Has exhibited behaviour which is inconsistent with that expected of a Walsall licence holder.
 - Is in breach of any conditions/legislation relating to their licence.
- 1.4 Walsall Council's Convictions Guidelines assist in determining whether an applicant is fit and proper. While each application must be determined on its individual merits, the Convictions Guidelines set out a recommended minimum period free of conviction for offences falling into broad categories.
- 1.5 Where an applicant has previous convictions, cautions or other relevant matters held against their name and these are within the parameters set in the Convictions Guidelines, authorised officers are delegated to determine whether to grant or refuse a licence.
- 1.6 Where a refusal, suspension or revocation decision is made either by an

authorised officer or Licensing and Safety Committee or Sub Committee the details of this refusal, suspension, or revocation will be placed on the National Register of Taxi and Private Hire Licence Revocations, Refusals and Suspensions (NR3s). In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for staff to make referrals to the DBS for example where a decision is made to refuse, suspend or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult.

- 1.7 Any applications that are not within the parameters set in the Convictions Guidelines or this Policy will normally be refused. The Head of Community Safety & Enforcement or a Team Leader may determine that an application within Policy should be referred to the Licensing and Safety Committee if it is contentious in any way.
- 1.8 On a case-by-case basis and only in exceptional circumstances the Licensing and Safety Committee may resolve to set aside or amend the standard conditions or policies in circumstances where the committee considers that not to do so would be unjust or unfair. The setting aside or amendment of the condition or policy will be specific to that case alone.
- 1.9 Applicants and licence holders are required to disclose if they hold or have previously held a private hire or hackney carriage licence with another authority. An applicant should also disclose if they have had an application for a licence refused, or a licence revoked or suspended by Walsall Council or any other licensing authority.
- 1.10 In these cases, the application will normally be placed before a Licensing and Safety Sub Committee to determine whether considering all evidence placed before them the applicant is a fit and proper person to be granted a licence.
- 1.11 The applicant must follow and complete the process to be considered a fit and proper person at their own risk. If the licence is ultimately not granted or if the applicant fails any part of the process the applicant will not be entitled to any refund of the costs of the various tests and assessments carried out.
- 1.12 The licensing service will inform applicants of the approved contractor, individual or organisation that carries out the various tests on behalf of the licensing authority. The council may change the contractor, individual or agency it uses as long as the decision is constitutionally correct. The authority will seek assurances as to the quality of service provided and that it provides value for money for the trade.
- 1.13 Applicants who have never been licensed by Walsall Council previously must provide all valid documentation requested below and must have undertaken and passed all tests listed below.
 - A Home Office entitlement to work. This may be either a valid British Passport or documents listed in the Home Office Guidance confirming the entitlement to remain and work in the UK.

- A full UK driving licence or equivalent held for no less than 12 months.
- Completed and passed the most current version of the Driver Training Course.
- Provide to the licensing authority a valid medical certificate completed by their GP, who has seen the applicant's medical history. The medical must declare the applicant is fit to drive private hire/hackney carriage vehicles and be signed within the last 2 months prior to the date of submission of the application.
- Completed and passed the practical driving assessment and provided relevant certificates.
- For Private Hire and Hackney Carriage Vehicle Drivers – they must provide evidence that they have completed the online DBS application as instructed by the licensing authority prior to the submission of their application.
- Vehicle Proprietors and Base Operators who do not hold a hackney carriage & private hire drivers licence issued to them by Walsall Council, must provide a Standard Disclosure (Basic Disclosure) from the Disclosure and Barring Service. The disclosure must be dated no more than 12 months prior to the date of the submission of the vehicle application. Where the certificate discloses information, a determination will be required to be made by Licensing Sub-Committee or the Head of Community Safety & Enforcement as to whether the individual is fit and proper.
- Provide a valid DVLA sharing code so that the status of the driving licence and any endorsements can be checked by the Licensing Authority using that code. The code must be provided to the Licensing Authority within 21 days of obtaining the code.
- Have passed the language and maths tests stipulated by the authority.
- Have passed the Hackney Carriage knowledge test where appropriate.
- The trading name of base operators must be approved by Walsall Council before a licence is issued.

Walsall Council Licensing Service will check with other agencies such as the Walsall Safeguarding Partnership or any other organisation, local authority Walsall Council feel they need to check with.

1.14 Any allegations, complaints or concerns raised by other persons, authorities or agencies will be suitably investigated during the application process and before a decision is made on the issuing of a licence.

1.15 An applicant who has previously been licensed by Walsall Council but who has allowed their licence to expire or has had their licence revoked will need to complete a new application and undertake and pass all tests listed above. That is unless Head of Community Safety & Enforcement is satisfied that the tests previously undertaken were suitable and sufficient to warrant waiving the requirement for them to be retaken as part of the new application.

This decision will only relate to:

1. The most current version of the Driver Training Course
2. The current practical driving assessment
3. Any language and maths tests stipulated by the Authority
4. The Hackney Carriage knowledge test where appropriate

1.16 The Licensing Service will use information obtained through the application process to send and communicate information relating to the licence, including reminders of the expiry of time limited tests and certificates, notifications of changes to policy or procedure and other information which is deemed beneficial for the trade.

2. Home Office Entitlement to Work

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Base Operators**

- 2.1 The Immigration Act 2016 was brought in to prevent illegal working and is directly relevant to the private hire and hackney carriage trade. The provisions of the Act prohibit all Licensing Authorities across the UK issuing licences to anyone who is disqualified by reason of their immigration status.
- 2.2 An applicant's right to work in the UK will be checked as part of their licence application, this includes checking an applicant's immigration status with the Home Office. Walsall Council may also share information with the Home Office. An applicant must therefore provide a document or document combination that is stipulated as being suitable for this check. The list of documents is set out in the Home Office document 'Guidance for Licensing Authorities to Prevent Illegal Working in the Taxi and Private Hire Sector in England and Wales' or any successive document.
- 2.3 An applicant will be asked to provide the original document(s), such as their passport or biometric residence permit, as indicated in the published guidance, so that the check can take place. The document(s) will be copied and the copy retained by Walsall Council Licensing Service. The original document will be returned to the applicant. An application will not be considered valid until all the necessary information and original document(s) have been produced and the relevant fee has been paid.
- 2.4 If there are restrictions on the length of time an applicant may work in the UK, their licence will not be issued for any longer than this period. In such circumstances the check will be repeated each time they apply to renew their licence. If, during this period, the applicant is disqualified from holding a licence

because they have not complied with the UK's immigration laws, the licence will lapse and must be returned to Walsall Council Licensing Service. Failure to do so is a criminal offence.

3. Driver Training Course

This assessment will be carried out in relation to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Base Operators**

3.1 This course aims to teach attendees about:

- Licence conditions and legislation that apply to the trade
- Enforcement issues and road safety
- Personal safety for drivers
- Customer care
- Safeguarding, including identifying and reporting vulnerable persons, children at risk of sexual exploitation and county lines
- Disability awareness and protecting vulnerable people e.g. older people,
- Demonstration on how to load and secure a wheelchair and wheelchair user in a vehicle and otherwise assisting wheelchair users

3.2 The applicant must pass the examination at the end of this training in order to fulfil the fit and proper person test and continue with their application. Should an applicant fail the test they will be required to pay for a re-test. Should the applicant fail the re-test, they will be required to pay for a full training day again and be booked on to the next available day the training will be provided.

3.3 From time to time existing or currently licensed drivers may be asked to take part in update or refresher training. A determination as to content, cost and location will be considered and consulted on prior to implementation.

3.4 As a consequence of any Committee resolution following a review of their licence or application a licence holder may be required to attend this training and pass the test at their own expense.

4. Medical Assessment

This check is relevant to:

- Private Hire Vehicle Drivers
- Hackney Carriage Vehicle Drivers

- 4.1 It is important that those who choose to drive for a living are medically fit to drive so that they do not pose a hazard to themselves, passengers and other road users. The applicant/driver's medical history must be assessed as well as their current health status. Applicant's/licence holders will be required to meet the DVLA's Group 2 Medical Standards.
- 4.2 Medical assessments will be carried out by the applicant's GP. Where the applicants GP is unable to undertake medical assessments or refuses, the applicant will inform the Licensing Authority who will then confirm with the GP Surgery and inform the applicant on the next steps to take.
- 4.3 The applicant/licence holder or GP must provide satisfactory evidence to the Licensing Service of the outcome of the assessment prior to the application being processed (for example a signed certificate from their GP).
- 4.4 Failure to supply the Council with an up-to-date copy of a medical assessment (or medical certificate where appropriate) or providing an incomplete or false medical assessment may also result in refusal to licence the individual or suspension, revocation of the licence and may lead to enforcement action being taken.
- 4.5 The medical assessment must be undertaken every 5 years for persons under the age of 65 and annually for persons aged 65 and above. The medical must be carried out within the last 3 months following the receipt of the application.
- 4.6 The Licensing Authority may make a request for a medical assessment outside of the normal requirement mention in 4.5, should they have valid reasons to do so.

5. Practical Driving Assessment

This check is relevant to:

- Private Hire Vehicle Drivers
- Hackney Carriage Vehicle Drivers

- 5.1 Applicants must have held a full UK driving licence for no less than 12 months from the date of first issue by the DVLA.
- 5.2 Walsall Council also requires that professional drivers who are spending a considerable amount of time driving themselves and passengers should have

an additional practical assessment carried out by Walsall Council approved instructor, to ensure their driving is safe and suitable.

- 5.3 As a consequence of any committee resolution following a review of their licence a driver may be required to attend this assessment and pass the test at their own expense.

6. Disclosure and Barring Service Checks

ENHANCED DBS CHECK

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

STANDARD DBS CHECK

This check is relevant to:

- **All Vehicle Proprietors**
- **Base Operators**
- **Other workers at a private hire base**

- 6.1 As a Licensing Authority Walsall Council is entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants at first application or every 6 months.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle driver's licence will be subject to a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check prior to a new licence being issued. Once licensed all drivers will be required to evidence continuous registration with the DBS update service to enable Walsall Council to routinely check for new information every six months. Drivers that do not subscribe to the update service will still be subject to a check every six months at their own expense. A licence holder who fails to remain subscribed to the DBS Update Service or fails to co-operate with obtaining a new DBS certificate will be subject to a review to determine if they remain a fit and proper person to hold a licence, which could lead to the suspension or revocation of their licence
- 6.3 Following the grant of the renewal and submission of the enhanced DBS, the Enhanced DBS and Barring list check returns and subsequently there is information received that in the opinion of the Licensing Service makes that person unfit to hold a licence consideration will be given to the revocation of the licence.
- 6.4 Where convictions are reported to the Licensing Service in relation to a currently licensed driver and these convictions have not previously been considered an Authorised officer or the Taxi Licensing Sub Committee or full Licensing & Safety committee will determine whether action is necessary in relation to the continuance of that licence.

- 6.5 Once information on the Enhanced DBS has been considered by the Licensing Service or the Taxi Licensing Sub Committee it need not be reconsidered each time the licence is reapplied for unless it shows a pattern of offending that calls into question whether the person is fit and proper or breaches the Convictions Guidelines.
- 6.7 Vehicle proprietors have two principal responsibilities, to ensure their vehicle is maintained to an acceptable safe standard at all times and to ensure their vehicle is not used for illegal or illicit purposes.
- 6.8 Applicants for a vehicle licence will therefore have to undertake an annual standard Disclosure from the DBS. If the standard disclosure shows relevant convictions Walsall Council will give consideration as to whether the applicant should be granted a licence (see Convictions Guidelines for relevant convictions). A standard Disclosure will be accepted upto 12 months from the date of issue of the certificate.
- 6.9 If the vehicle proprietor is also a licensed vehicle driver compliant with points 6.2 and 6.3 above then there will be no need to undertake a standard disclosure check. This does not apply to businesses hiring vehicles to drivers in the event of an accident. Where the vehicle is owned jointly, in partnership or by a company, all partners, directors of the company will be required to undertake the standard disclosure.
- 6.10 Where a vehicle proprietor owns more than 1 vehicle it is sufficient for one Basic Disclosure to be undertaken annually and not each time each vehicle is licensed.
- 6.8 Private Hire Base Operators are in a position whereby they have access to significant amounts of personal information regarding their customers. Therefore it is essential Base Operators are trustworthy and reliable. Base Operators will therefore have to undertake a Standard Disclosure prior to the issue of any licence and upon any renewal.
- 6.9 Private hire vehicle operators must demonstrate to Walsall Council that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. Base Operators must therefore keep a register of all staff that will take bookings or dispatch vehicles.
- 6.10 Operators must be able to provide evidence to Walsall Council that they have had sight of a Standard DBS check on all INDIVIDUALS LISTED ON THEIR REGISTER OF BOOKING AND DISPATCH STAFF and to ensure that Standard DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a 'responsible organisation' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment

contract, to advise the operator of any convictions while they are employed in this role.

- 6.11 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a standard DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new standard DBS certificate should be requested and sight of this recorded.
- 6.12 Failure by the Base Operator to carry out suitable checks will call into question their own suitability and may result in the refusal to licence or enforcement action taken against the operators which may lead to a revocation of the operators licence. Walsall Council Licensing Service will ask for evidence these checks have been carried out at least upon application and if necessary during the currency of the licence through a formal request or visits to the operators.

7. DVLA mandate/code check

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

- 7.1 Driver licences issued by the DVLA will need to be checked by the local authority to ascertain the date of the licence expiry, disqualification and any endorsements at the time of application.
- 7.2 For subsequent applications ('renewals'), the applicant will utilise the DVLA share-code. Failure to supply the Council with an up to date DVLA share-code may result in a delay in the issue of the licence. Where endorsements are recorded following the DVLA licence check a decision will be taken as to whether the driver is a fit and proper person and whether they can proceed in their application, further information is also contained in the Convictions Guidelines.
- 7.3 Where a currently licensed driver receives a motoring conviction during the currency of their licence a review will be undertaken of the conviction and the matter may be placed before the Licensing and Safety Sub Committee or the Head of Community Safety & Enforcement for a decision as to the continuance of the Licence.

8. English/Maths test

This check is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**

8.1 All new applicants must attain a satisfactory level of English Reading, English Listening and Mathematics as part of Walsall Councils pre licensing fit and proper person test. This ensures prospective drivers can communicate effectively with passengers in terms of their requirements and their fares. The details of the nominated organisation administering these tests will be made available to the applicant during the application process together with the types of qualification(s) that will be acceptable.

8.2 A valid GCSE in English Reading, English Listening and Mathematics (or any other equivalent qualification approved by the Head of Community Safety & Enforcement) would be accepted providing the Licensing Authority are satisfied.

9. Knowledge Test for Hackney Carriage Drivers

This check is relevant to:

- **Hackney Carriage Vehicle Drivers**

9.1 It is important that Hackney Carriage drivers have a good knowledge of the Borough so that as they pick up customers, they can effectively find their way around the Borough without undue delay and by taking the most appropriate direct route.

9.2 This test gives the Licensing Service the opportunity to ascertain the driver's knowledge of Hackney Carriage conditions, byelaws that are not covered in the Driver Training Course, geographical knowledge and shortest routes.

10. Base Operators – Trading Name

This is relevant to:

- **Base Operators**

10.1 The Licensing Office shall have the right to refuse to register any trading name that is likely to cause confusion to the general public or is similar to a trading name registered to another licensed operator.

11. Other Sources of Information

This is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Vehicle proprietors**
- **Base Operators**

11.1 Walsall Council is entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence.

11.2 This may include information held by the Council, other Licensing Authorities, held on the National Register of Taxi and Private Hire Licence Revocations, Refusals and Suspensions (NR3s) and information disclosed by the police for example under the Home Office scheme for reporting offences committed by notifiable occupations. It should also be noted that the determination of whether an applicant is “fit and proper” includes consideration of conduct falling short of a criminal conviction.

11.3 Walsall Council may also be asked to share the information it holds in respect of those persons or companies licensed by it. The information will only be shared with those entitled to request it and in accordance with statutory guidelines. In terms of licence refusals, revocations or prosecutions information may be shared on national databases developed and implemented by national agencies or central government such as the NR3s.

12. Complaints

This is relevant to:

- **Private Hire Vehicle Drivers**
- **Hackney Carriage Vehicle Drivers**
- **Vehicle proprietors**
- **Base Operators**

12.1 Walsall Council may become aware of a complaint from residents, businesses, partner agencies etc about the conduct of an applicant or licence holder. In this case the evidence submitted will be scrutinised and the matter fully investigated. Subsequently a determination about whether the licence holder or applicant is a fit and proper person will be made by the relevant Authorised Officer or Committee of Elected Members. The authority will follow the code of practise and enforcement policy.

13. Legal Requirements

The law relating to ‘Fit and Proper’ persons is contained within

- The Local Government (Miscellaneous Provisions) Act 1976 s51(1) (private hire drivers)
- The Local Government (Miscellaneous Provisions) Act 1976 s55(1) (operators).
- The Local Government (Miscellaneous Provisions) Act 1976 s59(1) (hackney carriage drivers)

In producing this Policy regard has been had to the Statutory Taxi & Private Hire Vehicle Standards issued by the Department for Transport in July 2020

From time to time case law or guidance in relation to the Private Hire and Hackney Carriage licensing regime may change. Walsall Council will always take into consideration these changes when determining individual licences.

Private Hire and Hackney Carriage Licensing Criminal & Motoring Convictions Guidelines



Consultation End Date: 24th December 2023

Policy Adopted: ???



Walsall Council



Walsall Council

Private Hire and Hackney Carriage Licensing

DRAFT MOTORING & CRIMINAL CONVICTIONS GUIDELINES

1 Introduction

- 1.1 The purpose of these guidelines is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire driver, proprietor or operator licence.
- 1.2 It is the responsibility of Walsall Council under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. In exercising this duty the Council will consider the safety of the public as its primary consideration. This Policy gives guidance to those exercising the Council's powers in relation to Hackney Carriage and Private Hire licensing in determining whether or not an applicant or existing licence holder is fit and proper to hold such a licence.
- 1.3 The overriding aim of the Licensing Authority is to protect the safety of the public. The Licensing Authority is concerned to ensure:
- That a person is a fit and proper person in accordance with Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 (Part II).
 - That the person does not pose a threat to the public.
 - That the public are safeguarded from dishonest persons.
 - The safeguarding of children and young persons and vulnerable adults.
- 1.4 This document provides guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively:
- Applicants for driver's licences.
 - Existing licence driver's, operators and vehicle proprietors whose licences are being renewed or reviewed.
 - Applicants for operator licences.
 - Applicants for vehicle licences.
 - Magistrates hearing appeals against local authority decisions.
- 1.5 Where powers to grant licences have been delegated to licensing officers or managers, they will utilise these guidelines when making a decision to grant a licence. In all other cases applications for licences will be referred to the Committee.

- 1.6 The discharge of licensing functions will be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation
 - Consideration will also be given to the Regulatory Services Enforcement Policy and any other relevant guidance or legislation.
- 1.7 Applicants and licence holders will be treated fairly and impartially, each case will be considered on its individual merits and, where the circumstances demand, the Committee or officer may depart from the guidelines.

2 General guidelines

- 2.1 There may be occasions where it is appropriate to depart from the guidelines, for example where there are mitigating or aggravating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence may challenge being automatically barred from obtaining a licence and in so doing would normally be expected to:
- a. Remain free of conviction for an appropriate period; and
 - 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). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.
- 2.3 Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction [Nottingham City Council v. Mohammed Farooq (1998)].
- 2.4 Officers from the licensing section will, where appropriate, contact other agencies for any other information which they may hold for instance, the Council's Children Services, Walsall's Exploitation hub and West Midlands Police. 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.

- 2.5 The disclosure of a criminal conviction or other relevant information relating to an individual's conduct will not necessarily debar an individual from being granted, retaining or renewing a licence but clearly the conviction will be an important consideration in whether a licence is granted.

3 Appeals

- 3.1 Any applicant refused a licence on the grounds that the Licensing Authority is not satisfied he/she is a fit and proper person to hold such a licence has a right to appeal to the Magistrates' Court within 21 days of the receipt of the notice of refusal [Local Government (Miscellaneous Provisions) Act 1976, s 77 (1)].

4 Powers

- 4.1 Section 61 and Section 62 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the legal basis for licensing authorities to suspend, revoke or refuse to renew a licence following a conviction for various offences or any other reasonable cause.
- 4.2 The Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the Licensing Authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the Licensing Authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.3 In this policy the term "disqualification" refers to the period served. In order to take account of the fact that a court may reduce the period of disqualification from driving, an applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.
- 4.4 It should be noted that "any reasonable cause" includes conduct falling short of a criminal conviction(s).

5 Consideration of disclosed criminal history

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 (s51, 55 and 59) require licensing authorities to ensure that an applicant for the grant or renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operator licence is a 'fit and proper' person to hold such a licence.

- 5.2 Walsall Council will take a particularly cautious view of any convictions, warnings, cautions or charges awaiting trial for offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.
- 5.3 The following will also be given consideration prior to any decision being made.
- How relevant the offence(s) are to the licence being applied for.
 - How serious the offence(s) are.
 - When the offence(s) were committed.
 - The date of conviction.
 - Circumstances of the individual concerned.
 - Sentence imposed by the court.
 - The applicant's age at the time of conviction.
 - Whether they form part of a pattern of offending.
 - Any other character check considered reasonable (e.g. personal references).
 - Any other factors that might be relevant.
- 5.4 Licence holders are required to notify Walsall Council if they have been
- arrested and released,
 - charged or reported for summons for any offence
 - questioned by the police and given a date to return to the police station, known as being on bail
 - convicted of an offence
 - cautioned for an offence
 - issued a Fixed Penalty Notice
- 5.5 Where the matters listed in 5.4 relate to any sexual offence, any offence involving dishonesty or violence and any motoring offence then the Licence holder must make the notification within 48 hours.
- 5.6 Where the matters listed in 5.4 relate to any other matter the licence holder must make the notification within seven days.
- 5.7 The notification should be made in writing, email, e-form or other official record.
- 5.8 Once a notification is received in relation to 5.3 or 5.4 Walsall Council will carry out a review as to whether the licence holder is fit to continue to do so.

- 5.9 This does not mean that the licence will be revoked it does however mean consideration as to what, if any, action in terms of the licence should be taken based on the balance of probabilities.
- 5.10 Where Walsall Council has not been or has no evidence of being advised of circumstances as set out in 5.3 and 5.4 then this will be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.
- 5.11 The Licensing Authority carries out a Disclosure and Barring Service (DBS) check for any applicant for any licence.
- 5.12 The Licensing Authority is also entitled to use other records and information that may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by the Licensing Authority or other licensing authorities, National Register of Revocations, Refusals and Suspension (NR3s) and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.
- 5.13 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required as part of the application process. Where an applicant has made a false statement or a false declaration as part of their application for the grant or renewal of a licence, the licence will normally be refused or revoked.

6 Crimes Resulting in Death.

- 6.1 A licence will not be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.2 Where a licence holder has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person the licence will be revoked or refused to be renewed.

7 Exploitation

- 7.1 Where an applicant or licence holder has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed.

This includes:

- Slavery
- Child Abuse
- Exploitation
- Grooming
- Psychological,
- Emotional or financial abuse

This list is not exhaustive.

8 Offences involving violence against the person

- 8.1 A licence will not normally be granted where the applicant has a conviction for an offence 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
- Actual bodily harm which is racially aggravated
- Grievous bodily harm
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault with racially aggravated
- Violent disorder
- Resisting arrest
- Or any similar offences (including attempted or conspiracy to commit), or offences which replace the above

- 8.2 A licence will not be granted where the applicant has been convicted for more than one of the above offences. Where a licence holder has been convicted of one or more of the above offences, the licence will be revoked or refused to be renewed.

- 8.3 A licence will not normally be granted where the applicant has a conviction for an offence 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
- Racially-aggravated offence
- Common assault
- Assault occasioning actual bodily harm
- 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)
- Obstruction
- Possession of offensive weapon
- Criminal damage
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

8.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of a violent nature. Where a licence holder has been convicted of one or more of the above offences, the licence will be revoked or refused to be renewed.

9 Possession of a weapon

9.1 Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

10 Sexual Offences

10.1 Where the applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

10.2 Walsall Council will not grant a licence to any applicant who is currently on the Sex offenders Register or on any barred list.

10.3 Offences against Children (under 14 years) and Young Persons (aged 14 to 17 years), where the commission of a sexual offence involves a child or young person an application will normally be refused or an existing licence will normally be revoked, irrespective of the date of offence, conviction or end of sentence.

10.4 The Council will sometimes be made aware of other intelligence or lower 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. Any additional information gathered through this process may then be taken into account at any subsequent committee meeting.

- 10.5 Individuals with a conviction for rape, indecent assault, or other similar offences contrary to the Sexual Offences Act 2003, will normally be refused a licence, or existing licence holders will have their licence(s) revoked, irrespective of the date of offence, conviction or end of sentence.
- 10.6 Applications from Individuals with a conviction relating to sexual offences such as soliciting, importuning, indecent exposure or other similar offences contrary to the Sexual Offences Act 2003, will normally be refused or an existing licence will normally be revoked if the date of conviction or the date on which any custodial sentence is completed is less than 10 years prior to the date of application. Including any suspended sentence or any period where the individual is subject to licence on release (i.e. the custodial sentence will only be considered complete at the end of any licence period).

11 Dishonesty

- 11.1 Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed for a first offence. Where a Hackney Carriage or Private Hire driver has been convicted for any offence where dishonesty is an element of the offence, a licence will be revoked or refused to renew.
- 11.2 Any dishonesty by any applicant or other person on the applicant's behalf which is discovered to have occurred in any part of any application process (e.g. failure to declare convictions, false names or addresses, falsified references or failure to disclose in full information requested by the licensing authority, to include on the application for a licence) will normally result in a licence being refused, or if already granted, revoked and may result in prosecution.
- 11.3 As the direct impact on the public varies depending upon the type of licence applied for or held, it is necessary to consider the impact of particular offences on those licences separately. However, there are some overriding considerations which will apply in all circumstances.
- 11.4 Offences involving dishonesty include (but are not limited to):
- Theft
 - Burglary

- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent
- And any similar offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

11.5 A Licence will not normally be granted if an Applicant has more than one conviction for a dishonesty offence. Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not be issued with a licence.

12 Drugs

12.1 Where an applicant has any conviction for, or related to the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

12.2 Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

13 Discrimination

13.1 Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

14 Motoring convictions.

14.1 Hackney carriage and private hire vehicle drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants

with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

14.2 Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

14.3 **Minor Traffic Offences** - Convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding etc. may prevent a person from being granted a hackney carriage or private hire drivers licence if they have received more than 2 motoring convictions within the last 2 years. Below is a list of Minor 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
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
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 – summons (not fixed penalty)
SP40	Exceeding passenger vehicle speed limit
SP50	Exceeding speed limit on a motorway
SP60	Exceeding speed limit offence
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

14.4 The accumulation of 9 or more points will cast grave doubts on the suitability of the applicant and could lead to the refusal or revocation of the application/licence.

14.5 **Major Traffic Offences** – Is a road traffic offence that can result in 4 or more penalty points and/or a period of disqualification and/or imprisonment. A serious view will be taken of any conviction for a major traffic offence, this includes:

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 when unfit through drugs
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

- 14.6 These guidelines make specific provision for certain types of major traffic offences and to reflect the seriousness of those convictions. In the case of major traffic offences where no such specific provision is made and paragraph 15 (Disqualification) does not apply, an application will normally be refused unless a period of at least 7 years free from conviction of such offences has elapsed

15 Disqualification

- 15.1 Where an applicant has been disqualified from driving following a conviction for a major traffic offence and no specific provision is made above regarding the appropriate rehabilitation period, the application will generally be refused unless a period of 7 years free from conviction has elapsed from the restoration of the DVLA licence.
- 15.2 Where convictions for a number of minor traffic offences have resulted in the applicant being disqualified from driving for a period of time this will normally be taken as reflecting seriously on the applicant's driving standard. Generally, a period of 7 years following the expiration of the disqualification period must have elapsed from the restoration of the DVLA licence. A new licence will not normally be granted. Existing licence will be revoked.
- 15.3 In "totting-up" cases where disqualification is considered by the court, even if the court does not disqualify (e.g. because of exceptional circumstances) a driver, the Council is likely to refuse a hackney carriage or private hire driver's licence because different criteria apply and an applicant will normally be expected to show a period of 5 years free from conviction from the date the court made its finding of exceptional circumstances justifying the non-disqualification. Current Hackney Carriage & Private Hire vehicle driver's licence will be revoked.

15.4 Any period of disqualification will lead to the suspension/ revocation of a licence.

16 Insurance offences

16.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily prevent a licence being granted provided he/she has been free of such conviction for 3 years; however a strict warning should be given as to future behaviour.

16.2 More than one conviction for these offences would normally prevent a licence being granted or renewed.

16.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

17 Drink driving/driving under the influence of drugs

17.1 Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence or driving ban imposed. Where a licensed Hackney Carriage or Private Hire vehicle driver, proprietor or operator has been convicted of this offence the licence will be revoked or refused to be renewed.

17.2 In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

17.3 A new licence will not normally be granted for 12 years following the expiration of the last disqualification period or if not disqualified 12 years from the date of the conviction, caution or in the absence of these the date of the offence or relevant incident. A existing licence will normally be revoked or refused to renew for repeat offences.

18 Using a hand-held device whilst driving

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

19 Cautions

- 19.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence. A caution is regarded exactly the same way as a conviction.
- 19.2 If an applicant has received a caution for a traffic offence, given the nature of the offence and the profession of a taxi driver, action may be taken after consideration of this policy and the Regulatory Services Enforcement Policy.
- 19.3 Cautions for more serious offences could lead to refusal of an application or the suspension or revocation of a licence

20 Outstanding charges or summonses

- 20.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at committee.
- 20.2 If the outstanding charge or summons involves a serious offence, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 20.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. [Road Safety Act 2006, s 52, 2A&2B]

21 Licensing offences

- 21.1 Convictions for offences contrary to taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed unless the applicant has been free of such convictions for a period of at least 3 years. Where an existing licence holder receives such a conviction their licence may be revoked or suspended.
- 21.2 Where a licensed driver, proprietor or operator fails to adhere to the conditions of the licence, the Head of Community Safety & Enforcement or Licensing & Safety Committee/sub-committee may decide to review the licence which could result in suspension or revocation of the licence.

22 Licenses issued by other licensing authorities

- 22.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will always be decided on its own merits.
- 22.2 Walsall Council has a duty to ensure that any person to whom it grants a licence is a 'fit and proper' person. A useful test when considering whether an applicant or licensee is fit and proper is to pose the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

- 22.3 All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.
- 22.4 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

23 Private Hire Operators

- 23.1 A private hire operator ("an operator") in performing their duties obtains and holds considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others or used by the operator or their staff for criminal or other unacceptable purposes.
- 23.2 Operators shall ensure that any staff that are used within the business (whether employees or independent contractors) and are able to access any information as

described above are subject to the same standards as the operator themselves. This can be effected by means of the individual staff member being required by the operator to obtain a basic DBS certificate. If an operator is found not to be applying the required standards and using staff that do not meet the licensing authority's overall criteria, that may lead to the operator's licence being revoked.

24 Vehicle Proprietors

- 24.1 As well as the suitability of the vehicle, in determining whether to grant a licence to use a vehicle as a hackney carriage / private hire vehicle, those making the decision on behalf of the Council will consider whether the applicant is a fit and proper person to be issued such a licence.
- 24.2 The licensing authority will take into account any information/intelligence shared by Walsall Council's safeguarding board. West Midlands Police and other Responsible authority or local authority's licensing service when reviewing a licence or granting of a new one.

25. Anti-Social Behaviour and Public Order Offences

- 25.1 Hackney Carriage and Private Hire drivers should behave in a calm and measured manner in the face of provocation and difficult situations. Where licensed drivers fail to meet this:
- (a) First offence – will normally result in a suspension for up to 6 months or refuse to renew. A new licence will not normally be granted for 2 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.
- (b) Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution or in the absence of these the date of offence or relevant incident.

26 Obstruction of Police Officer/Authorised Officer

- 26.1 A licensed Hackney Carriage or Private Hire Driver will normally be suspended for up to 6 months or refuse to renew on a first offence. A new licence will not normally be granted for 6 months following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident. Repeat offences – will normally revoke or refuse to renew. A new licence will not normally be granted for 5 years following the date of conviction, caution, expiry of a prison sentence or in the absence of these the date of offence or relevant incident.