



# Report to Licensing Committee

**Date:** 12<sup>th</sup> December 2022

**Title:** Hackney carriage and private hire licensing annual review

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**Recommendations:**

1. To note the contents of this report.

## **1. Background**

- 1.1 Prior to service alignment and the implementation of the Council's new hackney carriage and private hire licensing policy, (the "Policy"), the Licensing Service committed to providing reports to the Licensing Committee related to service delivery and Policy impact. In June 2022 the Committee received the first enforcement update report. This is the first annual report, focusing on the period 6 September 2021, the date of Policy implementation, through to 30 September 2022.
- 1.2 The report provides an overview of application outcomes, an update on enforcement activity, key changes to service provision and improvements in service delivery, legislative changes and other matters considered to be of relevance or interest to the Committee such as communication with the trade, updates on safeguard training and English language assessments.
- 1.3 The report also contains an overview of hackney carriage and private hire related matters on the horizon that are likely to impact the service and the trade over the coming year.
- 1.4 Financial considerations such as income, expenditure and other budgetary matters have been excluded from the report. A separate report is being prepared for consideration by the Licensing Committee early in 2023 and this information will form the basis for licence fee review.
- 1.5 As the first report of this nature, the Licensing Service welcomes feedback from Committee Members on its content and suggestions for any appropriate amendments.

## **2. Main content of report**

### **Licence applications**

- 2.1 Appendix 1 shows details of vehicle, driver and operator applications received per month for the reporting period, together with an indication of the final outcome or status of the application. The final column shows the number of licences expiring each month, where an application for renewal had not been submitted prior to the expiry date.

### **Vehicles**

- 2.2 The Council received a total of 2770 applications for hackney carriage and private hire vehicle licences, approximately 61% of these were renewal applications. It should be noted that in accordance with the new Policy, replacement vehicles are now classified as new vehicle applications, as are applications submitted after the expiry date. Consequently, whilst the rate of renewal may appear lower than anticipated, many of the new licence applications are granted to previous licence holders.
- 2.3 Approximately 84% of the applications were subsequently granted. 45 were refused, as reported to the Licensing Committee on 15<sup>th</sup> June 2022, most of these refusals relate to vehicles which have been classified as category S insurance write off vehicles. 321 applications are shown as rejected. Applications are typically rejected because incorrect documents have been submitted and/or application forms have been incorrectly completed. 37 applications were later withdrawn and 50 remain outstanding because of ongoing enquiries and enforcement activity.
- 2.4 In accordance with the Council's Cabinet performance reporting requirements, the Licensing Service now aims to process vehicle applications and issue the licence and plates within 10 working days from the date a valid application is received. This excludes incomplete applications where documents are missing or applications that require further investigation before a decision can be made.
- 2.5 For period Q4, December 2021 to March 2022, when this performance indicator was first introduced, the average processing time was 7.5 days. The subsequent periods Q1 and Q2 have seen a significant improvement in the average number of days to process valid applications. Efficiencies in processing procedures have led to improved turnaround times and licences and plates are now typically issued within 4 days of receipt of a valid application.



*Number of working days to process vehicle applications 2021/2022-23.*

### **Drivers**

- 2.6 The Council received a total of 1258 applications for hackney carriage and private hire driver licences during the reporting period, 67% of which were renewal applications. As with the vehicle applications, applications received after the expiry date are treated as new applications, so the number of existing drivers applying to retain a licence is higher than the renewal figure suggests.
- 2.7 As also with the vehicle licences, approximately 84% of driver licence applications were subsequently granted. 16 applications were refused, the grounds for which are summarised in the table shown as Appendix 2. 124 applications were rejected, usually because the applicant failed to submit the correct documents. 12 applications were later withdrawn and 52 remain outstanding because of ongoing enquiries and investigations.
- 2.8 Whilst there is no formal performance indicator set for driver applications, the Licensing Service aims to process all valid applications within 10 working days, unless the application needs to be passed to an officer for investigation and a decision. Since April 2022, the average processing time for valid applications is 5.3 working days.

### **Operators**

- 2.9 The Council received a total of 148 applications for private hire operator licences during the reporting period, of which 73 were granted. A significant number, 48, were rejected; this is mainly attributable to applicants failing to supply the correct documentation. 73% of valid applications were granted. No applications were refused and 9 were withdrawn. 18 applications remain outstanding due to ongoing enquiries and investigations.
- 2.10 The Licensing Service does not currently have a specified period to determine operator applications, although the service plans to introduce this soon. Operator applications are considerably more complex than vehicle and driver applications and generally require a site visit and additional enquiries before an application can be granted so the determination period is usually longer than for vehicles and drivers.

## Enforcement overview

- 2.11 In addition to determining applications, the Licensing Service regulates taxi and private hire operations through reactive and proactive activity. Reactive work is usually in response to incident reports and complaints received from members of the public, other agencies within and external to the Council, and from members of the taxi and private hire trade. Proactive work is typically pre-arranged activities, often based on intelligence, and may involve targeting locations and/or activities such as large events, areas used by the potentially vulnerable such as schools, or specific operations such as “plying for hire” and multi-agency visits.
- 2.12 227 recorded complaints were received by the Licensing Service during the reference period in relation to hackney carriage and private matters. 94 related to drivers, 111 to vehicles and 22 to operators. Since January 2022 complaints are recorded in the categories as shown in the table below, which summarises the 184 complaints received since that date:

Category	Number of complaints
Driving standards	57
Behaviour	42
Safeguarding concerns	7
Parking	35
Vehicle condition	14
Other	29

- 2.13 The licence service also records investigations. These are matters of concern that are not reported as complaints but warrant further investigation by Council officers. Investigations are typically instigated because of:
- Concerns identified during the application process
  - Licence holders self-reporting, such as convictions and accidents.
  - Pro-active enforcement by Council officers.
  - Reports received by various sources of intelligence such as the police and other Council departments.
- 2.14 In the last report to the Licensing Committee for the period 6<sup>th</sup> September 2021 to 31<sup>st</sup> March 2022, 61 investigations had been instigated in respect of drivers and operators. A further 83 investigations were instigated for the remainder of the

reporting period. Of the 144 total investigations instigated, 119 were in respect of drivers and 25 related to operators.

- 2.15 Further to the 8 revoked drivers reported for the period 6<sup>th</sup> September 2021 to 31<sup>st</sup> March 2022, another 9 drivers have been revoked within reporting period, 4 with immediate effect. The grounds for revocation are summarised below:

Driver 1 May 22	Arrested in connection with a burglary. Failed to report arrest to the Licensing Service.
Driver 2 May 22	Motoring offence, driving without correct insurance cover (IN10). Previous prosecution for failing to carry an assistance dog. Motoring conviction, SP30, within 5 years. Failed to notify Licensing Service. Previous warning for breach of conditions, not displaying livery.
Driver 3 May 22	History of drug use. Complaints of inappropriate conduct and behaviour and poor driving standards. False declaration on medical certificate. Licence revoked with immediate effect.
Driver 4 May 22	Conviction for possession of illegal drugs. Failed to notify the Licensing Service of the above.
Driver 5 June 22	Multiple complaints about poor/dangerous driving standards. Licence revoked with immediate effect.
Driver 6 June 22	Allowed an unlicensed driver to drive licensed vehicle to fulfil booking for hire.
Driver 7 July 22	Motoring offence, mobile phone use offence (CU80). Motoring offence, speeding (SP30). Appeal pending.
Driver 8 July 22	False declarations on driver medicals. Safeguarding concerns – exercised poor judgement in relation to passenger safety. Licence revoked with immediate effect. Appeal pending.
Driver 9 Sept 22	Under investigation for alleged sexual offence. Licence revoked with immediate effect.

- 2.16 During the reporting period, officers from the Licensing Service have continued to conduct reactive and proactive enforcement visits. Officers have conducted vehicle

checks at school premises during drop-off/pick up times, undertaken pro-active high visibility “walkabouts” in town centre areas, performed observations at hackney carriage ranks and attended several large scale events, including the British Grand Prix at Silverstone and the Whizz Fizz festival in Aylesbury.

- 2.17 Officers have prioritised visits to operating bases to ensure that operators understand and are compliant with the new Policy requirements.
- 2.18 More recently officers have been conducting spot checks on the newly authorised vehicle testing centres to ensure the Council’s high standards for checks are being maintained and to assist with any queries.

### **Appeals**

- 2.19 Further to the enforcement report of 15<sup>th</sup> June 2022, which detailed 2 appeal hearings heard during the reference period, a further 5 appeals have been determined during the period 1<sup>st</sup> April to 30<sup>th</sup> September 2022.
- 2.20 In February 2022, Magistrates allowed an appeal, overturning the Council’s decision to revoke a driver’s licence on the basis that the driver had been dishonest and demonstrated poor standards of driving. On 27<sup>th</sup> June 2022 the magistrates court provided their reasons for agreeing to allow an appeal against the revocation of a driver’s licence. They did not support the conclusions of the licensing officer in relation to the driver’s driving standards and his honesty. The Court indicated that it proposed to award costs against the council, so a figure of £3062 plus VAT was agreed in order to limit the Council’s exposure.
- 2.21 On 29<sup>th</sup> June 2022, the Magistrates heard an appeal against the Council’s decision to refuse to an application on the basis that the applicant had driven a car without insurance. The Magistrates upheld the Council’s decision and costs awarded to the Council of £3035.81.
- 2.22 On 11<sup>th</sup> July 2022, the Magistrates heard an appeal against the Council’s decision to revoke a driver’s licence who was under investigation by the police for a sexual offence. The Magistrates upheld the Council’s decision and costs awarded to the Council of £4,252.66 (including additional recovery costs).
- 2.23 On 18<sup>th</sup> July 2022, the Council agreed by way of consent order to allow an appeal following a previous revocation on basis that driver drove without insurance. It was agreed that the case was exceptional, and revocation was not appropriate. No costs awarded.
- 2.24 On 22<sup>nd</sup> July 2022, the Magistrates heard an appeal against the Council’s decision to revoke a driver’s licence who had been stopped by police driving at 100mph in a 70mph zone with passengers onboard. Whilst they did not criticise the officer’s decision, having heard the matter afresh they accepted the driver’s evidence and allowed the appeal. No costs awarded.

- 2.25 Public safety is the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. When determining whether a person is fit and proper to hold a licence, decisions are made on the balance of probabilities. To ensure public safety remains paramount, as per the Council's Policy and the Department for Transport's [Statutory Taxi & Private Hire Vehicle Standards](#) the Council is not able to give licence holders and applicants the benefit of the doubt. It is important that the Council continues to make decisions it considers that are in the public interest, even if those decisions are later challenged and not found in the Council's favour.

### **Service Improvements**

- 2.26 During the reporting period, the Licensing Service have made some significant changes to working practices to improve service delivery as set out below.

#### **Vehicle testing centre procurement**

- 2.27 Following the formation of the new Council, taxi and private hire vehicle testing continued to be delivered via a variety of private and in-house providers operating under different legacy arrangements. As part of the programme of work to harmonise service delivery, a vehicle testing procurement exercise was undertaken earlier this year with a view to ensuring equivalence of testing arrangements across the Council's area. The tender process was conducted in accordance with the Council's procurement procedures, ensuring the process was appropriate, fair, and transparent.

- 2.28 As a result of the procurement process, 5 garages were awarded contracts:
- 2 in the Aylesbury Vale area (including the Council's in-house testing facility)
  - 2 In the Chiltern and South Bucks area (Chesham and Taplow)
  - 1 in the Wycombe area.

It was intended to provide 2 testing facilities in Wycombe, unfortunately insufficient garages came forward with bids that met the tender requirements. However, Licensing Service calculations indicate that 5 garages are more than adequate to meet the current testing requirements for the Council's fleet of approximately 2100 licensed vehicles. The service also recognises that for resilience purposes it would be desirable to have an additional testing facility in the Wycombe area and as a consequence a further tender process is currently underway.

- 2.29 The new vehicle testing arrangements went live on 17<sup>th</sup> October 2022 and details of the authorised garages, together with contact details, are published on the Council's [web pages](#). Applicants can opt to visit any of the testing stations, where they will receive the same standard of inspection, which includes a MOT and enhanced vehicle inspection (licence compliance check).

#### **Outsourced DBS applications**

- 2.30 In July 2022, the Licensing Service successfully outsourced arrangements for conducting the mandatory enhanced DBS checks on drivers to a third-party supplier. Consequently, drivers are no longer required to attend an initial face to face ID checking appointment at the Council offices. Instead, the required documents are uploaded to the third-party supplier who processes the application, and the driver's original documents are verified by the Licensing Service at the end of the application process. This has led to a significant improvement in processing times as applicants no longer have to wait for appointments with the Service before making their application. The whole driver application process can now be instigated online, which allows applicants freedom to submit applications at their convenience. The process has also led to some efficiency savings for the Council as officers have more time to focus on other aspects of the application process. This has enabled the Service to improve the level of service provided on our telephone lines which feedback from the licensed trade indicated they would welcome.

#### **Online reporting**

- 2.31 The Licensing Service revised the Council's online reporting system, available via the Council's web pages, which now integrates directly with the back-office system used within the service. The online reporting system allows members of the public to notify the service of issues or complaints more easily. Complaints are categorised to help facilitate reporting and identify priority areas for enforcement. Further changes have since been made to add two new categories: "discrimination" and "fare disputes". Thankfully complaints relating to discrimination are low, but the Licensing Service believes it is important that these complaints be readily identifiable and reportable when they occur. Fare dispute complaints are conversely more common so as justify their own category. For the licensed trade, the online system facilitates mandatory reporting of such things as accidents and change of details.

#### **Executive vehicles**

- 2.32 Amendments were made to the procedure for processing executive vehicle applications in September 2022. The application process has been streamlined to improve efficiency following feedback from the licensed trade as follows:
- Renewal applicants are no longer required to routinely resubmit supporting evidence of executive work unless there are concerns.



- A signed declaration form from the vehicle operator is provided instead of a full list of client contracts, booking records and references.
- A minor discrete window card has been introduced to replace the rear licence plate.

### **Communication with the trade**

- 2.33 Since the introduction of the new Policy, the Licensing Service has introduced various ways to ensure the local licensed trade are kept up to date:
- 2.34 A new [Taxi Working Group](#) was set up, involving trade representatives from the hackney carriage and private hire trade, council officers, and other organisations such as disability user groups and the police. The group meets approximately every quarter and discusses a wide range of trade related issues, with a focus on working collaboratively to address those issues.
- 2.35 The Licensing Service publishes a regular electronic newsletter which is distributed via text and email, where possible, to all licence holders. The newsletter contains key points of interest such as pending changes to service delivery, legal changes, trade advice and other items of interest. Latest editions are published on the Council's [website](#).
- 2.36 Licence holders are sent regular automatic reminders in advance of their licence expiry date to help them prepare for their pending renewal application. Drivers receive notifications at 90, 60 and 30 days prior to expiry and are reminded to attend safeguard training, obtain up to date medicals and DBS certificates and book their English language assessment, if required. Vehicle licence holders receive reminders at 6 weeks and 1 month prior to expiry. The service is in the process of implementing similar automatic reminders for operator licence holders.

### **Safeguard training**

- 2.37 In accordance with the Policy all drivers and operators are required to attend child sexual exploitation, safeguarding and disability awareness training. During the Covid-19 pandemic training was being delivered online. Face to face training was reintroduced as of May 2022, which allows a greater number of delegates to attend each session. Training takes place monthly and alternates between Wycombe and Aylesbury Council offices. During the reporting period 1343 drivers and operators have attended these training sessions.

### **English language**

- 2.38 In line with the Policy, all new drivers are required to demonstrate that they have proficient English language skills. Since 6 September 2022, this requirement has extended to all existing drivers, who are required to demonstrate they meet the Council's criteria when submitting their renewal applications. Drivers are only

required to demonstrate this once, either via attending an assessment with the Licensing Service's approved assessors, or by way of documentary evidence.

- 2.39 During the reporting period 223 new drivers and 109 existing drivers have taken the assessment, 262 assessments were conducted in total, which includes 60 retests. The pass rate for the assessment has been 66% of all tests taken, although the pass rate per candidate will be higher as some candidates have taken multiple tests.

### **Legal changes**

- 2.40 Several new legislative requirements have been introduced during the reporting period which impact the hackney carriage and private hire trade, summarised below:

- 2.41 **The Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022** has introduced two new requirements on licensing authorities. As of 31<sup>st</sup> May 2022, it is compulsory for councils to report concerns about out-of-area licensed drivers coming to its attention if those concerns relate to 'relevant information'. Relevant information is given an extensive definition and essentially covers any matter that calls into question whether an individual can continue to be considered fit and proper to hold a licence. Authorities are required to report these concerns to the authority which licensed the driver within 10 days. The authority licensing the driver then has 20 days to consider whether it is necessary to suspend or revoke the licence and inform the reporting authority of their decision. The second requirement of this legislation has not yet been enacted but is mentioned in the horizon section below.

- 2.42 **The Taxi and Private Hire Vehicle (Disabled Persons) Act 2022** took effect on 28<sup>th</sup> June 2022 and has amended the requirements under the Equalities Act 2010 for the trade, as follows:

- Extends duty to all drivers to carry disabled persons (not just those driving designated vehicles).
- Drivers must provide disabled passengers with reasonable mobility assistance and carry their mobility aids or wheelchair (if safe to do so).
- Drivers (who have been pre-booked) must help disabled passengers to find or identify their vehicle at no extra charge.
- Drivers may not make any additional charge in relation to the above (NB meter cannot be activated until vehicle is ready to depart and must be stopped before unloading starts (McNutt vs TfL)).
- Operators cannot refuse to accept a booking or make an additional charge because a passenger is disabled.
- Licensing Authorities must publish a list of licensed [Wheelchair Accessible Vehicles](#), previously this was discretionary.

- Drivers can apply for an exemption certificate from the Licensing Service to provide mobility assistance, for example on medical grounds (in addition to the existing exemptions relating to the carrying of assistance dogs and drivers of WAVs).

2.43 **The Finance Act 2021** introduced new mandatory HMRC conditionality checks from 4<sup>th</sup> April 2022. All new drivers and operators are required to confirm that they have read the HMRC's guidance before a licence can be granted. Existing drivers and operators are now required to supply a valid tax check code from the HMRC before a licence can be granted. To obtain the check code, applicants are required to inform HMRC how long they have been licensed, their employment status and how they pay their tax. The Licensing Service is required to validate the check code via the HMRC portal but has no access to the individual's tax affairs.

2.44 **The Road Vehicles (Construction and Use) (Amendment) (No. 2) Regulations 2022** amended the law relating to the use of mobile telephones while driving from 25<sup>th</sup> March 2022. Previously the law applied if a hand-held device was used for 'interactive communication', mainly phone calls and messaging. The new law reflects the changes to the way smart phones are now used and includes a wide range of prohibited uses beyond the device being used for interactive communication. It includes illuminating the screen, checking the time, checking notifications, unlocking the device, using the camera, accessing stored data, accessing an application or the internet. There are exemptions for use during an emergency and for making payment for immediate goods and services while the vehicle is stationary, eg paying for parking and use at drive through restaurants. It is also important to note that the law only applies when the device is held in the hand, not in a cradle for example, so it may be used for navigation purposes.

### **Horizon**

2.45 There are a number of matters that are likely to impact the licensed trade over the coming 12 months and these are briefly high-lighted below:

### **Fee review**

2.46 The licensing service has committed to keeping the level of licence fees under review to ensure the provision of service remains cost neutral. Since the introduction of the current licence fees the financial outlook remains challenging and harder to predict than had been previously anticipated. Whilst it was intended to provide a financial report to the Licensing Committee at the earliest opportunity, the challenging nature of the financial landscape has necessitated further work to best ensure the accuracy of data. The service intends to report to the Committee at the meeting of the 1<sup>st</sup> February 2023 with an update on the financial position of the service and a new schedule of proposed application fees for consideration.

### **Fares**

2.47 A new schedule of higher hackney carriage fares was agreed by the Council in August 2022 in response to the significant increase in fuel prices and cost of living. Since this time the cost of petrol has fallen by approximately 11% and diesel by 3%. The Licensing Service will continue to monitor fuel prices but at the present time it is recommended that the fares stay at the current level with a view to conducting a formal review later in 2023.

#### **Best practice guidance and policy review**

2.48 The updated version of the Department for Transport's "Taxi and private hire vehicle licensing: best practice guidance" is due to be published following widespread consultation earlier this year. Whilst the guidance is non-statutory, it would be appropriate for the Council to consider its own Policy content in light of the revised guidance and determine whether changes are necessary. The draft version is significantly longer than the previous version published in 2010, and contains several significant suggestions, including:

- All licensing authorities should develop and maintain an Inclusive Service Plan.
- No upper age limit for vehicles (with potentially more frequent testing).
- To allow factory fitted tinted windows.
- Minimal livery for private hire vehicles (to distinguish them from hackney carriages).

Once the updated guidance is published the Committee will receive a report with details and an assessment of the implications for the Council's Policy.

#### **National database for revocations, refusals and suspensions**

2.49 The Department for Transport are expected to announce the chosen database that will be used to facilitate the mandatory database for storing and recording instances of refusal, revocation, and suspension in relation to driver licences. Under the Taxi and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, all licensing authorities will be required to actively use this database to search for drivers when an application is made and to record when a driver is refused, revoked or suspended. Currently, there is a non-mandatory database (NR3) hosted by the National Anti Fraud Network, NAFN, which most licensing authorities, including Buckinghamshire, use to search for and record instances when a driver is refused an application or has a licence revoked. The new requirement will make this mandatory and will also include instances when drivers are suspended. The database will go live two months after an announcement is made on the chosen database supplier.

#### **"Safe and suitable" review**

2.50 The Institute of Licensing are currently consulting on a review of the "safe and suitable" guidance. This is an important document that sets out the recommended

approach for determining the extent to which an individual's previous behaviour should be taken into account when considering the fit and proper test for licensing drivers. The guidance is endorsed by the Department for Transport in the "Statutory Taxi and Private Hire Standards" and forms the basis of the Council's "Criminal records and unacceptable behaviour policy" (Appendix 4 of the Policy). The Licensing Service has contributed to this consultation exercise.

Once the Institute of Licensing has concluded its review, the outcome will be reported to the Committee together with any assessment of any potential implication for the Council's own Policy.

### **Taxi rank review**

2.51 The Licensing Service has commissioned an independent review of the taxi rank provision across the Council's area. The aim of the review is to:

- Review current provision and identify potential new locations
- Understand why there is generally low use of ranks (in some areas)
- Consider whether more ranks would generate more usage
- Ensure that a shortage in rank provision is not adversely affecting the public

The Licensing Service will share the findings from the review once it has been completed.

## **3. Next steps and review**

3.1 The Licensing Service will continue to provide update reports to the Licensing Committee in a format and at a frequency agreed by Committee Members.

## **4. Other options considered**

None.

## **5. Legal and financial implications**

5.1 Legal services have had the opportunity to review, comment and contribution to reports as appropriate.

5.2 The preparation of this report presents no additional costs to the Council.

## **6. Corporate implications**

6.1 Protecting the vulnerable – protecting the vulnerable and passenger safety are key aims of the taxi and private hire licensing regime. Reporting of information relating to the regulation of hackney carriage and private hire operations to the Licensing

Committee, provides an opportunity for additional scrutiny to ensure the protection of the vulnerable is at the centre of Council decision making.

- 6.2 Property – N/A
- 6.3 HR – N/A
- 6.4 Climate change – N/A
- 6.5 Sustainability – N/A
- 6.6 Data – N/A
- 6.7 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum whilst also ensuring that the provision of the service is cost neutral.

**Key documents:**

Buckinghamshire Council's [Hackney Carriage and Private Hire Licensing Policy](#).

Department for Transport, [Statutory Taxi & Private Hire Vehicle Standards](#)

Licensing Committee report 15<sup>th</sup> June 2022, [Hackney carriage and private hire licensing enforcement update](#)

