

LICENSING COMMITTEE

A meeting of the Licensing Committee was held on Monday 24 February 2025.

PRESENT: Councillors L Lewis (Chair), S Hill (Vice-Chair), J Cooke, P Gavigan, D Jones, T Livingstone and A Romaine

OFFICERS: J Dixon, T Durance and S Wearing

APOLOGIES FOR ABSENCE: Councillors C Cooper, J Kabuye, L Mason, M Saunders and P Storey

24/64 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

24/65 **MINUTES - LICENSING COMMITTEE - 3 FEBRUARY 2025**

The minutes of the Licensing Committee meeting held on 3 February 2025 were submitted and approved as a correct record.

24/66 **STATEMENT OF LICENSING POLICY 2025-2030 AND CUMULATIVE IMPACT ASSESSMENT**

The Director of Environment and Community Services submitted a report seeking the Committee's approval of the Council's Statement of Licensing Policy 2025-2030 and the Cumulative Impact Assessment 2025-2028 and to recommend to Full Council that the Policies be ratified.

The Committee was advised that Section 5 of the Licensing Act 2003 required Licensing Authorities to publish a Statement of Licensing Policy to be applied when exercising their functions under the Act. Pursuant to the Act, the Statement of Licensing Policy (SOLP) must be approved by Full Council. The Policy had a lifespan of five years but must be kept under review during that time and revised when appropriate.

The purpose of the Policy was to promote the four Licensing Objectives, (Prevention of Crime and Disorder; Prevention of Public Nuisance; Public Safety; and Protection of Children from Harm) and was considered whenever the Council exercised its functions under the Licensing Act 2003.

The Council's previous SOLP became effective on 1 January 2017 and lapsed on 31 December 2022, however, due to the impact of Covid it had not been possible to review the Policy and the Cumulative Impact Assessment until now.

In terms of the Cumulative Impact Assessment (CIA), Section 5(a) of the Licensing Act 2003, stated that Local Authorities may publish a CIA to help limit the number and/or types of licence applications granted in particular areas where there was evidence to show that the number or density of licensed premises in the area was having a cumulative impact leading to problems that undermined the licensing objectives.

Middlesbrough Council had implemented CIAs for certain premises and the previous Policy included CIAs for On and Off Licensed premises in areas within the town centre and also for Off Licensed premises only within the Wards of: Central, Newport, Park, Longlands and Beechwood, and North Ormesby.

On 6 April 2018, the Policing and Crime Act 2017 introduced an amendment to the Licensing Act 2003, placing a duty on Licensing Authorities intending to implement a Cumulative Impact Policy to carry out a cumulative impact assessment to evidence justification of such a policy.

Section 5(a) of the Licensing Act stated that CIAs related to new applications for premises licences and club premises certificates in a specified area. Where a Licensing Authority published a CIA in must, before the end of a three year period, consider whether it remained

of the opinion set out in the assessment.

A draft Statement of Licensing Policy and Cumulative Impact Assessment was developed in accordance with the act and Officers were of the opinion that there was evidence to justify the inclusion of three additional Wards in the CIA in relation to Off Licensed premises. These areas were:-

- Park End and Beckfield
- Brambles and Thorntree
- Berwick Hills and Pallister

An eight-week consultation (from 1 July 2024 to 26 August 2024) was carried out with statutory consultees and wider partners which resulted in ten responses being received. These were set out in a table at Appendix 1 to the report, together with Officers' responses.

Having duly considered the consultation responses, a number of amendments were made to the Statement of Licensing Policy, including:-

- Drink and Needle spiking (Paragraph 5.5)
- Violence against women and girls (Paragraph 5.6)
- Counter Terrorism – Terrorism (Protection of Premises) Bill, also known as “Martyn’s Law” (Paragraph 5.7)
- Public Space Protection Orders, including problems associated with street drinkers (Paragraph 5.1)
- The role of Public Health and its influence on licensing decisions (Paragraph 3.11)

Further amendments were made in relation to matters concerning Child Sexual Exploitation (paragraph 8.1) and alcohol delivery services (paragraph 9.6).

Minor amendments had also been made to the Cumulative Impact Assessment. It was highlighted to Members that having a CIA did not change the way that decisions were made under the Licensing Act 2003. For example, where no representations were received in relation to an application, the Licensing Authority must grant the application subject to terms consistent with the applicant’s Operating Schedule. Where relevant representations were received, each decision would be made on a case-by-case basis with a view to promoting the licensing objectives and it was the responsibility of the applicant to demonstrate that they would not add to the Cumulative Impact. The Licensing Authority recognised that the cumulative impact policy was not absolute, and that any application would continue to be considered on its own merits, giving consideration to the applicant’s operating schedule, any relevant representations and whether the imposition of appropriate conditions would be effective in preventing problems.

A copy of the Draft SOLP and CIA were attached at Appendices 2 and 3 respectively and, for ease of reference, the amendments and additions to both documents had been highlighted in red.

It was highlighted to the Committee that the annual fees paid by premises licence holders were set by the Secretary of State and were intended to provide full cost recovery of all licensing functions including the preparation and publication of the SOLP and CIA. Current fees produced an income of £181,500, however the annual fees had not been reviewed since the introduction of the Licensing Act in 2005 and did not cover the cost of delivering the licensing functions. This resulted in an annual pressure on this budget of £50,700.

The Council was legally obliged to formally approve the adoption of its Statement of Licensing Policy and Cumulative Impact Assessment, with the former to be reviewed a minimum of every five years, and the latter to be reviewed a minimum of every three years. Approval of the Policy would also remedy the current position of being without a Policy.

The Principal Licensing Officer and Public Health Officer presented the amended areas and additions (as highlighted in red) in the SOLP to the Committee, providing more detail on each of the areas.

During discussion, the following issues were raised:-

- Reference was made to the ward boundary review currently being undertaken by the Boundary Commission and the likelihood of several wards changing significantly and it was queried how this would impact the areas identified as being subject to the CIA. It was clarified that whilst the CIA must be reviewed every three years as a minimum, where significant changes in circumstances arose, it would be reviewed where appropriate at that point in time.
- In response to a question regarding issues with street drinkers linked to sales of high strength and/or single cans, it was explained that Licensing and Public Health worked closely with premises identified as being linked to problems in the area and where those premises were not willing to work with responsible authorities and there was evidence that they were adding to problems in the area, a review of the premises licence could be applied for.

The Principal Licensing Officer wished to place on record his thanks to the Public Health Officer for her continued hard work in assisting with the preparation of the Draft Policies.

The Chair thanked the Officers for their presentation and put the recommendations to a vote.

ORDERED as follows:-

1. That the Statement of Licensing Policy 2025-2030 and the Cumulative Impact Assessment 2025-2028 be approved.
2. That the Licensing Committee recommend that the Statement of Licensing Policy and Cumulative Impact Assessment be ratified by Full Council.

24/67 **UPDATE - LICENSING APPEALS**

The Principal Licensing Officer provided an update in relation to a pending driver appeal, previously mentioned at the Committee's meeting on 13 January 2025. The driver's licence was revoked with immediate effect by Officers following an incident in November 2024. The driver had subsequently lodged an appeal which was scheduled to be heard in July, however, the Police had confirmed that they would be taking no further action against the driver and it was possible that he may wish to submit a fresh application for a taxi driver licence.

NOTED

24/68 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

There were no urgent items to consider.

NOTED

24/69 **EXCLUSION OF PRESS AND PUBLIC**

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

24/70 **REVIEW OF PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 05/25**

The Director of Environment and Community Services submitted an exempt report in connection with the review of Private Hire Vehicle Driver Licence, Ref: 05/25, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting accompanied by his representative, verified his name and address and confirmed he had received a copy of the report and understood its contents.

The Principal Licensing Officer advised the Committee that the Licensing Team had obtained a recording of a voicemail message left on the driver's phone when he had attempted to contact the passenger for payment. This would be played to the Committee.

The driver's representative wished to make two amendments to the submitted report. The first was to clarify, at page three of the report, that the driver had completed the full journey without having his mobile phone, and the second was in relation to page two of the report to clarify that one of the two males referred to, was the male that had initially got into the driver's taxi on the first occasion.

The Principal Licensing Officer presented a summary of the report outlining that the applicant appeared before Members as a result of recent matters that had arisen which raised concerns over his suitability to continue being licensed driver with Middlesbrough Council.

The driver was first licensed with Middlesbrough Council in May 2024 and his current licence was due to expire in April 2025.

Members were advised that the Licensing Office received an email on 30 January 2025 from the driver's operator stating that his account had been deactivated as a result of him taking a direct booking from a passenger without notifying the operator and subsequently messaging the female passenger on social media. A copy of the email was attached at Appendix 1. The email included screen shots of the messages.

The messages initially were from the driver to the female passenger providing his bank details for payment of the journey undertaken, however, they became hostile and abusive and then threatening when the female refused to pay the fare. The driver was subsequently interviewed by his operator regarding the incident and they decided to no longer employ him. The decision was as a result of the social media messages and the operator confirmed that no-one had made a complaint to them directly.

The driver was interviewed by the Licensing Manager and a Licensing Enforcement Officer on 31 January 2025 regarding the illegal booking and the content of the social media messages.

The driver provided his version of events in relation to the incident which was detailed in the submitted report.

The Principal Licensing Officer advised the Committee that Cleveland Police had confirmed that the driver had reported the incident but that the case had been closed with no further action being taken.

The driver's representative presented the case in support of the driver, providing background information in relation to the driver and his personal circumstances, and details of the incident and the subsequent messages.

The recording of a threatening voicemail message left on the driver's phone was played to the Committee.

The driver and his representative responded to questions from Members of the Committee.

It was confirmed that there were no further questions and the driver, his representative, and Officers of the Council, other than representatives of the Council's Legal and Democratic Services teams, withdrew from the meeting whilst the Committee determined the review.

Subsequently, all parties returned, and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

ORDERED that Private Hire Vehicle Driver Licence, Ref No: 05/25, be revoked, with immediate effect, as follows:-

Authority to act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a Private Hire/Hackney Carriage Vehicle driver's licence on the grounds that:-
2. Since the grant of the licence, the driver had been convicted of an offence involving dishonesty, indecency or violence;

3. Since the grant of the licence, the driver had committed an offence or breached the Act or the Town Police Clauses Act 1847;
4. For any other reasonable cause.
5. Under Section 61(2B) of the Act, if it appeared to be in the interests of public safety, the Committee could decide that the revocation was to have immediate effect.
6. The Committee considered Section 61 of the Act, the Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and representations made by the driver and his representative.
7. The review of the licence was considered on its own particular facts and on its merits.

Decision

8. After carefully considering all of the information, the Licensing Committee decided to revoke the driver's Private Hire Vehicle driver's licence on the grounds of any other reasonable cause. It decided that the revocation was to have immediate effect in the interests of public safety under section 61(2B) of the Act.

Reasons

9. The Policy confirmed that the Council's licensed drivers should be safe drivers with good driving records and adequate experience, sober, mentally and physically fit, be honest and not persons who would take advantage of their employment to abuse or assault passengers.
10. The Policy confirmed that criminal convictions were not the only criteria used when considering whether an individual was a fit and proper person to be licensed. The Council can consider circumstances of concern even though a conviction has not been obtained or the conduct does not amount to a criminal offence. In assessing the action to take, the safety of the travelling public must be the paramount concern.
11. A licensed driver should be courteous, avoid confrontation, not exhibit prejudice, not take the law into their own hands and demonstrate conduct befitting to the trust that was placed in them.
12. The Policy on Convictions was set out at Appendix G, Policy on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints and Character.
13. The driver had been licensed as a Private Hire Vehicle Driver with the Council since 14 May 2024, with the current licence due to expire on 30 April 2025.
14. On 30 January 2025, Licensing Officers were informed by the driver's operator, that the driver's account had been suspended due to an incident whereby he had taken a direct booking from a female passenger without notifying the operator. Furthermore, the driver had been messaging the passenger privately.
15. Licensing Officers reviewed the messages, which began on 7 January 2025, and despite the messages initially being a general request for the fare, the driver's language, tone and context quickly became abusive and threatening towards the passenger. The driver and the passenger then exchanged back-and-forth threatening messages.
16. The driver was interviewed by Licensing Officers on 31 January 2025 and stated that after he had finished a journey and was waiting for another job to be allocated, a male and a female had entered his car. The driver stated that the male grabbed him by the throat and demanded that they were taken to an address. The driver stated that the individuals had not booked the job but out of fear, he complied with the request. The driver informed Officers that the female had provided her phone number so that she could make a payment for the journey, as agreed, by bank transfer.

17. Upon completion of the journey, the driver informed Officers that his personal phone had been taken from the storage compartment between the front seats, so he called the number of the female passenger who in turn requested he return to the drop off address to collect it. When he returned, the male passenger from the previous journey and another male left the property and demanded to be taken to another location or the driver would not get his phone back. Once he had taken the individuals to the location, his phone was returned.
18. The driver indicated that his English was not the best and that the messages were referencing punching people rather than sexual violence. He further stated that he believed he was talking to a male and not a female when sending the expletive messages.
19. The driver, in interview, then alleged that he was being blackmailed by the passengers to send them money, otherwise they would share the screenshots and report him to his operator.
20. At the Committee hearing, Members heard that the driver was terrified of the individuals and that was why he originally did not report the incident to the Police. It was confirmed that the matter was subsequently reported, and no further action was taken, and the matter was now closed.
21. The Committee believed that there were inconsistencies with the driver's account of the incident. Further, the Committee was extremely concerned about the nature of the messages sent by the driver in which they determined there been a serious threat of sexual violence against the female passenger.
22. The Committee did not believe the driver's account that he thought he was talking to a male on the texts and that he intended to say 'him' not 'her', when making a direct threat, nor did the Committee believe that the driver's intended use of the explicit phrases meant physical violence rather than a sexual threat.
23. The Committee considered the Policy, specifically the references to a driver avoiding confrontation, as well as the Private Hire Driver Licence Conditions and Code of Conduct, which made references to behaving in a civil and orderly manner and behaving in professional manner, respectively.
24. The Committee believed that the nature and seriousness of the driver's messages, specifically the threat of sexual violence, was a risk to public safety, and that the driver was not a 'fit and proper' person, therefore, the decision was made to revoke the driver's licence with immediate effect.
25. If the driver was aggrieved by the decision he may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The local magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
26. If the driver did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council will claim its costs in defending its decision from the driver which could be in the region of £1,000.

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REVIEW OF A COMBINED HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE REF:- 06/25

The Director of Environment and Community Services submitted an exempt report in connection with the review of Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref: 06/25, where circumstances had arisen which required special consideration by the Committee.

The Chair introduced those present and outlined the procedure to be followed. The driver, who was in attendance at the meeting, verified his name and address and confirmed he had received a copy of the report and understood its contents.

The Principal Licensing Officer presented a summary of the report stating that the driver was

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first licensing with Middlesbrough Council in 1998. Historically, he had appeared before the Licensing Committee in February 2005 due to three offences being recorded against him. On that occasion his licence was suspended for one month.

The driver again appeared before the Licensing Committee in May 2006 due to a further conviction and on that occasion was permitted to retain his licence.

The driver now appeared before the Committee as a result of the convictions detailed at 3) and 4) in the submitted report.

It was confirmed that whilst the driver had notified the Licensing Office of the offence at 4), he had failed to do so within 48 hours as required by condition on his licence. As a result, Officers carried out a routine check on the status of the driver's DVLA licence on 5 February 2025 which revealed the motoring offences detailed at 3) and 4) in the report and resulting in nine penalty points on his DVLA licence. There were no records of the driver notifying the Licensing Office of the offence at 3) which was further breach of the condition on his licence.

The driver was interviewed by a Licensing Enforcement Officer on 6 February 2025, by telephone, when he provided an explanation in relation to the offences at 3) and 4).

The driver confirmed the content of the report as being an accurate representation of the facts and was invited to address the Committee in support of his case.

The driver addressed the Committee and responded to questions from Members of the Committee.

It was confirmed that there were no further questions and the driver, and Officers of the Council, other than representatives of the Council's Legal and Democratic Services teams, withdrew from the meeting whilst the Committee determined the review.

Subsequently, all parties returned, and the Chair announced a summary of the Committee's decision and highlighted that the driver would receive the full decision and reasons within five working days.

ORDERED that Combined Hackney Carriage and Private Hire Vehicle Driver Licence, Ref No: 06/25, be revoked, as follows:-

Authority to Act

1. Under Section 61 of the Local Government Miscellaneous Provisions Act 1976 ("the Act") the Committee may revoke or suspend a Private Hire/Hackney Carriage Vehicle driver's licence on the grounds that:-
2. Since the grant of the licence, the driver had been convicted of an offence involving dishonesty, indecency or violence;
3. Since the grant of the licence, the driver had committed an offence or breached the Act or the Town Police Clauses Act 1847;
4. For any other reasonable cause.
5. The Committee considered Section 61 of the Act, Middlesbrough Council Private Hire and Hackney Carriage Policy 2022 ("the Policy"), the report and the representations made by the driver.

Decision

6. After carefully considering all of the information, the Licensing Committee decided to revoke the driver's combined Hackney Carriage and Private Hire Vehicle Driver Licence on the grounds of any other reasonable cause.

Reasons

7. The Policy confirmed that the Council's licensed drivers should be safe drivers with

good driving records and adequate experience, sober, mentally and physically fit, be honest and not persons who would take advantage of their employment to abuse or assault passengers.

8. The Policy on Convictions was set out at Appendix G, Policy on the Relevance of Convictions, Cautions, Reprimands, Warnings, Complaints and Character.
9. The Policy stated that individuals with multiple motoring convictions may indicate that the individual does not exhibit the behaviours of a safe road user and one that was suitable to drive professionally.
10. It was documented in the Policy that if a driver was cautioned for, or convicted of, any motoring or criminal offence or made subject to a CRASBO, ASBO or injunction or arrested or charged with any motoring or criminal offence they must notify the Council, in writing, within 48 hours.
11. The Policy confirmed that if an applicant had between 7 and 9 live points on their licence for such offences they must show a period of three years free from conviction before an application will be considered. This also applied to drivers with a licence.
12. Archived records showed that the driver had been licensed as a Hackney Carriage/Private Hire driver with Middlesbrough Council since 1998, with his current licence due to expire on 31st July 2025.
13. Records further showed that the driver had previously appeared before the Licensing Committee due to certain offences being recorded against him that gave cause for concern as to his suitability to continue being licensed as a driver.
14. On 12 December 2024, Licensing Officers received an email from the driver informing them that he had received 6 penalty points on his licence. As a result, Officers carried out a routine check on the status of the Driver's DVLA driving licence, which showed two motoring offences as follows:
 - i. 19 March 2024 – Exceeding statutory speed limit on a public road – Issued with a fixed penalty notice and 3 points
 - ii. 14 April 2024 (date of conviction 07 November 2024) – Exceeding statutory speed limit on a public road - £660 fine and 6 points.
15. Licensing Officers had no record of the driver informing them of the speeding offence arising on 19 March 2024, furthermore the driver had failed to notify Officers within 48 hours of his conviction on 7 November 2024.
16. The driver was interviewed on 6 February 2025 to obtain his explanation on the motoring offences and the failure to notify the Council of such convictions within 48 hours.
17. The driver stated that on the 19 March 2024 offence, he could not remember the exact location but he was caught by a static speed camera. For the offence on 14 April 2024, he stated he was unaware of two new speed cameras in that particular location and that he was caught by one at a speed of 58mph in a 30mph zone.
18. At the Committee hearing, the driver stated he had made a mistake in speeding and not notifying the Council within 48 hours, and he was very sorry.
19. The Committee took the view that the driver had not complied with the licence conditions when he had failed to notify the Council of the offences within 48 hours. Further, the Committee considered that the driver speeding at almost double the speed limit was extremely serious as was the accumulation of 9 points on his licence.
20. It was, therefore, considered that the driver was not a fit and proper person or safe and suitable to be licensed as a hackney carriage and private hire driver in Middlesbrough.
21. The Committee, based on the evidence they were presented with, determined there

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were no compelling, clear, good or exceptional reasons to depart from the Policy, and decided to revoke the licence for the reasons set out above.

22. If the driver was aggrieved by the decision he may appeal to a Magistrates Court within 21 days from the date of the notice of the decision. The local magistrates for the area was the Teesside Justice Centre, Teesside Magistrates, Victoria Square, Middlesbrough.
23. If the driver did appeal the decision and the appeal was dismissed by the Magistrates Court, the Council will claim its costs in defending its decision from the driver which could be in the region of £1,000.