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Blackpool Council

27 October 2017

To: Councillors Collett, Hobson, Humphreys, Hutton, Robertson BEM, Mrs Scott and Singleton

The above members are requested to attend the:

PUBLIC PROTECTION SUB-COMMITTEE

Tuesday, 7 November 2017 at 6.00 pm
in Committee Room A, Town Hall, Blackpool

A G E N D A

ADMISSION OF THE PUBLIC TO COMMITTEE MEETINGS

The Head of Democratic Governance has marked with an asterisk (*) those items where the Committee may need to consider whether the public should be excluded from the meeting as the items are likely to disclose exempt information.

The nature of the exempt information is shown in brackets after the item.

1 DECLARATIONS OF INTEREST

Members are asked to declare any interests in the items under consideration and in doing so state:

- (1) the type of interest concerned; and
- (2) the nature of the interest concerned

If any member requires advice on declarations of interests, they are advised to contact the Head of Democratic Governance in advance of the meeting.

2 MINUTES OF THE LAST MEETING HELD ON 10 OCTOBER 2017 (Pages 1 - 6)

To agree the minutes of the last meeting held on 10 October 2017 as a true and correct record.

3 AMENDMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES TO THREE YEAR DURATION (Pages 7 - 10)

4 REVIEW OF HACKNEY CARRIAGE/PRIVATE HIRE CRIMINAL CONVICTIONS' POLICY

(Pages 11 - 28)

* **5 PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCES**

(Pages 29 - 40)

(This item contains personal information regarding applicants and licence holders which is exempt from publication by virtue of Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972)

6 USE OF DELEGATION OF POWERS - SUSPENSION AND REVOCATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES

(Pages 41 - 44)

7 DATE OF NEXT MEETING

To note the date of the next meeting as 12 December 2017.

Venue information:

First floor meeting room (lift available), accessible toilets (ground floor), no-smoking building.

Other information:

For queries regarding this agenda please contact Chris Williams, Democratic Governance Adviser, Tel: (01253) 477153, e-mail chris.williams@blackpool.gov.uk

Copies of agendas and minutes of Council and committee meetings are available on the Council's website at www.blackpool.gov.uk.

Present:

Councillor Hutton (in the Chair)

Councillors

Hobson	Robertson BEM	Singleton
Humphreys	Mrs Scott	

In Attendance:

Mrs Sharon Davies, Head of Licensing Service
Mr Chris Williams, Democratic Services Adviser

1 DECLARATIONS OF INTEREST

There were no declarations of interest on this occasion.

2 MINUTES OF THE LAST MEETING HELD ON 12 SEPTEMBER 2017

Resolved: That the minutes of the meeting held on 12 September 2017 be signed by the Chairman as a correct record.

3 EXCLUSION OF THE PUBLIC

Resolved: That under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the whole item, including the decisions referred to at Agenda items 3, 4 and 5 on the grounds that it would involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

4 CONSENT FOR PHOTOGRAPHY BY WAY OF TRADE OR BUSINESS

The Sub-Committee was informed of an applicant seeking consent for photography for trade or business, who had given sufficient cause for concern as to be referred to the Sub-Committee for consideration.

Members discussed the application as follows:

S.L (New applicant)

Mr Mark Marshall, Head of Licensing Service, who was in attendance, presented the case on behalf of the Authority. He reported that the applicant had been referred to the licensing service following his application for a consent for photography licence and as part of routine checks carried out on applicants, it had emerged that SL had been arrested but not formally charged in relation to an offence of a sexual nature.

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2017**

The applicant, who was in attendance, explained that in his opinion, the incident was a misunderstanding and that there was no case to answer as he had not been charged.

The Sub-Committee accepted that the facts surrounding the applicant's arrest were limited and no charges had ultimately resulted. However, SL's version of events seemed confused and given the sexual nature of the incident and the fact that the applicants intended employment, should consent be granted, would involve him working in close proximity to children, the Sub-Committee expressed concern that sufficient risk to the public did exist.

Resolved:

To refuse consent for photography by way of trade or business as the applicant was not a fit and proper person to be granted such consent.

5 PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCES

The Sub-Committee was informed of a number of applicants and existing Hackney Carriage and Private Hire Vehicle drivers who had given sufficient cause for concern as to be referred to the Sub-Committee for consideration.

Members discussed the applications and referral as follows:

- (i) L.A.K (New Private Hire Driver applicant)

Mr Marshall presented the Authority's case. He reported that the applicant had previously been refused a licence on the grounds of dishonest conduct on his part for non-declaration of an offence on the application to be licensed. It was also noted that the conviction had now expired.

LAK advised that he regretted the incident and had not been in any other trouble either before or since that date. He added that he had received a firm offer of work should the licence be granted and apologised for his ignorance in relation to what should have been declared on the application.

The Sub-Committee expressed concern about the lack of understanding displayed by the applicant when completing his previous application to be licensed. However, members were minded that given the time that had elapsed since the offence and LAK's frank and honest account and general attitude, he had now demonstrated that he could be considered fit and proper to be granted a licence.

Resolved: That the application for a Private Hire Driver's Licence be granted.

- (ii) S.P.S (New Private Hire Driver applicant)

SPS was in attendance and made representations to the Sub-Committee. He explained that in response to the Authority's case, he had made mistakes in relation to the number of serious offences outlined in the report. Whilst there were numerous convictions and sentences listed, he added that all time had been served and he had been conviction free for more than a decade. With regard to the driving offences, the applicant had few

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answers and was unable to recall any detail about a conviction for dangerous driving listed in the report.

The Sub-Committee were satisfied that all punishments for criminal convictions had been served by the applicant and he not been convicted of further offences for an extended period of time. However, some of the driving convictions were recent and the applicant's failure to adequately explain the circumstances of some offences led Members to be inclined to consider him an unsuitable person to be licensed.

Resolved: That the application for a Hackney Carriage Licence be refused on the grounds that the applicant was not a fit and proper person to be licensed.

(iii) Z.K (New Private Hire and Hackney Carriage Driver applicant)

Mr Marshall explained that the applicant had a list of convictions which included two for serious drug related offences and others for deception and some which had involved violence.

ZK was in attendance with a friend, DH and both made representations to the Sub-Committee. The applicant expressed regret for the offences he had committed and advised that he had been conviction free for a period of almost 14 years and had served his time in relation to each offence, which included a significant amount of custodial time.

The Sub-Committee acknowledged that the applicant had served his sentence in relation to offences he had committed. However, such was the serious nature and number of offences, ultimately members did not see sufficient cause to deviate from the Hackney Carriage policy and were unconvinced of the applicant's suitability to be licensed.

Resolved: That the application for a Hackney Carriage and Private Hire Vehicle Drivers Licence be refused on the grounds that the applicant was not a fit and proper person to be licensed.

(iv) Y.M (Existing Private Hire Driver)

Mr Marshall presented the Authority's case and explained the circumstances surrounding the applicant's single previous conviction and non-disclosure as part of three separate applications to be licensed.

Following The Sub-Committee's expression of concern at the nature and recency of the offence that had involved violence against a family member, YM explained that he felt the incident happened at a difficult time in his life and felt it should not have been a Police matter.

Members were apprehensive at the prospect of granting a licence based on the applicant's representations, which they felt did not go far enough to convince them to deviate from the Hackney Carriage Policy guidance on violent offences and those committed within a three year period prior to the application. Concerns that the applicant also did not declare the offence on three occasions were noted.

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Resolved:

1. To not prosecute for non-disclosure of offences on the application to be licensed.
2. That the application for a Private Hire Vehicle Licence be refused on the grounds that the applicant was not a fit and proper person to be licensed.

(v) P.U.C (Existing Hackney Carriage Driver)

The Sub-Committee was advised that the driver had three previous convictions, two of which were from over 30 years ago, though one was much more recent and had involved violence.

PUC explained that in relation to the most recent offence, he regretted the events and his part in them, though he explained that it had been a domestic incident in which he claimed he had merely chastised his own child following a disagreement.

Despite concerns about the unfortunate incident, the Sub-Committee were in agreement that the driver did not present a risk to the public and had demonstrated remorse and provided a satisfactory explanation of the most recent offence.

Resolved: To renew the Hackney Carriage Licence with the addition of a warning letter in relation to future conduct indicating that if the driver were brought before the Sub-Committee again, suspension or revocation would be the likely outcome.

Background papers: exempt

6 USE OF DELEGATION OF POWERS - SUSPENSION AND REVOCATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES

Following the Sub-Committees decision on 15 August 2017 to allow an amendment to the existing delegation of powers to permit the Head of Licensing following consultation with the Chairman/Vice-Chairman to take action where serious concerns were raised regarding the fitness of a driver to hold a Hackney Carriage or Private Hire Driver's Licence, members were advised of the decision taken on 28 September 2017 to revoke with immediate effect, the Hackney Carriage and Private Hire Vehicle driver's licence , in respect of the following case:

B.R (Existing Hackney Carriage and Private Hire driver)

The Sub-Committee noted that the decision was taken to revoke the licence due to the driver's admission that he had a substantial alcohol problem and both the Chairman and the Head of Licensing Service felt that if allowed to continue to operate, the driver presented a significant risk to the public.

The Sub-Committee was also informed of two other uses of delegated powers in the period since the agenda had been sent out and which Members were advised would be detailed in the report brought to the 7 November 2017 meeting.

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7 DATE OF NEXT MEETING

Members noted that the date of the next meeting was scheduled for Tuesday 7 November 2017.

Chairman

(The meeting ended at 8.14 pm)

Any queries regarding these minutes, please contact:
Chris Williams Democratic Governance Adviser
Tel: (01253) 477153
E-mail: chris.williams@blackpool.gov.uk

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Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Mark Marshall, Head of Licensing Service
Date of Meeting	7 November 2017

AMENDMENT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES TO THREE YEAR DURATION

1.0 Purpose of the report:

1.1 To consider amending the duration of Private Hire and Hackney Carriage driver's licences.

2.0 Recommendation(s):

2.1 The Sub-Committee will be requested to approve the amended duration of licences.

3.0 Reasons for recommendation(s):

3.1 To alleviate the administrative burden on the Licensing Service due to issuing licences to Hackney Carriage and Private Hire drivers every 12 months.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

The Sub-Committee could decline to amend the duration of licences. However, this is regarded as an undesirable alternative, given the continued administrative burden this would place on the Licensing Service.

4.0 Council Priority:

4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity

across Blackpool”

5.0 Background Information

5.1 The Licensing Service currently employs a system of issuing licences for 12 months and 3 years to both new and existing Hackney Carriage and Private Hire driver’s licences dependent on each applicant’s preference.

5.2 The Licensing Service currently has 600 Hackney Carriage drivers and 642 Private hire drivers licensed by the authority, of those 1242 licences 907 have been issued with a 12 month licence and 335 have been issued 3 year licences.

The administrative burden from having to issue 12 month licences is having an adverse effect on the efficiency of the service.

5.3 The Local Government (Miscellaneous Provisions) Act 1976 Part 2, Section 53 states the following in relation to the duration of Private Hire and Hackney Carriage licences:

53 - Drivers’ licences for hackney carriages and private hire vehicles.

(1)(a)Every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period as the district council may specify in such licence.

(b)Notwithstanding the provisions of the **M40** Public Health Act 1875 and the **M41** Town Police Clauses Act 1889, every licence granted by a district council under the provisions of the Act of 1847 to any person to drive a hackney carriage shall remain in force for three years from the date of such licence or for such lesser period as they may specify in such licence.

5.4 The Licensing Service does not envisage the change in licence duration as having a negative impact on public safety as criminality checks are currently administered on a 3 yearly cycle. Existing holders of drivers’ licences are required to notify the licensing authority in writing within seven days of being arrested, receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions). This does involve an element of trust on the part of the driver to inform the Licensing authority, however failure to disclose any information that may have a bearing on their eligibility to hold a licence is an offence in itself.

- 5.5 All applicants on any new or renewal application must sign a declaration to say that they have read, understood and will comply with the following:
- a) I have declared all convictions, including convictions that are considered to be spent under the Rehabilitation of Offenders Act 1974
 - b) I have disclosed all pending court appearances
 - c) I understand that it is a criminal offence to knowingly or recklessly give any information that I know or believe to be false.
 - d) If no convictions are declared, I can confirm I have never been convicted of any offence and have no pending convictions.
 - e) To the best of my knowledge and belief, that the information given herein is true. I understand that if I knowingly or recklessly make a false statement or omit any material particular, I shall be guilty of an offence.

5.6 Does the information submitted include any exempt information? No

6.0 Legal considerations:

6.1 None

7.0 Human Resources considerations:

7.1 None

8.0 Equalities considerations:

8.1 None

9.0 Financial considerations:

9.1 None

10.0 Risk management considerations:

10.1 None

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 None

13.0 Background papers:

13.1 None

Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Mark Marshall, Head of Licensing Service
Date of Meeting	7 November 2017

REVIEW OF HACKNEY CARRIAGE/PRIVATE HIRE CRIMINAL CONVICTIONS' POLICY

1.0 Purpose of the report:

- 1.1 To consider proposed amendments to the Hackney Carriage/Private Hire Criminal Convictions Policy.

2.0 Recommendation(s):

- 2.1 To consider the policy and the proposed amendments as outlined in Appendix 4(a).
- 2.2 To authorise a period of consultation with the trade on the proposed amendments.

3.0 Reasons for recommendation(s):

- 3.1a The policy has been in force for two years and it is considered that a review was appropriate.

- 3.1b It is regarded as good practice to hold a consultation period to collate the views of the trade prior to making a formal decision to amend a policy.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

The Sub-Committee could decide to not review the policy after two years. However, this would not be considered good practice.

4.0 Council Priority:

- 4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity across Blackpool"

5.0 Background Information

5.1 The Hackney Carriage and Private Hire Policy has been in force in its current form since 2015.

5.2 Over time officers have noted a number of omissions, anomalies and areas where the criminal convictions section of the policy could be strengthened.

5.3 Proposed amendments to the Taxi and Private Hire Vehicle Licensing Criminal Convictions' Policy can be found at Appendix 4(a). The amendments will be subject to the outcome of a period of consultation to address any concerns interested parties may have.

5.4 Does the information submitted include any exempt information? No

5.5 List of Appendices:

Appendix 4(a) Amended Taxi and Private Hire Vehicle Licensing Criminal Convictions' Policy.

6.0 Legal considerations:

6.1 Any amendments to the policy would require a period of consultation.

7.0 Human Resources considerations:

7.1 None

8.0 Equalities considerations:

8.1 None

9.0 Financial considerations:

9.1 None

10.0 Risk management considerations:

10.1 None

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 None

13.0 Background papers:

13.1 None

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Taxi and PHV Licensing Criminal Convictions' Policy

1. Introduction

1.1 The purpose of this policy 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 vehicle licence. Whilst criminal convictions will play a significant part in the licensing authority's determination on whether an individual is fit and proper or not, the Council will also take into account other factors such as demeanour, general character, non-criminal behaviour, driving ability and other police information etc.

1.2 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 persons.
- The safeguarding of children, young persons and vulnerable adults.

1.3 The term "fit and proper person" for the purposes of licensing is not legally defined. When determining whether a person is fit and proper to hold a licence, those tasked with determining applications are effectively asking the following question:

"Would you allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone?"

If the answer to the question is an unqualified yes, then the person can be considered to be fit and proper. If there are any doubts in the minds of those who make the decision then further consideration should be given as to whether a licence should be granted to that person.

In assessing whether someone is "fit and proper" the Council will consider the following together with any other relevant information:

- Criminality
- Human rights
- Period of holding a driver's licence
- Number of penalty points endorsed on driving licence
- Right to work
- Medical fitness

Appendix 4(a)

- **Standard of driving/driving ability**
- Conduct of the applicant in making the application (e.g. whether they have acted with integrity during the application process)
- Previous licensing history of existing and former licence holders

In addition the Council will also consider further information provided by sources such as the Police (including abduction notices), Children and Adult Safeguarding Boards and other statutory agencies.

- 1.4 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
- Applicants for drivers' licenses
 - Existing licensed drivers whose licences are being reviewed
 - Licensing officers
 - Members of the Public Protection Sub-Committee
 - Magistrates hearing appeals against local authority decisions

- 1.5 Where licensing officers have delegated powers to grant licences, 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 Public Protection Sub-Committee. Whilst officers and the Sub-Committee will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

- 1.6 **In this policy the word "conviction" is to be defined as including convictions, cautions, warnings, reprimands and other relevant information.**

2. **General policy**

- 2.1 ~~There may be occasions where it is appropriate to depart from the guidelines, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.~~

The standards and criteria set out in below are those that will normally be applied to applications and licences. The Council may depart from these criteria however it must only do so in exceptional circumstances. The otherwise good character and driving record of the applicant or licence holder will not normally be considered as exceptional circumstances.

- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a. Remain free of conviction for an appropriate period; and

Appendix 4(a)

- b. Show adequate evidence that her 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 **Where an individual has had an application refused or a licence revoked the Public Protection Sub-Committee will normally refuse any subsequent application made within 12 months of the previous refusal or revocation unless there has been a substantial material change in the individual's circumstances. Applications received more than 12 months after the refusal/revocation will be considered in accordance with this policy.**

3 Appeals

3.1 Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied he 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)].

3.2 Any applicant refused an operator licence on the grounds that the licensing authority is not satisfied he 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.

3.3 Any licensee whose licence is suspended or revoked has a right to appeal to the Magistrates' Court within 21 days of the notice of suspension or revocation.

4. Powers

4.1 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 application/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.

4.2 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

Appendix 4(a)

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.

5. Consideration of disclosed criminal history

- 5.1 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. However, 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 **for example**
 - **The previous conduct of an existing or former licence holder**
 - **Whether the applicant has intentionally misled the Council or lied as part of the application process**
 - **Information provided by other agencies/Council departments**

- 5.2 Existing holders of drivers’ licences are required to notify the licensing authority in writing within seven days of being arrested, receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

- 5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing office on 01253 478343 in confidence for advice.

- 5.4 The licensing authority conducts enhanced disclosures from the Disclosure and Barring Service (DBS) of any applicant for a driver licence. The licensing authority follows the DBS’s Code of Practice on the fair use of disclosure information. A copy is available on request.

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- 5.5 Applicants applying for the grant or a renewal of a drivers' licence and/or operator licence will be required to obtain an enhanced disclosure at their expense. The licensing authority abides by the DBS's Policy on the secure storage, handling, use, retention and disposal of disclosure information, which is available on request.
- 5.6 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, and information disclosed by the police.
- 5.7 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 by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.
- 5.8 For renewal applications and current licence holders the policy will not be applied retrospectively where there are no new concerns or convictions. The policy will be applied to existing licence holders if any additional convictions are incurred or they are otherwise brought to the attention of the Council for conduct that would call into question a person's suitability to hold a licence.
- 5.9 Offences not covered by this Policy will be considered by the Council when determining whether the applicant/licensed driver is a fit and proper person.

6 Serious offences involving violence

- 6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.
- 6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such conviction. However, given the range of the offences that involve violence, consideration must be given to the nature of the conviction.
- 6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as:
- Murder
 - Manslaughter
 - Manslaughter or culpable homicide while driving
 - Terrorism offences

Appendix 4(a)

- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.4 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence to those below and the conviction is less than 10 years prior to the date of application:
- Arson
 - Malicious wounding or grievous bodily harm which is racially aggravated
 - Actual bodily harm which is racially aggravated
 - Grievous bodily harm with intent
 - 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) offences which replace the above
- 6.5 A licence will not normally be granted where the applicant has a conviction for an offence or similar offence to those below and the conviction is less than 5 years prior to the date of application:
- Racially-aggravated criminal damage
 - Racially-aggravated offence
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above
- 6.6 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 3 years prior to the date of application:
- 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
 - Criminal damage
 - Or any similar offences (including attempted or conspiracy to commit) offences which replace the above

Appendix 4(a)

6.7 A licence will not **normally** be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

6.8 In the event of a licence being granted, a strict warning both verbally and in writing should be administered.

7. Possession of a weapon

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

8. Sex and indecency offences

8.1 As licensed drivers often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinized. ~~Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence will be granted.~~ **All sexual and indecency offences will be considered as serious**

8.2 Unless there are exceptional circumstances, an application will **normally** be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Sexual assault
- Indecent assault
- Exploitation of prostitution
- Grooming, Trafficking for sexual exploitation or other sexual exploitation related offences
- Possession of indecent photographs, child pornography etc.
- Or **any** sex or indecency offence that was committed in the course of employment as a taxi or PHV driver
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

Appendix 4(a)

- 8.3 Before an application ~~is allowed~~, **will be considered** an applicant should be free of conviction for at least 10 years (or at least 5 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:
- Indecent exposure
 - Soliciting (kerb crawling)
 - Or any similar offences (including attempted or conspiracy to commit).

8.4 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

8.5 A licence will not normally be granted if an applicant has more than one conviction for a sexual/indecency offence.

9. Dishonesty

9.1 A licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. Drivers may well deal with customers who are vulnerable or intoxicated and potentially easily confused. For all these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is longer) should be required before granting a licence. Offences involving dishonesty include:

- 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

Appendix 4(a)

9.3 A licence will not normally be granted if an applicant has more than one conviction for a dishonesty offence.

9.4 Applicants or existing licence holders that are found to have intentionally misled the Council, or lied as part of the application process, will not normally be issued with a licence.

10. Drugs

10.1 A serious view is taken of any drug related offence. **Taking drugs and driving poses an obvious risk to public safety, whilst applicants who have convictions for the supply of drugs should be treated with considerable concern.** The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

~~10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.~~ **Because of the nature of a driver's involvement with the public, a licence will not be granted where the applicant has a conviction for an offence related to the supply of drugs.**

~~10.3 A licence will not normally be granted where the applicant has more than one conviction for offences related to the possession of drugs and has not been free of conviction for 5 years.~~

10.4 An applicant who has an isolated conviction for an offence related to the possession of drugs (other than for supply) ~~within the last 3-5 years~~ may be granted a licence **once 5/10 years have passed since the completion of any sentence**, but consideration should be given to the nature and quantity of the drugs.

10.5 If there is evidence of persistent drugs use, misuse or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before the licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

10.6 A licence will not **normally** be granted if an applicant has more than one conviction for a drugs related offence.

11 Driving offences involving the loss of life

11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in the loss of life.

Appendix 4(a)

Unless there are exceptional circumstances a licence will not **normally** be granted where the applicant has a conviction for an offence such as:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs
- Causing death by driving: unlicensed, disqualified or uninsured drivers
- or any similar offences

12 **Drink driving/driving under the influence of drugs/using a mobile phone whilst driving/dangerous driving**

12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. ~~An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. Normally at least 3 years, after the restoration of the driving licence following a drink/drug drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.~~ **More than one conviction for these offences raises serious doubts as to the applicant's fitness to drive the public and a licence will not be granted. In the case of an isolated offence, at least 5 years after the restoration of the driving licence following drink/drug driving conviction should elapse before an application will be granted. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be granted. An application will normally be refused where the applicant has a conviction for driving/being in charge under the influence which does not result in a disqualification within two years of the date of application.**

12.2 ~~Applicants should also be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research (see for instance <http://www.rospa.com/rospaweb/docs/advice-services/road-safety/drivers/mobile-phone-report.pdf>) which shows that drivers who use a mobile phone suffer physical and cognitive distraction which means they:~~

- are much less aware of what's happening on the road around them
- fail to see road signs
- fail to maintain proper lane position and steady speed
- are more likely to 'tailgate' the vehicle in front
- react more slowly, take longer to brake and longer to stop
- are more likely to enter unsafe gaps in traffic
- feel more stressed and frustrated.

Appendix 4(a)

~~12.3 There is evidence to show that drivers who use a mobile phone have slower reaction times than those who have consumed up to the legal alcohol limit. In light of this, an equally serious view should be taken of convictions for driving whilst using a mobile phone as for driving under the influence of drink or drugs.~~

12.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving under the influence of drink or drugs ~~or whilst using a mobile phone.~~

12.5 A serious view is also taken of convictions for dangerous driving. A licence will not be granted where an applicant has a conviction for dangerous driving unless the applicant can demonstrate that at least 10 years has passed since the return of the driving licence and that since that date they have been free from conviction (including fixed penalty tickets)

13 Licensing offences

13.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since the conviction.

13.2 A licence will not normally be granted if an applicant has more than one conviction for a licensing related offence.

14 Insurance and other motoring offences

14.1 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 stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future behaviour.

14.2 A licence will not normally be granted if an applicant has more than one conviction for an insurance related offence.

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

14.3 As they carry members of the public there is an expectation that applicants/licensed drivers will have good driving records. The driver record will be considered carefully. Consideration will be given to the date, nature and the number of penalty points attached to the offence. Isolated driving offences will not in itself preclude an applicant

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from being licensed. Applicants whose record discloses 9 or more penalty points will be referred to the Public Protection Sub-Committee for consideration.

15 Outstanding charges or summonses

- 15.1 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.
- 15.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.

16 Non-conviction information

- 16.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. **The Council will also take into account situations and circumstances that have not led to a conviction. This will include acquittals, circumstances in which convictions were quashed due to misdirection to the jury, circumstances where the decision was taken not to prosecute, situations where the person has been arrested and bailed but not yet charged and complaints from the public. In considering the most appropriate action to take in relation to non-conviction information/complaints the credibility of both the witness/complainant and the licence holder will be taken into account.**
- 16.2 **If an applicant/licence holder has been arrested or charged but not convicted of a serious offence which suggests that they could be a danger to the public consideration should be given to refusing the application. Such offences will include violent and/or sexual offences or allegations of driving a vehicle under the influence of alcohol or drugs.**
- 16.3 **Licence holders will be referred to the Public Protection Sub-Committee where it is clear that their behaviour is not influenced by verbal or written warnings administered by Licensing Enforcement Officers.**
- 16.4 In assessing the action to take, the safety of the travelling public must be the paramount concern.

17 Cautions

- 17.1 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.

18 Licences issued by other licensing authorities

- 18.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.
- 18.2 Licensees who are licensed by multiple authorities are expected to inform all such authorities of the authorities that they are licensed by and to advise each authority of any changes in this respect; and should expect those authorities to share information regarding their conduct and to take it into account as appropriate.

19 Summary

- 19.1 To summarise, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As the preceding paragraphs indicate, in most cases, an applicant would be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 19.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.
- 19.3 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.

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Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Mark Marshall, Head of Licensing Service
Date of Meeting	7 November 2017

PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS LICENCES

1.0 Purpose of the report:

1.1 To consider an applicant and licence holder who have been convicted of offences or who have otherwise given reasons for concern.

2.0 Recommendation(s):

2.1 The Sub-Committee will be requested to determine the application and referral as appropriate.

3.0 Reasons for recommendation(s):

3.1 Licensed drivers can be responsible for transporting vulnerable passengers. It is important for the protection of the public that only fit and proper persons are licensed.

3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

3.2b Is the recommendation in accordance with the Council's approved budget? Yes

3.3 Other alternative options to be considered:

None, as the Sub-Committee is required to determine the application and referral.

4.0 Council Priority:

4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity across Blackpool"

5.0 Background Information

5.1 The Sub-Committee is asked to determine whether or not the applicant and licence

holder are fit and proper persons to hold Hackney Carriage and Private Hire Vehicle driver's licences , in respect of the following cases:

J.L.H (New Private Hire Applicant), N.C (Existing Private Hire Driver)

5.2 Details of offences or matters causing concern and any supporting documents are attached at Appendix 5(a).

5.3 Does the information submitted include any exempt information? Yes

5.4 List of Appendices:

Appendix 5(a) Details of cases (not for publication)

6.0 Legal considerations:

6.1 The Sub-Committee must be satisfied that the applicant and licence holder are fit and proper persons to be licensed.

6.2 There is the right of appeal to the Magistrates' Court.

7.0 Human Resources considerations:

7.1 None

8.0 Equalities considerations:

8.1 None

9.0 Financial considerations:

9.1 None

10.0 Risk management considerations:

10.1 None

11.0 Ethical considerations:

11.1 None

12.0 Internal/ External Consultation undertaken:

12.1 None

13.0 Background papers:

13.1 None

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Report to:	PUBLIC PROTECTION SUB-COMMITTEE
Relevant Officer:	Mark Marshall, Head of Licensing Service
Date of Meeting	7 November 2017

USE OF DELEGATION OF POWERS - SUSPENSION AND REVOCATION OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER'S LICENCES

1.0 Purpose of the report:

- 1.1 To highlight to the Sub-Committee the use of delegated powers to revoke a Hackney Carriage and Private Hire driver's licence following consultation with the Chairman.

2.0 Recommendation(s):

- 2.1 To note the use of delegated powers by the Licensing Enforcement and Health and Safety Manager in the period since the last Sub-Committee meeting on 10 October 2017 contained at section 5.8.

3.0 Reasons for recommendation(s):

- 3.1 Licensed drivers can be responsible for transporting vulnerable passengers. It is important for the protection of the public that only fit and proper persons are licensed. It is

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

- 3.3 Other alternative options to be considered:

None, for information only.

4.0 Council Priority:

- 4.1 The relevant Council Priority is "The Economy: Maximising growth and opportunity across Blackpool"

5.0 Background Information

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that the Council may suspend or revoke or refuse to renew the licence of a driver of a hackney carriage or private hire vehicle on any of the following grounds:
- (a) That he has since the grant of the licence:
 - (i) Been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) Been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this part of this Act; or
 - (b) Any other reasonable cause.
- 5.2 In August 2017, the Sub-Committee agreed changes to the delegation of powers as recent case law had confirmed that a Council cannot use the suspension of a Hackney Carriage or Private Hire driver's licence as holding operation pending further investigation. The Court held that if a Council were to suspend a licence "it must do so by way of a substantive decision on the fitness of the driver to hold the licence, after giving the driver a proper opportunity to state his case, not merely as a means by which to maintain a position pending the final outcome of the criminal proceedings."
- 5.3 It was agreed that due to changes in the officer structure that the power be allocated to the Licensing Enforcement and Health and Safety Manager.
- 5.4 It was agreed therefore that the procedure work as follows:
- 5.5 That in the event of a serious concern being raised regarding the fitness of a driver to hold a Hackney Carriage or Private Hire Drivers' Licence the Licensing Enforcement and Health and Safety Manager be tasked in the first instance with investigating the issue. The concern could take the form of convictions, police information or complaints from the public.
- 5.6 The driver be invited to a formal interview to discuss the area of concern with the Licensing Enforcement and Health and Safety Manager and either the Chairman or Vice-Chairman of the Public Protection Sub-Committee. Consideration will then be given as to which of the following three courses of action is necessary and proportionate:
- i) That the issue is serious enough to require the revocation of the licence with immediate effect.
 - ii) That while there is a case to answer the issue is not urgent and can therefore be referred for consideration by the next meeting of the Public Protection Sub-Committee or a special meeting of that Sub-Committee.
 - iii) That no action be taken at present, this does not preclude further

investigation of the issue.

- 5.7 Where the Licensing Enforcement and Health and Safety Manager acts to revoke a licence, they will bring a report to the next Public Protection Sub-Committee and if approved a review of the use of this delegation will take place in 12 months' time.
- 5.8 Under the newly delegated powers, on Monday 11 September 2017, a Private Hire and Hackney Carriage driver attended a meeting with the Licensing and Health and Safety Manager and the Chairman of the Sub-Committee who introduced the purpose for the meeting and highlighted the potential outcomes. During the meeting it emerged that the driver had been involved in an incident following a complaint received by a member of the public.

During the formal interview, it emerged that the driver had been found to have behaved inappropriately. The driver admitted to having acted irresponsibly and the Head of Licensing Service felt that action should be taken to deter similar incidents from occurring in the future.

In addition, Mr Marshall reported at the 10 October 2017 meeting that another driver, M.P. K, was interviewed on 6 September 2017 and he agreed that an update would be provided on the outcome. However, to clarify, this case was actually dealt with at the 12 September 2017 Sub-Committee meeting.

- 5.9 The Sub-Committee is asked to note the subsequent decision taken on 11 September 2017 to issue a written warning in relation to the Hackney Carriage and Private Hire Vehicle driver's licence , in respect of the following case:

M.L.R (Existing Hackney Carriage and Private Hire driver)

- 5.10 Does the information submitted include any exempt information? Yes

6.0 Legal considerations:

- 6.1 None.

7.0 Human Resources considerations:

- 7.1 None.

8.0 Equalities considerations:

- 8.1 None.

9.0 Financial considerations:

9.1 None.

10.0 Risk management considerations:

10.1 None.

11.0 Ethical considerations:

11.1 None.

12.0 Internal/ External Consultation undertaken:

12.1 None.

13.0 Background papers:

13.1 None.