

Mission Statement

To Improve the Quality of Life
For Those Who Live and Work in The District

21 August 2008

Dear Councillor

You are hereby invited to a meeting of the **Licensing Committee** to be held in **Committee Room 2**, Civic Centre, Portholme Road, Selby on **Monday 1 September 2008**, commencing at **10:00 am**.

The agenda is set out below.

1. Apologies for Absence and Notice of Substitution

To receive apologies for absence and notification of substitution.

2. Disclosure of Interest

To receive any disclosures of interest in matters to be considered at the meeting in accordance with the provisions of Section 117 of the Local Government Act 1972, and Sections 50, 52 and 81 of the Local Government Act 2000 and the Members' Code of Conduct adopted by the Council.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 4 August 2008 (pages 5 to 8 attached)

4. Procedure

To outline the procedure to be followed at the meeting (pages 9 to 10 attached).

5. Chair's Address to the Licensing Committee

6. Introduction of DVLA Checks

Report of the Head of Service – Legal and Democratic Services (pages 11 to 14 attached).

7. Private Hire Licence in respect of a Limousine and Discreet Licensing Issue

Report of the Head of Service – Legal and Democratic Services (pages 15 to 18 attached).

8. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972 in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following items as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 3 of Part 1 of Schedule 12(A) of the Act.

9. Application for Hackney Carriage Licence

Report of the Head of Service – Legal and Democratic Services (pages 25 to 32 attached).

10. Application for Hackney Carriage Licence

Report of the Head of Service – Legal and Democratic Services (pages 33 to 37 attached).

M Connor
Chief Executive
21 August 2008

Disclosure of Interest – Guidance Notes:

- (a) Councillors are reminded of the need to consider whether they have any personal or prejudicial interests to declare on any item on this agenda, and, if so, of the need to explain the reason(s) why they have any personal or prejudicial interests when making a declaration.

- (b) The Democratic Services Officer or relevant Committee Administrator will be pleased to advise you on interest issues. Ideally their views should be sought as soon as possible and preferably prior to the day of the meeting, so that time is available to explore adequately any issues that might arise.

[Please note that the papers relating to the applications have been circulated to councillors of the Licensing Committee only, who should return the agenda to Democratic Services at the conclusion of the meeting to enable the papers to be destroyed confidentially].

Dates of Future Meetings of the Licensing Committee

Date of Meeting	Deadline Date	Distribution Date
27 October 2008	9 October 2008	17 October 2008
24 November 2008	6 November 2008	14 November 2008

Membership of the Licensing Committee 10 Members

Conservative	Labour	Independent
J Dyson	D Davies	J McCartney
K McSherry	S Duckett	
C Pearson (Vice-Chair)		
S Ryder		
R Sayner (Chair)		
A Spetch		
D White		

Enquiries relating to this agenda, please contact Tracey Peam on:

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Descriptions of Exempt Information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes –
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Qualifications for Exempt Information:

Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under -

- (a) the Companies Act 1985;
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Industrial and Provident Societies Acts 1965 to 1978;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 1993.
9. Information falling within any of the 7 categories listed above is not exempt if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
 10. Information which;
 - (a) falls within any of paragraphs 1 to 7 above; and
 - (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Agenda Item No: 3

SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on 4 August 2008, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10:00 am.

210	Minutes
211	Procedure
212	Chair's Address to the Licensing Committee
213	Introduction of DVLA Checks
214	Discreet Licensing Issues
215	Private Session
216	Application for a Hackney Carriage Licence
217	Complaint about behaviour of Private Hire Driver

Present: Councillor C Pearson (in the Chair)

Councillors: Mrs D Davies, Mrs J Dyson, Mrs M Hulme (*for Mrs S Ryder*), B Marshall (*for Mrs S Duckett*), J McCartney, Mrs P Mackay (*for R Sayner*), Mrs K McSherry, Mrs A Spetch and Mrs D White.

Officials: Temporary Head of Service – Legal and Democratic Services, Licensing Enforcement Officer and Committee Administrator

Public: 0

Press: 0

208 **Apologies for Absence and Substitution**

Apologies were received from Councillors Mrs S Duckett, Mrs S Ryder and R Sayner.

Substitute Councillor were Mrs M Hulme (*for Mrs S Ryder*) B Marshall (*for Mrs S Duckett*) and Mrs P Mackay (*for R Sayner*).

209 **Disclosure of Interest**

None.

210

Minutes

Resolved:

That the minutes of the proceedings of the meeting of the Licensing Committee held on 7 July 2008 be confirmed as a correct record and be signed by the Chair.

211

Procedure

The Procedure was noted.

212

Chair's Address to the Licensing Committee

The Chair gave no address to the Licensing Committee.

213

Introduction of DVLA Checks

The Chair asked that this item be deferred until the 1 September 2008 meeting when a power point presentation from Data Systems (UK) Ltd would be given to councillors on the introduction of DVLA Checks.

Resolved:

That the item be deferred until 1 September 2008 meeting.

214

Discreet Licensing Issues

Councillors received the report of the Licensing Enforcement Officer to seek a decision regarding the approval of the grant of a private hire vehicle licence in respect of Mr Howgate and that the licence be discreet in manner.

Mr Howgate had applied for a Private Hire Vehicle Licence in respect of an Avensis Tourer motor vehicle.

The licence disc would be provided on a red background, thereby replicating the colour of the private hire vehicle plate. The driver would, however, be required to keep the private hire plates within the vehicle.

Resolved:

That the approval of a private hire vehicle licence in the form of a disc identifying the registration number as a private hire vehicle be approved.

215 **Private Session**

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, as there will be disclosure of exempt information as defined in paragraph 3 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.

216 **Application for a Hackney Carriage Licence**

Councillors received the report of the Licensing Enforcement Officer for the grant of a Hackney Carriage Licence for a Vauxhall Vectra, a vehicle not fully accessible to the disabled.

The Licensing Enforcement Officer outlined the details of the case.

The driver concerned outlined his reasons for the application.

Councillors considered the application against the Council's guidelines on hardship and resolved to grant a licence for a vehicle, which did not have disabled access.

Resolved:

That the application for a hackney carriage licence for a vehicle not accessible to the disabled be granted.

217 **Complaint about behaviour of Private Hire Driver**

Councillors received the report of the Licensing Enforcement Officer in respect of an allegation that a Private Hire Driver had driven without due care and attention and failed to conform to certain traffic signs.

The Licensing Enforcement Officer outlined details of the case to councillors and answered questions raised.

The Private Hire Driver explained details of his case.

The Committee deliberated over the decision as to whether this driver was a fit and proper person and it was agreed that the driver be given a final written warning in place for 12 months advising him as to his future conduct.

Resolved: That

- (i) The Private Hire Driver be given a final written warning to be in place for 12 months advising him as to his future conduct; and**
- (ii) All Private Hire and Hackney Carriage Drivers within Selby District Council authority should be reminded that their behaviour whilst driving a licensed vehicle, is likely to be subject to scrutiny by members of the public.**

The meeting closed at 11:25 am.

LICENSING COMMITTEE

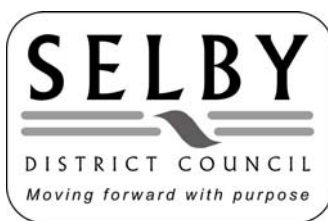
PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Councillors of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The Head of Service – Legal and Democratic Service will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Councillors of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, will then withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting the Head of Service – Legal and Democratic Services will write to the applicant informing them of the decision of the Licensing Committee.



Public Session

Agenda Item No: 6

Title: Introduction of DVLA checks
To: Licensing Committee
Date: 1 September 2008
Service Area: Legal and Democratic Services
Author: Tim Grogan
Presented by: Tim Grogan

1. Purpose of Report

- 1.1 To ensure that the District Council are in receipt of the latest and most complete driving licence history in relation to those applying for the grant or renewal of a Hackney Carriage and Private Hire driver's licences.

2. Recommendation(s)

- 2.1 **(i) That councillors approve the introduction of a check of all driver's licences, with effect from 1st October 2008.**
- (ii) That the cost of the check be added to the yearly licence fee.**

3. Executive Summary

- 3.1 All applicants for Hackney Carriage and Private Hire Driver's licences are required to undergo a Criminal Record Bureau (CRB) check, which provides a disclosure of any criminal history. However, CRB checks do not include either penalty points or traffic related convictions and the only means available to the Council to confirm this detail is through a check with the Driver and Vehicle Licensing Agency (DVLA).
- 3.2 The safety of the travelling public is paramount when considering such applications and therefore the Licensing Section consider that it is important

to check applicants prior to the issue of a particular licence. The system suggested will enable the Council to check not only new applicants but those individuals renewing their licences to prevent passengers being out at risk.

4. The Report

- 4.1 As a member of the Institute of Licensing the Licensing Enforcement Officer was invited to a conference which included a presentation by Intelligent Data Systems (UK) Limited (IDS). This organisation is a privately owned company specialising in the management of data for the fleet industry. They are a registered Data Controller within the Data Protection Act and provide their services to Council Licensing Authorities, companies involved with vehicle fleets and leasing vehicles, insurance companies and companies involved with risk management.
- 4.2 Statistics from IDS show that 3 in every 100 drivers checked will have received a previous ban, 1 in 350 drivers will have a revoked or expired licence and 1 in 600 drivers will currently be banned. Statistics also show that not only do almost 30% of all drivers covering business mileage have points on their licences but also 65% of all corporately driven vehicles are involved in an accident every 12 months.
- 4.3 To address these issues the Licensing Section recommend an initiative which involves IDS proactively verifying all individual licences of both new applicants and those drivers renewing their licences. The system is innovative and delivered in a web based format thus ensuring the service is quick and efficient. As a consequence there is no increase to the administrative duties of the Licensing Department.
- 4.4 IDS also report that instances have recently revealed that some drivers licensed by certain Local Authorities are in possession of multiple DVLA driver licences. In the situation it is therefore possible that a driver could produce a 'clean' driving licence in order to obtain a badge thereby concealing their most recently issued licence which may reveal motoring convictions.
- 4.5 Without the benefit of a DVLA check there is no way that the Licensing Authority will know that the licence produced is current and up to date. It is also essential to examine the history of each licence and the regularity of the driver receiving penalty points.
- 4.6 The administration of all DVLA checks will be out sourced to IDS at a cost of £8.25, which will be passed on to the drivers and embedded within the yearly licence fee. This cost allows further checks free of charge on that licence within that twelve month period. Both Hackney Carriage and Private Hire Drivers licensed by Selby District Council are required to renew their licences on a yearly basis. At present Selby District Council licence 176 drivers.
- 4.7 It is anticipated that the initial contract with IDS will be for two years and the terms of a standard service level agreement will be available on the day of the Licensing Committee meeting. In addition it is anticipated that a

representative of the company will attend the meeting in order to provide a short presentation.

- 4.8 This system presents a number of advantages not least of which is the contribution to road safety by identifying high risk drivers and those concealing a true record of their motoring history.
- 4.9 If councillors approve the introduction of this check, drivers will be asked to sign a Data Protection Mandate authorising IDS to obtain driving licence information relating to that specific driver. The mandate is for one year, during which time IDS can undertake unlimited checks. When the driver is no longer licensed by the Council the mandate is automatically cancelled. Implementation of this new system is a straightforward process and as the cost is below the Council's procurement threshold there is no requirement to undergo a procurement exercise.
- 4.10 A "Frequently Asked Questions" document is attached at Appendix A. This document will be given to both Hackney Carriage and Private Hire Drivers alike

5. Financial Implications

- 5.1 The following financial implications assume a start date of 1st October 2008, with the cost of the initiative being passed on to the drivers.

	2008/9	2009/10	2010/11
Estimated cost of Licence checks	£726	£1452	£1452
Additional income	£726	£1452	£1452
Net cost to the Council	£0	£0	£0

6. Link to Corporate Plan

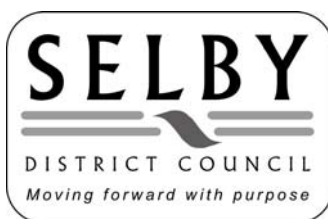
- 6.1 The additional safeguards proposed in this report will help support the Council's strategic theme of putting customers first.

7 How Does This Report Link to Council's Priorities?

- 7.0 This report will contribute towards acknowledging the priority of safer communities.

8 Impact on Corporate Policies

8.1	Service Improvement	No Impact
8.2	Equalities	No Impact
8.3	Community Safety and Crime The checks will ensure that dishonest drivers are identified thereby ensuring the safety of the public.	Impact
8.4	Procurement	No Impact
8.5	Risk Management The checks will ensure that high risk drivers are identified thereby ensuring the safety of the public.	Impact
8.6	Sustainability	No Impact
8.7	Value for Money	No Impact
9	Background Papers	
9.1	Schedule featuring frequently asked questions.	



Public Session

Agenda Item No: 7

Title: Limousine and Discreet licensing issue

To: Licensing Committee

Date: 1st September 2008

Service Area: Legal and Democratic Services

Author: Tim Grogan

Presented by: Tim Grogan

1. Purpose of Report

- 1.1 To seek a decision regarding the approval of the grant of a Private Hire Vehicle licence in respect of a limousine owned by Philippa Waters and that the nature of such a licence be discreet in manner.

2. Recommendation(s)

- 2.1 **That councillors approve the issue of a Private Hire Vehicle licence in respect of a Lincoln Town Car American Stretch Limousine motor vehicle and the form of a disc identifying such a motor vehicle be discreet in manner.**

3. Executive Summary

- 3.1 Philippa Waters has applied for a Private Hire Vehicle licence in respect of a Lincoln Town Car American Stretch Limousine motor vehicle and requests that the licence be discreet in manner.

4. The Report

- 4.1 On the 6th August 2008, Philippa Waters applied for a Private Hire Vehicle licence in respect of a Lincoln Town Car American Stretch Limousine motor vehicle. Ms Waters requested that such a licence be discreet in manner as a

consequence of her proposed customers requesting an executive transportation service using vehicles not displaying a 'plate'.

- 4.2 As a consequence there are two issues that the Licensing Committee is required to examine. The first concerns Limousines and the second is the discreet identification.
- 4.3 **Limousines:** Imported American stretched limousines have been on the streets of Britain for many years. Approximately 90% of them are Lincoln Town Cars, manufactured by Ford, the remaining 10% are mainly Cadillac. Ford and Cadillac operate a network of approved converters all of which are in America. The conversion companies are supplied with a specially strengthened chassis and the vehicle is built onto this. The chassis is designed to carry the extra weight of the "stretch" which is typically 10ft. There are supposedly many vehicles in this country which have not been converted by an approved converter. Generally these vehicles have been stretched from a basic Lincoln Town Car and even if converted from a new vehicle, Ford will not honour the warranty because of the extra strain on the chassis, brakes and suspension. New York and many other large cities in America have refused to license these vehicles since 2002.
- 4.4 When using any vehicle on operations for hire or any sort of payment, legislation requires some form of licence for use either as a Public Service Vehicle (PSV) or as a Private Hire Vehicle (PHV) /Taxi, depending on the type of vehicle and the way it is used. PSV Operators' Licences apply across Great Britain and are issued by the Traffic Commissioners. Licences for PHVs /taxis are issued by Local Authorities in England and Wales.
- 4.5 In Britain stretched limousines have tended to fall into a gap between the legislation covering PSVs and PHVs. As they are generally constructed to carry 10 passengers, they could not be licensed as PHVs and because of the configuration of the doors it could not be licensed as a PSV. Due to legislation and/or legitimate safety concerns, many Local Authorities have refused to licence such vehicles for private hire work. Consequently for a number of years some stretched limousines have operated in an unregulated manner.
- 4.6 Although manufactured to carry 10 passengers, the DVLA have now agreed to register some stretched limousines as 8 seaters, subject to conditions. This effectively now brings them under the control of Local Authorities. Also the Department of Transport has issued guidance for such vehicles when considering licensing as a PSV or PHV. A framework for the licensing of limousines is now beginning to be proposed and adopted in many Local Authority areas.
- 4.7 Selby District Council will now need to address the issue and decide whether or not to licence such vehicles within their PHV framework and if so the conditions that should apply to such vehicles.
- 4.8 Private Hire Vehicles are required to be licensed under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 which, in general

terms, allows Councils to licence vehicles which are suitable to be used for private hire and which have less than 9 passenger seats.

- 4.9 The Department of Transport have now issued guidance for operators of stretch limousines. It gives an overview of the requirements for PHV licensing which Selby District Council will adopt should the Committee grant this licence.
- 4.10 **Discreet identification:** Two prospective business customers support this application and confirm this fact in writing.
- 4.11 Section 48(5) of the Local Government (Miscellaneous Provisions) Act 1976 is the legislation which deals with this matter. The Section provides that a District Council shall issue a plate or disc in order that a vehicle may be identified as a Private Hire vehicle.
- 4.12 Other Authorities have issued licences in the form of a disc which is discreet in nature. Selby District Council has granted such licences on four previous occasions.
- 4.13 A copy of the disc, which will be provided on a red background thereby replicating the colour of the Private Hire Vehicle plate, is available for scrutiny.
- 4.14 A copy of Ms Waters' application, letter and the two supporting letters from customers are attached for information.

5. Financial Implications

- 5.1 There are no financial implications.

6. Link to Corporate Plan

- 6.1 It is the Corporate Policy of the Council to promote the health and safety of those who live and work in the District.

7 How Does This Report Link to Council's Priorities?

- 7.0 It is a Council priority to promote the health and safety of those who live and work in the District.

8 Impact on Corporate Policies

- | | | |
|-----|-----------------------------------|------------------|
| 8.1 | Service Improvement | No Impact |
| 8.2 | Equalities | No Impact |
| 8.3 | Community Safety and Crime | No Impact |
| 8.4 | Procurement | No Impact |

- | | | |
|-----|---|------------------|
| 8.5 | Risk Management
There is a risk that without regulation unlicensed Limousines could operate within the district and the safety of the public could be put at risk | Impact |
| 8.6 | Sustainability | No Impact |
| 8.7 | Value for Money
. | No Impact |

9 Background Papers

- 9.1 A copy of Section 48(5) of the Local Government Act (Miscellaneous Provisions) Act 1976 is available in the Legal Services section.
- 9.2 Letter from Philppa Waters
- 9.3 Letter of support from Poly John International
- 9.4 Letter of support from Inn keeper's lodge
- 9.5 Application for grant of licence by Philippa Lodge
- 9.6 Copy of disc