

PUBLIC PROTECTION COMMITTEE: 9 April 2019

Report of the Head of Shared Regulatory Services

REVISED GUIDANCE ON DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY AND PRIVATE HIRE TRADES

1. Background

- 1.1 Members of this committee regularly sit on sub-committee meetings to consider the fitness and propriety of new applicants or current licence holders in the Hackney Carriage and Private Hire trade. It is sometimes the applicant's criminal convictions being considered; however, it may also include other matters such as allegations, charges, complaints or conduct which may be considered in order to determine whether they are 'fit and proper', bearing in mind the overall aim of the licensing authority is to protect the public.
- 1.2 The authority has adopted a policy to provide guidance on the treatment of convictions, cautions and criminal charges in respect of new applicants and existing hackney carriage/private hire drivers and operators. The current policy has been in place since 2015.

2. Details

- 2.1 In April 2018, the Institute of Licensing published a document titled "Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades" ("the Guidance"). A copy of the Guidance is attached at Appendix A.
- 2.2 The Guidance has been produced in conjunction with the Local Government Association (LGA), Lawyers in Local Government (LLG) and the National Association of Licensing and Enforcement Officers (NALEO) following widespread consultation.
- 2.3 At a recent meeting of the Wales Licensing Expert Panel this document was considered and endorsed with the recommendation that all Welsh authorities approve and implement the Institute of Licensing Guidance, replacing their current guidelines/policy. Many authorities in England and Wales have already adopted the new policy and others are in the process of doing so.
- 2.4 Chapter 4 of this document from paragraph 4.6 onwards forms the key guidance to members on determining suitability and this has been lifted from the document as the basis for the draft policy document attached at Appendix B.

2.5 It must be remembered that whilst members will refer to the guidance/policy each case should be determined on its own merits having taking into account all of the facts and oral representations from the applicant, leaving the committee free to depart from the policy where circumstances warrant it.

2.6 The content of the document has already been subject to widespread national consultation with stakeholders in the taxi trade, however, this has not been consulted on locally.

3. Achievability

3.1 This report contains no equality personnel or property implications.

4. Legal Implications

4.1 The Local Government (Miscellaneous Provisions) Act 1976, allows a Local Authority to determine the suitability of an applicant for the grant of taxi and private hire vehicle Licenses and to request such information as it considers reasonably necessary from the applicant in order to determine if a licence should be granted/revoked.

5. Equality Impact Assessment.

5.1 An Equality Impact Assessments screening on the licensing of those in the taxi and private hire trade was completed. The assessment highlighted that there is no adverse or negative impact of opportunity for any equality target group for any reasons.

6. Well-being of Future Generations (Wales) Act 2015 implications

6.1 The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.

In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2018-21.

When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.

The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

6.2 An assessment has been carried out in consideration of the Cardiff Well-being Objectives. A summary of the implications from the assessment:

- Safe, Confident and Empowered Communities
 - Persons working in the taxi and private hire trade are in a unique position, and it is important that the public can trust that they will be able to travel safely and their belongings are secure;
 - Stakeholders within the taxi trade will have the opportunity to consider the proposals and respond to the consultation.

7. Financial Implications.

7.1 There are no immediate financial implications arising directly from this report.

8. Recommendations

8.1 To authorise the Licensing Department to consult with the local taxi trade on the draft policy attached at Appendix B.

9. Reasons for Recommendation

9.1 The draft policy has been widely consulted on nationally and helps ensure consistency throughout Wales. It has been produced in conjunction with the standards as prepared by the Institute of Licensing in collaboration with the Local

Government Association (LGA), National Association of Licensing and Enforcement Officers (NALEO), Lawyers in Local Government (LLG) and the Wales Licensing Expert Panel.

Dave Holland

12 February 2019

HEAD OF SHARED REGULATORY SERVICES

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers:

Taxi and Private Hire Licensing Policy - Fitness Criteria for Drivers and Operators