

## **Mission Statement**

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

25 September 2009

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, **5 October 2009** 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 7 September 2009 (pages 5 to 9 attached)

**4. Procedure**

To outline the procedure to be followed at the meeting (pages 10 to 11 attached).

**5. Guidelines relating to the relevance of convictions**

To outline the guidelines in connection with applicants who have convictions (pages 12 to 15 attached)

**6. Chair's Address to the Licensing Committee**

**7. 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 1 of Part 1 of Schedule 12(A) of the Act.**

**8. Application for a Private Hire Driver's Licence**

Report of the Solicitor to the Council (Pages 16 to 20)

**9. Application for a Private Hire Driver's Licence**

Report of the Solicitor to the Council (Pages 21 to 25 )

**10. Application for a Private Hire Driver's Licence**

Report of the Solicitor to the Council (Pages 26 to 30)

S Martin  
Strategic Director  
25 September 2009

### **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**

<b>Date of Meeting</b>	<b>Deadline Date</b>	<b>Distribution Date</b>
9 November 2009	22 October 2009	30 October 2009
7 December 2009	19 October 2009	27 November 2009

### **Membership of the Licensing Committee 10 Members**

<b>Conservative</b>	<b>Labour</b>	<b>Independent</b>
K Ellis		
J Dyson	D Davies	J McCartney
P Mackay	S Duckett	
K McSherry		
S Ryder		
R Sayner (Chair)		
D White (Vice Chair)		

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## SELBY DISTRICT COUNCIL

Minutes of the proceedings of a meeting of the Licensing Committee held on 7 September 2009, in Committee Room 2, The Civic Centre, Portholme Road, Selby, commencing at 10.00 am.

223	Minutes
224	Procedure
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231	Complaint about behaviour of Licensed Private Hire Driver
232	Application for a Private Hire Driver's Licence
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234	Application for a Private Hire Driver's Licence

Present: Councillor R Sayner in the Chair

Councillors: Mrs D Davies, Mrs S Duckett, K Ellis, Mrs P Mackay, B Marshall (for Mrs D Davies), J McCartney, Mrs K McSherry, Mrs S Ryder, and Mrs D White.

Officials: Solicitor, Licensing Enforcement Officer and Committee Administrator

In attendance: PC Hickman – In relation to Minute 228

Public: 0

Press: 0

### 221 **Apologies for Absence and Substitution**

Apologies were received from Councillors Mrs Davies and Mrs Dyson.

Substitute Councillor was B Marshall (for Mrs D Davies).

### 222 **Disclosure of Interest**

None.

223

## **Minutes**

### **Resolved:**

**That the minutes of the proceedings of the meeting of the Licensing Committee held on 3 August 2009 be confirmed as a correct record and be signed by the Chair.**

224

## **Procedure**

The Procedure was noted.

225

## **Guidelines relating to the relevance of convictions**

The Guidelines were noted.

226

## **Chair's Address to the Licensing Committee**

The Chair made the suggestion that today's hearings were of a sensitive nature and could all questions go through the Chair.

227

## **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 1 of Part 1 of Section 12A of the Act, as amended by the Local Government (Access to Information) (Variation) Order 2006.**

228

## **Complaint about behaviour of Licensed Hackney Carriage Driver**

Councillors received the report of the Licensing Enforcement Officer with regard to the behaviour of a licensed Hackney Carriage Driver.

A complaint had been received from North Yorkshire Police alleging that the Hackney Carriage Driver had been driving without due care and attention and behaved inappropriately when interviewed about the matter.

The Licensing Enforcement Officer gave councillors full details of the incident.

PC Hickman gave his account of the incident.

The Hackney Carriage Driver gave his account of the incident.

After considering the very different versions of the events that had taken place it was agreed that the driver be given a four week suspension from driving his Hackney Carriage having regard to his previous record as a Licensed Hackney Carriage Driver. In addition, the Committee suggested the driver attend an Anger Management Course.

**Resolved:**

**That the Hackney Carriage Driver be suspended from driving Hackney Carriages for four weeks with effect from midnight Monday 7 September 2009.**

229

### **Complaint about behaviour of Licensed Private Hire Operator**

Councillors received the report of the Licensing Enforcement Officer with regard to the conduct of a licensed private hire operator, in connection with operating private hire vehicles without the appropriate licence on three occasions and failing to report a road traffic accident within the prescribed period.

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

The Private Hire Operator outlined their version of events.

The Committee agreed that the Private Hire Operator be given a written warning with regard to the incidents and to notify the Licensing Enforcement Officer of any change of address the business would be operated from.

**Resolved: That**

- (i) the Private Hire Operator be given a written warning as to future conduct in respect of the offences outlined;**
- (ii) that the Licensing Enforcement Officer be informed forthwith of any change to the address of the Operator's business; and**
- (iii) the Operator operates in respect of work obtained solely in the controlled area of Selby District Council.**

Councillor McCartney left the meeting at this point.

230

### **Complaint about behaviour of Licensed Private Hire Operator**

Councillors received the report of the Licensing Enforcement Officer with regard to the conduct of a licensed Private Hire Operator following his conviction at Selby Magistrates Court for driving a motor vehicle when his alcohol level was above the prescribed limit.

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

The Private Hire Operator outlined details of the case and also answered questions raised.

Councillors agreed to allow the applicant to continue as a Licensed Private Hire Operator.

#### **Resolved:**

**That the Licensed Private Hire Operator be allowed to continue operating his business.**

231

### **Complaint about behaviour of Licensed Private Hire Driver**

Councillors received the report of the Licensing Enforcement Officer regarding the conduct of the Private Hire Driver in respect of allowing smoking in a Licensed Private Hire Vehicle.

The driver concerned revealed they had not realised that allowing smoking in a Private Hire Vehicle was an offence when the vehicle was not being used to carry fare-paying passengers.

#### **Resolved:**

**That the Licensed Private Hire Driver be given a written warning with regard to allowing smoking in a Private Hire Vehicle.**

232

### **Application for a Private Hire Driver's Licence**

Councillors received the report of the Licensing Enforcement Officer in respect of the applicant's desire to be issued with a Private Hire Driver's Licence and his fitness to operate as a consequence of a CRB disclosure.

The Licensing Enforcement Officer outlined details of the case.

The applicant gave councillors a detailed account of his antecedents.



**Resolved:**

**That the applicant be granted a Private Hire Driver's Licence with an initial probationary period of 12 months.**

Councillor Mrs McSherry left the meeting at this point.

233

**Application for a Private Hire Driver's Licence**

Councillors were informed by the Committee Administrator that the applicant was unable to attend the meeting.

Discussion took place and it was agreed that this case would be deferred and brought before the next meeting of the Licensing Committee to be held on 5 October 2009.

**Resolved:**

**That the applicant be informed that the case would be deferred until the next meeting of the Licensing Committee to be held on 5 October 2009.**

234

**Application for a Private Hire Driver's Licence**

Councillors received the report of the Licensing Enforcement Officer in respect of the applicant's desire to be issued with a Private Hire Driver's Licence and his fitness to operate as a consequence of a CRB disclosure.

The Licensing Enforcement Officer outlined details of the case.

The applicant gave councillors a detailed account of antecedents.

**Resolved: That**

- (i) the applicant be granted a Private Hire Driver's Licence with an initial probationary period of 12 months; and**
- (ii) the driver is employed in respect of work obtained solely in Selby District.**

The meeting closed at 12:50 pm.

## **GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS**

### **GENERAL POLICY**

1. Each case will be decided on its own merits.
2. A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of convictions for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
3. The following examples afford a general guide on the action to be taken where convictions are admitted.

**(a) Minor Traffic Offences**

Convictions for minor traffic offences, e.g. obstruction, waiting in a restricted street, speeding etc, should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a Hackney Carriage or Private Hire Driver's licence may be granted after its restoration but a warning should be issued as a future conduct.

**(b) Major Traffic Offences**

An isolated conviction for reckless driving or driving without due care and attention etc should normally merit a warning as to future conduct and advice on the standard expected of Hackney Carriage and Private Hire Vehicle Drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from convictions has elapsed.

**(c) Drunkenness**

**(i) With Motor Vehicle**

A serious view should be taken of convictions of driving or being in charge of a vehicle while under the influence of drink. An isolated incident should not necessarily debar an applicant but strict warnings should be given as to future behaviour. More than one conviction for these offences should raise grave doubts as to the applicant's fitness to hold a licence. At least 3 years should elapse (after the restoration of the driving licence) before an applicant is considered for a licence. If

there is any suggestion that the applicant is an alcoholic, a special medical examination should be arranged before the application is entertained. If the applicant is found to be an alcoholic a period of 5 years should elapse after treatment is complete before a further licence is considered.

(ii) Not in Motor Vehicle

An isolated conviction for drunkenness need not debar an applicant from gaining a licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating critical examination (see (i) above). In some cases, a warning may be sufficient.

**(d) Drugs**

An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained or 5 years after detoxification treatment if he/she was an addict.

**(e) Indecency Offences**

As Hackney Carriage and Private Hire Vehicle Drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, should be refused until they can show a substantial period (at least 3 to 5 years) free of such offences. More than one conviction of this kind should preclude consideration for at least 5 years. In either case if a licence is granted a strict warning as to future conduct should be issued.

**(f) Violence**

As Hackney Carriage and Private Hire Vehicle Drivers maintain close contact with the public, a firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.

**(g) Dishonesty**

Hackney Carriage and Private Hire Vehicle Drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare etc. Overseas visitors can be confused by the change in currency and

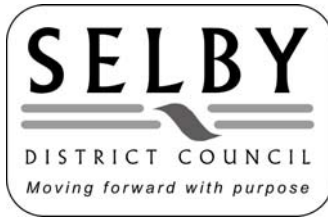
become “fair game” for an unscrupulous driver. For these reasons a serious view should be taken of any conviction involving dishonesty.

In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

- A. The time limits before which convictions become spent are extended in certain circumstances where further convictions take place. Applicants with multiple convictions or any other queries are recommended to read the Home Office publication, ‘A Guide to Rehabilitation of Offenders Act, 1974’ or to seek advice from the Licensing Department or a solicitor before making a formal application.**

	<u>SENTENCE</u> <u>Where suspended sentences are imposed the rehabilitation period is the same as it would be for an equivalent term of immediate imprisonment.</u>	<u>TIME BEFORE CONVICTION BECOMES SPENT</u>
1.	Sentences of imprisonment or youth custody exceeding 30 months are <b>NEVER</b> spent and must be disclosed however long ago they were imposed.	Never Spent
2.	Imprisonment or youth custody for a term exceeding 6 months but not exceeding 30 months.	10 years adult 5 years juvenile
3.	Imprisonment or youth custody for a term not exceeding 6 months.	7 years adult 3½ years juvenile
4.	An order detention in a Detention Centre.	3 years
5.	A Community Service Order	5 years
6.	A Fine	5 years adult 2½ juvenile
7.	Conditional discharge, bound over, Probation.	1 year from the date of conviction or the expiry of the order, whichever is the longer.
8.	Cashiering, discharge with ignominy or dismissal.	10 years adult 5 years juvenile

9.	Dismissal for HM Service	7 years adult 3½ years juvenile.
10.	Hospital Order under Mental Health Act 1983	5 years from the date of conviction or 2 years after the Order expires.
11.	Disqualification, disability or prohibition when not imposed in conjunction with any other sentence.	Period of disqualification, disability or prohibition.
12.	Any other sentence other than those listed above.	5 years



## Public Session

Agenda Item No:

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**Title:** Proposed introduction of driving standard agency  
Hackney Carriage and Private Hire driving assessment for  
new applicants

**To:** Licensing Committee

**Date:** 05 October 2009

**Service Area:** Customers and Business Support

**Author:** Tim Grogan

**Presented by:** Tim Grogan

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### 1. Purpose of Report

- 1.1 To consider amending the councils existing policy for Hackney Carriage and Private Hire Driver applications by introducing a requirement for all new applicants to obtain a pass certificate from the Driving Standards Agency (DSA) as part of the application process.

### 2. Recommendation(s)

- 2.1 (i) To make no changes to the existing policy.
- (ii) To adopt the requirement for all new applicants for a Hackney carriage or Private Hire Driver's licence to attain a pass in the Driving Standard Agency test and assessment before their application is considered by the Council.
- (iii)
- a. To adopt the requirement for all new hackney Carriage and Private hire Drivers to attain a pass in the Driving standard Agency test and assessment before their application is considered by the council

**b. In addition, where deemed necessary, to adopt the requirement in discipline or complaints matter involving licensed driver**

**3. Executive Summary**

- 3.1 This report requests members to consider amending the Council's existing policy for Hackney Carriage and Private Hire Driver's licence applications by introducing a requirement for all new applicants to submit with their application a certificate of completion of a driving standards assessment specifically designed for Hackney Carriage and /or Private Hire Vehicle Drivers as provided by the Driving Standard Agency (DSA).

**4. The Report**

- 4.1 Section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that the Council must not grant a licence to drive a Hackney Carriage or Private Hire Vehicle unless they are satisfied (a) the applicant is a fit and proper person to hold a driver licence and (b) that they have held a full driving licence for a minimum of 12 months.
- 4.2 Currently there is no requirement for applicants wishing to drive either a Hackney Carriage or Private Hire Vehicle in Selby to undergo any additional practical driving test, designed to test their skills in taxi driving other than the normal driving test.
- 4.3 Whilst applicants must have held a DVLA driving licence for at least 12 months in advance of applying for a taxi licence, applicants for either a Hackney Carriage and/or Private Hire Driver's licence may otherwise apply to the Council irrespective of the date on which they may have taken a driving test.
- 4.4 It is widely accepted that driving skills, knowledge and standards can fade with the passage of time. Over recent years the area has seen an increase in a number of overseas drivers taking up employment as hackney carriage and private hire drivers. Some of these drivers have qualified in their native country but have not passed a test in the UK. Increasingly, the department has seen a rise in the number of drivers accumulating 9 points or more on their driving licences. The introduction of the DSA driving test and assessment will be a positive step towards addressing some of the concerns raised by these changes.
- 4.5 In most areas of professional driving a test is completed to show the suitability of the applicant in that field of driving. Hackney Carriage and Private Hire Drivers are the only group of professional drivers in the country who are not required to pass a further national driving standards test before they are allowed to carry passengers for hire or reward.

- 4.6 **Driving Standard Agency Test.** The Driving Standard Agency (the DSA) is the Government authorised body that administers the compulsory driving test scheme in the UK, the passing of which is a requirement to the granting and issuing of a conventional driving licence for a motor vehicle.
- 4.7 Since 1999 the DSA has offered a discretionary driving assessment for the drivers of Hackney Carriages and Private Hire Vehicles. The DSA Hackney Carriage and Private Hire Vehicle driving assessment is specifically designed to test the skills required to drive a taxi safely and includes assessment of awareness and anticipation, effective planning relating to road conditions, correct use of speed and passenger safety and comfort.
- 4.8 The test can also incorporate the loading and unloading of wheelchair bound passengers in suitably constructed vehicles. Consequently, the test will give a good assessment of the applicants driving ability and suitability to be licensed.
- 4.9 The assessment can be conducted at any DSA driving test centre. The nearest centres located to Selby are at York, Pontefract, Doncaster, Leeds, Wakefield and Knaresborough.
- 4.10 The cost of the DSA driving assessment is set at £76.34 including VAT during the week and £92.00 including VAT if conducted out of hours. An enhanced check, which is applicable to drivers of wheelchair accessible vehicles, is £89.07 including VAT and £107.66 including VAT if conducted out of hours. In addition there is a wheelchair exercise, which is £25.45 including VAT and £31.31 including VAT if conducted out of hours. All fees will be met by the applicant.
- 4.11 The DSA have reported that by September 2009, 139 local authorities will have adopted the DSA test for Hackney Carriage and Private Hire Drivers. It is anticipated that a representative of the DSA will attend the meeting in order to provide a short presentation.
- 4.12 In the Yorkshire and North East regions, the following authorities have so far introduced the DSA test: East Riding of Yorkshire, Hambleton, Leeds, Doncaster, Darlington, Wakefield, Barnsley, Rotherham, Middlesbrough and Durham. In addition, the City of York Council is proposing to introduce the scheme on 1<sup>st</sup> April 2010.
- 4.13 **Department for Transport's Best Practice Guidance for Taxi and Private Hire Licensing (Published October 2006).** The Licensing Section has consulted with the Department for Transport's Best Practice Guidance for Taxi & Private Hire Licensing which states:- Many local authorities rely on the standard car driving licence as evidence of driving proficiency. Others require some further driving test to be taken. Local authorities will want to consider carefully whether this produces benefits which are commensurate with the costs involved for would be drivers, the costs being in terms of both money and broader obstacles to entry into the trade. However, they note that the



Driving Standard Agency provides a driving assessment specifically designed for taxis.

## **5. Financial Implications**

- 5.1 Payment for the DSA test will be paid by the driver direct to the DSA. There are no cost implications for the authority.

## **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** **Impact**

The assessments will ensure that drivers are suitably qualified thereby ensuring the safety of the public.

- 8.4 **Procurement** **No Impact**

- 8.5 **Risk Management** **Impact**

The checks will ensure that high risk drivers are identified thereby ensuring the safety of the public.

- 8.6 **Sustainability** **No Impact**

- 8.7 **Value for Money** **No Impact**

## **9 Background Papers**