

REPORT TO:	GENERAL LICENSING COMMITTEE
DATE:	26 JUNE 2023
SUBJECT:	HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER – RAPID RESPONSE PROCEDURE
PURPOSE:	To advise the Committee of a licence review recently undertaken under the Council’s hackney carriage and private hire driver rapid response procedure.
KEY DECISION:	Not Applicable.
REPORT OF:	Group Manager Public Protection.
REPORT AUTHOR:	Mr Adrian Twiddy (Principal Licensing Officer).
WARD(S) AFFECTED:	All Wards.
EXEMPT REPORT?	<p>NO - However, the Appendix to this Report is exempt by virtue of Paragraphs 1, 2 & 7 of Schedule 12A of the Local Government Act 1972 because it contains confidential and sensitive information relating to an individual.</p> <p>The Appendix to this Report contains information regarding an individual, which is of a confidential and sensitive nature. The information must be stored securely and not disclosed to any person outside the decision-making process. The Report Appendix must not be kept any longer than is necessary and copies must be confidentially and securely destroyed.</p>

SUMMARY

This Authority has adopted a rapid response procedure which enables the urgent review of hackney carriage / private hire driver licences where information is received of a serious nature that may affect public safety. The procedure requires that a summary of each decision, made under the rapid response procedure, should be reported to the next available meeting of the Council’s General Licensing Committee. This Report (and its Confidential Appendix) provides that summary of a recent decision taken under the procedure.

RECOMMENDATIONS

That the Committee note the confidential summary set out at the **Confidential Appendix A** of this Report.

REASONS FOR RECOMMENDATIONS

The Council has a mandatory obligation to licence those persons who seek to drive hackney carriages or private hire vehicles and to ensure that those drivers are fit and proper persons to do so. The prime focus for the Council is to ensure public safety, as well as providing an efficient and effective licensing service.

OTHER OPTIONS CONSIDERED

Not Applicable.

1. BACKGROUND

- 1.1. The primary role of the Council in relation to hackney carriage and private hire licensing is the protection, safety and wellbeing of the public. Hackney carriage and private hire vehicle hirings will often involve the placing of a vulnerable person in the company of a stranger.
- 1.2. This Authority has adopted a rapid response procedure which enables the urgent review of hackney carriage / private hire driver licences where information is received of a serious nature that may affect public safety.
- 1.3. All details pertaining to a licence review, under the rapid response procedure, will be excluded from the public domain, and the review hearing will be held in confidential session, as the matter may be subject to formal legal procedures at a later stage.

2. REPORT

- 2.1. Under the Council's licensing policy licensed drivers whose suitability is called into question are normally referred to a General Licensing Committee hearing where Members determine suitability and can suspend or revoke licences. This system works well in general but there are occasions where urgent action may be required which in the interest of public safety cannot be delayed until the next available General Licensing Committee hearing. With this in mind this Authority has adopted an emergency procedure where swift action can be taken in limited and very serious circumstances.
- 2.2. The procedure, subject of this Report, enables determination by Officers acting under delegated powers.

- 2.3. In order to protect public safety, the procedure enables swift action to be taken when serious issues regarding the fitness of licensed drivers of hackney carriages and private hire vehicles are notified to the Authority.
- 2.4. The Council must be satisfied that individuals are “fit and proper” persons to hold a hackney carriage or private hire vehicle driver’s licence. The Council may take into account any relevant information when considering the status of a licence holder.
- 2.5. The procedure requires that a summary of each decision, made under the rapid response procedure, should be reported to the next available meeting of the Council’s General Licensing Committee. This Report (and its Confidential Appendix) provides that summary of a recent decision taken under the procedure.

3. CONCLUSION

- 3.1. The Council 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.
- 3.2. When dealing with matters of public safety the impact on the livelihood of the driver of the suspension or revocation of a driver’s licence is not normally a relevant factor. However, the suspension or revocation of a licence should not be taken lightly.
- 3.3. The overriding purpose of hackney carriage and private hire licensing is public safety and where there is a risk to public safety, action should be taken as soon as possible to minimise that risk.

EXPECTED BENEFITS TO THE PARTNERSHIP

Not Applicable – This is a General Licensing Committee Report

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL’S PARTNERSHIP

The Local Government Association (LGA) Taxi and Private Hire Vehicle Licensing Councillor’s handbook advises that if allegations of a serious nature are received then the Council should have in place procedures which allow for a rapid response. The handbook is of the view that in serious cases it is not appropriate to wait for a Licensing Committee hearing to be convened.

The Statutory Taxi & Private Hire Vehicle Standards, issued by the Department for Transport in July 2020, state that all Licensing Authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.

Therefore, each Council within the South & East Lincolnshire Council’s Partnership will look to similar arrangements regarding a rapid response procedure.

CORPORATE PRIORITIES

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.

STAFFING

Not Applicable – This is a General Licensing Committee Report.

CONSTITUTIONAL AND LEGAL IMPLICATIONS

The Council must be satisfied that individuals are “fit and proper” persons to hold a hackney carriage or private hire vehicle driver’s licence (Sections 51 and 59, Local Government (Miscellaneous Provisions Act 1976).

The Council can suspend or revoke a driver licence on the grounds of any reasonable cause (Section 61, Local Government (Miscellaneous Provisions Act 1976). However, when considering the possible suspension or revocation of a driver licence the onus is on the Licensing Authority to show why the individual is no longer a fit and proper person to hold a licence

There is a right of appeal to the Magistrates Court regarding the refusal, suspension or revocation of a licence.

The Licensing Authority should not normally make a decision to revoke, suspend or refuse to renew a licence without giving the individual concerned an opportunity for a hearing – that hearing can be before a delegated Officer(s) rather than the Licensing Committee.

If an existing licence holder no longer meets the Council’s licensing requirements it is for this Authority to give suitable reasons as to why it no longer views that person as fit and proper to hold a licence. In other words, why, has the Council refused to renew a licence or decided to suspend or revoke an existing licence?

Section 52 of the Road Safety Act 2006 (which amended Section 61 of the Local Government (Miscellaneous Provisions) Act 1976) gives Licensing Authorities the power to immediately suspend or revoke a driver’s licence where they are of the opinion (which must be recorded) that the interests of public safety require such a course of action. The driver has no right to act as a licensed driver if his/her licence has been suspended or revoked and in the interests of public safety the immediate suspension or revocation powers have been invoked.

DATA PROTECTION

The Appendix to this Report contains information regarding an individual, which is of a confidential and sensitive nature.

FINANCIAL

As with all licence decisions it is possible that if a Licensing Authority decision is appealed to the Courts and the appeal is upheld, costs may be awarded against the Council. However, the judgement of the Courts is that costs should not normally be awarded against the Local Authority provided the Authority has acted properly and reasonably.

RISK MANAGEMENT

There is a theoretical risk of civil action against the Council if they are found not to have exercised due diligence in licensing matters.

STAKEHOLDER / CONSULTATION / TIMESCALES

Not Applicable – This is a General Licensing Committee Report.

REPUTATION

Having a robust licensing scheme protects public safety and commands the confidence of the public.

CONTRACTS

Not Applicable – This is a General Licensing Committee Report.

CRIME AND DISORDER

All Local Authorities must fulfil their obligations under Section 17 of the Crime and Disorder Act 1981 when carrying out their functions as Licensing Authorities. Section 17 places a duty on Local Authorities to do all they reasonably can to prevent crime and disorder in their area.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

Equality Implications: The rapid response procedure does not have the potential to cause negative impact or discriminate against different groups in the community based on age, disability, gender, race/ethnicity, religion or religious belief (faith), or sexual orientation.

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

Safeguarding: Councils must consider the need to protect children and vulnerable adults from harm when undertaking licensing functions. Care must be taken by the Council to ensure that individuals are not placed in an environment where they can be a source of danger or harm to children or vulnerable adults.

HEALTH AND WELL BEING

Not Applicable – This is a General Licensing Committee Report.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Not Applicable – This is a General Licensing Committee Report.

ACRONYMS

Not Applicable.

APPENDICES

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

CONFIDENTIAL APPENDIX A

Summary of a recent decision taken under the rapid response procedure.

BACKGROUND PAPERS

No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

A Report on this item has not been previously considered by the General Licensing Committee.
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REPORT APPROVAL

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