

LICENSING COMMITTEE
Tuesday, 12 September 2017 at 7.30pm
Council Chamber, Civic Centre

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Councillors' declarations of interest (if any) in relation to any matters on the agenda.

3. Minutes (Pages 3 - 6)

To agree the minutes of the meeting held on 11 July 2017.

4. Matters Arising

5. Written Questions and Petitions

a) Petition: The Cost of the Street Trading Licence

A petition has been received containing 106 signatures from people voicing concern about the effect that the cost of the street trading licence will have on Harlow Market.

“We would ask the Licensing Committee to reconsider the cost of the street trading licence. More importantly, we would like the Committee to find a way to break the amount down to a daily rate for those who do not work every day. This will not only guarantee the survival of the current market, but is also likely to help the market grow.”

6. Committee Work Plan (Page 7)

7. Guidance on Criminal Convictions and Motoring Offences in Taxi and Private Hire Licensing (Pages 8 - 32)

8. Licensed Driver Training (Pages 33 - 35)

9. Arrangements for Street Trading in the Town Centre (Pages 36 - 39)

10. References from Other Committees

Any references arising from meetings held after the publication of this agenda will be circulated separately.

11. Matters of Urgent Business

To deal with any matters of an urgent nature.

**MINUTES OF THE LICENSING COMMITTEE
HELD ON**

11 July 2017

7.30 - 9.30 pm

PRESENT

Committee Members

Councillor Lanie Shears (Chair)
Councillor Edna Stevens (Vice-Chair)
Councillor Ian Beckett
Councillor Karen Clempner
Councillor Michael Garnett
Councillor Maggie Hulcoop
Councillor John Strachan

Officers

Michael Pitt, Environment and Licensing Manager
Adam Rees, Governance Support Officer
Dimple Roopchand, Assistant Solicitor
David Taylor, Principal Environmental Health Officer

1. **APOLOGIES FOR ABSENCE**

Apologies for absence were received by Councillors Nick Churchill and Bill Pryor.

2. **DECLARATIONS OF INTEREST**

None.

3. **MINUTES**

RESOLVED that the minutes of the meeting held on 21 March 2017 are agreed as a correct record and signed by the Chair.

4. **MATTERS ARISING**

None.

5. **WRITTEN QUESTIONS AND PETITIONS**

a) **Petition - Licensed Private Hire Vehicles' Use of Roof Signs**

A petition was presented which requested that the use of roof signs on private hire vehicles was prohibited.

RESOLVED that the matter would be considered as part of Item 7 on the agenda, Licensed Vehicle Standards.

6. **COMMITTEE WORK PLAN**

The Committee received its Work Plan for the remainder of the municipal year.

RESOLVED that:

- a) The Work Plan was noted;
- b) A report on Pitch Fees was added to the Work Plan;
- c) A report on how licences were determined for drivers convicted of assault charges be allocated to the September meeting of the Committee; and
- d) A report on alternative arrangements for Child Sexual Exploitation Training (CSE) be allocated to the September meeting of the Committee.

7. **LICENSED VEHICLE STANDARDS**

The Committee considered a report which sought a recommendation that aspects of the Licensed Vehicles Standards (attached as Appendix 3 to the report) were amended.

The Committee considered amendments to the following sections of the Licensed Vehicle Standards: Roof Signs, Inspection Intervals, Door Panels, Emissions, Reporting Damage and Accidents, Insurance Write Offs; and Tinted Windows.

The Committee agreed to consider amendments to each section above separately, with further amendments considered as a whole.

RESOLVED that the Committee recommended to Full Council that:

A The following amendments were made to the Licensed Vehicle Standards:

i) Roof Signs

The use of roof signs and lights on private hire vehicles would be prohibited.

ii) Inspection Intervals (Private Hire Vehicles)

Inspections would be annual for vehicles which had completed fewer than 100,000 miles and every six

months if the vehicle had completed more than 100,000 miles.

iii) Inspection Intervals (Hackney Carriage Vehicles)

Inspections would be annual for vehicles which were less than six years old and every six months for vehicles older than six years old.

iv) Emissions (Private Hire Vehicles)

Vehicles which were not Euro 4 compliant would not be relicensed after 22 November 2019.

v) Emissions (Hackney Carriage Vehicles)

Vehicles which were not Euro 4 compliant would not be relicensed after 1 January 2021.

vi) Reporting Damage and Accidents

It would be specified the Licensing Team should be notified and the wording “whether or not” would be added.

vii) Tinted Windows

Any newly licensed vehicle’s rear windows must have a light transmittance of at least 50 percent after 1 August 2017.

B All other amendments in Appendix 3 to the report be approved.

8. **STREET TRADING**

The Committee received a report which proposed revisions to the Street Trading conditions which would extend the number of days a group of street traders could be issued for.

RESOLVED that:

A The Licensing Committee recommended to Full Council that the licence conditions applied to small groups of street traders are amended to allow the issue of group licenses for single consecutive periods of not more than five days except during December when a single licence may be issued for a period of not more than 14 days.

B Street Trading Licensing Conditions would be added to the Committee’s Work Plan.

9. **LICENSING SUB-COMMITTEE DECISIONS 2016/17**

The Committee received the Licensing Sub-Committee's annual report summarising its decisions for the 2016/17 municipal year.

RESOLVED that the report was noted.

10. **REFERENCES FROM OTHER COMMITTEES**

None.

11. **MATTERS OF URGENT BUSINESS**

None.

CHAIR OF THE COMMITTEE

LICENSING COMMITTEE WORK PLAN 2017/18

21 November 2017	
○ Review of Driver Standards Testing Arrangements <i>(due November 2017 - 27,22/11/16)</i>	Michael Pitt
○ Hackney Carriage and Private Hire Fees and Charges Proposals – Consideration of representations (subject to any representation)	Michael Pitt
23 January 2018	
○ Review of Taxi and PHV Enforcement Policy <i>(34,24/1/17)</i>	Michael Pitt
20 March 2018	
○	Michael Pitt
Unallocated Items	
○ Local Area Profile - to be appended to Statement of Gambling Act Policy <i>(36,24/1/17)</i>	Michael Pitt
○ Street Trading Licensing Conditions <i>(11/7/17)</i>	Michael Pitt
Standing Items	
○ Licensing Sub-Committee Decisions <i>(Annual report to first meeting in the municipal year 6,9/7/13)</i>	Michael Pitt

REPORT TO: LICENSING COMMITTEE

DATE: 12 SEPTEMBER 2017

TITLE: GUIDANCE ON CRIMINAL CONVICTIONS & MOTORING OFFENCES IN TAXI AND PRIVATE HIRE LICENSING

LEAD OFFICER: MICHAEL PITT ENVIRONMENT AND LICENSING MANAGER (01279) 446114

CONTRIBUTING OFFICER: DAVID TAYLOR PRINCIPAL EHO (LICENSING) (01279) 446164

RECOMMENDED that:

- A The adoption of the Harlow Council Taxi and PHV Licensing Criminal Convictions Policy proposed at Appendix 2 to the report, in place of existing guidance shown at Appendix 1, be recommended to Full Council.**

BACKGROUND

1. Licensing Sub-Committees have regard to Guidance on Criminal Convictions and Motoring Offences in Taxi and Private Hire Vehicle Licensing, adopted in January 2013 and attached as Appendix 1 to this report, in determining applications for, and renewal and review of, licences to drive Hackney Carriages and to drive and to operate Private Hire vehicles.
2. The Guidance also allows prospective applicants with relevant matters in their history to assess their likelihood of success, and may thus reduce the cost and time involved in making and processing applications that are unlikely to succeed.
3. A number of significant changes to law and statutory guidance have been introduced since the Guidance was adopted; the Local Government Association [LGA] has issued a revised version of the model document on which the Council's Guidance was based; and the Council has gained experience of working with existing guidance. These factors make the adoption of amended guidance appear appropriate.

PROPOSALS

4. It is proposed that the Taxi and PHV Licensing Criminal Convictions Policy based on the LGA's revised model as set out at Appendix 2 to this report, be adopted to replace existing Guidance shown at Appendix 1. Significant

changes would include the following:

- References to the 'Notifiable Occupations Scheme' have been changed following closure of the scheme and its replacement with 'Common Law disclosure' procedures.
- the requirements of the Immigration Act 2016 have been incorporated.
- The section on DBS disclosures and how these affect the issue of a licence has been updated.
- References to crimes relating to domestic violence have been added.

IMPLICATIONS

Place (includes Sustainability)

As set out in the report

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

None specific.

Author: **Simon Freeman, Head of Finance**

Housing

None specific.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

It is important to ensure that only the 'fit and proper' persons are granted a Licence. Failure to do so could influence or have implications for the wellbeing and safety of the community.

Author: **Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

The updated criminal convictions policy will provide clarity to the Council, licensed drivers, operators and the public as to the standards the Council will apply to ensure that new applicants or existing licence holders are fit and proper persons to be licensed by the Council.

Author: **Dimple Roopchand Assistant Solicitor for Brian Keane, Head of Governance**

Background Papers:

None.

GUIDANCE ON CRIMINAL CONVICTIONS AND MOTORING OFFENCES IN TAXI AND PRIVATE HIRE VEHICLE LICENSING

*Unless indicated the timescales suggested within this template are intended as **guidelines only** and are not statutory*

1. Introduction

- 1.1 The purpose of this document is to provide guidance on the criteria taken into account by the council 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 driver or operator licence.
- 1.2 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 and young persons.
- 1.3 This document is provided as guidance to any person with an interest in taxi and private hire licensing. In particular, but not exclusively to:
- Applicants for drivers' licences
 - Existing licensed drivers whose licences are being renewed
 - Licensing officers
 - Members of the Licensing committee/Subcommittee (or other relevant decision making body)
 - Magistrates hearing appeals against local authority decisions.
- 1.4 Where licensing officers have delegated powers to grant licences, they will utilise these guidelines when making a decision to grant a licence. In other cases decisions will be referred to the licensing Subcommittee. Whilst officers and the Subcommittee will have regard to the guidance contained in the document, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidance.**

2. General

- 2.1 There may be occasions where it is appropriate to depart from the guidance, for example where an offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but would normally be expected to:
- a) Remain free of conviction for an appropriate period; and

b) 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.

Where an applicant has been convicted of a criminal offence, the licensing authority cannot review the merits of the conviction (Nottingham City Council v. Mohammed Farooq (1998))

3. Appeals

Any applicant refused a driver's licence on the grounds that the licensing authority is not satisfied that he is a fit and proper person to hold such a licence has a right of appeal to the Magistrates' Court within 21 days of the notice of refusal (Local Government Miscellaneous Provisions Act 1976, s 77 (1)).

4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 allow the licensing authority to suspend, revoke or refuse to renew a licence if the application/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town and Police Clauses Act 1847; failure to comply with the provisions of Part II of the local Government (Miscellaneous Provisions) Act 1976; or any other reasonable cause.
- 4.2 The rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002, allows the licensing authority to take into account all convictions recorded against an applicant or the holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Therefore the licensing authority will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.3 In this guidance the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

- 5.1 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 driver's licence and/or private hire vehicle operator's licence is a 'fit and proper' person to hold such a licence. However, if an applicant has any convictions, warnings or cautions or charges awaiting trial, the licensing authority will look into:
 - How relevant the offence(s) are to the licence being applied for
 - How serious the offence(s) were

- When the offence(s) were committed
- The date of conviction
- Circumstances of the individual concerned
- Sentence imposed by the court
- The applicant's age at the time of the offending
- Any other character check considered reasonable (e.g. personal references)
- Any other factors that might be relevant.

5.2 Existing holders of drivers' licences are required to notify the licensing authority in writing within 72 hours of receiving a driving licence endorsement, fixed penalty notice or criminal conviction (including cautions).

5.3 Applicants can discuss further what effect a caution/conviction may have on any application by contacting the licensing officer in confidence for advice.

5.4 The licensing authority requires enhanced disclosures from the Disclosure and Barring Service (DBS) by any applicant for a driver licence. From 01/12/12 DBS was formed merging the Criminal Records Bureau (CRB), which previously did this work, and the Independent Safeguarding Authority. The licensing authority follows the DBS's Code of Practice on the fair use of the disclosure information. A copy is available on request.

5.5 Applicants applying for the grant or a renewal of a driver's licence will be required to obtain an enhanced disclosure at their own expense. The licensing authority abides by the DBS policy on secure storage, handling, use, retention and disposal of disclosure information, which is available on request.

5.6 More information about the DBS can be found on the home office website at: www.homeoffice.gov.uk/agencies-public-bodies/dbs

5.7 The licensing authority is also entitled to use other records and information which may be available to it in determining applications or an entitlement to continue holding a licence. This may include information held by other licensing authorities, and information disclosed by the police under the Home Office scheme for reporting offences committed by notifiable occupations.

5.8 It is an offence for any person knowingly or recklessly to make false declaration or to omit any material particularly in giving information required by the application for a licence. Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

6 Serious offences involving violence

6.1 Licensed drivers have regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if the applicant has a conviction for an offence that involved the loss of life.

6.2 In other cases anyone of a violent disposition will normally be refused to be licensed until at least 3 years free of such a conviction. However, given the

range of the offences that involve violence, consideration must be given to the nature of the conviction.

6.3 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for an offence such as :

- Murder
- Manslaughter
- Manslaughter or culpable homicide while driving
- Terrorism offences
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.4 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 10 years prior to the date of application:

- Arson
- Malicious wounding or grievous bodily harm which is racially aggravated
- Actual bodily harm which is racially aggravated
- Grievous bodily harm with intent
- Robbery
- Possession of firearm
- Riot
- Assault Police
- Common assault racially/religiously aggravated
- Violent disorder
- Resisting arrest or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.5 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 5 years prior to the date of application:

- Racially-aggravated criminal damage
- Racially-aggravated offence, or
- any similar (including attempted or conspiracy to commit) offences which replace the above.

6.6 A licence will not normally be granted where the applicant has a conviction for an offence below and the conviction is less than 3 years prior to the date of application:

- Common assault
- Assault occasioning actual bodily harm
- Affray
- S5 Public Order Act 1986 offence (harassment, alarm or distress)
- S4 Public Order act 1986 offence (fear of provocation of violence)
- S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)

- Obstruction
- Criminal damage or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.7 A licence will not normally be granted if an applicant has more than one conviction in the last 10 years for an offence of a violent nature.

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

7. Possession of a weapon

7.1 If an applicant has been convicted of possession of a weapon or any other weapon related offence, this will give serious concern as to whether the person is fit to carry the public.

7.2 Depending on the circumstances of the offence, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), before a licence is granted.

8. Sex and indecency offences

8.1 As licensed driver often carry unaccompanied and vulnerable passengers, applicants with convictions for sexual offences must be closely scrutinised. Those with convictions for the more serious sexual offences will generally be refused. For other offences, applicants will be expected to show a substantial period (normally at least 5 years) free of conviction for such offences before a licence is granted.

8.2 (a) Unless there are exceptional circumstances, an application will normally be refused where the applicant has a conviction for an offence such as:

- Rape
- Assault by penetration
- Offences involving children or vulnerable adults
- Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.3 (b) Before an application is allowed, an applicant should be free of conviction for at least 10 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as :

- Sexual assault
- Indecent assault
- Possession of indecent photographs, child pornography etc.
- Exploitation of prostitution
- Trafficking for sexual exploitation or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.4 (c) Before a licence is granted, an applicant should be free of conviction for a at least 3 years (or at least 3 years must have passed since the completion of the sentence, whichever is longer), if he/she has a conviction for an offence such as:

- Indecent exposure
- Soliciting (kerb crawling) or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

8.5 In addition to the above the licensing authority will not normally grant a licence to any applicant who is currently on the Sex Offenders Register.

8.6 A licence will not normally be granted if an applicant has more than one conviction for a sex or indecency offence.

9. Dishonesty

9.1 A Licensed PHV or taxi driver is expected to be a trustworthy person. They deal with cash transactions and valuable property may be left in their vehicles. Taxi drivers are required to deposit such property with police within 24 hours. PHV drivers must pass lost property to the operator. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in licensed drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal or agreed fare, etc. overseas visitors can be confused by our currency and may be vulnerable to an unscrupulous driver. For all these reasons, a serious view is taken of any conviction involving dishonesty.

9.2 In general, a minimum period of 3 years free of conviction or at least 3 years from completion of sentence (whichever is the longer) should be required before granting a licence. Offences involving dishonesty include:

- Theft
- Burglary
- Fraud
- Benefit fraud
- Handling or receiving stolen goods
- Forgery
- Conspiracy to defraud
- Obtaining money or property by deception
- Other deception
- Taking a vehicle without consent or
- any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10. Drugs

10.1 A serious view is taken of any drug related offences. The nature and quantity of the drugs, whether for personal use or supply are issues which should be considered.

- 10.2 A licence will not normally be granted where the applicant has a conviction for an offence related to the supply of drugs and has not been free of conviction for 5 years.
- 10.3 A licence will not normally be granted where the applicant has more than one conviction for the offence related to the possession of drugs and has not been free of conviction for 5 years.
- 10.4 An application from an applicant who has an isolated conviction for an offence related to the possession of drugs within the last 3-5 years may be granted a licence, but consideration should be given to the nature and quantity of the drugs.
- 10.5 If there is evidence of persistent drug use or dependency a specialist medical examination (in accordance with DVLA Group 2 medical standards) may be required before a licence is granted. If the applicant was an addict then they would normally be required to show evidence of 5 years free from drug taking after detoxification treatment.

11. Driving offences involving loss of life

- 11.1 A very serious view is to be taken of any applicant who has been convicted of a driving offence that resulted in loss of life.

A licence will not normally be granted unless the applicant is free of conviction for 7 years or (or at least 3 years must have passed since the completion of the sentence, whichever is longer) if he has a conviction for:

- Causing death by dangerous driving
- Causing death by careless driving whilst under the influence of drink or drugs or
- any similar offences (including attempted or conspiracy to commit) offence which replace the above

- 11.2 Before a licence is granted, an applicant should be free of conviction for 3 years (or at least 3 years must have passed since the completion of the sentence whichever is longer), if he has a conviction for:

- Causing death by careless driving
- Causing death by careless driving: unlicensed, disqualified or uninsured drivers.

12 Drink driving/driving under the influences of drugs

- 12.1 As licensees are professional vocational drivers, a serious view is taken of convictions for driving, or being in charge of a vehicle while under the influence of drink or drugs. An isolated incident would not necessarily debar an applicant from proceeding on the restoration of his DVLA driving licence but he should be warned as to the significant risk to his licence status in the event of re-offending. More than one conviction for these offences raises significant doubts as to the applicants fitness to drive the public. At least 3 years, after the restoration for the driving licence following a drink drive conviction should elapse before an application will be considered. If there is any suggestion that the applicant is alcohol or drug dependent, a satisfactory special medical report must be provided before the application can be allowed to proceed.

13 Outstanding charges or summonses

- 13.1 If the individual is the subject of an outstanding charge or summons their application can continue to be processed, but the application will need to be reviewed at the conclusion of proceedings. Where information is received through the Notifiable Occupations Scheme on existing licence holders, consideration will be made at Subcommittee.
- 13.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application may be put on hold until proceedings are concluded or the licence may be refused.
- 13.3 A suspension or revocation of the licence of a driver takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver. If it appears that the interests of the public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver includes a statement that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver. (Road Safety Act 2006, 2 52, 2A&2B)

14 Non-conviction information

- 14.1 If an applicant has, on more than one occasion, been arrested or charged, but not convicted, for a serious offence which suggests he could be a danger to the public, consideration should be given to refusing the application. Such offences would include serious violent offences and serious sex offences.
- 14.2 In assessing the action to take, the safety of the travelling public must be the paramount concern.

15 Cautions

- 15.1 Admission of guilt is required before a caution can be issued. Every case will be considered on its own merits including the details and nature of the offence.

16 Licensing offences

- 16.1 Certain offences under taxi legislation such as plying for hire, overcharging and refusing to carry disabled persons would normally prevent a licence being granted or renewed until a period of 3 years has passed since.

17 Insurance offences

- 17.1 A serious view will be taken of convictions of driving or being in charge of a vehicle without insurance. An isolated incident in the past will not necessarily stop a licence being granted provided he/she has been free of conviction for 3 years, however strict warning should be given as to future

behaviour. More than one conviction for these offences would normally prevent a licence being granted or renewed.

- 17.2 At least three years should elapse (after the restoration of the DVLA driving licence), before a licence would normally be granted for a hackney carriage or private hire drivers licence. An operator found guilty or aiding and abetting the driving of passengers for hire and reward whilst without insurance will have his operators' licence revoked immediately and prevented from holding a licence for three years.

18 Overseas residents

- 18.1 If a private hire operator applicant has spent six continuous months or more overseas the licensing authority will expect to see evidence of a criminal record check from the country/countries covering the period.

19 Licences issued by other licensing authorities

- 19.1 Applicants who hold a licence with one licensing authority should not automatically assume that their application will be granted by another. Each case will be decided on its own merits.

20. Other Motoring Offences.

- 20.1 There are many motoring offences which attract penalty points and fines. Some of these are not necessarily a bar from an applicant being granted a licence or an existing driver retaining a licence.
- 20.2 However, there are circumstances when it may be appropriate to refer an application or licence for determination or review at a Sub-committee hearing. This will generally apply where there is evidence of a total of 9 or more points on the DVLA record.
- 20.3 For totting up purposes, courts consider that points will be valid for three years from conviction even though these may appear on the driving licence for four years. This principle is used by officers when considering applications.

21. Summary

- 21.1 To summarise, 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 would be expected to remain free from conviction for from 3 years to 10 years, according to circumstances, before an application can be considered. However, there may be occasions when an application can be allowed before 3 years free from conviction have elapsed.
- 21.2 Any person who has committed an offence and has to wait before an application is positively considered is more likely to value their licence and act accordingly.

21.3 While it is possible that an applicant may have a number of convictions that, individually, meet the above guidelines, the overall offending history must 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. Clearly some discretion can be afforded if an offence disclosed is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public.

Annex A- Motoring offences and penalty points

The following is a guide to the number of penalty points a court may impose. It does not reflect the fact that some offences may incur a disqualification. These codes are recorded from information supplied by the courts (accurate at the time of this document).

Code	Offence	Penalty Point
Accident Offences		
AC10	Failing to stop after an accident	5-10
AC20	Failing to give particulars or to report an accident within 24 hours	5-10
AC30	Undefined accident offences	4-9
Disqualified Driver		
BA10	Driving whilst disqualified by a court order	6
BA30	Attempting to drive while disqualified by order of court	6
Careless Driving		
CD10	Driving without due care and attention	3-9
CD20	Driving without reasonable consideration for other road users	3-9
CD30	Driving without due care and attention or without reasonable consideration for other road users	3-9
CD40	Causing death through careless driving when unfit through alcohol	3-11
CD50	Causing death by careless driving when unfit through drugs	3-11
CD60	Causing death by careless driving with alcohol level above the limit	3-11
CD70	Causing death by careless driving then failing to supply a specimen for analysis	3-11
CD71	Causing death by careless driving then failing to supply a specimen for drug analysis	3-11
CD80	Causing death by careless, or inconsiderate driving	3-11

CD90	Causing death by driving: unlicensed, disqualified or uninsured drivers	3-11
Construction & Use of Offences		
CU10	Using a vehicle with defective brakes	3
CU20	Causing or likely to cause danger by reason of use of unsuitable vehicles or using a vehicle with parts or accessories (excluding brakes, steering or tyres) in a dangerous condition	3
CU30	Using a vehicle with defective tyre(s)	3
CU40	Using a vehicle with defective steering	3
CU50	Causing or likely to cause danger by reason of load or passengers.	3
CU80	Using a mobile phone while driving a vehicle	3
Dangerous Driving		
DD40	Dangerous driving	3-11
DD60	Manslaughter or culpable homicide while driving a vehicle	3-11
DD90	Furious driving	3-9
Drink or Drugs		
DR10	Driving or attempting to drive with alcohol level above limit	3-11
DR20	Driving or attempting to drive while unfit through drink	3-11
DR30	Driving or attempting to drive then failing to supply a specimen for analysis	3-11
DR40	In charge of a vehicle while alcohol level above limit	10
DR50	In charge of vehicle while unfit through drink	10
DR60	Failure to provide a specimen for analysis in circumstances other than driving or attempting to drive	10
DR61	Failure to supply a specimen for drug analysis in circumstances other than driving or attempting to drive	10
DR70	Failing to provide specimen for breath test	4
DR80	Driving or attempting to drive when unfit through drugs	3-11
DR90	In charge of a vehicle when unfit through drugs	3-11
Insurance Offences		
IN10	Using a vehicle uninsured against third party risks	6-8
Licence Offences		
LC20	Driving otherwise than in accordance with the licence	3-6
LC30	Driving after making a false declaration about fitness applying for a licence	3-6
LC40	Driving a vehicle having failed to notify a disability	3-6
LC50	Driving after a licence has been revoked or refused on medical grounds	3-6
Miscellaneous Offences		
MS10	Leaving a vehicle in a dangerous position	3
MS20	Unlawful pillion riding	3
MS30	Play street offences	2
MS50	Motor racing on highway	3-11

MS60	Offences not covered by other codes	As appropriate
MS70	Driving with uncorrected defective eyesight	3
MS80	Refusing to submit to an eyesight test	3
MS90	Failure to give information as to identity of driver etc	3
Motorway Offences		
MW10	Contraventions of Special Roads Regulations (excluding speed limits)	3
Pedestrian crossings		
PC10	Undefined Contravention of Pedestrian Crossing Regulation	3
PC20	Contravention of Pedestrian crossing Regulations with moving vehicle	3
PC30	Contravention of Pedestrian Crossing Regulations with stationary vehicle	3
Speed Limits		
SP10	Exceeding goods vehicle speed limits	3-6
SP20	Exceeding speed limit for type of vehicle (excluding goods or passenger vehicles)	3-6
SP30	Exceeding statutory speed limit on a public road	3-6
SP40	Exceeding passenger vehicle speed limit	3-6
SP50	Exceeding speed limit on motorway	3-6
Traffic Directions and Signs		
TS10	Failing to comply with traffic light signals	3
TS20	Failing to comply with double white lines	3
TS30	Failing to comply with 'Stop' sign	3
TS40	Failing to comply with direction of a constable/warden	3
TS50	Failing to comply with a traffic sign (excluding stop signs, traffic signs or double white lines)	3
TS60	Failing to comply with a school crossing patrol sign	3
TS70	Undefined failure to comply with a traffic direction sign	3
Special Code		
TT99	To signify a disqualification under totting-up procedure. If total of penalty points reaches 12 or more within 3 years, the driver is liable to be disqualified.	
Theft or unauthorised Taking		
UT50	Aggravated taking of a vehicle	3-11

Aiding, abetting, counselling or procuring

Offences as coded but with 0 changed to 2 e.g LC10 becomes LC12

Causing or permitting

Offences as coded, but with 0 changed to 4 e.g. LC10 becomes LC14

Inciting

Offences as coded, but with the end 0 changed to 6 e.g. DD40 becomes DD46

Non-endorsable offences

Some offences are non-endorsable. A non-endorsable offence is an offence which courts do not endorse onto paper counterpart. No penalty points are attributed to these offences but they carry a period of disqualification.

At the end of the disqualification (over 56 days) the driver will have to apply for a renewal licence together with the appropriate fee. Any queries about offences and endorsements should be directed to the convicting court.

Period of time

Periods of time are signified as follows: D=days, M=months, Y=years.

Endorsements remain on a counterpart licence for the following periods of time:

Endorsements must remain on a licence for 11 years from the date of conviction if the offence is:

- Drinking/drugs and driving (shown on licence as DR10, DR20, DR30 (?) and DR80).
- Causing death by careless driving whilst under the influence of drink/drugs (shown on licence as CD40, CD50 and CD 60).
- Causing death by careless driving, then failing to provide a specimen for analysis (shown on the licence as CD70).

Or 4 years from the date of conviction if the offence is as listed below:

- Reckless/dangerous driving (shown on licence as DD40, DD60 and DD80)
- Offences resulting in disqualification.
- Disqualification from holding a full licence until driving test has been passed.

Or 4 years from the date of offences in all other cases.

Source www.direct.gov.uk

Harlow Council Taxi and PHV Licensing Criminal Convictions Policy

1 Introduction

- 1.1 The purpose of this policy is to provide guidance on the criteria used by the Council when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage or private hire driver or operator licence (“a licence”) and whether to exercise its powers to refuse, revoke or suspend such a licence.
- 1.2 The overriding aim of the licensing authority is to protect the safety of the public. The licensing authority is concerned to ensure:
- a. That a person is a fit and proper person
 - b. That the person does not pose a threat to the public
 - c. That the public are safeguarded from dishonest persons
 - d. The safeguarding of children and young persons
- 1.3 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:
- a. Applicants for drivers’ and private hire operator licences
 - b. Existing licensed drivers and private hire operators whose licence are being renewed
 - c. Licensing officers
 - d. Officers with delegated powers subject to the scheme of delegation
 - e. Members of the Licensing Committee and Licensing Sub Committee
 - f. Courts hearing appeals against local authority decisions.
- 1.4 Licensing officers shall utilise these guidelines when making a decision to grant a licence. All contentious licence applications shall be determined in accordance with the scheme of delegation.
- 1.5 Whilst officers and the Subcommittee shall have regard to the guidelines contained in the policy, **each case shall be considered on its individual merits and where the circumstances demand, the Subcommittee or officer may depart from this policy.**

2 General policy

- 2.1 There may be occasions where it is appropriate to depart from the guidelines in this Policy, for example where the offence is a one-off occasion or there are mitigating circumstances or alternatively where there are many or continuous offences which may show a pattern of offending and unfitness.
- 2.2 A person with a conviction for a serious offence need not be automatically barred from obtaining a licence but would normally be expected to:
- a. Remain free of conviction for an appropriate period indicated in this Policy, and
 - b. 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. Where an applicant has been convicted of a criminal offence, the Council will not review the merits of the conviction (Nottingham City Council v. Mohammed Farooq (1998))

- 2.3 Where this policy requires an applicant to be free from conviction for any specified period, that period shall commence from either the date of sentence or the date of completion of a sentence, whichever date is the later. The same specified periods will apply to a suspended sentence of imprisonment, as apply to an immediate custodial sentence and community penalty orders.
- 2.4 Any reference in this policy to conviction for an offence also includes aiding and abetting, counselling or procuring that offence or an attempt or conspiracy to commit that offence and/or any offence which replaces that offence due to a change in law.
- 2.5 The following link to motoring offences and penalty points is a guide to the number of penalty points a court may impose, it does not reflect the fact that some offences may incur a disqualification.
<https://www.gov.uk/penalty-points-endorsements>

3. Appeals

- 3.1 Any applicant refused a licence on the grounds that the Council is not satisfied that he or she is a fit and proper person to hold such a licence or an existing licence holder has had a licence suspended or revoked or had conditions attached to their licence, has a right to appeal to the Magistrates' Court within 21 days of the notice of refusal or the decision attaching conditions.

4. Powers

- 4.1 Section 61 and Section 62 of the Local Government Miscellaneous Provisions Act 1976 ("the 1976 Act") allow the Council to suspend, revoke or refuse to renew a licence if the applicant/licence holder has been convicted of an offence involving dishonesty, indecency, violence; failure to comply with the provisions of the Town and Police Clauses Act 1847 ("the 1847 Act"); failure to comply with the provisions of Part II of 1976 Act; or where there is any other reasonable cause.
- 4.2 The Rehabilitation of Offenders Act 1974 provides that after a defined period, convictions and cautions will not need to be disclosed for most purposes; these are termed "spent" convictions and cautions. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), however, provides for the Council to take into account **all** recorded convictions etc. in the case of an applicant for or holder of a private hire vehicle or hackney carriage driver's licence, whether spent or not. Thus the Council will have regard to all relevant convictions, particularly where there is a long history of offending or a recent pattern of repeat offending.
- 4.3 In this policy the term "disqualification" refers to the period served, in order to take account of the fact that a court may reduce the period of disqualification from driving. An applicant must provide evidence in advance to prove that the court agreed a reduction in the period of disqualification.

5. Consideration of disclosed criminal history

- 5.1 Under the provisions of Sections 51, 55 and 59 of the 1976 Act, the Council 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 operator's licence is a 'fit and proper' person to hold such a licence.
- 5.2 If an applicant has been convicted of any offence, received warnings, cautions, reprimands, or has charges against them for an offence awaiting trial, is on bail before being charged or has been the subject of an anti-social behaviour order, the Council will consider :
- a. How relevant the offence(s) are to the licence being applied for
 - b. How serious the offence(s) are/were
 - c. When the offence(s) were committed
 - d. The date of conviction
 - e. Circumstances of the individual concerned

- f. Sentence imposed by the court
- g. The applicant's age at the time of the conviction(s)
- h. Any other character check considered reasonable (e.g. personal references), and
- i. Any other factors that might be relevant.

5.7 The Council is entitled to use other records and information which may be available to it when determining applications or when reviewing an existing licence. This may include information held by other licensing authorities and information held and disclosed by the police under the common law disclosure arrangements.

5.8 Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the licence will normally be refused.

5.9 The Council may also consider evidence of an applicant's conduct even though the applicant has not been convicted of any offences, received a caution or a warning or been dealt with under restorative justice procedures, etc. in relation to that conduct. Any decision regarding the conduct concerned will be based on the civil standard i.e. on the balance of probabilities.

6 Serious offences involving violence

6.1 Licensed drivers have close regular contact with the public. A firm line is to be taken with those who have convictions for offences involving violence. An application will normally be refused if an individual has a conviction for an offence that involves the loss of life.

6.2 A licence will not normally be granted where an individual has been convicted of an offence involving violence, unless free of conviction for 5 years, as determined in Section 2.3 above. However, given the range of the offences that involve violence, consideration must be given to the nature of the incident or conviction.

6.4 Unless there are exceptional circumstances a licence will not normally be granted where the applicant has a conviction for:

- a. Murder
- b. Manslaughter
- c. Manslaughter or culpable homicide while driving
- d. Terrorism offences
- e. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.
- f. A licence will not normally be granted to a person subjected to civil restrictions under the Protection from Harassment Act 1997

6.5 A licence will not normally be granted where an individual has been convicted of an offence, unless free of conviction for 10 years, as determined in Section 2.3 above:

- a. Arson
- b. wounding or grievous bodily harm, S18 or S20 Offences Against the Person Act 1861
- c. Actual bodily harm which is racially aggravated
- d. Robbery
- e. Possession of firearm
- f. Riot
- g. Assault on Police
- h. Common assault Any racially aggravated violence or Violent disorder
- i. Resisting arrest
- j. Breaching of a non-molestation order under section 42 Family Law Act 1996.
- k. An offence under the Domestic Violence, Crime and Victims Act 2004
- l. An offence under Section 76 of the Serious Crimes Act 2015
- m. An offence under the Protection from Harassment Act 1997
- n. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

- 6.6 A licence will not normally be granted where an individual has been convicted of any other racially aggravated offence (see section above) unless free of conviction for 7 years, as determined in Section 2.3 above.
- 6.7 A licence will not normally be granted where an individual has been a convicted of an offence unless free of for 5 years, as determined in Section 2.3 above
- a. Common assault
 - b. Assault occasioning actual bodily harm
 - c. Affray
 - d. S5 Public Order Act 1986 offence (harassment, alarm or distress)
 - e. S4 Public Order act 1986 offence (fear of provocation of violence)
 - f. S4A Public Order Act 1986 offence (intentional harassment, alarm or distress)
 - g. Obstruction
 - h. Criminal damage
 - i. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

6.8 Under section 6.7 above, a licence will not normally be granted if an individual has been convicted of more than one offence of a violent nature in the last 7 years, as determined in Section 2.3 above.

7. Possession of a weapon

7.1 A licence will not normally be granted if an individual has been convicted of an offence, unless free of conviction for 5 years, as determined in Section 2.3 above.

8. Sexual and indecency offences

8.1 Licensed drivers often carry unaccompanied and vulnerable passengers. An individual with convictions for the more serious sexual offences will generally be refused.

8.2 Any individual on the Sex Offenders Register will normally be refused a licence

8.3 A licence will not normally be granted where an individual has been convicted of more than one sexual or indecency offence.

8.4 Unless there are exceptional circumstances, an application will normally be refused where the applicant has been convicted of an offence such as:

- a. Rape
- b. Assault by penetration
- c. Offences involving children or vulnerable adults
- d. Sexual assault or Indecent assault
- e. Possession of indecent photographs, child pornography, revenge pornography etc.
- f. Exploitation of prostitution
- g. Trafficking for sexual exploitation

8.5. A licence will not normally be granted where an individual has been convicted of an offence below, unless free of conviction for 5 years, as determined in Section 2.3 above:

- a. Indecent exposure,
- b. Soliciting (e.g. kerb crawling), or
- c. any similar offences (including attempt or conspiracy to commit) or offences which replace the above.

9 Dishonesty

- 9.1 A licence will not normally be granted where an individual has been convicted of an offence **listed below**, unless free of conviction for 5 years, as determined in Section 2.3 above. Offences involving dishonesty include but are not limited to:
- a. Theft
 - b. Burglary
 - c. Fraud
 - d. Benefit fraud
 - e. Handling or receiving stolen goods
 - f. Forgery
 - g. Conspiracy to defraud
 - h. Obtaining money or property by deception
 - i. Other deception
 - j. Taking a vehicle without consent
 - k. Perverting the course of justice
 - l. Or any similar offences (including attempted or conspiracy to commit) offences which replace the above.

10 Drugs

- 10.1 A licence will not normally be granted where the individual has been convicted for an offence related to the supply or possession of drugs unless the applicant has been free of conviction for 5 years as determined in Section 2.3 above..
- 10.2 A licence will not normally be granted where the individual has been convicted of more than one offence relating to the supply or possession of drugs and has not been free of conviction for 7 years, as determined in Section 2.3 above
- 10.3 If there is evidence of persistent drug use, misuse or dependency, a specialist medical examination (in accordance with DVLA Group 2 medical standards) will be required before consideration may be given to grant of a licence.

11. Driving offences involving loss of life

- 11.1 A very serious view is to be taken of an individual who has been convicted of a driving offence that resulted in loss of life. Unless there are exceptional circumstances, a licence will not normally be granted where an individual has been convicted of an offence listed below unless free of conviction for 10 years, as determined in Section 2.3 above;
- a. Causing death by dangerous driving
 - b. Causing death by careless driving whilst under the influence of drink or drugs
 - c. Causing death by careless driving, or
 - d. Causing death by driving: unlicensed, disqualified or uninsured drivers.

12 Drink driving/driving under the influences of drugs

- 12.1 A licence will not normally be granted where an individual has been convicted of an offence related to drink driving or driving under the influence of drugs unless free of conviction for 5 years, as determined in Section 2.3 above.
- 12.2 More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. Where an applicant has been convicted of more than one such offence a licence will not normally be granted unless free of conviction for 7 years, as determined in Section 2.3 above.
- 12.3 Medical evidence will also be required in accordance with paragraph 11.4 above where there is evidence of misuse or dependency.

13. Use of mobile phone whilst driving

- 13.1 A licence will not normally be granted where an individual has been convicted of an offence related to use of mobile phone whilst driving unless free of conviction for 3 years, as determined in Section 2.3 above.
- 13.2 More than one conviction for these offences raises significant doubts as to the applicant's fitness to drive the public. Where an applicant has been convicted of more than one such offence a licence will not normally be granted unless free of conviction for 5 years, as determined in Section 2.3 above.

14 Licensing offences, Breaches of Legislation, Conditions, Bye Laws and Complaints

- 14.1 The primary legislation for licensed drivers, vehicle owners and private hire operators is contained within the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847. Examples of these offences are contained in Appendix A.
- 14.2 A licence will not normally be granted where an individual has been convicted for offences under Hackney Carriage and Private Hire legislation unless free of conviction for 3 years, as determined in Section 2.3 above.
- 14.3 Licence holders are expected to comply with all relevant statutes, the Council's bye-laws, appropriate licence conditions and the Highway Code at all times. Individuals who persistently breach these will be liable to have their licence reviewed to consider whether they are still a fit and proper person to hold a licence.
- 14.4 Individuals who are the subject of persistent complaints will be liable to have their licence reviewed to consider whether they are still a fit and proper person to hold a licence.

15 Motor Vehicle Insurance offences

- 15.1 A licence will not normally be granted where an individual has been convicted for insurance offences unless free of conviction for 3 years, as determined in Section 2.3 above
- 15.2 Where an individual has been convicted of more than one such offence a licence will not normally be granted unless free of conviction for 5 years, as determined in Section 2.3 above.
- 15.3 An operator found guilty of aiding and abetting the driving of passengers for hire and reward whilst without insurance will normally have his operators' licence revoked immediately and be prevented from holding a licence for at least three years.

16. Other driving offences

- 16.1 An isolated conviction for a motoring offence may not normally mean a refusal of a licence, subject to the offences already mentioned in the Policy. However, each case will be considered on its own merit.
- 16.2 A new applicant with points on their licence will normally be treated as follows:
- a) up to and including 6 points over a period of 3 years, applicant should be free of conviction for 12 months and the licence will normally be granted, with an advice letter.
 - b) 7-9 points, over a period of 3 years, applicant should be free of conviction for 24 months and the licence will normally be granted, with a warning letter, or
 - c) 10 points and above over a period of 3 years, application will normally be refused.

- 16.3 An existing Harlow Council licensed driver who accrues DVLA points during the term of their licence will normally be treated as follows:
- a) a total of 6 points on DVLA licence, advice letter to be issued,
 - b) 7-9 points on DVLA licence, warning letter to be issued, or
 - c) 10 points and above, matter referred to Licensing Sub Committee or Licensing Manager for review

16.4 In considering motoring convictions the type of offence for which the points were imposed will be considered in each case.

17 Outstanding charges or summonses

17.1 If the individual is the subject of an outstanding charge or summons, their application can continue to be processed but the application will need to be reviewed either at the conclusion of any legal proceedings or at the end of the licensing process, whichever is earlier. Where an applicant has completed all steps in the licensing process but remains subject to outstanding charges, the application shall be referred by the licensing team to the Licensing subcommittee for determination.

17.2 If the outstanding charge or summons involves a serious offence and the individual's conviction history indicates a possible pattern of unlawful behaviour or character trait, then in the interests of public safety the application will likely not be granted until proceedings are concluded or the application may be refused.

18 Non-conviction information

18.1 If an individual has been arrested or charged, but not convicted, for a serious offence which suggests the individual could be a danger to the public, consideration shall be given by Harlow Council to refusing the application. The Council will consider all available evidence and determine whether a licence should be granted.

18.2 The Council may and shall be entitled to have regard to non-conviction information when deciding whether to grant or refuse a driver or operator licence. In assessing the action to take, the safety of the travelling public shall be of paramount concern.

18.3 Where information is received on existing licence holders, then the Council will take appropriate action depending upon the nature of the incident, the drivers past history and with consideration to Section 1.2 above. The Council may consider it appropriate to suspend or revoke a licence depending upon the circumstances.

19 Cautions

19.1 If an individual has received a caution a licence will not normally be granted until the applicant is free of conviction or caution, based on the time period for the category of offence referred to in this Policy and as determined by Section 2.3 above.

19.2 An existing driver who receives a caution may have their licence reviewed and the appropriate action taken by the Council.

20. Other offences

20.1 The Council reserves the right to consider any other offences not specifically mentioned in this Policy in deciding whether an applicant or existing licence holder is a fit and proper person.

21 Summary

- 21.1 While it is possible that an applicant may have been convicted of a number of offences that individually meet the Policy, the overall offending history shall be considered when assessing an applicant's suitability to be granted a license.
- 21.2 A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Some discretion may be afforded for isolated offences and where there are mitigating circumstances, but the overriding consideration is the protection of the public.

APPENDIX A

Town Police Clauses Act 1847 and Local Government (Miscellaneous Provisions) Act 1976

Hackney Carriage and Private Hire Offences & Penalties

Offences under the above legislation are set out below. Offences may also be committed under other legislation not listed below. Drivers and operators must comply with the legislation or they risk prosecution.

Town Police Clauses Act 1847

Section	Offence
40	Giving false information on application for hackney carriage licence
44	Failure to notify change of address of hackney carriage proprietor
45	Plying for hire without hackney carriage proprietor's licence
47	Driving a hackney carriage without hackney carriage driver's licence
47	Lending or parting with hackney carriage driver's licence
47	Hackney carriage proprietor employing unlicensed driver
48	Failure by hackney carriage proprietor to hold hackney carriage driver's licence.
48	Failure by hackney carriage proprietor to produce hackney carriage driver's licence.
52	Failure to display hackney carriage plate
53	Refusal to take a fare
54	Charging more than the agreed fare
55	Obtaining more than the legal fare
56	Travelling less than the lawful distance for an agreed fare
57	Failing to wait after a deposit to wait has been paid
58	Charging more than the legal fare
59	Carrying other person than the hirer without consent
60	Driving hackney carriage without proprietor's consent
60	Allowing another to drive hackney carriage without proprietor's consent
61	Drunken driving of hackney carriage
61	Wanton or furious driving leading to injury or danger
62	Driver leaving hackney carriage unattended
64	Hackney carriage driver obstructing other hackney carriages

Local Government (Miscellaneous Provision) Act 1976

Section	Offence
46(1)(a)	Using an unlicensed private hire vehicle
46(1)(b)	Driving a private hire vehicle without a private hire driver's licence
46(1)(c)	Proprietor of a private hire vehicle using an unlicensed driver
46(1)(d)	Operating a private hire vehicle without a private hire operator's licence
46(1)(e)	Operating a vehicle as a private hire vehicle when the vehicle is not licensed as a private hire vehicle.
48(6)	Failure to display a private hire vehicle plate
49	Failure to notify transfer of a hackney carriage proprietors, or private hire vehicle, licence
50(1)	Failure to present hackney carriage or private hire vehicle for inspection as Required
50(2)	Failure to inform the Authority where the hackney carriage or private hire vehicle is stored, if requested
50(3)	Failure to report an accident to the Authority
50(4)	Failure to produce the hackney carriage proprietor's, or private hire vehicle, licence and insurance certificate
53(3)	Failure to produce the hackney carriage or private hire driver's licence
54(2)	Failure to wear a private hire driver's badge
56(2)	Failure by a private hire operator to keep records of bookings
56(3)	Failure by a private hire operator to keep records of private hire vehicles operated by him
56(4)	Failure to produce a private hire operator's licence on request
57	Making a false statement or withholding information to obtain a hackney carriage, private hire driver or private hire operator licence
58(2)	Failure to return a plate after notice given following expiry, revocation or suspension of a hackney carriage proprietor's, or private hire vehicle, licence
61(2)	Failure to surrender a driver's licence after suspension, revocation or refusal to renew
64	Permitting any vehicle other than a hackney carriage to wait on a hackney carriage stand
66	Charging more than the meter fare for a journey ending outside the district, without prior agreement
67	Charging more than the meter fare when hackney carriage used as private hire vehicle
69	Unnecessarily prolonging a journey
71	Interfering with a taximeter
73(1)(a)	Obstruction of an authorised Officer or Constable
73(1)(b)	Failure to comply with a requirement of an authorised Officer or Constable
73(1)(c)	Failure to give information or assistance to an authorised Officer or Constable

Version 1, September 2006
Version 2, September 2007
Version 3, November 2008
Version 4 January 2009
Version 5, October 2014
Version 6 , September 2017

REPORT TO: LICENSING COMMITTEE

DATE: 12 SEPTEMBER 2017

TITLE: LICENSED DRIVER TRAINING

LEAD OFFICER: MICHAEL PITT, ENVIRONMENT AND LICENSING MANAGER (01279) 446114

CONTRIBUTING OFFICER: DAVID TAYLOR, PRINCIPAL EHO (LICENSING) (01279) 446164

RECOMMENDED that:

- A The Licensing Committee recommend to Full Council adoption of proposals to provide for additional approved means of meeting the Council's driver licensing requirements for Child Sexual Exploitation and Disability Awareness training, as set out at paragraphs 8 to 13 of the report.

BACKGROUND

1. Members of the Licensing Committee will be aware that following the Licensing Committee Meeting of 22 March 2016 a requirement for licensed drivers to attend training provided by the Council on Child Sexual Exploitation (CSE) and Disability Awareness (DA) was implemented. The requirement applies to new applicants and to existing drivers when renewing their licence.
2. A CSE training programme to cater for existing licensees was delivered over 11 months between June 2016 and May 2017, and a Disability Awareness training programme began on 9 May and will with the aim of training all existing drivers by winter 2017.
3. CSE and DA training will be made available to new applicants when they make their first application for a driver's licence. On completion of the current DA training programme, additional CSE and DA training courses will be made available every 6 to 9 months according to demand.
4. CSE training is now being delivered by neighboring authorities including Epping Forest District Council.

ISSUES

5. The anticipated low demand for future training will create delays for new applicants because the Council may be unable to offer a training place for up to 8 months. This might act as a barrier to new applicants.

6. A number of existing licensed drivers have been affected by issues raised by in the CSE course and have approached the licensing team about options other than group training to fulfil the obligation. The Council should be mindful of its duty to protect the interests of persons who have been directly affected by historic CSE issues and therefore it may be appropriate in certain limited circumstances to offer alternative training arrangements.
7. Additional approved means of meeting the Council's driver licensing requirements for Child Sexual Exploitation and Disability Awareness training will allow the Council to address these issues.

PROPOSALS

8. Where otherwise appropriate, applications for drivers' licenses be granted where the Council is unable to offer CSE or DA training within a reasonable time frame and where;
 - The driver/applicant gives an undertaking that she/he will participate in the next available course and,
 - The driver/applicant has not without good reason previously declined an offer of training.
 - The driver/applicant has not previously disregarded offers of training.
9. Where an applicant can show that he/she has been directly affected by CSE issues to the extent that group CSE training would be inappropriate, the Licensing team in consultation with the Designated Safeguarding Officer the Council is to offer appropriate one-to-one training or other suitable training in lieu: any additional cost to be borne by the applicant.
10. Where an applicant can show that he/she is unable to attend group training sessions provided the Licensing team in consultation with the Designated Safeguarding Officer the Council is to offer appropriate one-to-one training or other suitable training in lieu: any additional cost to be borne by the applicant. It is anticipated that this exemption will be rarely applied.
11. CSE and DA training provided at another authority be deemed to fulfil the Council's licensing requirements in respect of such training where the course curriculum is assessed by the Licensing team as being equivalent to that provided by Harlow Council. This will provide more flexibility for drivers and new applicants.
12. Where an applicant can show that he/she has received CSE or DA training to a standard equivalent to or higher than that offered by the Council in another profession or setting within the preceding 3 years, the Council's licensing requirements in respect of such training to be deemed to be satisfied . It is anticipated that this discretion would be appropriate in the case of persons

working as teachers, social workers and similar occupations, and would be exercised infrequently.

13. The approach to training applicants proposed at paragraphs 8-12 be applied to any existing licensee who has not completed all training requirements.

IMPLICATIONS

Place (includes Sustainability)

As set out in the report.

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

None specific.

Author: **Simon Freeman, Head of Finance**

Housing

None specific.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

Suitable arrangements to ensure that all drivers can be readily trained on Child Sexual Exploitation and Disability issues will make a valuable contribution to Community Wellbeing

Author: **Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

The approval of flexible arrangements for Child Sexual Exploitation and Disability Awareness training will facilitate a process that will continue to ensure compliance with the Council's licensing conditions

Author: **Dimple Roopchand Assistant Solicitor for Brian Keane, Head of Governance**

Background Papers

None.

Glossary of terms/abbreviations used

CSE	Child Sexual Exploitation
DA	Disability Awareness

REPORT TO: LICENSING COMMITTEE

DATE: 12 SEPTEMBER 2017

TITLE: ARRANGEMENTS FOR STREET TRADING IN THE TOWN CENTRE

LEAD OFFICER: MICHAEL PITT, ENVIRONMENT AND LICENSING MANAGER (01279) 446114

CONTRIBUTING OFFICER: DAVID TAYLOR, PRINCIPAL EHO (LICENSING) (01279) 446164

RECOMMENDED that:

- A** The Licensing Committee recommends to Full Council the adoption of the revised fees and charges structure for street trading pitches on land that the Council owns in the town centre set out at Appendix 1 to the report.
- B** The Licensing Committee recommends to Full Council approval of collection of fees monthly by direct debit.

BACKGROUND

1. Members of the Licensing Committee will be aware that a limited number of 'street trading pitches' on land that the Council owns in the town centre are available for rent. The fees and charges associated with these are determined annually as part of the Council's budget setting process. Four trading pitches in Broad Walk have been occupied by a flower seller, a hot sausage seller (now vacant), a child's carrousel, and an ice cream seller. Fees historically are calculated on daily attendance and routinely paid in cash.
2. In 2015 the Council approved a proposal to permit former Harlow Market traders to operate from marked pitches in Broad Walk and East Gate under the Street Trading provisions of the Local Government (Miscellaneous Provisions) Act 1982. This requires traders to apply for annual Street Trading Licenses the fee for which is currently £360.00.
3. Street traders throughout Harlow must apply for annual statutory street trading licenses. Where traders operate on Council owned land they must also pay a monthly 'pitch rental' charge.
4. In the absence of the necessary resources to collect fees on a weekly basis the Council has entered into written 'pitch rental' agreements with former

market traders. Fees are collected by monthly direct debit. However traders have pointed out that this is less flexible for them than weekly payment, when they paid only for the days on which they worked, which generally excluded bank holidays and inclement weather.

5. The fees initially set for these pitches are the same as the former market fees, adjusted for inflation, with a reduction of 15% with the intention of allowing for those days that the traders do not trade because of inclement weather, sickness or holidays, including bank holidays.

ISSUES

6. The Council has received a number of representations from traders regarding the increase in their annual costs mainly as a result of the need to pay for a street trading licence. This disproportionately affects those traders that work one day per week.
7. Former market traders, for historical reasons, pay a different pitch rental to the established pitches described at paragraph 1 of the report.
8. Former market traders no longer receive assistance to erect stalls as they did when trading on the Market Square.
9. The Council is unable to routinely monitor daily attendance and accept daily cash payments from the former market traders.
10. Payment of pitch rental by monthly direct debit transfers some financial risk from the Council to the trader where the trader is unable to work because of inclement weather, holidays or sickness.
11. The financial effect of changes is proportionally greater on those traders who only trade on one day per week.
12. Proposals to reduce the pitch rental fee will lead to reduced income to the Council

PROPOSALS

13. It is proposed to:
 - Harmonise pitch rental charges in the town centre.
 - Reduce the adverse financial impact on traders that work 1 day per week by reducing the daily pitch rental for traders operating only one day per week.
 - Formalise the contractual arrangements with all traders whereby all

payments are made by direct debit.

- Invite all traders including 'town centre management' traders to enter into a written agreement with the Council.
- Provide traders with an approximately 15% discount on currently published fees to compensate for non-attendance due to inclement weather, holidays and sickness.
- Calculate and collect fees on a monthly, rather than on a daily or weekly, basis, while having regard for the number of days per week that pitches will be used.

14. The specific effects of these proposals on relevant fees and charges are set out in Appendix 1 which compares existing fees and charges with revised proposals.

IMPLICATIONS

Place (includes Sustainability)

As contained within the report.

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

The proposals outlined within the report will result in lower income being generated and will therefore impact on the General Fund budget. However, it is hoped that in the long term, the measures will ensure that traders continue to operate in Harlow and will limit the impact of lost income in the future.

Author: **Simon Freeman, Head of Finance**

Housing

None specific.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

None specific.

Author: **Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

None specific.

Author: **Dimple Roopchand Assistant Solicitor for Brian Keane, Head of Governance**

ANALYSIS OF FEES AND CHARGES		(all fees include VAT where applicable)		
		2017/18	September 2017/18	
SERVICE		Current Fee	Proposed change	Proposed Fee from September
Pitch fees - Town Centre Trading Pitches	Trading Pitches up to 10m²			
	Monday - Sunday (1 day per week) calculated monthly	156.00	-50.00	78.00
	Trailers up to 6 metres (New)			
	Monday - Sunday (1 day per week) calculated monthly			148.00
	Monday - Sunday (each additional day) calculated monthly			100.00
	Electricity (New)			
	Monday - Sunday (1 day per week) calculated monthly			9.00
LG (MP) Act 1982 Licenses	Miscellaneous Licences			
	Street Trading			
	Street trading licence	360.00	0.00	360.00
	Street Trading (renew)			
	Street trading licence	360.00	0.00	360.00
Pitch fees - Marked trading pitches on East Gate or E	Monthly Pitch Rentals 1 day per week			
	Monday fee for first pitch (formerly £21/day)	91.00	-50.00	45.50
	Monday fee for subsequent pitch (formerly £15.50/day)	67.17	-13.65	58.00
	Tuesday, Friday, Saturday fee for first pitch	91.00	-14.29	78.00
	Tuesday, Friday, Saturday fee each additional pitch	67.17	-13.65	58.00
	Trader licensed for not more than 1 day per week on Tuesday or Friday first pitch	91.00	-50.00	45.50
	Trader licensed for not more than 1 day per week subsequent pitch	67.17	-13.65	58.00
	Electricity			
	1 day per week calculated monthly	8.67	3.81	9.00
	Trailers - Vehicles up to 6 metres			
	1 day per week calculated monthly	147.33	0.45	148.00
	Trailers - Vehicles up to 6.01 - 8 metres			
	1 day per week calculated monthly	147.33	0.45	148.00