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# Convictions Guidance – Supporting Information

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## 1. Introduction/Background

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that a Licensing Authority must satisfy themselves before a licence is granted that the applicant for a driver or operator licence is a fit and proper person. This has not been judicially defined but in the case of a suspension of a driver in Leeds City Council v Hussain it was said by the Judge:

*“To prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault passengers”*

- 1.2 There is no national or statutory guidance to assist local authorities in making a decision on whether a licence holder remains, or a new applicant is, fit and proper. As such, it is left up to individual authorities to make this decision.
- 1.3 In the absence of national or statutory guidance, the IoL have published a comprehensive guidance document, with the aim for it to be widely adopted to result in a degree of national uniformity, which serves the public interest in consistency, certainty and confidence in the system of licensing.
- 1.4 The Council already publishes a guidance document which includes recommendations on the period of time before an individual may be deemed suitable to hold a licence following a conviction for given offences. However, some of these recommendations are significantly more lenient than those within the IoL guidance.
- 1.5 It is therefore felt to be an opportune time to revisit the Council’s guidance, with the aim to update and expand on, the information included.

## 2. Supporting Information

- 2.1 The guidance has been produced by the IoL in partnership with the Local Government Association, Lawyers in Local Government, and the National Association of Licensing and Enforcement Officers, and following widespread consultation. It is formally endorsed by all of those organisations.
- 2.2 The guidance published by the IoL is attached at **Appendix D**. The Council’s current guidance at **Appendix E**. A table showing a comparison between the time scales presented in these two documents is attached at **Appendix F**. The draft policy proposed for adoption is at **Appendix G**. The full responses received to the consultation are attached at **Appendix H**.
- 2.3 In each case in the IoL standards, the suggested time periods that should elapse before a licence would be granted are equal to, or longer than the existing periods in the Council’s guidance. In some cases, significantly longer periods are suggested,

for example all violence offences are 10 years in the IoL guidance, whereas for a single violence offence, the period is 3 years in the current guidance.

- 2.4 Nationally, there have been a number of high profile incidents in recent years in relation to child sexual exploitation ('CSE') issues, and therefore it is felt to be very appropriate to specify that anyone who has been convicted of CSE or other exploitation offences (such as modern slavery), will not be licensed.
- 2.5 Both Hackney Carriage and Private Hire drivers are exempt from the Rehabilitation of Offenders Act 1974. This means that there are no 'spent' convictions and any and all criminal convictions can be taken into account by a Local Authority in assessing safety and suitability. Enhanced Disclosure and Barring Service (DBS) certificates are obtained by the authority in respect of a new applicant and these are renewed every 3 years.
- 2.6 Taxis are used by a large selection of the public but most regularly they are used by vulnerable groups such as children, the elderly, disabled people and the intoxicated. These groups in particular and lone females are placing themselves, and their personal safety, completely in the hands of a driver. As a passenger they may not have any control of what the driver does, be it drive badly, take them to a remote location, or assault them mentally or physically.
- 2.7 The Local Government Association Taxi and PHV licensing Councillors' handbook (from page 13, August 2017 edition) recommends that a Council's criminal convictions policy is reviewed and updated regularly. Councils are also recommended to take a particularly strong stance in relation to indecency, violence and dishonesty offences.
- 2.8 In addition to help in protecting the public, a robust policy will also engender public confidence in the trade, which can ultimately only be of benefit to the trade. This is a point that will be made in the consultation process.
- 2.9 It is suggested that the IoL guidance will help to add greater clarity for both the person making a decision, whether officers or Committee Members at a sub-Committee hearing, and for an applicant or licence holder who has criminal convictions or allegations made against them. The recommendation is therefore that a consultation is carried out in relation to the guidance. The results of this consultation shall be presented back to this committee with the suggestion that the IoL guidance is adopted along with the newly drafted current policy.

### **3. Options for Consideration**

- 3.1 The Committee could decline to adopt the guidance document and new policy, meaning the Council would continue to utilise the existing guidance at Appendix E.
- 3.2 The Committee could establish alternative timescales, other than those within the IoL guidance document, and amend the draft policy as they see fit.

### **4. Proposals**

- 4.1 That the Committee agrees to adopt the IoL guidance document as a document of reference and, subject to any amendments, agrees to the adoption of the Criminal Convictions Policy as drafted.

## 5. Conclusion

- 5.1 A comprehensive and robust policy will aid clarity for applicants, licence holders, Council officers, and elected Members.
- 5.2 The IoL guidance is also due to be adopted across the Public Protection Partnership, and whilst there may be some localised deviations in policy, they are only minor in nature, enabling the Council to benefit from economies of scale and resilience.

## 6. Consultation and Engagement

- 6.1 A consultation was carried out for six weeks, between 25 March 2019 and 31 May 2019.
- 6.2 Details of the consultation were sent by email to all licence holders for whom we have an email address, totalling 371 email addresses, and was available via the Council's online consultation portal for anyone to review and respond.
- 6.3 During the consultation period, a total of 11 responses were submitted. The full details of all responses received, with personal information redacted, is attached at **Appendix H** of this report.

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### Background Papers:

Local Government Association Taxi and PHV licensing Councillors' handbook (August 2017)

### Subject to Call-In:

Yes:  No:

Report is to note only

### Wards affected:

Non-specific

### Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim:

**P&S – Protect and support those who need it**

The proposals contained in this report will help to achieve the following Council Strategy priority:

**P&S1 – Good at safeguarding children and vulnerable adults**

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### Officer details:

Name: Suzanne McLaughlin  
Job Title: Principle Officer, Policy and Governance  
Tel No: 01635 519851  
E-mail Address: Suzanne.McLaughlin@westberks.gov.uk

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