

If you would like any further information or have any special requirements in respect of this Meeting, please contact Lynda Eastwood, Democratic Services Officer (01507) 613422

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Date: Thursday, 11 April 2024

Dear Councillor,

General Licensing Committee

You are invited to attend a Meeting of the **General Licensing Committee** to be held at **the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH** on **Monday, 22nd April, 2024** at **2.00 pm**, for the transaction of the business set out in the attached Agenda.

The public and press may access the meeting via the following link <https://bit.ly/ELDCYT> where a livestream and subsequent recording of the meeting will be available or by attending the meeting.

Yours sincerely



Robert Barlow
Chief Executive

Conservative

Councillors Neil Jones (Vice-Chairman), Richard Avison, Stephen Evans, Carl Macey and Terry Taylor

District Independent/Liberal Democrat

Councillor Sandra Campbell-Wardman (Chairman)

Labour

Councillor Graham Cullen

East Lindsey Independent Group

Councillors Darren Hobson, George Horton and Andrew Leonard

Skegness Urban District Society (SUDS)

Billy Brookes



GENERAL LICENSING COMMITTEE AGENDA

Monday, 22 April 2024

Item	Subject	Page No.
1.	APOLOGIES FOR ABSENCE:	
2.	DISCLOSURE OF INTERESTS (IF ANY):	
3.	MINUTES: To confirm the Open and Exempt Minutes of the General Licensing Meeting held on 11 March 2024.	1 - 6
4.	HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENSING: BEST PRACTICE GUIDANCE: Report to follow.	
5.	EXCLUSION OF PUBLIC AND PRESS: That under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items on the grounds that, if they were present, there could be disclosed exempt information as defined at paragraphs 1, 2 and 7 of Part 1 of the Schedule 12A of the Act (as Amended).	
6.	APPLICATION FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCES: Confidential report of the Group Manager Public Protection.	7 - 24
7.	APPLICATION FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCES: Confidential report of the Group Manager Public Protection.	25 - 38
8.	DATE OF NEXT MEETING: To be confirmed.	

Minutes of a Meeting of the General Licensing Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Monday, 11th March, 2024 at 2.00pm.

PRESENT

Councillor Sandra Campbell-Wardman (Chairman)
Councillor Neil Jones (Vice-Chairman)

Councillors Richard Avison, Stephen Evans, Darren Hobson,
George Horton, Andrew Leonard and Carl Macey.

OFFICERS IN ATTENDANCE:

Adrian Twiddy - Principal Licensing Officer
Kim Robertson - Legal Advisor
Lynda Eastwood - Democratic Services Officer
Laura Allen - Democratic Services Officer

38. APOLOGIES FOR ABSENCE:

Apologies for absence were received from Councillors Billy Brookes and Terry Taylor.

39. DISCLOSURE OF INTERESTS (IF ANY):

At this point in the meeting, Members were asked to disclose any relevant interests. The following interests were disclosed:

- Councillor Carl Macey asked it be noted that he was a personal licence holder.
- Councillor Andrew Leonard asked it be noted that he was a Magistrate.

40. MINUTES:

The Open and Exempt Minutes of the General Licensing Committee Meeting held on 15 January 2024 and Open and Exempt Minutes of the General Licensing Committee Meeting held on 22 February 2024 were agreed as a correct record.

41. EXCLUSION OF PUBLIC AND PRESS:

It was proposed and seconded that the public and press be excluded from the meeting.

RESOLVED

That under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items on the

grounds that, if they were present, there could be disclosed exempt information as defined at paragraphs 1, 2 and 7 of Part 1 of the Schedule 12A of the Act (as Amended).

42. EQUALITY ACT 2010 - HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER WHEELCHAIR EXEMPTION:

An open report was submitted by the Group Manager Public Protection which asked Members to consider an application submitted by a licensed driver under Section 166 of the Equality Act 2010 for an exemption from the duties to assist passengers in wheelchairs

The Principal Licensing Officer advised Members that the situation with the licence holder had changed as their licence had been suspended, pending some medical evidence. It was proposed that the item be adjourned to the next meeting.

Following which, it was,

RESOLVED

That the item be adjourned to the next meeting on 22 April 2024.

43. APPLICATION FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCES:

Adrian Twiddy, Principal Licensing Officer presented Members with an exempt report relating to an application for hackney carriage and private hire vehicle driver licences.

Following which, it was

RESOLVED

That the licence application be refused.

The Meeting closed at 3.07 pm.

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APPENDIX D

Extracts From DfT Guidance: Taxi and Private Hire Vehicle Licensing Best Practice Guidance for Licensing Authorities in England (November 2023)

6. Driver Licensing

6.1 Duration of Driver Licences

The Local Government (Miscellaneous Provisions) Act 1976 (as amended), the Private Hire Vehicles (London) Act 1998 and the Plymouth City Council Act 1975 set a standard length of 3 years for taxi and private hire vehicle driver licences. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case. For example, where the licence holder’s leave to remain in the UK is time-limited, the licensee has requested a shorter duration or the licence is only required to meet a short-term demand. Taxi and private hire vehicle licences should not be issued on a ‘probationary’ basis.

6.2 Fit and Proper Test

The Statutory Taxi and Private Hire Vehicle Standards sets out the approach licensing authorities should take in respect to the fit and proper test. However, in addition to those checks provided in the statutory standards, as a minimum, the department would expect all applicants to undergo an assessment of their medical fitness.

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6.6 Medical and Vision Assessment

There is general recognition that it is appropriate for taxi and private hire vehicle drivers to have more stringent medical standards than those applicable to normal car drivers because:

- they carry members of the general public who have expectations of a safe journey
- they are on the road for longer hours than most car drivers
- they may have to assist disabled passengers and handle luggage

Licensing authorities should apply the Group 2 medical required for an entitlement to drive lorries (category C) and for buses (category D).

All initial category C and D licence applications require a medical assessment by a registered medical practitioner - recorded on the D4 form, this does not need to be the applicant’s GP.

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Though it is not a requirement, the DVLA recommends that drivers who submit a medical report with an application or renewal for a category C and D licence should obtain this from a doctor with access to their full medical records. When conducting medical investigations, the DVLA will write to the driver’s GP or consultant if further medical information is required; licensing authorities should do the same.

It is the responsibility of licensing authorities to assess the medical information they receive and decide whether a taxi or private hire vehicle licence should be issued. It is not the responsibility of the medical professional that provides the information to do this. Licensing authorities should seek the same information to inform their decision as required by the DVLA for category C and D licences. It is therefore suggested that DVLA’s medical examination report (D4) is used as a template for Licensing Authorities to gather relevant information.

Detailed guidance on assessing medical fitness to drive is available in DVLA's Assessing fitness to drive – a guide for medical professionals.

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APPENDIX B**Relevant Extracts from the Council's Current Relevance of Convictions & Cautions Guidelines****1. Introduction**

1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council (the Licensing Authority) 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 driver's licence. The policy also relates to applicants for a private hire vehicle operator licence and holders of a current private hire vehicle operator licence.

1.2 In drafting and adopting these guidelines the Licensing Authority took into consideration the Statutory Taxi & Private Hire Vehicle Standards issued by the Department of Transport in July 2020.

1.3 The purpose of setting guidelines and standards is to protect children and vulnerable adults, and by extension the wider public, when using hackney carriages and private hire vehicles.

1.4 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

1.5 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 and operator licences
- Existing licensed drivers and operators whose licences are being reviewed
- Licensing Officers
- Members of the Council's Licensing Committee
- Magistrates hearing appeals against Local Authority decisions

1.6 The Licensing Authority has a duty to ensure that any person to whom it grants a hackney carriage or private hire vehicle driver's licence is a 'fit and proper' person to be a licence holder. Where appropriate and when considering whether an applicant or licensee is fit and proper may decide to pose itself 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?

1.7 If, on the balance of probabilities, the answer to the above question is 'No', the individual will not be granted or hold a licence.

1.8 Licensing Authorities have to make difficult decisions but the safeguarding of the public is paramount. All decisions on the suitability of a licence applicant or licence holder will be made on the balance of probability. This means that an applicant or licence holder will not be 'given the benefit of doubt'. If the Licensing Authority is only "50/50" as to whether the applicant or licence holder 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.

1.9 In considering an individual's criminal record, this Authority will consider each case on its merits, but it will 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.

1.10 Where Licensing Officers have delegated powers to grant licences, they will utilise these guidelines when making a decision whether or not to grant a licence. Should there be any doubt, in the Officer's opinion, as to whether the applicant is a 'fit and proper' person, then the application will not be granted under delegated powers. Such applications will be referred to the Council's Licensing Committee (consisting of Councillors) for determination. Whilst Officers and the Licensing 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 or Officer may depart from the guidelines, as long as the reasons for doing so are recorded in the decision.

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. However, the overriding consideration should always be the protection of the public.

2.2 A person with a relevant conviction need not be automatically barred from obtaining a licence, but would be expected to 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 A series of offences over a period of time is more likely to give cause for concern than an isolated, minor conviction. A serious view will be taken when an applicant shows a pattern of offending and unfitness.

2.4 Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction (*see Nottingham City Council v. Mohammed Farooq (1998)*) and, for instance, determine that the applicant should never have been convicted.

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6. Consideration of Disclosed Criminal History

6.1 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. The Authority must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold it.

6.2 All conviction(s), criminal findings of guilt (including fixed penalty ticket(s)), caution(s) and warning(s), whether for motoring or other offences and County Court Judgment(s)/Order(s) (*where the judgment or order relates to a debt or charge to another Hackney Carriage/Private Hire driver,*

owner or operator) may potentially be taken into account when deciding to grant a licence or on a review after the issue of a licence. During the currency of a licence the licence holder should, immediately after being told that/she is being reported for an offence, being arrested, convicted or has admitted guilt (including fixed penalty notice(s)), caution(s) and/or warning(s), advise the Licensing Authority of this information in writing.

6.3 The Licensing Authority will consider:

- How relevant the offence(s) are to the licence being applied for (or licence being reviewed)
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- 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 relevant factors

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7. Offences Involving Violence.....

7.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence.

7.2 Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

7.3 Given the wide range of the offences that involve violence, consideration will be given to the nature and type of the conviction.

7.4 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
- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Or any offence of attempting, conspiring to commit, aiding and abetting or procuring any of the above offences or any offence which may replace the above or be considered as serious as the above.

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7.6 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.

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

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26. Conclusion

26.1 To conclude, 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 will be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered.

26.2 While it is possible that an applicant may have a number of convictions that, individually, would not prevent him/her being licensed, the overall offending history will 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 may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public. This consideration is vital because taxi and private hire licence holders have unprecedented access to the public and are in a position to exercise control over an individual (including children and vulnerable adults).

26.3 A man or woman who has committed an offence and has to wait a period of time before being accepted as a hackney carriage or private hire vehicle driver (or operator) is more likely to value his/her licence and act accordingly.