

Summons to Meeting

Tuesday 12 March 2019

Licensing Committee

Wednesday 20 March 2019, 2.30 pm

Council Chamber - Allerdale House, Workington

Membership:

Councillor Angela Kendall (Chair)
Councillor Tony Annison
Councillor Len Davies
Councillor Hilary Harrington
Councillor Billy Miskelly
Councillor Ron Munby MBE
Councillor Stephen Stoddart
Councillor Martin Wood

Councillor Christine Smith (Vice-Chair)
Councillor Mary Bainbridge
Councillor Malcolm Grainger
Councillor Peter Kendall
Councillor Jacqueline Mounsey
Councillor Bill Pegram
Councillor Janice Wood

Members of the public are welcome to attend the meeting. If you have any questions or queries contact Lee Jardine on 01900 702502.

Agenda

1. Minutes (Pages 3 - 26)

To sign as a correct record the minutes of the following meetings;

Licensing Committee held on 3 October and 31 October 2018

Licensing Panels held on 10 September, 17 October and 12 November 2018

Licensing Regulatory Panels held on 14 December, 20 December 2018

2. Apologies for Absence

3. Declaration of Interests

Councillors/Staff to give notice of any disclosable pecuniary interest, other registrable interest or any other interest and the nature of that interest relating to

any item on the agenda in accordance with the adopted Code of Conduct.

4. Questions

To answer questions from members of the public – submitted in writing or by electronic mail no later than 5.00pm, 2 working days before the meeting.

5. Review of Hackney Carriage & Private Hire Policies (Pages 27 - 36)

6. Delegated Powers and Expedited Process to Reinstate Driver's Licence following Revocation (Pages 37 - 46)

Licensing Committee Procedures (Pages 47 - 50)



Corporate Director

Agenda Item 1

At a meeting of the Licensing Committee held in Council Chamber - Allerdale House, Workington on Wednesday 3 October 2018 at 2.00 pm

Members

Councillor Angela Kendall (Chair)
Councillor Tony Annison
Councillor Hilary Harrington
Councillor Billy Miskelly
Councillor Ron Munby MBE
Councillor Janice Wood

Councillor Christine Smith (Vice-Chair)
Councillor Malcolm Grainger
Councillor Peter Kendall
Councillor Jacqueline Mounsey
Councillor Bill Pegram
Councillor Martin Wood

Apologies for absence were received from Councillor Mary Bainbridge, Councillor Len Davies and Councillor Stephen Stoddart

Staff Present

G Collinson, A Gilbert, J Morgan and G Roach

193. Minutes

The minutes of the following meetings were signed as a correct record:

Licensing Committee held on 4 July 2018;

Licensing Panels held on 29 June and 13 July 2018; and

Licensing Regulatory Panels held on 16 July and 14 August 2018.

194. Declaration of Interests

None declared.

195. Questions

None received.

196. Statement of Gambling Licensing Policy

The Senior Licensing and Compliance Officer submitted a report which sought members' approval of a review of the Statement of Gambling Policy 2019 in line with Section 349 of the Gambling Act 2005.

A consultation had been carried out between 15 August 2018 and 28 September 2018, and members noted the responses received in Appendix 2 of the report.

A further response had been received from Gosschalks Solicitors which was tabled at the meeting, submitted within the consultation period but after publication of the report. The recommendations contained in that response were as follows;

- Paragraph 19.23 of the Gambling Commissions Licence Conditions and Code of Practice (LCCP) required (social responsibility code provision 9) that gaming machines were only made available in combination with the named non-remote activity of the operating licence. So, unless a betting premises operator offered substantive facilities for non-remote betting it should not make gaming machines available for use on the premises in question. To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offered machines must be appropriately supervised;
- To remove the penultimate sentence of paragraph 11.15 which said that 'should any specific policy be decided upon as regards areas where gambling premises should not be located, the statement will be updated'. Gosschalks assert that a policy of that type was likely to be unlawful and that it would be contrary to the overriding principle contained in s153 of the Gambling Act 2005 that the Licensing Authority must "aim to permit" the use of premises for gambling;
- Paragraph 11.22: All Gambling Act 2005 premises licences are subject to mandatory and default conditions that are usually sufficient to ensure operation that it is reasonably consistent with the licensing objectives. Additional conditions would only be considered where there was clear evidence of a risk to the licensing objectives in the circumstances of a particular case.

Councillor M Grainger moved the recommendations including the additional recommendations from Gosschalks Solicitors; this was seconded by Councillor P Kendall. The motion was unanimously agreed.

Recommended

That Council be requested to agree -

1. To approve the policy incorporating amendments contained in Appendix 1, to approve the recommendations in Appendix 2 and Appendix 3, and the additional recommendations received from Gosschalks Solicitors; and
2. That officers compile Local Area Profiles for approval by the Licensing Committee for inclusion in the Policy on completion.

The meeting closed at 2.55 pm

At a meeting of the Licensing Committee held in Council Chamber - Allerdale House, Workington on Wednesday 31 October 2018 at 2.00 pm

Members

Councillor Angela Kendall (Chair)
Councillor Tony Annison
Councillor Len Davies
Councillor Peter Kendall
Councillor Bill Pegram
Councillor Janice Wood

Councillor Mary Bainbridge
Councillor Hilary Harrington
Councillor Billy Miskelly
Councillor Stephen Stoddart
Councillor Martin Wood

Apologies for absence were received from Councillor Christine Smith Councillor Malcolm Grainger, Councillor Jacqueline Mounsey and Councillor Ron Munby MBE

Staff Present

G Collinson, A Gilbert, L Jardine, J Morgan, G Roach, Shepherd, M Tomlinson and G Wilson

223. Declaration of Interests

None declared.

224. Questions

None received.

225. Introduction of 'The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018'

The Head of Governance and Regulatory services submitted a report to members requesting a review of Allerdale Borough Council's Street Trading Policy due to changes to legislation and case law.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came in to effect on 1 October 2018.

Councillor B Pegram moved the recommendation in the report; this was seconded by Councillor M Wood. The motion was unanimously agreed.

Resolved

That the implementation of 'The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018' be approved.

226. Street Trading Policy

The Head of Housing and Health submitted a report to members requesting a review of Allerdale Borough Council's Street Trading Policy due to changes to legislation and case law.

Members noted that the current Policy was approved in 2006 by the Executive and was due for a review to include comprehensive guidance on the application process, criteria to be used to determine applications and authorisation of officers to monitor and enforce in respect of street trading.

In addition, a guidance note had been produced to sit alongside the Policy, based on current legislation and good practice.

Councillor P Kendall moved the recommendation in the report; this was seconded by Councillor L Davies. The motion was unanimously agreed.

Resolved

That –

1. The revised Street Trading Policy be approved
2. The Guidance Note for Pedlars be noted
3. The Head of Governance authorise appropriate officers to carry out monitoring and enforcement action on behalf of Allerdale Borough Council.

The meeting closed at 3.00 pm

At a meeting of the Licensing Panel held in Council Chamber - Allerdale House, Workington on Monday 10 September 2018 at 1.00 pm

Members

Councillor Tony Annison (Chair)
Councillor Mary Bainbridge

Councillor Billy Miskelly

Staff Present

D Fletcher, J Morgan and G Roach

153. Election of Chair

Councillor T Annison was elected Chair for the ensuing meeting.

154. Declaration of Interests

None declared.

155. Questions

None received.

156. To consider an objection notice received in relation to an application to transfer a premises licence

The Licensing and Compliance Officer submitted a report for the Licensing Panel to consider an objection notice in relation to an application to transfer a premises licence PL0675. The objection had been made under section 42 of the Licensing Act 2003.

The objection notice had been issued by Cumbria Constabulary, based on the crime and disorder objective, provided in Appendix A of the report. Cumbria Constabulary provided further information to the Panel at the start of the meeting.

On 12 June 2018 an application to transfer the premises licence was submitted under section 50 of the Licensing Act 2003.

The applicant did not attend the meeting due to ill health however the applicant's representative was present. One character reference was provided to the Panel at the start of the meeting.

A representative of Cumbria Constabulary was present.

The Licensing and Compliance Officer read through the report.

The Panel was presented with the options available to it, permitted under section 50 of the Licensing Act 2003:

- a) To reject the application if it was considered necessary for the promotion of the crime prevention objective;
- b) To transfer the premises licence in accordance with the application.

All parties were offered the opportunity to read the information at the meeting.

The representative of Cumbria Constabulary was asked to make representation on the application. Members asked questions around the six crimes recorded against the applicant as provided in Appendix A of the report.

The applicant's representative was asked to make their representations on the application following which members asked their questions.

All parties were asked to leave the meeting for the Panel to consider the application.

The Panel considered all information presented to it in the report, the additional information provided and through all representations made at the meeting.

Members were concerned that there had been a pattern of behaviour by the applicant which was of particular concern.

Councillor B Miskelly moved that the Panel reject the application to transfer the premises licence. Councillor M Bainbridge seconded.

A vote was taken; the vote in favour of rejecting the application to transfer the premises licence was unanimous. The motion was carried.

All parties returned to the meeting.

All parties were informed of the Panel's decision and the reasons for the decision.

It was said if the applicant was aggrieved about the decision they had a right of appeal to the magistrates court within 21 days.

Decision

To reject the application to transfer the premises licence.

Reasons for the Decision

The Licensing Panel decided to reject the application as it believed that it was necessary to do so for the promotion of the crime prevention objective.

The reason for the decision was the fact that there had been a number of alleged incidents of behaviour involving the proposed licence holder which would raise concern regarding whether the crime prevention objective would be promoted. There had been six recorded crimes against the applicant within a 12 month period. It was the pattern of behaviour which was particularly of concern and whilst the Panel appreciated that some of the incidents were denied, they considered that evidence and information provided by parties at

the hearing was sufficient to support this decision. It was also noted that the incident of theft whilst under the influence alcohol was admitted.

In making its decision, the panel has had regard to the Allerdale Statement of Licensing Policy 2016-21 which states that the Panel must consider the Licensing Act 2003 and its objectives, government guidance, supporting regulations, representations, duties and obligations under other legislation and the Statement of Licensing Policy. In doing so, the Panel has had regard and has given appropriate weight to the following considerations:

- the objections and supporting information presented by all parties
- guidance issued under s182 of the Act
- the Council's Statement of Licensing Policy
- the steps necessary to promote the licensing objectives.

Resolved

The application to transfer the premises licence be rejected.

The meeting closed at 2.20 pm

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At a meeting of the Licensing Panel held in Council Chamber - Allerdale House, Workington on Wednesday 17 October 2018 at 3.30 pm

Members

Councillor Angela Kendall (Chair)
Councillor Tony Annison

Councillor Len Davies

Staff Present

G Collinson, J Morgan, G Roach and R Wilkinson

219. Election of Chair

Councillor A Kendall was elected as Chair for the ensuing meeting.

220. Declaration of Interests

None declared.

221. Questions

None received.

The Chairman moved :-

“That under Section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they may involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of part 1 of Schedule 12 (a) of the Act.”

222. Summary Review of a Premises Licence

The Licensing and Compliance Officer submitted a report for the Licensing Panel to consider whether it was necessary to take interim steps following an application for a summary review of PL0501.

On 15 October 2018 at 15:43 an application for a summary review of premises licence PL0501 was submitted by Cumbria Constabulary.

The application was submitted under section 53A of the Licensing Act 2003 which allows the police to trigger a fast track process to review a premises licence where the police consider that the premises were associated with serious crime or serious disorder (or both).

The premises licence holder, who was also designated premises supervisor, was present at the meeting.

A representative of Cumbria Constabulary was present.

The Senior Licensing and Compliance Officer read through the report.

The Panel was presented with the options available to it, permitted under section 53B of the Licensing Act 2003:

- a) the modification of the conditions of the premises licence;
- b) the exclusion of the sale of alcohol by retail from the scope of the licence;
- c) the removal of the designated premises supervisor from the licence; and
- d) the suspension of the licence.

The representative of Cumbria Constabulary was asked to make representation on the application. Members asked questions around the details provided in the application (Appendix B) and a CCTV log (Appendix C).

The premises licence holder was asked to make their representations on the application following which members asked their questions.

All parties were asked to leave the meeting for the Panel to consider the application.

The Panel considered all information presented to it in the report and through all representations made at the meeting.

Members were concerned that there had been a catalogue of events involving disorder and violence at the premises which was of particular concern for public safety.

Councillor A Kendall moved that the Panel suspended the premises licence. Councillor T Annison seconded.

A vote was taken; the vote in favour of suspending the premises licence was unanimous. The motion was carried.

All parties returned to the meeting.

All parties were informed of the Panel's decision and the reasons for the decision.

Decision

To suspend the premises licence.

Reasons for the Decision

The Panel was satisfied that it was appropriate to suspend the premises licence with immediate effect in the interests of promoting the licensing objectives, in particular the prevention of crime and disorder and public safety.

The Panel had reached its decision having regard to the following:

1. The Panel was satisfied that an interim review was necessary and appropriate in accordance with s53A of the Licensing Act 2003
2. The Panel was satisfied that the alleged offences amounted to 'serious crime' as defined by s81(2) and (3)(a) and (b) of the Regulation of Investigatory Powers Act 2000
3. The Panel heard evidence from Cumbria Police and representations from the Premises Licence Holder
4. The Panel was satisfied that it was appropriate to suspend the premises licence with immediate effect in the interests of promoting the licensing objectives.

The Act did not provide a right to appeal in relation to a decision at an Interim Steps Hearing. The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps. This would at some point be superseded by the full review which must be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations were not withdrawn) hold a hearing within 48 hours of their receipt.

The meeting closed at 4.47 pm

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At a meeting of the Licensing Panel held in Council Chamber - Allerdale House, Workington on Monday 12 November 2018 at 10.00 am

Members

Councillor Angela Kendall (Chair)

Councillor Tony Annison

Councillor Len Davies

Staff Present

D Fletcher, A Gilbert, L Jardine, J Morgan and G Roach

227. Election of Chair

Councillor A Kendall was elected Chair for the ensuing meeting

228. Declaration of Interests

None Declared.

229. Questions

None Received.

230. Application for a Summary Review of a Premises Licence

The Licensing and Compliance officer submitted a report for the licencing panel to review the premises licence PL0501 West Street Social Club, Wigton following a summary review application under section 53A of the Licencing Act 2003.

The application was made by Cumbria Constabulary under Section 53A of the Licencing Act 2003 at 15:43 on 15th October 2018.

The Licensing and Compliance officer provided the panel with additional papers.

The Licensee was present.

Two representatives of Cumbria Constabulary were present.

The Licensing and Compliance officer read through the report

The Panel was presented with the options available to it, permitted under section 53C (3) of the Licensing Act 2003:

- (a) The modification of the conditions of the premises licence,
- (b) The exclusion of a licensable activity from the scope of the licence,
- (c) The removal of the designated premises supervisor from the licence,
- (d) The suspension of the licence for a period not exceeding three months,
- or
- (e) The revocation of the licence.

The panel was then presented with the options available to it in relation to the interim step to suspend the licence; if they considered it necessary to amend the interim steps they must consider the following:

- (a) The modification of the conditions of the premises licence
- (b) The exclusion of the sale of alcohol by retail from the scope of the licence,
- (c) The removal of the designated premises supervisor from the licence
- (d) The suspension of the licence.

The representative of Cumbria Constabulary made his representation and presented his witness statement to the panel alongside evidence, intelligence and crime logs relating to West Street Social Club. Cumbria Constabulary's recommendation to the panel was to revoke the licence and in failing that, the police recommended the following conditions be introduced:

- 4 SIA registered door supervisors
- Weapon Screening Arches
- Entry Searches
- Plastic Cups/Bottles (check formal name)

The panel and the licencing and compliance officer then asked several questions to the representative of Cumbria Constabulary.

The licensee was given the opportunity to present any representations before answering questions from both the panel and the licencing and compliance officer. The questions related to the incident on 13th October 2018 and previous incidents as discussed plus questions relating to the current clientele and management of the West Street Social Club.

All parties then had the opportunity to ask any questions and to summarise any points they had raised.

All parties were then asked to leave the meeting for the panel to consider the application.

The Panel considered all information presented to it in the report, the additional papers provided, the police reports/evidence and through all representations made at the meeting.

Members were concerned with the reports of crime and disorder and considered whether any additional conditions would help.

The members did not believe any additional conditions would solve the issue.

Councillor T Annison moved to revoke the licence, this was seconded by Councillor L Davies, a vote was taken, and the vote in favour of revoking the licence was unanimous. The motion was carried.

The second decision was in relation to the interim arrangement that was imposed on 17th October 2018, Councillor L Davies moved to continue to suspend the premises licence until after the appeal deadline for revoking the

licence, this was seconded by Councillor T Annison, a vote was taken, the vote was in favour to continue to suspend the premises licence was unanimous, the motion was carried.

All parties returned to the meeting.

All parties were informed of the decisions and the reasons for the decision.

Decision

To revoke the premises licence

Reasons for the decision

The Panel considered the application for the review and the need to take such steps as it considers appropriate for the promotion of the licensing objectives. Under section 53C(3) of the Licensing Act 2003, the panel has decided to revoke the premises licence.

In making its decision, the Panel has had regard to the following:

1. The information provided by the police.
2. The information provided by the premises licence holder
3. The officer's report
4. The Licensing Act
5. Guidance issued under s182 of the Licensing Act 2003
6. Licensing Act 2003 Expedited/Summary Licence Reviews Guidance November 2015
7. Regulations issued under the Licensing Act 2003
8. The Council's statement of licensing policy

The panel has also reconsidered the interim step to suspend the licence under section 53D of the Licensing Act 2003. In doing so, it considered whether the interim step is appropriate for the promotion of the licensing objectives. No representations were received from the premises licence holder prior to today's hearing, to be considered in relation to the interim step taken on 17 October 2018. The Panel considers that the interim steps should remain in force until the time period for appealing the review has expired. In making this decision, the Panel has taken into account guidance issued by the Home Office in relation to summary licensing reviews. The Panel has also considered:

1. The Licensing Act
2. Guidance issued under s182 of the Licensing Act 2003
3. Licensing Act 2003 Expedited/Summary Licence Reviews Guidance November 2015
4. Regulations issued under the Licensing Act 2003
5. The Council's statement of licensing policy

Right of appeal

The decision made under 53C of the Licensing Act 2003 (review of premises licence following review notice) can be appealed to a magistrates' court within 21 days beginning on the day of this decision.

The decision made under section 53D of the Licensing Act (Interim Steps pending section 53C) can be appealed to a magistrates' court within 21 days beginning on the day of this decision. The appeal must be heard by the magistrates' court within the period of 28 days beginning with the day on which the appellant commences the appeal.

Resolved

To revoke the premises licence

The meeting closed at 11.55 am

At a meeting of the Licensing Regulatory Panel held in Council Chamber - Allerdale House, Workington on Friday 14 December 2018 at 2.30 pm

Members

Councillor Peter Kendall (Chair)
Councillor Mary Bainbridge
Councillor Jacqueline Mounsey

Councillor Len Davies
Councillor Bill Pegram

Staff Present

G Collinson, L Jardine, J Morgan and G Roach

289. Election of Chair

Councillor Peter Kendall was elected chair for the ensuing meeting.

290. Declaration of Interests

None Declared

291. Questions

None Received

292. To consider an application for a Hackney Carriage Vehicle

The Senior Licensing and Compliance Officer submitted a report for the Licencing Regulatory Panel to consider an application for a Hackney Carriage Vehicle as the vehicle for licence did not meet the criteria of Allerdale Borough Councils Vehicle Age Policy.

The applicant was in attendance at the meeting.

The Senior Licensing and Compliance Officer delivered the report to the panel. The vehicle was previously licensed as a hackney carriage but the licence expired and without a renewal application within the required timescales it must be considered as a new application.

The applicant had provided the following as part of the application

- Vehicle Log Book
- Certificate of Motor Insurance
- MOT Test Certificate
- Council Testing Station Certificate
- Proof of Service History
- Independent Engineers Report

The applicant was advised that all the documentation listed above had to be received by 1st November 2018.

All of the above were received on 1st November 2018, with the exception of the Independent Engineer's Report which was received on 2nd November 2018.

The Senior Licensing and Compliance Officer then advised the panel that the delay in receiving the Independent Engineer's report was due to the Engineer, not the applicant. The relevant report and repairs to the applicant's vehicle were completed on 1st November.

The applicant then gave his representation and answered questions from members, advising the panel that this issue was not his error and that when he discovered the need for a 4 year vehicle test, he complied on time. The Senior Licensing and Compliance Officer and the applicant then left the meeting while the panel considered the application.

Members considered the application, the officer's report, and representations from the applicant and advice from officers. The Panel also considered relevant legislation and the Council's Vehicle Age Policy.

Councillor Bill Pegram moved to approve the application for a Hackney Carriage Vehicle Licence.

This was seconded by Councillor Mary Bainbridge.

A vote was taken on the motion. The vote to approve the application was unanimous.

The Senior Licensing and Compliance Officer and the applicant returned to the meeting.

The applicant was informed of the decision and its reasons.

Decision/Reasons

To grant the license for one year, delegating the power thereafter to the Licensing and Compliance Officer for any subsequent renewal.

Members noted that prior to the date of the expiry of the licence, the relevant work had been completed by the engineer and the testing had been carried out. The difficulties with the engineer's report being sent to the Council before the expiry of the licence were outside of the applicant's control.

If the applicant is aggrieved by the decision of the Panel, they can appeal to the Magistrates' Court within 21 days of the decision.

Resolved

That the application for a hackney carriage vehicle licence be approved for one year.

The meeting closed at 3.00 pm

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At a meeting of the Licensing Regulatory Panel held in Council Chamber - Allerdale House, Workington on Thursday 20 December 2018 at 10.00 am

Members

Councillor Peter Kendall (Chair)

Councillor Mary Bainbridge

Councillor Ron Munby MBE

Councillor Hilary Harrington

Councillor Bill Pegram

Staff Present

D Fletcher, L Jardine and J Morgan

293. Election of Chair

Councillor Peter Kendall was elected chair for the ensuing meeting.

294. Declaration of Interests

None Declared

295. Questions

None Received

296. To consider an application for a Private Hire Driver Licence

The Licensing and Compliance Officer submitted a report for the Licensing Regulatory Panel to consider an application for a Private Hire Drivers Licence which does not meet the criteria of the Councils Conditions of Application and Licences.

The Applicant was in attendance at the meeting.

The Applicants Private Hire Licence expired on 12th June 2018, the applicant applied to renew on 28th June 2018 but her DVLA driving licence had expired. A new appointment was made on 10th July 2018 to renew the Private Hire Licence, however on this date the applicants DVLA licence had still not yet been renewed.

The Private Hire Licence had to be renewed by 10th July 2018, Due to the delay processing the DVLA licence the applicant was required to apply for a Private Hire Licence as a new applicant.

The officer then clarified the Private Hire Licence application process for both new and renewing drivers.

The officer's recommendation was to refuse the licence.

The applicant then gave her representations, advising the panel that she had undertaken a medical and failed on the eye test by 1 point. This caused the delay in the renewal of her licence; the applicant now currently has a full DVLA

licence. The eye test did not relate to the Licence required as a Private Hire Driver.

Members asked questions in relation to the eye test and the timeline in relation to the applicant renewing the Private Hire Licence.

The Licensing and Compliance officer then clarified that the applicant currently holds a certificate of professional competence, however now this is only for Category C1 and C1E vehicles. This does not qualify the applicant for an exemption from taking the driving assessment test.

The Licensing and Compliance Officer and the applicant then left the meeting while the panel considered the application.

Members considered the application, the officer's report, and representations from the applicant and advice from officers. The Panel also considered relevant legislation, the Council's Conditions of Application and Licences and the fact that the applicant acted in line with the current policy.

Councillor Mary Bainbridge moved to grant the Private Hire Drivers Licence for one year.

This was seconded by Councillor Bill Pegram

A vote was taken on the motion. The vote to approve the application was unanimous.

The Licensing and Compliance Officer and the applicant returned to the meeting.

The applicant was informed of the decision and its reasons.

Decision/Reasons

The Panel noted that the applicant has an exemplary driving history and that the circumstances of this matter were outside of her control.

Members noted that prior to the 28 day period following expiry of the licence, the application for renewal was made in good faith. The difficulties with the DVLA licence being returned within the required timescale were outside of the applicant's control.

Members noted that whilst the applicant had previously been exempt from taking the driving assessment, this is no longer the case. Consequently, the Panel requested that the applicant complete the practical driving test offered by the Council within 12 months of renewal, and any subsequent renewal will be dependent upon the applicant passing this test.

If the applicant is aggrieved by the decision of the Panel, they can appeal to the Magistrates' Court within 21 days of the decision.

Resolved

That the application for a Private Hire Licence be approved for one year and the applicant complete the practical driving test offered by the Council within 12 months of renewal.

297. To consider an application for a Hackney Carriage Driver Licence

The Licensing and Compliance Officer submitted a report for the licensing regulatory panel to consider whether a person who has made an application for a hackney carriage driver's licence is a fit and proper person to hold such licence.

The applicant was in attendance at the meeting.

The Licencing and Compliance Officer delivered the report to the panel. As part of the applicant's application the Disclosure and Barring Service certificate revealed information relevant to the application. The officer also advised that the applicant has no endorsements on their driving licence and that the applicant passed the driving assessment on 24th August 2018.

The officer's recommendation was to refuse the licence on the grounds that the applicant is not a fit and proper person to hold a licence.

The applicant then gave their representations and answered questions from members. The applicant advised the panel that the DBS certificate only had one entry, from 2011, the applicant then provided an explanation of the entry. The applicant also provided a written personal reference from a County Councillor; the officer read this out to the panel.

The Licencing and Compliance Officer and the applicant then left the meeting while the panel considered the application.

Members considered the application, the officer's report, and representations from the applicant, the written personal reference and advice from officers. The Panel also considered relevant legislation, and the Council's policy on the relevance of criminal convictions.

Councillor Hilary Harrington moved to refuse the licence on the officer's recommendation.

This was seconded by Councillor Ron Munby

A vote was taken on the motion, 2 voted in favour, 3 against and 0 abstentions.

The motion was lost.

Councillor Bill Pegram then moved to grant the hackney carriage drivers licence for a period of six months. After this time, the decision to grant the licence would be delegated to the Licensing Officer should there be no further issues. Any subsequent renewal would require all Conditions of Application to be met prior to the issue of a further licence.

This was seconded by Councillor Mary Bainbridge.

A vote was taken on the motion, 3 voted in favour, 1 against and 1 abstention.

The vote to grant the licence was carried.

The Licencing and Compliance Officer and the applicant returned to the meeting.

The applicant was informed of the decision and its reasons.

Decision/Reasons

The panel decided to grant the licence for a period of six months, after which the decision to continue to grant the licence will be delegated to the Licensing Officer should there be no further issues. Any further renewal will require all Conditions of Application to be met prior to issue of a further licence.

The panel considered the information the applicant has provided in conjunction with the overriding objective of protecting the safety of the public.

In making its decision, the Panel noted that the applicant received a conditional discharge for battery seven years ago and that the applicant has no other convictions. The panel noted that the applicant had clearly shown remorse for the conviction. The Panel also noted the content of the reference received from the County Councillor.

The panel in accordance with the licencing policies issued the applicant with a strict warning about future conduct and reminded them of the enforcement powers available to officers.

If the applicant is aggrieved of the decision, they have the right to appeal to the Magistrates Court within 21 days of receiving written notification of the decision.

Resolved

That the application for a hackney carriage licence be granted for six months. After this time, the decision to grant the licence would be delegated to the Licensing Officer should there be no further issues. Any subsequent renewal would require all Conditions of Application to be met prior to the issue of a further licence.

The meeting closed at 11.50 am

Allerdale Borough Council

Licensing Committee – 20 March 2019

Review of Hackney Carriage & Private Hire Policies

The Reason for the Decision

A number of issues have been identified whilst working with policies which have been implemented over the last two years. It has become apparent that parts of policies require refinement or alteration to ensure that they are more workable and practical. The policies have strengthened the public safety objective when assessing applicants for hackney carriage and private hire drivers' licences, existing drivers and the safety of vehicles.

Summary of options considered

1. Driving Assessment

To consider an extension to the existing timescale required for drivers to pass the practical driving assessment (drivers were required to pass by 15 January 2019) and to impose a penalty for non-compliance:

- a) Allow an extension of time of six months for existing drivers to pass the practical driving assessment, running from the original date of 15 January 2019 with a new due date of 15 July 2019; and
 - b) Give delegated powers to the Senior Licensing and Compliance Officer and Licensing and Compliance Officer in conjunction with Legal Services and the Chair or Vice Chair of the Licensing Committee to allow an extension after 15 July 2019 in individual cases; and
 - c) Impose one of the following penalties for existing drivers who do not pass the driving test by the due date of 15 July 2019, or who have not been allowed an extension by officers:
 - i. Suspension of driver's licence; or
 - ii. Revocation of driver's licence
-

or

- d) Allow no extension of time or delegation to extend time, and impose one of the following penalties for existing drivers who have not passed the driving test by the original due date of 15 January 2019:
 - i. Suspension of driver's licence; or
 - ii. Revocation of driver's licence

Exemptions are applicable to passing the driving test if an applicant fulfils criteria contained in paragraph 3.3;

2. Knowledge Test

- a) To impose the penalty of suspension of licence for existing drivers who do not pass the knowledge test by 31 October 2019; or
- b) To impose the penalty of revocation of licence for existing drivers who do not pass the knowledge test by 31 October 2019.

3. Vehicle Age Policy

To amend the wording of paragraph 4 to:

- a) If a vehicle is over four years of age from the first date of registration or reaches four years of age from the first date of registration within the duration of its licence, a vehicle test is required no later than six months following the commencement date of the vehicle licence and no earlier than 28 days before that date ('First Six Month Test Date'). For example, if a vehicle turns four on 29th March, it must be tested by 29th September at the latest but no earlier than 1st September. Following the First Six Month Test Date, subsequent tests must be completed no later than six months following the previous test and no earlier than 28 days before before each subsequent six month test is due to be undertaken.
- b) Remove the failure to comply with

condition to have 6 month test penalty of “immediate revocation or refusal to renew the vehicle licence” and replace with “suspension of vehicle or refusal to renew the vehicle licence” or

- c) Leave the penalty as existing.
- d) Leave the policy as existing.

4. Vehicle Advertising Policy

The addition to the wording of paragraph 5.1 of the policy as follows:

- a) If the advertisement is to raise awareness of a campaign or charitable cause, the fee is waived; or
- b) Leave the policy as existing

Recommendation

As contained in recommendations 1a), 1b), 1c), 2a), 3a), 3b) and 4a) above.

Financial / Resource Implications

- a) Driving assessment - Officers not having delegation to extend time limits or allow suspension/revocation means all drivers appearing before Licensing Panel. This imposes a considerable administrative burden on officers and Councillors;
- b) Knowledge Test – Having no compliance measures leaves no alternative but prosecution which is time consuming, expensive and has resource implications on staff.

Legal / Governance Implications

To ensure that the policies in place to uphold the public safety duty of the Licensing Authority when assessing and determining applications and existing licences remain updated and workable.

Community Safety Implications

To continue to assess the fitness, driving capability, safety and knowledge of individuals and the mechanical safety of vehicles.

Health and Safety and Risk Management Implications

The Licensing Authority needs to have the appropriate penalties for non compliance in place as part of a policy. Not to have this provision

renders the policy unenforceable.

Equality Duty considered / Impact Assessment completed

No

Wards Affected

All

The contribution this decision would make to the Council's priorities

Enhancing our towns – enhancing our taxi licensing requirements would encourage a high quality of taxi service and result in thriving and vibrant towns;

Creating a sustainable business –providing improved services to people and communities .

Is this a Key Decision

No

Portfolio Holder

Councillor J Ellis

Lead Officer

Gillian Collinson
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Report Implications (Please delete where applicable)

Community Safety	Y	Employment (external to the Council)	Y
Financial	Y	Employment (internal)	N
Legal	Y	Partnership	N
Social Inclusion	N	Asset Management	N
Equality Duty	N	Health and Safety	N

Background papers: N/A

1.0 Introduction

- 1.1 Over the last two years there has been a move by the Licensing Authority to review and implement new sets of criteria to assess the suitability of applicants for hackney and private hire driver licences within the borough and to promote the safety of licensed vehicles.
- 1.2 This has largely been successful but policies require continual review to ensure they are working in everyone's best interests and to ensure that the licensing authority is satisfied that public safety is upheld. It is imperative that the Authority only grants and renews licences to applicants and existing drivers who are fit and proper by satisfying criteria such as driving capability,

knowledge and safety, together with ensuring vehicles are maintained to a high standard.

- 1.3 This report therefore aims to address some practical difficulties experienced with the policies by imposing or changing sanctions for non-compliance, requesting extensions of time, inserting delegations where it is felt appropriate and, inserting additional wording to remove ambiguities.

2.0 Background

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) enables local authorities to administer licences for hackney carriage and private hire drivers. The Act provides that a local authority shall not grant a licence unless they are satisfied that the applicant is a “fit and proper” person to hold such a licence. There is no definition of the term “fit and proper” and the Council can apply any tests and checks it deems appropriate to establish this.

- 2.2 Section 57 of the Act grants local authorities the power to require applicants to submit information, stating,

“A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”

3.0 Driving Assessment

- 3.1 The Licensing Committee approved the procurement of a practical driving assessment to take the place of the assessment which used to be provided by the Driving Vehicle Standards Agency (DVSA). Procurement was concluded with a company selected to provide the assessment from 16 July 2018. This was run as a pilot scheme for 6 months with a review after 3 months. A further procurement exercise followed and the contract was awarded for a year to the same company.

- 3.2 The Licensing Committee had already imposed the following condition on licences:

“ All applicants for the grant of a new hackney carriage or private hire driver’s licence must pass the DVSA taxi assessment. If this is not available they must pass the required assessment to be selected in due course by Allerdale Borough Council within six months of the implementation date of the new assessment. Any licensed drivers appearing before the Licensing Panel with repeated traffic offences may be required to pass the relevant assessment selected”.

3.3 Accordingly, existing drivers who had obtained a licence from September 2016 onwards and new applicants were informed of the requirement to pass the assessment subject to the following exemptions:

- a) Occupation as a Driving instructor;
- b) Occupation as Driving examiner;
- c) Persons holding a driving licence with the following categories entitling them to drive passenger carrying vehicles e.g. buses and coaches:

Category D - Entitlement to drive any bus with more than 8 passenger seats (with a trailer up to 750kg). **(Note this does not include category D1)**

Category D+E - Entitlement to drive D category vehicles with a trailer over 750kg

Both of these category holders must complete a Driver Certificate of Professional Competence. They must hold a Driver Qualification Card which is valid for 5 years and is renewable subject to evidence that 35 hours of approved training courses has been completed. This is managed by the Driving Standards Agency.

D1 - Minibuses - Vehicles with no more than 16 passenger seats in addition to the driver and with a maximum length not exceeding 8 metres with a trailer up to 750kg.

D1+E Minibuses with trailers - Vehicles with no more than 16 passenger seats in addition to the driver and with a maximum length not exceeding 8 metres with a trailer over 750 kg, provided that the MAM of the combination formed does not exceed 12,000kg.

Note: For categories D1 and D1+E each applicant must be considered on an individual basis to ensure they fulfil all the criteria as some drivers will have the category on their DVSA licence as an acquired right and will not have taken the test or continuing driver competency.

3.4 At the conclusion of 6 months on 15 January 2019 the number of existing drivers (151) who had taken and passed the assessment is approximately half. The condition which stated that six months would be allowed for existing drivers to pass the assessment was agreed in September 2016. Since then the number of licensed drivers has significantly increased and it is felt that sufficient time has not been allowed for all drivers to pass the assessment. It is suggested therefore that an extension of 6 months is permitted, which will expire on 15 July 2019.

3.5 When the condition was imposed, the Committee did not impose a sanction for non compliance with the condition. It is recommended that if the assessment is not passed by the due date the licence is suspended. Once the

assessment is passed the suspension can be lifted. If, in the meantime the licence expires, the applicant would have to make a new application and in these circumstances, the assessment would have to be passed as part of the criteria of a new applicant.

- 3.6 There may be circumstances where an existing driver will not be able to pass the assessment by the required date or potentially a short term extension date. Therefore it is requested that Officers of the Licensing Department in conjunction with Legal Services and the Chair/vice Chair of the Licensing Committee are given delegated powers to permit an extension in extenuating circumstances.

4.0 Knowledge Test

- 4.1 The Licensing Committee approved the procurement of an electronic knowledge test for all new applicants and existing drivers. This was duly obtained. All existing drivers have one year from implementation to pass the test which expires on 31 October 2019. Drivers have been informed throughout the process and are now being written to in licence expiry date order to remind them to book the test.

- 4.2 At the time of approving the condition the Licensing Committee did not impose a sanction for non compliance. It is recommended that if the assessment is not passed by the due date the licence is suspended. Once the test is passed the suspension can be lifted. In the meantime if the licence expires, the applicant would have to make a new application and the test would have to be passed as part of the criteria of a new applicant.

5.0 Vehicle Age Policy

- 5.1 The purpose of the vehicle age policy is to ensure that all hackney carriage and private hire vehicles are in exceptional condition and remain safe for the use of the general public. The policy states that only vehicles under the age of four years will be licensed but can continue to be licensed beyond that age providing certain conditions are adhered to.

- 5.2 One such condition relates to the vehicle being tested every six months once it reaches the age of four years. Failure to comply results in the licence being revoked or refusal to renew. This is being actively enforced.

- 5.3 There are two aspects to this part of the policy which are causing difficulties:

- a) The definition of when a vehicle actually needs a six month test. The current wording is ambiguous and to clarify this it is recommended the wording is changed to read as follows:

“If a vehicle is over four years of age from first date of registration or reaches four years of age from the first date of registration within the duration of its licence, a vehicle test is required no later than six months following the commencement date of

the vehicle licence and no earlier than 28 days before that date ('First Six Month Test Date'). For example, if a vehicle turns four on 29th March, it must be tested by 29th September at the latest but no earlier than 1st September. Following the First Six Month Test Date, subsequent tests must be completed no later than six months following the previous test and no earlier than 28 days before before each subsequent six month test is due to be undertaken".

- b) The current penalty is revocation. This could be unreasonable and would result in increased licensing panel appearances particularly if the vehicle is over four years of age. It is suggested that suspension until the vehicle passes the test is more appropriate.

6.0 Vehicle Advertising Policy

6.1 Enquiries have been received regarding advertisements being placed on vehicles which are to raise awareness of charitable campaigns rather than to generate a commercial revenue for the vehicle licence proprietor. That has prompted a review of this policy and consideration to be given to waiving the fee for such advertisements. All other requirements would remain the same. Members are asked to consider waiving the fee if the advertisement is of a non commercial basis and it is to raise awareness of a campaign or charitable cause. Currently to apply for consent for the display of advertisements is £15.

7.0 Recommendations

7.1 To consider the range of options and select the following recommendations to implement:

- a) Allow an extension of time from 15 January 2019 until 15 July 2019 (6 month extension) for existing drivers to pass the practical driving assessment; and
- b) Delegate to the Senior Licensing and Compliance Officer and Licensing and Compliance Officer in conjunction with Legal Services and the Chair or Vice Chair of the Licensing Committee powers to give an extension after 15 July 2019 in individual cases where there are extenuating circumstances; and
- c) Impose the penalty of suspension of licence for existing drivers who do not pass the driving assessment by the due date or who have not been allowed an extension by officers;

7.2 Knowledge Test

- a) To impose the penalty of suspension of licence for existing drivers who do not pass the knowledge test by 31 October 2019;

7.3 Vehicle Age Policy

- a) Remove and replace the wording in paragraph four of the policy with the following:

“If a vehicle is over four years of age from first date of registration or reaches four years of age from the first date of registration within the duration of its licence, a vehicle test is required no later than six months following the commencement date of the vehicle licence and no earlier than 28 days before that date (‘First Six Month Test Date’). For example, if a vehicle turns four on 29th March, it must be tested by 29th September at the latest but no earlier than 1st September. Following the First Six Month Test Date, subsequent tests must be completed no later than six months following the previous test and no earlier than 28 days before before each subsequent six month test is due to be undertaken”.

- b) Remove the failure to comply with condition to have six month test penalty of “immediate revocation or refusal to renew the vehicle licence” and replace with “suspension of vehicle or refusal to renew the vehicle licence”.

7.4 Vehicle Advertising Policy

The addition to the wording of paragraph 5.1 of the policy as follows:

- a) If the advertisement is to raise awareness of a campaign or charitable cause, the fee is waived.

Gillian Collinson
Senior Licensing & Compliance Officer

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Allerdale Borough Council

Licensing Committee – 20 March 2019

Delegated Powers and Expedited Process to Reinstate Driver's Licence following Revocation

The Reason for the Decision	To consider the Local Authority's approach to the revocation of Hackney Carriage/Private Hire Drivers' Licences and update delegations.
Summary of options considered	<ul style="list-style-type: none">a) Delegate to the Senior Licensing and Compliance Officer/Licensing and Compliance Officer in conjunction with the Legal and Licensing Manager the revocation of licences under s61 Local Government (Miscellaneous Provisions) Act 1976 and where appropriate as amended by s52 Road Safety Act 2006;b) Delegate to the Senior Licensing and Compliance Officer/Licensing and Compliance Officer in conjunction with the Legal and Licensing Manager, the power to reinstate a drivers licence following revocation;c) To adopt the policy appended to this report entitled "Policy to reinstate Hackney Carriage/Private Hire Drivers licence following revocation".
Recommendation	To approve options a), b) and c) contained in the summary of options above.
Financial / Resource Implications	None
Legal / Governance Implications	<ul style="list-style-type: none">a) The policy addresses issues arising from case law and provides an appropriate balance between public protection and fairness to applicants;b) Updates delegations in line with structural changes within the Council; andc) Enables urgent matters to be dealt with swiftly
Community Safety Implications	<u>To continue to assess the fitness, capability,</u>

safety and knowledge of applicants and licence holders.

Health and Safety and Risk Management Implications

Adhering to case law and updating relevant delegations

Equality Duty considered / Impact Assessment completed

No

Wards Affected

All

The contribution this decision would make to the Council's priorities

Enhancing our towns – enhancing our taxi licensing requirements would encourage a high quality of taxi service and result in thriving and vibrant towns;

Creating a sustainable business –providing improved services to people and communities .

Is this a Key Decision

No

Portfolio Holder

Councillor Joan Ellis

Lead Officer

Gillian Collinson
Senior Licensing and Compliance Officer
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Report Implications

Community Safety	Y	Employment (external to the Council)	Y
Financial	Y	Employment (internal)	N
Legal	Y	Partnership	N
Social Inclusion	N	Asset Management	N
Equality Duty	N	Health and Safety	N

Background papers: Appendix 1 – Policy to Reinstate Hackney Carriage/Private Hire Driver's Licence Following Revocation

1.0 Introduction

- 1.1 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 sets out reasons why a licence may be revoked on grounds of the driver not being deemed a "fit and proper" person (based on information available at the time). Delegation is currently in place for an authorised member of the Licensing Department following consultation with the Legal, Licensing and Elections

Manager to revoke a licence. The Legal, Licensing and Elections Manager may choose to defer the decision to the Licensing Panel.

- 1.2 In considering whether to suspend or revoke a Hackney Carriage/Private Hire Driver, if it appears that the interests of public safety require the suspension or revocation to have immediate effect, the decision will be made in accordance with section 61 of the Local Government (Miscellaneous Provisions) Act 1976 as amended by S52 of the Road Safety Act 2006. These provisions enable the Authority to act swiftly if information comes to light.
- 1.3 The High Court ruling of **R (application of Singh) v Cardiff City Council [2012] EWCH 1852 (Admin)** has established that it is unlawful to suspend and then revoke a driver for a single offence. Therefore it is necessary to revoke a driver immediately if the Council becomes aware of information which gives serious concerns about them.
- 1.4 If a licence is revoked and the reason for the revocation is subsequently diminished, the law requires that the driver would have to re-apply for their driver's licence by conducting the full application process. This would include undertaking a medical, DBS check, driving and knowledge tests and paying a fee. This process could take up to six weeks and could be deemed unreasonable if the revocation is subsequently found to be unjustified following the receipt of further information. It is recommended that authorities have an expedited process in place for such occasions. This report proposes a policy be adopted to address these issues including dispensing with the fees and the full application process in appropriate circumstances. This policy is to assist in the timely replacement of a driver's licence when it has been revoked but following investigation it is established that the Council does not have any remaining concerns with regards to the fit and proper nature of the person.
- 1.5 A relevant officer of the Council will decide if an applicant falls in to this part of the policy and the applicant will be advised if this is the case.
- 1.6 The investigation of the Council with regards to establishing whether an individual is fit and proper will take into account any available information. It is not reliant on other authorities' investigations into any connected allegations, although information will always be requested from other agencies when they are known to be involved.
- 1.7 As the Council is required to consider each case on the balance of probabilities, a police investigation which results in an individual not being convicted may not in itself be considered to be sufficient for the Council to issue a new licence to the individual. This is because Police investigations are determined at a higher level of proof, i.e. beyond reasonable doubt. In addition to this, a police investigation may uncover breaches of this policy committed by a driver and the Council would need to take these into account.

2.0 Background

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) enables local authorities to administer licences for hackney carriage and private hire drivers. The Act provides that a local authority shall not grant a licence unless they are satisfied that the applicant is a “fit and proper” person to hold such a licence. There is no definition of the term “fit and proper” and the Council can apply any tests and checks it deems appropriate to establish this.
- 2.2 Section 57 of the Act grants local authorities the power to require applicants to submit information, stating,
- “A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”
- 2.3 It is important that taxi and private hire drivers provide a safe and professional level of service to the public.

3.0 Process

- 3.1 If the Council makes a decision to issue a new licence to a driver whose licence was previously revoked, it is proposed that the following process is adopted:
- a) a new application will be required from the individual;
 - b) existing documents which are “in date” (i.e. are still valid) will be accepted and transferred to the new application with the discretion of officers;
 - c) Depending on the reasons for the revocation, some updated documents may be required. For example if a driver’s health leads to their licence being revoked and their health subsequently improves so they may be considered fit to be a licensed driver, a new medical or other appropriate specialist information from a medical practitioner would be required. The same would be the case for an individual who is subject to a police investigation. Their criminal history would need to be rechecked by submitting a new DBS certificate or checked as part of the DBS update service if the applicant subscribes to that service;
 - d) A knowledge test and practical driving test would be required at officers’ discretion depending upon the reason for revocation;
 - e) The applicant’s DVLA driving licence needs to be rechecked in all cases.

3.2 When a decision is made to issue a new licence, this will usually be processed within five working days of all required documentation being received.

3.3 Fees

The new licence will usually be issued for the period that the revoked licence had left to run and no further charge will be levied, with the exception of any connected costs such as for new documentation which will remain the applicant's responsibility.

4.0 Conclusion

4.1 The purpose behind the report is to ensure that there is an application process in place which can swiftly reinstate a driver's licence if appropriate, following revocation of that licence, once investigations are complete which balances both the rights of a revoked driver and the safety and protection of the public.

5.0 Recommendations

5.1 Delegate to the Senior Licensing and Compliance Officer/Licensing and Compliance Officer in conjunction with the Legal and Licensing Manager the revocation of licences under S61 Local Government (Miscellaneous Provisions) Act 1976 and where appropriate as amended by S52 Road Safety Act 2006;

5.2 Delegate to the Senior Licensing and Compliance Officer/Licensing and Compliance Officer in conjunction with Legal and Licensing Manager, the power to reinstate a driver's licence following revocation; and

5.3 To adopt the policy appended to this report entitled "Policy to reinstate Hackney Carriage/Private Hire Driver's licence following revocation."

**Gillian Collinson
Senior Licensing & Compliance Officer**

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Expedited Policy for Revoked Licences where reinstating a licence is considered appropriate

Introduction

This policy is to assist in the timely replacement of a driver's licence when it has been revoked, but following investigation it has established that the Council does not have any remaining concerns with regards to the fit and proper nature of a person.

This policy will not cover every possible scenario and each case will be considered upon its individual merit.

Revocation of a driver's licence will be considered by the Senior Licensing and Compliance Officer or the Licensing and Compliance Officer in conjunction with the Legal and Licensing Manager under the provisions of s61 Local Government (Miscellaneous Provisions) Act 1976 and where appropriate as amended by s52 Road Safety Act 2006. Either may refer the matter to the Licensing Panel.

The Senior Licensing and Compliance Officer or Licensing and Compliance Officer will, in conjunction with the Legal and Licensing Manager, decide whether to reinstate a driver's licence following revocation of that licence. Either may refer the matter to the Licensing Panel.

The investigation of the council with regards to establishing whether an individual is fit and proper will take into account any available information. It is not reliant on other authorities' investigations into any connected allegations, although information will always be requested from other agencies when they are known to be involved.

Guidelines

The following guidance will be taken into account when determining whether reinstatement of a licence should be considered following revocation:-

Nature of the grounds for revocation

Revocation is carried out if it is felt the Hackney Carriage/Private Hire driver is no longer 'fit and proper' in accordance with Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 and where appropriate as amended by s52 Road Safety Act 2006.

Expedited reinstatement of a licence following revocation will only be considered if the applicant fulfils the criteria as a 'fit and proper' person and the original reasons for revocation have been diminished.

Time period that has elapsed since the revocation was imposed

Consideration will not be given to any applicants whose licence has been revoked for a period of six months or longer. In these circumstances, the applicant will be required to undertake the full application process.

Revocation on Medical Grounds

If the revocation was instigated for medical reasons, the applicant must provide proof that the matter is no longer a concern and details from the applicant's specialist and/or General Practitioner stating that the applicant is fully compliant with the Group I Medical Standard stipulated by the DVLA prior to consideration.

Revocation on Criminal Grounds

As the Council is required to consider each case on balance of probability, a police investigation which results in an individual not being convicted may not in itself be considered to be sufficient for the Council to issue a new licence to the individual as police investigations are determined at a higher level of proof i.e. beyond reasonable doubt. In addition to this, a police investigation may uncover breaches of this policy committed by a driver and the Council would need to take these into account.

Process

- a) A new online application will be required from the individual;
- b) Existing documents which are "in date" (i.e. are still valid) will be accepted and transferred to the new application with the discretion of officers;
- c) Depending on the reasons for the revocation, some updated documents may be required. For example if a driver's health leads to their licence being revoked and their health subsequently improves so they may be considered fit to be a licensed driver, a new medical or other appropriate specialist information from a medical practitioner would be required. The same would be the case for an individual who is subject to a police investigation. Their criminal history would need to be rechecked by submitting a new DBS certificate or checked as part of the DBS update service if the applicant subscribes to that service;
- d) A knowledge test and practical driving test would be required at officers' discretion depending upon the reason for revocation;
- e) The applicant's DVLA driving licence needs to be rechecked in all cases.

A decision will usually be made within five working days of all required documentation being received.

Fees

The reinstated licence will usually be issued for the period that the revoked licence had left to run and no further charge will be levied, with the exception of any connected costs such as for new documentation which will remain the applicant's responsibility.

Right of Appeal

The applicant has right of appeal to the Magistrates Court within 21 days when any decision to suspend or revoke a licence is made.

Allerdale Borough Council

Procedure at Licensing Meetings

Once the Chair has moved the exemption paragraph the press and public will leave the room

Procedure

Step 1

The Chair will ask those present to introduce themselves and explain the procedure to be followed.

Step 2

The Chair will ask the author of the report (or their substitute) to outline the proposal and the background to the case. Their role will be to provide factual information to the committee.

The Chair invites members of the committee to ask the presenting officer any questions they may have about the application.

Step 3

The Chair invites Councillor(s) attending under Procedural Rule 4.31.2 to come forward and present objection(s).

- Each Councillor is permitted 10 minutes
- The Chair asks if Members of the Committee have any questions to ask the Councillor(s)
- The Councillor(s) return to the public area.

Step 4

The Chair invites applicant or the applicant's representative to make representations. The applicant/applicants representative is permitted 10 minutes

- The Chair asks if any member of the committee/officers present have any questions to ask the applicant/applicants representative

Step 5

The Chair invites any party making representations (including any other persons who have been given permission to participate) (if any) to present their comment(s).

- The Chair asked if any member of the committee have any questions to ask any party making representations

Step 6

The Chair offers the applicant/applicants representative the final opportunity to address the Committee. The applicant/applicants representative is permitted 10 minutes.

Step 7

The Chair will ask the parties to withdraw so that the committee can consider its determination. In considering its determination, the Committee may seek advice from its Legal Adviser.

Step 8

The parties will be re-called and informed of the Committees decision.

- Applicant to be advised that the decision will be confirmed in writing within 7 days.
- Applicant to be advised of any appeal procedure.

All parties will leave swiftly prior to the next case.

Allerdale Borough Council
Procedure at Licensing Meetings
Policy Formulation

Procedure

Step 1

The Chair will explain the procedure to be followed.

Step 2

The Chair will ask the presenting officer (or their substitute) to outline the proposal and the background to the case. Their role will be to provide factual information to the committee.

The Chair invites members of the committee to ask the presenting officer any questions they may have about the policy.

Step 3

The Chair invites Councillor(s) attending under Procedural Rule 4.31.2 to come forward and make representations

- Each Councillor is permitted 10 minutes
- The Chair asks if Members of the Committee have any questions to ask the Councillor(s)
- The Councillor(s) return to the public area.

Step 4

The Chair invites any party making representations (if any) to present their comment(s).

- The Chair to ask if any member of the committee has any questions to ask any party making representations.

Step 5

The committee will consider the policy. In considering the policy, the Committee may seek advice from its Legal Adviser.

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