

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) 613421

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Date: Friday, 20 September 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, 30th September, 2024** at **2.00pm**, 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, 30 September 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 15 July 2024.	1 - 12
4.	ANNUAL REVIEW OF THE MAXIMUM HACKNEY CARRIAGE FARE STRUCTURE: Report of the Group Manager Public Protection.	13 - 24
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 & PRIVATE HIRE VEHICLE DRIVER LICENCES: Confidential report of the Group Manager Public Protection.	25 - 40
7.	REVIEW OF HACKNEY CARRIAGE & PRIVATE HIRE VEHICLE DRIVER LICENCES: Confidential report of the Group Manager Public Protection.	41 - 54
8.	DATE OF NEXT MEETING: The programmed date for the next Meeting of this Committee will be 18 November 2024.	

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Minutes of a Meeting of the General Licensing Committee held in the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH on Monday, 15th July, 2024 at 10.30am.

PRESENT

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

Councillors Richard Avison, Stephen Evans, David Hall, Darren Hobson, Andrew Leonard and Terry Taylor.

Councillor David Hall attended the Meeting as a Substitute.

OFFICERS IN ATTENDANCE:

Donna Hall	- Group Manager Public Protection
Neil Brooks	- Licensing Compliance Officer
Kim Robertson	- Legal Advisor
Lynda Eastwood	- Democratic Services Officer

10. APOLOGIES FOR ABSENCE:

Apologies for absence were received from Councillors Graham Cullen, George Horton and Carl Macey.

It was noted that, in accordance with Regulation 13 of the Local Government (Committees and Political Groups) Regulations 1990, notice had been given that Councillor David Hall had been appointed to the Committee in place of Councillor Graham Cullen for this Meeting only.

11. 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 Andrew Leonard asked it be noted that he was a personal licence holder and a Magistrate.

12. MINUTES:

The Open and Exempt Minutes of the General Licensing Meeting held on 3 June 2024 were agreed as a correct record.

13. 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).

14. HACKNEY CARRIAGE & PRIVATE HIRE DRIVER - RAPID RESPONSE PROCEDURE:

Donna Hall, the Group Manager Public Protection presented a report to Members regarding the Council's Hackney Carriage and Private Hire Vehicle Driver – Rapid Response Procedure. The report and attached confidential Appendix A were considered in Exempt Session.

Following which it was

RESOLVED:

That the summary set out at the Confidential Appendix A of the report be noted.

15. APPLICATION FOR HACKNEY CARRIAGE & PRIVATE HIRE DRIVER LICENCES:

Members agreed for the running order of the Agenda to be changed to accommodate the arrival of the licence applicants.

Donna Hall, Group Manager Public Protection, 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 granted, as set out in the Exempt Minute.

16. APPLICATION FOR HACKNEY CARRIAGE & PRIVATE HIRE DRIVER LICENCES:

Donna Hall, Group Manager Public Protection, 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, as set out in the Exempt Minute.

17. APPLICATION FOR RENEWAL OF HACKNEY CARRIAGE & PRIVATE HIRE DRIVER LICENCES:

Donna Hall, Group Manager Public Protection, presented Members with an exempt report relating to an application for renewal of hackney carriage and private hire vehicle driver licences.

Following which, it was

RESOLVED

That the licence application be granted, as set out in the Exempt Minute.

18. APPLICATION FOR PRIVATE HIRE DRIVER LICENCE:

Donna Hall, Group Manager Public Protection, presented Members with an Exempt report relating to an application for a private hire vehicle driver licence.

Following which, it was

RESOLVED

That the licence application be refused, as set out in the Exempt Minute.

19. DATE OF NEXT MEETING:

The date of the next meeting was confirmed as 30 September 2024.

The Meeting closed at 1.32pm.

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By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 3

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Report To:	General Licensing Committee
Date:	30 September 2024
Subject:	Annual Review of the Maximum Hackney Carriage Fare Structure.
Purpose:	To undertake the annual review of the maximum hackney carriage fare structure.
Key Decision:	Not Applicable.
Report Of:	Donna Hall - Group Manager Public Protection.
Report Author:	Adrian Twiddy – Ast. Licensing Officer
Ward(s) Affected:	All Wards
Exempt Report:	NO

Summary

To undertake the annual review of the maximum hackney carriage (taxi) fare structure. Members may wish to note that the last variation of the hackney carriage fare structure took place in September 2023.

The Council has received separate submissions from the Skegness Taxi Owners Association (STOA) and the Skegness & District Taxi Drivers Association (SDTDA) regarding the fare structure review. The submissions can be found at **Appendix 2** of this Report.

Both associations are asking for the daytime flagfall to increase from £4.00 to £5.00. In addition, the STOA are asking for the booking fee / call out charge to be increased from 75p for each mile to £1.00 for each mile.

Officer advice is that the Committee should always be persuaded of the need to vary the fare structure before embarking on such a course of action. In reviewing the fare structure, the Committee should look to ensure customers receive a fair deal whilst ensuring that hackney carriage vehicle drivers are able to make a living working in the trade.

Recommendations

That the Committee consider the annual review of the maximum hackney carriage fare structure and make any amendments to the fare structure that it considers necessary.

Should the Committee decide to make amendments to the fare structure then any amendment will be subject to the necessary statutory notice being advertised and there being no objection from the public or the taxi trade.

Reasons for Recommendations

It is this Authority's policy to undertake an annual review of the fare structure with the review normally being programmed to take place in the January to March period. However, the Committee decided to move the 2023 review back to September 2023 and so a period of 12 months has now passed since that last review.

Other Options Considered

There are no other options for consideration – it is this Authority's adopted policy to undertake an annual review of the fare structure.

1. Background

- 1.1 As the Licensing Authority the Council sets the maximum hackney carriage (taxi) fare structure (for hirings beginning and ending within the District) and it is unlawful to charge a rate above that set by the Authority. Members may wish to note that the Council cannot set a maximum fare structure for private hire vehicles.
- 1.2 Any proposed variation of the hackney carriage fare structure must be advertised by the Council in a local newspaper and a period of time allowed for objections. In addition, the Council must issue all hackney carriage vehicles with a new tariff card (to be displayed in the vehicle) when any change in the structure is enacted.
- 1.3 A copy of the present maximum fare structure is attached to the rear of this Report at **Appendix 1**. The last variation of the fare structure was introduced in October 2023. The following changes were made to the fare structure in October 2023:
 1. The daytime flagfall (initial charge) part of the fare structure was changed from £4.00 for the first 1000 yards to £4.00 for the first 880 yards.
 2. The daytime (Tariff 1) fares for distance were changed from 20 pence for each 190 yards after the flagfall to 20 pence for each 176 yards after the flagfall.
- 1.4 Requests for a variation of the current fare structure have been received from the Skegness Taxi Owners Association (STOA) and the Skegness & District Taxi Drivers Association (SDTDA). Both associations are asking for the daytime flagfall to

increase from £4.00 to £5.00. In addition, the STOA are asking for the booking fee / call out charge to be increased from 75p for each mile to £1.00 for each mile.

- 1.5 The submissions, from both Associations, can be found at **Appendix 2** of this Report.
- 1.6 When setting the maximum hackney carriage fare structure, the relevant legislation (the Local Government (Miscellaneous Provisions) Act 1976) does not stipulate the external factors to be taken into account and there is no limit on the amount of increase or variation.
- 1.7 **PLEASE NOTE:** This Authority's previous Fare Review Reports used the online AA Fuel Price Report in order to determine the level of national and local fuel prices. At the time of the drafting of this Report the AA webpage had temporarily ceased issuing such detailed fuel reports – the last available report related to March 2024.
- 1.8 This Report has used the Weekly Road Fuel Prices Report available on the GOV.UK website – which issues a weekly report on national fuel prices rather than a monthly report on regional prices.

2. Report

- 2.1 The national rate of inflation is currently 3.1% (July 2024 figure), In September 2023, when the last increase in the hackney carriage fare structure was determined, the rate of inflation was 6.3%.
- 2.2 Fuel Prices - In September 2023, when the last increase in the hackney carriage fare structure was determined, national diesel prices were around £1.59 per litre and unleaded fuel £1.55 per litre. Fuel prices have now fallen to lower levels – see the table below:

Month & Year	Cost of One Litre of Unleaded	Cost of One Litre of Diesel
September 2023	£1.55	£1.59
September 2024*	£1.36	£1.42

*Average UK Pump Prices on 16 September 2024

- 2.3 Tariff 1 - Daytime (Flagfall): The flagfall is the initial charge made for the hiring of the vehicle. The daytime flagfall at present is £4.00 for the first 880 yards. Both the STOA and the SDTDA are asking for this to be amended to read as £5.00 for the first 880 yards.
- 2.4 Tariff 1 - Daytime (Fares for Distance): The current Tariff 1 (between 0700 Hrs and 2300 Hours) is 20 pence for each 176 yards (the unit charge) after the flagfall. Both Associations are not asking for any increase in this charge.
- 2.5 For Members information the following table shows the current Tariff 1 fares (flagfall plus fares for distance) that are currently in force within the East Lindsey District as compared with that requested by the STOA and the SDTDA:

Tariff 1 Daytime Rate	2 Miles £	3 Miles £	4 Miles £	Last Fare Increase
Present ELDC	£7.00	£9.00	£11.00	October 2023
Requested STOA & SDTDA*	£8.00	£10.00	£12.00	

**The request by both Associations would result in a £1.00 increase on all day-time fares.*

- 2.6 The national average for a 2-mile fare is £7.18 (September 2024 figures) compared with a current rate of £7.00 in the East Lindsey District – the rate requested by the STOA & the SDTDA will result in a £8.00 fare at the two-mile mark. The Lincolnshire average fare at the 2-mile mark is currently £6.74 (September 2024 figure). The highest 2-mile fare in Lincolnshire is currently the City of Lincoln Council with £8.30.
- 2.7 Tariffs 2 and 3 (Fares for Distance) – Under the current fare structure the Tariff 2 (2300 to 0700 Hours) and Tariff 3 (Christmas and New Year) fares are a 50% increase in the Tariff 1 and a 100% increase in the Tariff 1 respectively. Both Associations are asking that this remains the same.
- 2.8 Fuel Surcharge – In 2008 the Committee considered ways to combat any rapid increase in fuel prices. To this end, the Committee adopted the use of a fuel surcharge within the maximum fare structure. The fuel surcharge to be added to a journey, when fuel prices hit a predetermined level – the purpose of the surcharge was to assist taxi proprietors in meeting any rapid increase in fuel prices without the Licensing Committee having to undertake an urgent review.
- 2.9 The flat rate surcharge is currently 25p. This will be added to the fare structure for each incremental increase in fuel prices of 10 pence per litre, when diesel reaches £1.55 a litre and beyond. The advantage of this system is that taxi fares can react to increases and decreases in fuel costs instantly.
- 2.10 Both Associations have not submitted a request for a variation / change in the fuel surcharge.
- 2.11 Waiting Time: The waiting time aspect of the fare structure comes into play when the hired vehicle is stationary or moving at a negligible speed (e.g., in slow moving traffic). The current day rate waiting time is 20p for each period of 45 seconds. This equates to an hourly rate of £16.00. Both Associations are asking that this remains the same.
- 2.12 Extra Charges – Additional Persons: The current fare structure allows a flat rate charge for each person in excess of two. The current charge is worded: For each person in excess of two – 50p. There has been no request for any variation in this part of the fare structure from the two associations.
- 2.13 Extra Charges – Booking Fee / Call Out Charge: The current fare structure allows a call out charge of 75p per mile – the wording is as follows:

For each mile, or uncompleted part thereof, travelled by the carriage to a hirer “pick up” point at a stated place other than a hackney carriage stand or the proprietor’s normal base of operation. The customer must be told the amount of the booking fee at the time of booking.

- 2.14 The STOA wish the mileage rate on the call out charge to be increased from 75p to £1.00 per mile. In 2022 this Authority increased the call out charge from 50p to 75p per mile – at that time the Committee declined a request from the STOA for an increase to £1.00 per mile.
- 2.15 Sunday: The current fare structure does not treat Sunday as different to any other day of the week. Some Lincolnshire Authorities do currently allow Sunday to be charged at a higher rate. Both Associations have not asked for any change in this Authority’s Sunday situation.

3. Conclusion

- 3.1. All parties to this fare review will be naturally concerned for the welfare and economic wellbeing of those employed within the taxi trade. However, the Committee should always be persuaded of the need to vary the fare structure before embarking on such a course of action.
- 3.2. In reviewing the fare structure, the Committee should look to ensure customers receive a fair deal whilst ensuring that hackney carriage vehicle drivers are able to make a living working in the trade.

Implications

South and East Lincolnshire Councils Partnership

None,

Corporate Priorities

Taxi fares should be set at a level, which maintain the safety, security and welfare of the District’s residents and visitors whilst at the same time looking to maintain the economic wellbeing of the taxi trade.

Staffing

None.

Workforce Capacity Implications

None.

Constitutional and Legal Implications

1. Any proposed variation of the hackney carriage fare structure must be advertised, and a period of time allowed for objections. If any objections are received, then the Committee must consider the objection(s) before introducing the proposed variation or amending the

initial proposal to vary the fares. However, objectors do not have a legal right of audience before the Committee.

2. There is no legal requirement for the Council to advertise a decision not to increase the fare structure. Similarly, there is no legal right to submit an objection to a decision not to increase the fare structure.

3. There is no right of appeal to the Magistrates Court regarding a Licensing Authority's decision on the level of hackney carriage fares. However, any aggrieved person would have the option of applying for a judicial review of the decision or making a complaint to the Ombudsman.

4. In theory the Committee can decrease the maximum fare structure (or remove sections of the fare structure) if it is minded to do so.

5. All hackney carriage vehicles in the East Lindsey District must be installed with a taximeter. The taximeter must be set to display a fare not exceeding the maximum fare rate set by the Council. Therefore, proprietors may set a lower rate in the taximeter than the maximum rate set by the Council.

6. The law relating to the calibration of taximeters was clarified in 1983 by the case of R v Liverpool City Council, ex p Curzon Limited (1983). This case indicated that it was lawful for a proprietor to calibrate his taximeter to a lower fare than the maximum fare set by the Council. The Council can advise and encourage but it cannot legally require those proprietors to change their meters from a lower rate to the maximum rate.

7. If proprietors wish to calibrate to a lower rate, they can only charge that calibrated rate – it is not open for them to charge the maximum fare rate if they have not calibrated to that rate.

8. The Council's byelaws require hackney carriage vehicles to display, within the vehicle, the Council's current maximum fare card. Even if the taximeter is calibrated to a lower rate, the current maximum fare card must be displayed.

9. Individuals or organisations requesting a variation of the maximum fare structure do not have a legal right of audience before the Committee.

Data Protection

None.

Financial

None.

Risk Management

There is a risk of judicial review against the Council or complaint to the Ombudsman if the Authority is found not to have exercised due diligence in the setting of hackney carriage fares.

Stakeholder / Consultation / Timescales

Any proposed variation of the hackney carriage fare structure must be advertised, and a period of time allowed for objections.

Reputation

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

Contracts

None.

Crime and Disorder

None.

Equality and Diversity / Human Rights / Safeguarding

Equality & Diversity: None.

Human Rights: The Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e., is the decision / action / policy proportionate to what it wishes to achieve, or colloquially does the end justify the means.

Safeguarding: None.

Health and Wellbeing

None.

Climate Change and Environmental Implications

None.

Acronyms

STOA – Skegness Taxi Owners Association

SDTDA – Skegness & District Taxi Drivers Association

Appendices

Appendices are listed below and attached to the back of the report:

Appendix 1 Copy of the Current Maximum Hackney Carriage Fare Structure.

Appendix 2 Requests for a Review of the Maximum Hackney Carriage Fare Structure from the STOA & the SDTDA.

Background Papers

Background papers used in the production of this report are listed below: -

Document title **Where the document can be viewed.**

The National Hackney Fare Table – PHTM:

<https://www.phtm.co.uk/newspaper/taxi-fares-league-tables>

GOV.UK - Weekly Road Fuel Prices

<https://www.gov.uk/government/statistics/weekly-road-fuel-prices>

Inflation and Price Indices – Office for National Statistics:

<https://www.ons.gov.uk/economy/inflationandpriceindices>

Chronological History of this Report

A report on this item has not been previously considered by a Council body.

Report Approval

Report author: Mr Adrian Twiddy (Ast. Licensing Officer)
Email: adrian.twiddy@e-lindsey.gov.uk

Signed off by: Donna Hall (Group Manager Public Protection)
Email: donna.hall@sholland.gov.uk

Approved for publication: Not Required.

Maximum Hackney Carriage Fare Structure

The following are the MAXIMUM authorised charges payable within the District of East Lindsey for the hire of a hackney carriage vehicle

TARIFF 1 (0700 – 2300 Hours)	
If the distance does not exceed 880 yards for the whole distance	£4.00
If the distance exceeds 880 yards:	
- for the first 880 yards	£4.00
- for each subsequent 176 yards (or uncompleted part thereof)	20p
WAITING TIME: For each period of 45 seconds	20p
TARIFF 2 (2300 – 0700 Hours)	
A 50% increase in Tariff 1	
TARIFF 3 (The times indicated below)	
A 100% increase in Tariff 1	
EXTRA CHARGES:	
- for any hirings on Bank and Public Holidays	Tariff 2
- between 0700 on 24th December to 1800 on 24th December	Tariff 2
- between 1800 on 24th December to 0700 on 27th December	Tariff 3
- between 0700 on 31st December to 1800 on 31st December	Tariff 2
- between 1800 on 31st December to 0700 on 2nd January	Tariff 3
- for each article of luggage (excluding hand luggage, perambulators and wheelchairs)	25p
- for each person in excess of two	50p
- If the price of diesel per litre (at the garage nominated by the Council) goes above £1.55	25p
- Each subsequent 10p increase in the price of diesel per litre (at the garage nominated by the Council) above £1.55	25p
- For each mile, or uncompleted part thereof, travelled by the carriage to a hirer "pick up" point at a stated place other than a hackney carriage stand or the proprietor's normal base of operation. The customer must be told the amount of the booking fee at the time of booking.	75p
- For each animal (subject to the driver's discretion) with the exception of assistance, guide or hearing dogs	£1.00
- Any toll or urban congestion charges incurred on the journey to be paid by the hirer.	
SOILING CHARGE	
A charge not exceeding £100.00 may be charged for soiling	

FARE LAST REVISED 13 OCTOBER 2023

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APPENDIX 2

REQUESTS FOR A REVIEW OF THE MAXIMUM HACKNEY CARRIAGE FARE STRUCTURE

Skegness & District Taxi Drivers Association (SDTDA)

To Licensing:

We are in receipt of your communication regarding tariff increase. After having discussed this with members, we now feel it is time for an increase. On discussion, we have agreed a tariff increase of the flagfall from £4 standing charge to £5. We feel this is fair, due to the ever increasing fuel and general running costs for all involved.

Yours sincerely,

Stephen Gray – Chairman (SDTDA)

Skegness Taxi Owners Association (STOA)

On behalf of the Skegness Taxi Owners Association, I would like to request an increase of £1 on the start rate at Tariff 1.

The call out charge be increased to £1 per mile.

The call out increase is requested so that hackney carriages will be encouraged to cover a larger area giving people in rural areas the opportunity to be able to use taxis between rural villages when not coming into larger towns where most taxi companies are based. The increase to the call out that drivers are paid correctly for the dead mileage to get to these jobs meaning drivers will be more likely to accept the jobs helping out customers in rural locations.

Best Regards

Simon Evans - Chairman - S.T.O.A

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By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 6

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By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 6

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APPENDIX 2**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.

.....

1.10 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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16. Using a Mobile Phone or Hand-Held Device Whilst Driving

16.1 Applicants (and licence holders) should be aware of the serious risk posed by driving whilst using a mobile phone. There is a substantial body of research which shows that drivers who use a mobile phone or hand-held device 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.

16.2 There is evidence to show that drivers who use a mobile phone or hand-held device 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 or hand-held device as for driving under the influence of drink or drugs.

16.3 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.

16.4 A licence will not normally be granted if an applicant has more than one conviction for an offence of driving whilst using a mobile phone and a licensed driver who is convicted can expect the suspension or revocation of their licence.

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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.

APPENDIX 3**Using a Phone, Sat Nav or Other Device When Driving**

On 25 March 2022, the law on people using their mobile phones while driving in Great Britain became stricter. The law was updated in order to keep up with technology - mobile devices had become capable of performing many more tasks beyond 'interactive communication'.

It is illegal to hold and use a phone, sat nav, tablet, or any device that can send or receive data, while driving. This means you must not use a device in your hand for any reason, whether online or offline. For example, you must not text, make calls, take photos or videos, or browse the web.

The law still applies to you if you are:

- stopped at traffic lights
- queuing in traffic
- supervising a learner driver
- driving a car that turns off the engine when you stop moving
- holding and using a device that's offline or in flight mode

Exceptions

You can use a device held in your hand if:

- you need to call 999 or 112 in an emergency and it's unsafe or impractical to stop
- you are safely parked
- you are making a contactless payment in a vehicle that is not moving, for example at a drive-through restaurant
- you are using the device to park your vehicle remotely

Using devices hands-free

You can use devices with hands-free access, as long as you do not hold them at any time during usage. Hands-free access means using, for example:

- a Bluetooth headset
- voice command
- a dashboard holder or mat
- a windscreen mount
- a built-in sat nav

The device must not block your view of the road and traffic ahead.

Staying in full control of your vehicle

You must stay in full control of your vehicle at all times. The Police can stop you if they think you are not in control because you are distracted, and you can be prosecuted.

Penalties

You can get 6 penalty points and a £200 fine if you hold and use a phone, sat nav, tablet, or any device that can send and receive data while driving. You will also lose your licence if you passed your

driving test in the last 2 years. You can get 3 penalty points if you do not have a full view of the road and traffic ahead or proper control of the vehicle. You can also be taken to Court where you can:

- be banned from driving
- get a maximum fine of £1,000 (£2,500 if you're driving a lorry or bus)

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 7

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APPENDIX 1**Relevant Extracts from the Council's Taxi & Private Hire Licensing Policy.****1. Introduction**

1.1.1 East Lindsey District (the Licensing Authority) is responsible for the licensing of hackney carriage vehicles (taxis) and hackney carriage drivers, and private hire vehicles, private hire drivers and private hire vehicle operators.

1.1.2 This document sets out the policy that this Licensing Authority will apply when making decisions about new driver licence applications, licence renewal applications, and driver licences currently in force. It provides prospective licence applicants with clarity and a consistency of approach in the decision-making process.

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1.1.8 When issuing driver licences the Council's overriding concern is the protection and promotion of public safety. This involves a number of important aims and objectives including:

- Protecting vulnerable persons and children from harm, sexual abuse and trafficking.
- Ensuring the safety and health of customers, other road users and licensed drivers.
- Protecting customers from financial harm.
- Ensuring that licence holders are fit and proper persons to hold a licence.
- Ensuring that licence holders do not pose a threat to customers or members of the public.
- Ensuring that the public are safeguarded from dishonest persons.
- Making decisions about licence applications, and licences in force, in a consistent and fair way.

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1.2. Fit and Proper

1.2.1 The Council must not grant a driver licence unless it is satisfied that the applicant is a fit and proper person to hold a driver's licence. This document contains guidance for Council Officers and the Council's Licensing Committee on the way in which a driver licence applicant's fitness should be considered. However, it is important to note that every licence application must be treated on its own merits, and the contents of this policy document do not bind the Council, its Officers or the Licensing Committee. Decisions may be made that depart from the guidance herein, if the circumstances of the application warrant doing so. Any decision will be accompanied by full reasons for that decision.

1.2.2 It is noted that no attempt is made within the legislation to define the term "fit and proper person", and this policy document likewise makes no attempt to formulate such a definition. The Council may consider any relevant issue when making its determination on this point, and these guidelines should be regarded as examples of issues that may lead to the Council not being satisfied that an applicant is fit and proper, rather than an exhaustive list of the issues that may be taken into consideration.

1.2.3 The Council may fail to be satisfied that a person is a fit and proper person to hold a driver's licence for any good reason. If adequate evidence of good character is not available or if there is good reason to question or doubt the evidence produced, then that in itself could amount to good reason to refuse a licence application.

1.2.4 A licence applicant who does not satisfy these guidelines will not necessarily be barred from obtaining a licence. The Council will consider each case on its own merits, taking into account any relevant circumstances or mitigating factors. Regard will be had when making a determination to any positive comments and references evidenced with the licence application.

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1.2.6 The overriding consideration in compiling and interpreting these guidelines is the safety of the public. The Council has a duty to ensure that those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, and will wish to satisfy itself that applicants and licensed drivers are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse, assault or take advantage of passengers.

1.2.7 These policy guidelines may be taken into account by the Council when dealing with any of the following matters:

- an application for a new hackney carriage driver's licence (Section 46, Town Police Clauses Act 1847 and Section 59, Local Government (Miscellaneous Provisions) Act 1976)
- an application for a new private hire driver's licence (Section 51, LG(MP)A 1976)
- an application to renew a private hire or hackney carriage driver's licence (Sections 51, 59 and 61, LG(MP)A 1976)
- a proposal to suspend or revoke a hackney carriage or private hire driver's licence (Section 61, LG(MP)A 1976)

1.2.8 Although Section 61 of the 1976 Act does not contain the same reference to a "fit and proper person", the fact that such action may be taken due to "any other reasonable cause" will generally lead the Council to include similar guidelines in its considerations under that section. Any references in this document to the refusal of an application should therefore be read to include suspension or revocation of a licence.

1.2.9 Any person refused a driver's licence on the grounds that the Council is not satisfied that they are not a fit and proper person to hold a licence (or where a licence was suspended or revoked, as the case may be) has a right of appeal to the Magistrates' Court within 21 days of receiving notice of the decision.

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1.2.11 This policy document has been drawn up with regard to the Department of Transport's Taxi and Private Hire Vehicle Licensing: Best Practice Guidance (March 2010), and in accordance with Government advice contained in Department of Transport Circular 2/92 and Home Office Circular 13/92 and the Statutory Minimum Licensing Standards for Hackney Carriages and Private Hire Vehicles (published by the Department for Transport in July 2020).

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14. Suspension and Revocation of Driver Licences – New Evidence

14.1 With regard to the suspension or revocation of driver licences - this Authority recognises that new evidence may be produced at an appeal hearing, that may result in the Court reaching a different decision to that reached by the Council. The Authority also recognises that an appeal may be settled by agreement between the Licensing Authority and the driver on terms which, in the light of new evidence, becomes the appropriate course of action. For example, if the allegations against a

driver are subsequently, on the balance of probability, considered to be unfounded, a suspension can be lifted or, if the licence has been revoked, an expedited re-licensing process can be used.

14.2 In each case, approval to use a driver expedited re-licensing process will be considered by Council Licensing Officers in conjunction with the Council's Legal Department and the Chair and Vice Chair of the Licensing Committee. This expedited re-licensing system is to be used only in exceptional and compelling circumstances.

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APPENDIX 2**Relevant Extracts from the DfT Statutory Taxi and Private Hire Vehicle Standards.****Suspension and revocation of driver licences**

Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on 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;

(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or

(b) any other reasonable cause

Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately.

Guidance for licensing authorities to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.

Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.

A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.

New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.

A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

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