



# Report to Licensing (Regulatory) Committee

**Date:** 15<sup>th</sup> June 2022

**Title:** Hackney carriage and private hire licensing enforcement update

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## **Recommendations:**

1. To note the contents of this report and agree matters for inclusion/exclusion in future enforcement update reports.
2. To agree the frequency of reporting on hackney carriage and private hire enforcement activities to the Licensing Committee.
3. To note a recommendation from the Head of Service to the Chair of Committee and Cabinet Member that the officer panel step be removed from the decision-making process by way of a minor amendment to the Policy.

## **1. Background**

- 1.1 Prior to the implementation of the Council's new hackney carriage and private hire licensing policy, (the "Policy") in September 2021, the Licensing Service committed to provide routine reports to the Licensing Committee related to application of the Policy. More specifically, the intention was to provide annual performance reports supplemented by quarterly reports on enforcement activities, the outcome of court proceedings and statistical data on licences issued.
- 1.2 The introduction and implementation of the new Policy, together with the corresponding alignment of service provision across the former District Council's controlled areas, has been a significant undertaking with many challenges. Council officers and the local taxi and private hire trade have had to adjust to new procedures and ways of workings as a consequence of the policy changes. Throughout this period, robust measures have remained in place to ensure that, in line with statutory and best practice guidance, only those considered fit and proper to hold licences are permitted to do so.
- 1.3 The licensing service is now in a position to commence reporting on enforcement activities taken since the new Policy was implemented. The report focuses on the

reference period 6<sup>th</sup> September 2021 to 31 March 2022 and provides details of applications received, application outcomes, non-application related enforcement activity and an overview of the decision-making process.

- 1.4 As the first report of this nature, the Licensing Service welcomes feedback from Councillors on its content and suggestions for any appropriate amendments. Councillors are also asked to consider the frequency of these reports going forward.

## 2. Main content of report

### Introduction

- 2.1 The purpose of licensing private hire and hackney carriage (taxi) operations is to ensure that the travelling public are provided with a safe and accessible means of transport. Public safety is the primary consideration when making licence decisions concerning the licensing of drivers, vehicles and operators. The Council's taxi and private hire licensing policy plays an integral part in both securing and demonstrating the Council's commitment to this important objective.
- 2.2 In accordance with the Policing and Crime Act 2017, the Department for Transport published new "Statutory taxi and private hire vehicles standards", (the "Standards"), in July 2020. The aim of the Standards is to promote passenger safety and safeguard children and vulnerable adults from the risk of abuse and exploitation. Councils must have regard to the Standards, and it is expected that they will be adopted unless there is compelling local reason not to. The Standards have been incorporated into the Council's Policy, as reported to the Licensing Committee on [3<sup>rd</sup> February 2021](#). There is one area where the Council has departed from the Standards, and this concerns the delegation for decision making. The Council's decision-making process is considered further in this report from paragraph 2.29.

### Application overview

#### Vehicle applications

- 2.3 In accordance with the statutory provisions of the Local Government Miscellaneous Provisions Act (LGMPA) 1976, hackney carriage and private hire vehicle licences are granted for a maximum period of 12 months. On 31<sup>st</sup> March 2022, 2059 vehicles were licensed with the Council. During the reference period the Council received 1553 licence applications for vehicle licences. Of this figure, 486 applications were for new licences and 1067 were applications to renew existing licences.

The table below provides an overview of the status of those applications:

<b>New vehicle applications 06/09/2021 - 31/03/2022</b>	<b>486</b>
Granted	394
Refused	1
Rejected	71

Withdrawn	12
Incomplete	4
Pending	4
<b>Renewal application</b>	<b>1067</b>
Granted	880
Refused	21
rejected	141
Withdrawn	10
Incomplete	12
Pending	3

- 2.4 22 of the refused vehicle applications relate to vehicles that failed to meet the Council's Policy requirement. Specifically, these applications were submitted for vehicles that had been deemed category S (structural) vehicle insurance write offs. In all instances, as is required, applicants were offered the opportunity to make representation before a final decision was taken. Applicants were advised that the Licensing Service may consider evidence of repairs carried out by a British Standard 10125 certified workshop, or a manufacturer approved workshop as possible grounds for exception to the Policy. To date these are the only grounds that the Licensing Service has been able to identify that would provide assurance that repairs have been carried out, and the vehicle has been returned to the same safety standards as originally manufactured. None of the vehicles were able to demonstrate that they met this standard or provide alternative evidence to warrant departure from the policy.
- 2.5 With respect to the rejected applications, applications were rejected for a variety of reasons but often because they were not complete and valid. Where possible officers try to avoid rejecting applications and support is provided to help encourage applicants to submit valid applications. Common reasons for rejection included:
- Application form containing insufficient detail. The application forms have been streamlined to ensure only essential information is requested, but unfortunately in some instances applicants fail to provide even basic details.
  - Incorrect information in the application. For example, applicants have provided the wrong vehicle details, or the application is submitted in the wrong name; for legal reasons the application must be in the name of the vehicle proprietor.
  - Duplicate applications submitted for the same vehicle.
  - Missing documents, for example failure to provide a DBS certificate, correct vehicle insurance document or correct vehicle logbook.

2.6 In terms of vehicle application trends, the following table shows a summary of new and renewal vehicle licence applications received and granted by month:

	Sept 21	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	Mar 22
Total apps	197	254	224	200	269	175	234
New apps	36	71	70	60	90	63	96
Renewal apps	161	183	154	140	179	112	138
Total Granted per month	188	182	204	201	195	164	195
Hackney Carriage granted	15	18	30	46	33	32	33
Private Hire granted	173	164	174	155	162	132	132
WAVs* granted	26	16	25	28	21	24	27

\*WAV – wheelchair accessible vehicle

### Driver applications

2.7 In accordance with the statutory provisions of the LGMPA 1976, hackney carriage and driver licences are expected to be granted for a period of 3 years. On 31<sup>st</sup> March 2022, 3013 drivers were licensed with the Council. During the reference period, the Council received 728 driver licence applications: 143 from new drivers and 585 from drivers applying to renew.

The table below provides an overview of the status of those applications:

<b>New applications</b>	<b>143</b>
Granted	76
Refused	3
Rejected	16
Withdrawn	5
Incomplete	27
Pending:	
Awaiting documents/response from 3 <sup>rd</sup> parties	7
Referred to officer/enforcement	6
Other	3

<b>Renewal applications</b>	<b>585</b>
Granted	422
Refused	2
Rejected	49
Withdrawn	1
Incomplete	66
Pending:	
Awaiting documents/response from 3 <sup>rd</sup> parties	22
Referred to officer/enforcement	22
Other	1

- 2.8 5 applications received during the period were refused on the basis that officers were not satisfied that the applicants could be considered fit and proper to be licensed. The circumstances and grounds for refusal are summarised briefly below:

<b>Driver 1 (new)</b>	IN10 conviction in 2017, driving without the appropriate insurance. Council policy stipulates a rehabilitation period of 7 years for insurance offences. Appeal lodged and pending at Magistrates Court.
<b>Driver 2 (new)</b>	Conviction for violent disorder in 2016 with custodial sentence. Council policy stipulates a rehabilitation period of at least 10 years.
<b>Driver 3 (new)</b>	Failed to disclose previous refusal of licence. Licence was previously refused following conviction for serious sexual assault. Applicant also failed to disclose motoring offences (SP30) from 2018.
<b>Driver 4 (renewal)</b>	CU80 conviction in 2021, mobile phone use while driving. Council Policy stipulates rehabilitation period of at least 5 years. Driver also failed to disclose convictions on application. Council Policy stipulates any dishonesty in the application process, such as failure to disclose convictions, will generally result in refusal.
<b>Driver 5 (renewal)</b>	CU80 conviction in July 2019, mobile phone use while driving. Council Policy stipulates rehabilitation period of at least 5 years. Driver also failed to disclose convictions on application. Council Policy stipulates any dishonesty in the application process, such as failure to disclose convictions, will generally result in refusal.

- 2.9 The 66 rejected applications shown are mainly attributable to applicants submitting multiple incomplete applications.
- 2.10 28 applications are shown as referred to officer. These relate to outstanding applications which have been referred to officers for further investigation and decision making as issues of concern have arisen during the application process. 14 of these are because of failure to disclose information relating to offences, mainly motoring offences. The remaining referrals are because of failure to attend safeguarding training, concerns identified through checks with other licensing authorities, medical contraindications and declared convictions that are contrary to the Policy.

- 2.11 In terms of application trends, the following table shows new and renewal driver licence applications received and granted by month. Driver licence applications received in one month may be granted in another, dependent upon the receipt of information from other authorities:

	Sept 21	Oct 21	Nov 21	Dec 21	Jan 22	Feb 22	Mar 22
Total Apps	51	77	93	107	114	140	146
New apps received	12	20	19	16	14	24	38
Renewal apps received	39	57	74	91	100	116	108
Total licences granted per month	62	50	60	77	64	65	97

### Operator applications

- 2.12 In accordance with the LGMPA 1976, operator licences are expected to be granted for a period of 5 years. On 31<sup>st</sup> March 2022, 219 private hire vehicle operators were licensed with the Council. During the reference period, the Council received 29 new and 43 renewal operator applications.
- 2.13 The table below provides an overview of the status of those application. Operator licence applications received in one month may be granted in another, dependent upon the receipt of information from other authorities:

<b>New applications</b>	29
Granted	3
Refused	0
Rejected	10
Withdrawn	3
Incomplete	11
Pending	2
<b>Renewal applications</b>	43
Granted	20
Refused	0
Rejected	19
Withdrawn	1
Incomplete	3
Pending	0

- 2.14 The 29 rejected applications shown are mainly attributable to applicants submitting multiple incomplete applications.

### Complaints and investigations

- 2.15 In addition to determining applications, the Licensing Service regulates taxi and private hire operations through reactive and proactive activity. Reactive work is typically 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. Since the implementation of the new Policy, most of the activity has been reactive, with more proactive activity planned over the coming months.
- 2.16 As part of the implementation of the new Policy the Licensing Service has 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. For the licensed trade, the system facilitates mandatory reporting of such things as accidents and change of details. The service also receives reports from the public and licensed trade directly via email and telephone calls, which are recorded on the same back-office system. Since the adoption of the new reporting system in January 2021, complaints are now categorised as follows:

Taxi Reporting and Enquiry Form

## Your Complaint

What is your complaint about?

Driving Standards

Behaviour

Safeguarding Concerns

Parking

Vehicle Condition

Other

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The image shows a screenshot of the Council’s online complaint reporting screen.

- 2.17 Complainants are prompted to provide relevant information to assist with identifying the source of the complaint as shown in the image below, if they cannot provide this information they can still proceed with their complaint:

Taxi Reporting and Enquiry Form

## Details

Enter at least one of the following pieces of information. Please provide as much information as possible.

Driver Badge Number

Vehicle Licence Number (The number on the door stickers and rear plate, eg. PHV12345)

Vehicle Registration

Operator Name

If you do not know any of the above details please click the Next button

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- 2.18 99 recorded complaints were received by the Licensing Service during the reference period. Between 1<sup>st</sup> January 2022 and 31<sup>st</sup> March 2022, 56 complaints were received, categorised as follows:

Category	Number of complaints
Driving standards	20
Behaviour	10
Safeguarding concerns	2
Parking	15
Vehicle condition	2
Other	5

- 2.19 The Licensing 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 from various sources of intelligence such as the police and other Council departments.

2.20 During the reference period, 6<sup>th</sup> September 2021 to 31<sup>st</sup> March 2022, 58 investigations were instigated in respect of drivers and 3 in respect of operators. The latter 3 investigations relate to instances of failure to notify changes of company directors and concerns relating to vehicle maintenance. The grounds for investigation in relation to drivers are summarised as follows:

Accident related – not reported	1
Offence related – self reported	8
Offence related – not reported	6
Driver behaviour	8
Driving standards	6
Expired DVLA licence	1
Report of illegal mobile phone use	2
DBS related issues	3
Not wearing badge	8
Notification of arrest	4
Arrest - not notified	1
Failure to notify change of name	1
Medical concerns	3
Working without current driver licence	2
Working with unlicensed vehicle	1
Driving vehicle of poor standard	1
Safeguarding concerns	2

### **Enforcement drivers**

2.21 During the reference period, 8 drivers had their licences revoked, one of which is currently under appeal via the Magistrates Court. The circumstances of the revocations are briefly summarised below:

Driver 1	Inappropriate behaviour and use of explicit and offensive language with a young female passenger. Previously attempted to give phone number to another female passenger. Failed to disclose various speeding offences at the time and on subsequent application. Previous failure to comply with licence conditions. Dishonesty during the application process and during officer interviews. Revoked with immediate effect.
Driver 2	Careless driving resulting in passenger sustaining serious injury while entering the vehicle and failure to respond to requests for assistance. Previous complaint of illegal parking and inappropriate behaviour toward off-duty police officer.
Driver 3	Arrested for drug driving. Revoked with immediate effect.
Driver 4	Abusive behaviour and threatening comments to members of the public including a young child. Speeding and aggressive driving. Driving while filming with a mobile phone.
Driver 5	Concerns about medical fitness to drive. Driver failed to provide evidence that they had reported incident of a stroke and bout of double vision to the DVLA as required. DVLA group 2 medical requirements state that a licence will be revoked for a period of 12 months following a stroke. Revoked with immediate effect.
Driver 6	Arrested for possession of imitation firearm and possession of class A and class B drugs. Failed to notify Council of arrest. Subsequent arrest for affray and criminal damage while under investigation by the Council. Again, failed to notify Council of arrest.
Driver 7	IN10 conviction, driving without the appropriate insurance. Council policy stipulates a rehabilitation period of 7 years for insurance offences. Subject to appeal, licence still in effect.
Driver 8	Under investigation for historic serious sexual offences. Failed to notify of arrest. Disclosed inappropriate behaviour during interviews with officers. Worked during Covid-19 lockdown contrary to a mandatory requirement to self-isolate.

2.22 During the reference period, 14 drivers had their licences suspended. The details are summarised below:

8 drivers	Failed to provide outstanding medical certificate. Medical certificates now
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	provided; licences reinstated.
4 drivers	Failed to provide outstanding medical certificate. Licences still suspended.
1 driver	Failed to attend additional driving assessment within 3 months as requested by officer following 2 complaints of poor driving. Resolved, licence reinstated.
1 driver	Suspended for 28 days, passed school contract booking to another driver to complete without authorisation. Resolved, licence reinstated.

### **Enforcement vehicles**

- 2.23 During the reference period 605 vehicles were suspended. Vehicles are suspended for a wide variety of reasons but most typically on annual inspection where the vehicle does not meet the Council's Policy standards but there is no immediate risk to passenger safety. In accordance with the legal provision, once served with a notice the vehicle proprietor has 21 days to rectify the issue before the suspension takes effect. Examples include advisory matters identified on the MOT inspection, missing or incorrect vehicle livery, cosmetic damage to the vehicle exterior, poor condition of external parts of the vehicle, and missing first aid kit or fire extinguisher. In most instances the matter is resolved before the notice takes effect.
- 2.24 For more serious matters, vehicle licences may be suspended with immediate effect or revoked. During the reference period 14 vehicle licences were revoked. The grounds for revocation of these vehicles are summarised below:

10 vehicles	Significant accident damage
2 vehicles	Vehicle not in road worthy condition
1 vehicle	Report of minor damage and driver no longer licensed.
1 vehicle	Defective headlight

### **Enforcement operators**

- 2.25 During the reference period, 2 operator licences were revoked. These licences were in respect of the same operator, who held separate licences with 2 of the legacy Council areas. The grounds for revocation are briefly summarised as follows:

- Safeguarding concerns: accepting bookings and transporting unaccompanied children, including late at night, contrary to advice and training provided by Council officers.
- Failure to notify change of authorised operating base.
- Operating unlicensed drivers and vehicles.
- Attempting to dual plate vehicles with multiple authorities.
- Failure to co-operate with authorised officers.
- Failure to maintain accurate records.

### **Appeals**

- 2.26 During the reference period 3 appeals were served on the Magistrates Court. The first relates to the revocation of a licence for a driver who committed a driving without insurance offence last year. The second relates to the refusal of a new driver licence application, which was refused on the basis that the applicant committed a driving insurance offence within the last 7 years. The third relates to a driver was convicted of a speeding offence for which he received points on his licence. His application to renew his private hire driver's licence was refused as he was driving a licensed vehicle and carrying fare paying passengers at the time of the offence.
- 2.27 During the reference period, 2 cases were heard on appeal at the Magistrates Court.
- 2.28 In October 2021, Magistrates upheld the Council's decision to revoke a driver's licence on grounds that included conviction for illegal plying for hire by another authority, failure to inform the Council of the conviction and failure to disclose a speeding conviction. The appellant was ordered to pay £560 towards the Council's costs (£1917).
- 2.29 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. The hearing was adjourned immediately following the judgement with reasons for the decision and legal argument regarding costs still to be heard.

### **Decision making**

- 2.30 The Statutory Standards recommend that licence decisions, particularly contentious matters, should be referred to a committee of the Council for determination. The reasons for this recommendation are to avoid the risk of bias and to ensure a separation of decision making and investigation bodies. It is also acknowledged within the Standards that an alternative model may be adopted where it is appropriate in the local circumstances.
- 2.31 At the time that the Policy was adopted, Councillors agreed that decision making on licensing applications would be delegated to Council officers, as permitted under the Council's constitution. The basis for this decision was that Buckinghamshire Council

is one of the largest taxi licensing authorities in the country with a large number of applications received per annum. As a result, there is a need to make timely, consistent, and robust licence decisions that both fulfil the Council's obligations and achieve the correct outcome for the travelling public, whilst also ensuring that the process itself does not create additional cost and delay for the licensed trade. It was acknowledged that there was a clear need for Councillor involvement, scrutiny and accountability in this area and it was proposed that the Licensing (Regulatory) Committee would have oversight of licence decision making via a regular reporting mechanism, enabling discussion, consideration and review of the consistency and robustness of decisions taken. This report provides the first formal report to the Committee of this nature.

- 2.32 The Policy currently states that, as part of the decision-making process, applications will "generally" be considered by a panel of Council officers tasked with making a recommendation to a senior officer who will then make the final decision. In practice this panel step has proved to be impractical, causing delays in the decision-making process, without any significant tangible benefit. As a result, the decision-making process has recently been thoroughly reviewed by senior officers of the Council's Licensing Service and Legal Services and the consensus view is that the recommendation of a decision by a panel of officers is an unnecessary step in the current process that creates duplication and delay, and negatively impacts licenceholders and applicants.
- 2.33 It is proposed that instead, the final decision on issuing a licence should fall to an individual authorised officer with the necessary training, skills, competence, and experience to make the decision. The Standards are very clear that there must be separation between the investigating officer and the decision maker, and this will remain the case, with investigating officers passing case reports to another officer to make the final decision. The defence of that decision in Court, should it be subject to appeal, will be undertaken by Legal Services who will be instructed by the officer who made the decision.
- 2.34 In accordance with the Council's constitution, minor changes to the Policy, where formal consultation is not considered necessary, may be made with the agreement of the Chairman of the Licensing Committee, Cabinet Member for Regulatory Services, and the Head of Service. The Committee are asked to note a recommendation from the Head of Service to the Chair of Committee and Cabinet Member that the officer panel step be removed from the decision-making process by way of a minor amendment to the Policy.
- 2.35 It is important to emphasise that when making licensing decisions, officers are provided with extensive information, from a wide range of sources which is then subject to various checks and balances to help support their decision making on

whether drivers, operator and vehicle licence holders are fit and proper to hold licences. These measures include:

- Results of DBS checks for operators and vehicle licence holders; enhanced DBS checks with adult and children barred list checks for drivers.
- Information from the National Register of Revocations and Refusals (NR3) for drivers. Soon this will also include information about licence suspensions.
- Mandatory attendance at exploitation safeguarding and disability awareness training for drivers and operators.
- Results of group 2 style medical checks for drivers.
- Evidence of a successful practical driver assessment.
- Evidence of a satisfactory English language proficiency assessment, currently all new drivers and from September all drivers.
- Routine vehicle inspections.
- Results from other local authorities for drivers and operators already licensed elsewhere and applying to Buckinghamshire.
- Results from checks against with the National Fraud Initiative, all drivers and operators.
- Evidence of driving history from the DVLA
- Consideration of each application against the robust “criminal records and inappropriate behaviour policy” with clearly defined set rehabilitation periods
- Management/senior support and case overview.

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

- 3.1 The Licensing Service will continue to provide regular 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. Regular reporting of information relating to officers’ decisions and enforcement activity 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 Standards](#)