

2. Background

2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage Driver's licence is a fit and proper person to hold that licence. The safety of the public is the paramount concern.

3. Policy Considerations

3.1 The function of licensing is the protection of the public. A member of the public stepping into a motor vehicle driven by a stranger must have the confidence that the driver is safe and suitable.

3.2 Taxi legislation provides that any person must satisfy the authority that they are a fit and proper person to hold a licence. If a licence holder falls short of the fit and proper standard at any time, the licence should be revoked or not renewed on application to do so.

3.3 The Licensing Authority will consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application.

3.4 The Licensing Authority will be looking at the entirety of the individual when making the decision whether an applicant or licence holder is a safe and suitable person. Time periods are relevant and weighty considerations, but they are not the only determining factor. Other factors that the Licensing Authority will take into account when making a decision include but are not exhaustively:

- Relevance and date of the offence
- Sentence imposed by the court
- Age of person and circumstances when the offence was committed
- Subsequent periods of good behaviour
- Overall conviction history
- Any history of complaints made to the Licensing Authority against an existing licence holder. Unproven complaints may in some circumstances be taken into account if it is considered that there is a strong likelihood that the complaints are justified and the nature and/or number of complaints raise concern regarding suitability of applicant
- Whether the applicant has intentionally misled the Licensing Authority or has lied as part of the application process
- Information provided by other agencies or other services at the Licensing Authority. This may include information disclosed by the Police or Safeguarding Services • Any other matters that are relevant

Appendix D - Code of Good Conduct for Licensed Drivers

3.5 The Council has adopted a Code of Good Conduct for licensed drivers. This includes the following:

- m) Drive with care and due consideration for other road users and pedestrians
- n) Obey all Traffic Regulation Orders and directions at all time;

Appendix M – Three Strikes Policy

3.6 The authority operates a policy for dealing with complaints, allegations and witnessed incidents of misconduct or infractions. This policy states:

More serious offences

The following offences are deemed sufficiently serious that they will be excluded from this scheme, with prosecution or committee referral likely to result from a single incident:

- *Plying for hire without HCV licence (or driving or standing for hire)*
- *Using an unlicensed vehicle for private hire*

- *Driving a licensed vehicle without a valid HC/PH driver's licence*
- *Employing an unlicensed driver to drive a licensed vehicle*
- *Operating unlicensed vehicles, or operating vehicles without an operator's licence*
- *Refusing to accept booking to carry disabled passenger, or passenger with assistance dog*
- ***Injuring or endangering any person or property through wanton and furious driving or other wilful misconduct***
- *Carrying excessive number of passengers*

4. Statutory Taxi & Private Hire Guidance

- 4.1 The Department for Transport's statutory guidance for licensing authorities was published in July 2021 and places a statutory duty on licensing authorities who "must have regard" to it when exercising their licensing functions.
- 4.2 The DfT standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, therefore the "importance of thoroughly considering these standards cannot be overstated."

Fit and proper test

- 4.3 The statutory guidance defines "fit and proper" as:

"Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?"

- 4.4 The statutory guidance goes on to say at paragraphs 5.13 and 5.14:

If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.

Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. **This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence.** The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction. [Emphasis added]

5. Licensing Comments

- 5.1 The Licensing Committee must have regard to the statutory guidance and the provisions of its own policy when coming to a determination of this application for a review.
- 5.2 The Committee is under a statutory obligation to ensure that persons licensed as hackney carriage drivers are, and remain, fit and proper people.
- 5.3 Further details of the complaint and Mr Vinodrai's explanation is outlined in the accompanying background papers.
- 5.4 Mr Vinodrai has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members' questions or to be represented. In considering the application on its own merits Members should have regard to the adopted Probity Guide.

Background Papers

Service Records

Report Author

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