



AGENDA ITEM:

**LICENSING & APPEALS
COMMITTEE:
20 February 2018**

Report of: Director of Leisure and Environment

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**SUBJECT: INSTITUTE OF LICENSING CONSULTATION – SUITABILITY OF HACKNEY
CARRIAGE AND PRIVATE HIRE APPLICANTS AND LICENSEES**

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

- 1.1 To inform Members of a public consultation, conducted by the Institute of Licensing, on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire trades and to approve a response.

2.0 RECOMMENDATIONS

- 2.1 That the consultation response provided at Appendix 4 to this report be approved for submission to the Institute of Licensing before the consultation deadline of 28 February 2018.

3.0 BACKGROUND

- 3.1 Members will be aware that the principal legislation governing the licensing of the Hackney Carriage (HC) and Private Hire (PH) trades is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. This legislation provides that any person must satisfy the Council that they are a 'fit and proper' person to hold a relevant licence, which involves a detailed examination of their entire character in order to make a judgment as to their fitness and propriety.
- 3.2 However, given the age of this legislation, the current HC and PH licensing regime is principally built on case law. Moreover, there is no recent Statutory or Ministerial guidance as to how such decisions should be approached or what matters are relevant or material to a decision, which has led to inconsistencies of approach between local authorities due to local interpretation.

- 3.3 Understanding these limitations, the Council has long adopted a Hackney Carriage and Private Hire Licensing Policy (the Policy). Whilst there is no legislative requirement for the Council to operate the Policy, it is the most appropriate means for the Council to discharge its responsibilities consistently and transparently. Furthermore, as the Policy has been in place since 2010, it has undergone several revisions to ensure its requirements are congruent with available guidance.
- 3.4 The consultation document produced by the Institute of Licensing (IoL) is intended to provide national guidance on determining suitability, taking into account the character of the applicant or licensee. The Council's approach to this issue has been to adopt a 'Convictions Policy', which is an appendix to the Policy. The detail contained in the Convictions Policy was taken from a document used in the Greater Manchester area and adopted within Lancashire. This was done in an attempt to improve consistency of approach across the region, which the IoL now seeks to develop nationally.
- 3.5 A copy of the IoL consultation document is provided at Appendix 2 to this report. A copy of the Council's current Convictions Policy is also provided at Appendix 3 for Members' information.

4.0 ISSUES

- 4.1 The majority of the consultation document content is consistent with the Policy, but seeks to develop this approach for drivers, operators, and notably, vehicle proprietors. The consultation document also focuses on why people commit offences, as well as the risk of reoffending, as a means to underpin the reasons for its approach.
- 4.2 There are some differences between the requirements outlined in the consultation and the Council's current standards. The majority of these relate to the period of time that should elapse from the date of an offence to the date on which a licence application would be considered. If such differences remain in the final document published by the IoL, these will be presented to Members for further consideration.
- 4.3 Appendix 4 to this report details the consultation questions posed by the IoL and the proposed response from the Council.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 5.1 These services have the potential to impact upon many areas within the Community, particularly upon taxi services and the travelling public within West Lancashire. Therefore the proposal links with the following aspect of the Community Strategy: Transport (issue B).

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 6.1 There are no financial implications associated with this report.

7.0 RISK ASSESSMENT

- 7.1 Officers are supportive of national guidance to assist in the determination of HC and PH licences and would seek to contribute to the IoL consultation. Should the IoL document be formally published, this will be presented to Members as a means to ensure the Policy mirrors national guidance. However, Members should note that the IoL guidance would not be binding on the Council; rather it aims to provide a reference point from which the Council can make decisions taking into account the particular merits of each case.
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Background Documents

There are no background documents (as defined in Section 100D (5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Equality Impact Assessment.
2. Institute of Licensing consultation: determining the suitability of applicants and licensees in the hackney carriage and private hire trades
3. West Lancashire Borough Council – Convictions Policy
4. Proposed consultation response from West Lancashire Borough Council