

# Agenda

## General Purposes Licensing Casework Sub-Committee

This meeting will be held on:

Date: **Monday 17 April 2023**

Time: **6.00 pm**

Place: **Long Room - Oxford Town Hall**

**For further information** please contact:

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**Access to all or the majority of this meeting is limited to committee members; officers attending to assist the committee or present reports; and those invited to attend. The reasons for these restrictions are set out for each item later in the agenda**

**Members of the public may only observe during the open part(s) of the meeting and must leave the meeting during the restricted parts.**

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## Committee Membership

Councillors: Membership 3: Quorum 2: substitutes are permitted.

Councillor Mary Clarkson (Chair)

Councillor Mark Lygo

Councillor Jo Sandelson

Apologies and notification of substitutes received before the publication are shown under *Apologies for absence* in the agenda. Those sent after publication will be reported at the meeting. Substitutes for the Chair and Vice-chair do not take on these roles.

# Agenda

	Pages
<b>Part One - Public Business</b>	
<b>1 Apologies for absence</b>	
<b>2 Declarations of Interest</b>	
<b>3 Procedure to be followed at the meeting</b>	7 - 46
Guidance on the procedure to be followed is attached. The Council's Policy on the Relevance of Warnings, Offences, Cautions and Convictions and the Council's Street Trading Policy are attached.	
<b>4 Minutes</b>	47 - 50
<b>Recommendation:</b> that the minutes of the meeting of 28 February 2023 are approved as a true and accurate record.	
<b>5 Exempt Matters and Confidential Session</b>	
If the Sub-Committee wishes to exclude the press and the public from the meeting during consideration of any aspects of the preceding or following agenda items it will be necessary for the Sub-Committee to pass a resolution in accordance with the provisions of Section 100A(4) of the Local Government Act 1972 specifying the grounds on which their presence could involve the likely disclosure of exempt information as described in specific paragraphs of Part 1 of Schedule 12A of the Act 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.	
<b>Part Two – Exempt Business</b>	
Matters exempt in accordance with paragraphs 1, 2, 3 and 7 of Part 1 of Schedule 12A of the Local Government Act 1972, which includes:	
<ul style="list-style-type: none"><li>information relating to any individual</li></ul>	

	<ul style="list-style-type: none"> <li>• information which is likely to reveal the identity of an individual</li> <li>• business affairs of a person other than the Council</li> <li>• information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</li> </ul>	
<b>6</b>	<b>Street Trading Consent Application</b> To consider the confidential report and reach a decision.	51 - 56
<b>7</b>	<b>Application to drive Private Hire Vehicles</b> To consider the confidential report and reach a decision.	57 - 86
<b>8</b>	<b>Application to drive Private Hire Vehicles</b> To consider the confidential report and reach a decision.	87 - 152
<b>9</b>	<b>Application to drive Private Hire Vehicles</b> To consider the confidential report and reach a decision.	153 - 170
<b>10</b>	<b>Confidential Minutes</b>  <b>Recommendation:</b> that the confidential minutes of the meeting of 28 February 2023 are approved as a true and accurate record	171 - 180
<b>11</b>	<b>Dates of future meetings</b> The dates of future meetings (if required) are: <ul style="list-style-type: none"> <li>• 22 May 2023 (A)</li> <li>• 19 June 2023 (B)</li> <li>• 24 July 2023 (C)</li> <li>• 04 September 2023 (D)</li> <li>• 16 October 2023 (A)</li> <li>• 28 November 2023 (B)</li> <li>• 18 December 2023 (C)</li> <li>• 15 January 2024 (D)</li> <li>• 12 February 2024 (A)</li> <li>• 25 March 2024 (B)</li> <li>• 15 April 2024 (C)</li> </ul>	

## **Information for those attending**

### **Recording and reporting**

Members of public and press can record, or report in other ways, the parts of the meeting open to the public.

**It is not permitted to record or report or make public any part which is not open to the public apart from the formal record of the meeting.**

The Council asks those recording to follow the protocol which can be found on the Council's [website](#). Those speaking in the open part of the meeting should be aware that they may be recorded during their speech and any follow-up. Those attending a meeting should be aware that recording may take place and that they may be inadvertently included in these.

The Chair of the meeting has absolute discretion to suspend or terminate any activities that in his or her opinion are disruptive.

## **Councillors declaring interests**

### **General duty**

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

### **What is a disclosable pecuniary interest?**

Disclosable pecuniary interests relate to your\* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

### **Declaring an interest**

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

### **Members' Code of Conduct and public perception**

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". The matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

### **Members Code – Other Registrable Interests**

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing\*\* of one of your Other Registrable Interests\*\*\* then you must declare an interest. You must not participate in discussion or voting on the item and you must withdraw from the meeting whilst the matter is discussed.

### **Members Code – Non Registrable Interests**

Where a matter arises at a meeting which ***directly relates*** to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, you must declare the interest.

Where a matter arises at a meeting which affects your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under Other Registrable Interests, then you must declare the interest.

You must not take part in any discussion or vote on the matter and must not remain in the room, if you answer in the affirmative to this test:

“Where a matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest You may speak on the matter only if members of the public are also allowed to speak at the meeting.”

Otherwise, you may stay in the room, take part in the discussion and vote.

\*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member’s spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

\*\* Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person’s quality of life, either positively or negatively, is likely to affect their wellbeing.

\*\*\* Other Registrable Interests: a) any unpaid directorships b) any Body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any Body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

## **OXFORD CITY COUNCIL**

### **General Purposes Licensing Casework Sub-Committee**

**HEARING PROCEDURE for Hackney Carriages and Private Hire licensing (hearings held in private), Street Trading consents and Sex Establishment licenses (hearings held in public)**

#### **The Meeting**

The General Purposes Licensing Casework Sub-Committee (Sub-Committee) consists of three members of the General Purposes Licensing Committee. With the consent of the applicant, or person who is subject of the hearing, the Sub-Committee can consist of two councillors. The Sub-Committee is responsible for reaching a decision upon the application having heard representations and considering all relevant material presented.

All members must be present throughout the hearing. If for any reason a member needs to withdraw during the proceedings the hearing should be temporarily adjourned until the member returns, or the member should not participate any further in the hearing. Any departure should therefore be avoided wherever possible. A member who arrives after the hearing has commenced is not allowed to participate in that hearing.

#### **Closed and Open Hearings**

Street Trading hearings shall normally take place in public. However, the Sub-Committee may exclude the press and the public from all or part of a hearing where exempt information (*section 100A(4) Local Government Act 1972*) is concerned and the Sub Committee considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

Taxi licensing hearings will usually be considered in private as cases coming before the Sub-Committee involve private and personal information relating to the case subject. Most taxi hearings will therefore be held in private and will be treated as confidential and not for publication.

#### **Declaring Interests**

To avoid any suggestion of bias, members should not take part in any hearing if they have any interest, financial or otherwise, in the outcome, or if they have any connection with or have been approached by a person who is the subject of an item on the Sub-Committee's agenda. Members must take care not to be

influenced by their role on any other council committee. Licensing decisions must be taken strictly on the criteria allowed by the relevant legislation.

### **The Paperwork**

Officers of the Licensing Authority (the City Council) will prepare the paperwork for the application that is to be heard by the Sub-Committee. The paperwork will include:-

- A summary of the application or matter for determination, the representations received and of any other relevant material
- A copy of the application and any other supporting material supplied by the applicant.

for Street Trading hearing only:

- Any observations on the application or matter made by the Police and/or other technical advisor to the Sub-Committee
- Any representations of objection to the application

### **Attendees at the Hearing**

Any party may be assisted or represented by any person whether or not that person is legally qualified.

For Street Trading hearings only:

#### **Observations of Police and/or Technical advisors**

Where appropriate the police or technical advisors to the Sub Committee may make their observations.

The Sub-Committee may ask questions of the Police and/or technical advisors.

Other parties may ask factual questions of the Police and/or technical advisors. Cross-examination will only be permitted with the consent of the Chair.

#### **Objector's case**

Where written representations of objection have been received the Sub-Committee will have regard to those representations. Any objectors can attend the hearing to speak in support of their written objection. However, the Sub Committee will not require repetition of points already made in written representations. Only objectors who have sent written representation during the consultation period can speak.



Where a number of objectors have made representations which are similar in nature the Sub-Committee will expect a spokesperson to be appointed to represent the group.

The Sub-Committee may ask questions of any objector.

Other parties may ask factual questions of any objector. Cross-examination will only be permitted with the consent of the Chair.

### **Non-Attendance of the Case Subject/Applicant**

If a case subject/ applicant has had reasonable notice of the hearing fails to attend either in person or through their representative, the Sub- Committee can proceed with the hearing in their absence.

The Sub-Committee may grant an adjournment if a reasonable explanation has been given for failure to attend or an adjournment has been specifically requested, and there is no reason to think that the person would fail to attend on another occasion. If a case subject has expressed an intention not to attend, or has repeatedly failed to attend, it would be proper for the Sub-Committee to hear the case in their absence.

The Sub-Committee should be prepared to adjourn proceedings if questions arise which cannot be dealt with satisfactorily in the case subject's absence. In deciding whether to hear the case in the absence of the case subject, the Sub-Committee should take into account whether they have sent a representative to act on their behalf and whether delay in hearing the case is likely to result in hardship (for example, where the case subject has stated that his or her need is urgent).

### **Conduct of Proceedings**

The role of the Chair is to control the proceedings. All questions must be put through the Chair.

Members of the Sub-Committee will have read and familiarised themselves with the papers and issues. The Sub-Committee does not therefore require points to be made or repeated at length.

The hearing shall take the form of a discussion managed through the Chair. Formal cross- examination shall not be permitted unless the Chair considers that cross-examination in a particular circumstance would assist. In exercising this

discretion to permit cross-examination, the Chair must have regard to the rules of natural justice and the right to a fair hearing.

In considering an application, the Sub-Committee may take into account documents or other information relied on by a party in support of their application or representation. Copies of the information should be supplied to the Licensing Authority at least two working days before the hearing or, with the consent of the Chair after that time.

If a person attending the hearing is acting in a manner that the Chair considers is disruptive, the Chair will require that person to leave the hearing and may:

- (a) refuse to permit that person to return; or
- (b) permit him / her to return only on such conditions as the Sub-Committee may specify.

Before the end of the hearing any person who was required to leave the hearing may submit in writing any information which they would have been entitled to give orally had they not been required to leave.

### **Order of Proceedings**

The Chair commences the hearing by introducing themselves and the other Sub-Committee members. The Chair asks all of the other parties present to introduce themselves and explain in what capacity they are attending.

Licensing officers will present the report relating to the application or matter to be heard by the Sub-Committee. They shall say who the applicant is, what the application is for and explain the paperwork before the Sub-Committee.

- The person appearing before the Sub-Committee may ask questions of the licensing officers or their report.
- Members of the Sub-Committee may ask question of the licensing officer on their presentation.

The person appearing before the Sub-Committee will present their case.

- Licensing officers may ask questions of the person appearing before the Sub-Committee.
- Members of the Sub-Committee may ask question of the person appearing before them.

For Street Trading hearings only:

If present, Police, technical advisors and objectors will present their case.

- Licensing officers may ask questions of the person appearing before the Sub-Committee.

- Members of the Sub-Committee may ask question of the person appearing before them.

All parties will be given the opportunity to summarise briefly their key points. The order shall be:-

- Licensing officer
- Objectors (for Street Trading hearings)
- Police and/or technical advisors (for Street trading hearings)
- Applicant

At the end of the submissions, the Chair will announce that the hearing is adjourned while the Sub-Committee deliberate in private. The Sub-Committee will be accompanied by the committee clerk and legal advisor during their deliberations. All other officers, applicants/ case subjects and members of the public will leave the room.

If it is necessary to recall any party for clarification of any point, then all parties should be recalled.

The Chair will either:

- Announce the decision of the Sub-Committee and confirm that a written determination with reasons will be sent to the parties by a given date.
- or
- Close the hearing and confirm that once a decision has been made a written determination with reasons will be sent to the parties by a given date.

The person appearing before the Sub-Committee shall be advised orally of their 21 day right of appeal, where there is such a right, (starting from the date of the letter) and that the decision and rights of appeal shall be notified to them in writing.

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LICENSING AUTHORITY:

# POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS & CONVICTIONS

Consideration of the Grant, Renewal, Suspension  
or Revocation of Hackney Carriage / Private Hire  
Driver & Vehicle Licences, & Private Hire Operator  
Licences



This policy was adopted by the Oxford City Council at the meeting of the Full Council on 17<sup>th</sup> March 2022 and comes into force on 1<sup>st</sup> April 2022.  
The Policy shall be in place for period of five (5) years from that date, however it will remain under review should amendments be necessary.

# OXFORD CITY COUNCIL

## **POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS**

CONTAINED WITHIN THIS POLICY YOU WILL FIND:

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## **POLICY ON THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS**

### **Consideration of the Grant, Renewal, Refusal, Suspension or Revocation of Hackney Carriage and Private Hire Driver's Licences, Vehicle Licences, and Private Hire Operator Licences.**

#### **1. Introduction**

- 1.1 The aim of Local Authority licensing of the Taxi and Private Hire trades is to protect the public. With this in mind, Public Protection must be at the forefront when determining whether an individual is considered a 'fit and proper' person to hold a licence. The Licensing Authority is entitled and bound to treat the safety of the public as the paramount consideration.
- 1.2 The Hackney Carriage and Private Hire trade have a specific role to play in an integrated transport system. They are able to provide demand responsive services in situations where public transport is either not available (for example in rural areas, or outside 'regular' hours of operation such as in the evenings or on Sundays), and /or for those with mobility difficulties. Hackney Carriage and Private Hire vehicles support the night-time economy by playing a vital part in the safe dispersal of people in the city.
- 1.3 The Council's aim is to ensure that the public have reasonable access to Taxi and Private Hire services, due to the part they play in a local transport provision. Therefore, it is essential that the councils' Hackney Carriage and Private Hire licensing powers are used to ensure that licensed vehicles in the district are safe, comfortable, properly insured and available where and when required.
- 1.4 It is the Council intention to license well-run and responsible businesses and individuals. Its purpose, therefore, is to prevent licences being issued to or used by those who are not suitable persons, 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 position to cause distress, harm or suffering to any passenger or other person and that they meet the 'fit and proper' person test.

#### **2. Objectives**

- 2.1 The Licensing Authority will carry out its Hackney Carriage and Private Hire functions with the view to promote the following objectives:
  - The protection of public safety and health
  - The promotion of a professional and respected Hackney Carriage and Private Hire trade
  - Access to an efficient, modern and effective transport service
  - The protection and improvement of the environment, local economy and quality of life
- 2.2 The aim of the licensing process, in this context, is to regulate the Hackney Carriage and Private Hire trade in order to promote the above objectives. In promoting these objectives the Authority shall expect all licence holders and applicants to continuously demonstrate they can meet or exceed specifications set by the Council.
- 2.3 The purposes of the licensing regime is to ensure that, so far as possible, those licensed to drive Hackney Carriages and Private Hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, and honest; and that they are persons who would not take advantage of their position to abuse, assault or defraud customers and that they meet the 'fit and proper' person test.

#### **3. Status**

- 3.1 This policy contains information about legal requirements, government guidance, procedures and standards in relation to its taxi licensing functions. It has been produced pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, the Town Police Clauses Acts 1847 and 1889, the Public Health Act 1875 and the Local Government Act 1972 which place on the Council the duty to carry out licensing functions in respect of Hackney Carriage and Private Hire vehicles, drivers and operators.
- 3.2 In exercising its duties when carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out above. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from this policy, clear and compelling reasons shall be given for doing so.
- 3.3 The Council expects licence holders to comply with the conditions and regulations pertaining to the licence immediately. However, certain provisions may place financial obligations on existing licence holders and accordingly the Council is prepared to permit a reasonable transitional period which will be determined and provided by officers acting under delegated powers, during which necessary changes must be made by all licence holders.
- 3.4 The policy provides guidance for applicants, proprietors, drivers and operators to assist them with application processes and operation of their business. This guidance, application forms, current fees, as well as criteria, conditions and regulations relating to Taxi and Private Hire licensing functions can be found in the following documents:



- **Hackney Carriage and Private Hire Driver Licence Application Pack**
- **Hackney Carriage and Private Hire Vehicle Licence Application Pack**
- **Private Hire Operator Licence Application Pack**

These are available on the relevant Council website or by contacting the General Licensing Team. In order to ensure that the most up to date version is used, applicants and licence holders should not store these forms on their own system but should download the latest version of a form when it is required.

The Council provides all such relevant information on its website at: [www.oxford.gov.uk/taxilicensing](http://www.oxford.gov.uk/taxilicensing)

- 3.5 This policy will remain in existence for a period of five years, during which time it shall be kept under review and revised as necessary. The Head of Regulatory Services and Community Safety in consultation with the Chair of the General Purposes Licensing Committee is authorised to make minor administrative amendments to the policy where necessary, and to amend the policy to reflect any changes in legislation, statutory guidance or similar.

#### 4. Legislation and Best Practice Guidance

- 4.1 All licence holders must comply with the provisions relating to Hackney Carriage and Private Hire drivers and vehicles contained in legislation, including but not limited to the following:
- The Local Government (Miscellaneous Provisions) Act 1976
  - The Local Government Act 1972
  - Town Police Clauses Act 1847 (as amended)
  - Town Police Clauses Act 1889
  - Road Safety Act 2006
  - Equality Act 2010
  - Public Health Act 1875
- 4.2 The Department for Transport (DfT) has responsibility for Hackney Carriage and Private Hire legislation in England and Wales and produced best practice guidance for local licensing authorities in March 2010. The DfT guidance states local authorities will “decide for themselves the extent to which they wish to make use of it or adapt it to suit their own purposes”. The document recognises that licensing authorities may reach their own decisions both on overall policies and on individual licensing matters, in the light of their own circumstances. The DfT has also published the Statutory Taxi and Private Hire Vehicle Standards in July 2020 focusing on protecting children and vulnerable adults, as well as benefiting all passengers. The council has taken account of the recommendations in both documents to shape this policy.

#### 5. Enforcement Procedures

- 5.1 Enforcement is part of the overall licensing control process exercised by the Council and is taken to:
- **ensure public safety**
  - **maintain standards within the trade**
  - **support the policies of the council**
  - **respond to complaints**
  - **support partnerships with neighbouring local authorities, and other agencies such as the Police and Driver and Vehicle Standards Agency (DVSA)**

All enforcement will be proportionate, transparent and in accordance with the Council's Corporate Enforcement Policy. The Council will ensure that its enforcement system meets the objectives set out in the policy whilst avoiding undue burden and costs upon licence holders.

- 5.2 This Authority will deal with enforcement matters relating to an applicant or existing licence holders by means of Licensing Officers, the Head of Regulatory Services and Community Safety, the Hackney Carriage and Private Hire General Licensing Sub-Committee and the Courts. The expectation of the Authority is that any person who seeks the grant of a licence, or who holds a licence, meets with the definition of a “fit and proper” person. Hackney Carriage and Private Hire drivers and operators maintain close contact with the public and are therefore not expected to behave or act in a manner that may:
- **cause any person to take offence at their actions**
  - **cause any person to believe their actions are inappropriate**
  - **cause any person to fear for their physical safety**
  - **cause any person to doubt their integrity**
  - **brings the integrity of the Council in to disrepute for having granted such a person a licence**
  - **fail to adhere to the conditions and regulations pertaining to the licence**
- 5.3 The Council's enforcement process addresses persistent, low level breaches through to serious, possibly criminal, behaviour. Sanctions range from advice and warnings, to the suspension and revocation of a licence and / or prosecution. Failures on the part of an applicant or existing licence holder to uphold the Licensing Objectives or to adhere to the conditions and regulations pertaining to the licence may result in any of the following actions :

- **the issue of an Advisory letter**
- **the issue of a warning (appropriate to the incident reported)**

- the issue of a higher level of warning (appropriate to the incident reported and having regard to the history of the licence holder)
  - the request for an interview to be held in accordance with the Police and Criminal Evidence Act 1984
  - the issue of a Formal Caution
  - the referral of the matter to the Head of Regulatory Services and Community Safety
  - the referral of the matter to the Hackney Carriage and Private Hire General Licensing Sub-Committee
  - the referral of the matter to the Law and Governance department for consideration of prosecution
- 5.4 Licensing Officers are permitted to instruct an existing licence holder to undertake new or repeated courses or training (driving standards, safeguarding, disability awareness, etc.) at any time, to ensure their standards have not fallen below the council expectations for a 'fit and proper' person. The Licensing Officer will provide detailed reasons for the requirement
- 5.5 All case notes, evidence and enforcement outcomes are recorded on the Council's case management system. The council understands the importance of ensuring that personal data, including sensitive personal data is always treated lawfully and appropriately and that the rights of individuals are upheld. You can find the council data protection policy online <https://www.oxford.gov.uk/privacy>
- 5.6 **"Warning" System:**

**Advisory Letter:** A letter advising that although the incident, allegation, an offence, caution or conviction was not serious enough to have warranted a First Level Warning, the incident has caused concern to the Council as to the suitability to hold such a licence. The Advisory Warning usually addresses a low level non-compliance, which can be issued at any level on the scale of warnings. If similar behaviour or non-compliance persists, it may lead to an escalation in the level of warning issued.

**First Level Warning:** A letter advising that although the incident, allegation, an offence, caution or conviction was not serious enough to have warranted a Second Level Warning, which deals with more serious incidents, repetitious behaviour or non-compliance, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the consequences could be much more severe.

**Second Level Warning:** A letter advising that although the incident, allegation, an offence, caution or conviction was not severe enough to have warranted a Final Warning, suspension or revocation of the licence, the behaviour or the offence committed is unacceptable and has caused significant concern to the Council as to the suitability to hold such a licence. A Second Level Warning deals with serious incidents, repetitious behaviour or non-compliance. If in the future, similar behaviour is illustrated, the consequences shall be much more severe.

**Final Warning:** A letter advising that although the incident, allegation, an offence, caution or conviction did not warrant the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused major concern to the Council as to the suitability to hold such a licence. A Final Warning deals with major incidents, as well as escalation of warning level due to repeated non-compliance. If in the future, similar behaviour or any other non-compliance is illustrated, the licence holder should expect the matter to be addressed through the escalation warning system.

#### 5.7 Suspension, Revocation and Sub-Committee interventions

**Councillor Warning:** A Decision issued by the Hackney Carriage and Private Hire Licensing Sub-Committee, likely to also include additional conditions being imposed on a licence, advising that although the incident, an offence, caution or conviction, and / or accumulation of Warnings issued by the Licensing Officers did not warrant the refusal, suspension or revocation of the licence, the offence committed is unacceptable and has caused concern to the Council as to the suitability to hold such a licence. If, in the future, similar behaviour is illustrated, the licence holder should expect the matter to be met with the suspension or revocation of his/her licence.

**Immediate Suspension:** A Decision issued by Head of Regulatory Services and Community Safety or the Hackney Carriage and Private Hire Licensing Sub-Committee advising that in the view of the serious nature of the incident, allegation, an offence, caution or conviction the Council has decided there is reasonable cause to suspend the licence with immediate effect in the interests of public safety. Suspension is not indefinite and the Authority may consider determination of the individual 'fit and proper' status during the suspension period. An individual has the right of appeal to the Magistrates' Court within 21 days from the decision, however the suspension shall remain in force pending the outcome of any appeal.

**Immediate Revocation:** A Decision issued by Head of Regulatory Services and Community Safety or Hackney Carriage and Private Hire Licensing Sub-Committee advising that in the view of the serious nature of the incident, allegation, an offence, caution or conviction the Council has decided there is reasonable cause to revoke the licence with immediate effect in the interests of public safety. The revocation is indefinite. The individual has the right of appeal to the Magistrates' Court within 21 days from the decision.

**Hackney Carriage and Private Hire Licensing Sub-Committee:** A committee having powers to determine the suitability of a new applicant to be granted a licence or existing licence holder to maintain a licence, by assessing if the person meets the Authority's definition of a "fit and proper" person. The Licensing Sub-Committee hearings are conducted in person. Parties attending the hearing

consist of the Sub-Committee panel (three elected members), council legal adviser, clerk, Licensing Officer and the new applicant or current licence holder, who are entitled to be accompanied by a representative should they need assistance. An applicant for a new Hackney Carriage and/ or Private Hire driver licence is entitled to have their application determined by the Licensing Sub-Committee, taking into account the policy recommendations. Each application shall be considered on its own merits. The Licensing Sub-Committee could determine to grant or renew a licence, refuse to grant or renew a licence, suspend or revoke a licence.

## 6. Definitions

**Appeal:** A means by which a decision under delegated authority can be reviewed by the Magistrates Court or the Crown Court. The decision of the Council may be upheld or overturned.

**Offence:** commonly used to signify any public wrong, including crimes or indictable offences and offences punishable on summary conviction.

**Caution:** A caution is a formal warning given to an adult who has admitted to an offence and has consented to the caution.

**Conviction:** Judicially determining that someone is guilty of a crime

**Free of convictions:** This means a period since your last conviction in which you remain free of any further convictions. In the case of a custodial sentence this means the periods given will run from the date that the full sentence awarded by the court would have been completed.

**Fit and Proper Person:** A person who poses no threat to the general public, has a good knowledge of the City, is healthy, and is of a good character (including driving record) will be deemed fit and able to hold a licence. The following question shall be posed:

*"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?"*

**Hackney Carriage Vehicles:** A vehicle that can carry passengers for hire or reward, can be hailed by a prospective passenger and can park on a taxi rank within their district to await the approach of passengers; a vehicle available for Public Hire within the controlled district.

**Hackney Carriage and Private Hire Licensing Sub-Committee:** A committee having powers given to it by the General Purposes Licensing Committee of the Council, to determine the suitability of an applicant to be granted a licence or existing licence holder to maintain a licence, when the Head of Regulatory Services and Community Safety is unable to determine whether such a person meets the Authority's definition of a "fit and proper" person.

**Head of Regulatory Services and Community Safety:** Holds delegated authority to make day to day decisions regarding the suitability of any person seeking the grant or renewal of a licence, and decisions regarding the suspension or revocation of any licence holder.

**Mitigating Circumstances:** The circumstances surrounding an incident, offence, allegation, caution or conviction. These may alter the seriousness of a crime.

**Private Hire Vehicle:** A vehicle which must be pre-booked with a Private Hire Operator. This type of vehicle cannot ply for hire (stand in a taxi rank, wait without a booking in a "prominent position" giving rise to the impression that the vehicle is available for hire) or undertake a journey that has not been pre-booked by the hirer with a Private Hire Operator.

**Proprietor:** The person in possession of a Hackney Carriage or Private Hire vehicle licence.

**Operator:** A business that makes provision for the invitation or acceptance of bookings for Private Hire Vehicles.

**Refusal:** To decide not to give something

(Within this Policy any reference to refusal will also be a reference to revocation or suspension)

**Revoke:** To take something away permanently.

**Suspend:** To take something away temporarily.

## 7. Guidelines Relating to the Relevance of Convictions - Powers and Duties

7.1 The Rehabilitation of Offenders Act 1974 ("1974 Act") and associated amendments sets out the period after which a conviction/caution/warning would be regarded as 'spent' and not normally require details of that conviction to be provided on any relevant application form. In 2002 the Rehabilitation of Offenders Act 1974 was amended to exclude hackney carriage and private hire drivers from the 1974 Act. The driving of hackney carriages and private hire vehicles was listed as a 'Regulated Occupation' in relation to which questions may be asked as to the suitability of individuals to be granted a licence. The Rehabilitation of Offenders Act 1974 is summarised at Appendix 1.0.

7.2 Applicants for, or current licence holders of, taxi driver, vehicle or operator licences must therefore provide details of all convictions, warnings, reprimands, injunctions, cautions, Community Protection Notices, Criminal Behaviour Orders, community service orders, restraining orders, traffic offences, other court orders, Notices or Orders associate with child or adult safeguarding concerns, driver education courses, disqualifications and fixed penalty notices (including for traffic offences), including

any that would previously have been regarded as spent under the 1974 Act or may not currently show on any replacement DVLA driver's licence, or another other notice or legal matter pertaining to a criminal or anti-social behaviour incident. In addition, any pending court cases or hearings must be declared, and details of any licences previously held, suspended or revoked. The Authority will take the information provided into account irrespective of offence, sentence imposed or age when the offence is committed.

- 7.3 Failure to disclose any information detailed in paragraph 7.2 in writing within 48 hours of receipt of their issue, or the making of false declarations will be considered to be an act of dishonesty and may result in the application being refused or the licence revoked. Applicants must seek the advice of an officer if they cannot remember full details that they are required to declare or have any uncertainty about what details they are required to provide.
- 7.4 All licence holders are required to inform the council in writing within 48 hours if they are arrested, formally interviewed (voluntary) or charged with an offence by the police or other enforcement body. This is to allow the council to be aware of any public safety concerns and to take appropriate action. Failing to notify the council may result in additional enforcement action against the licence.
- 7.5 In order to assess an individual suitability to hold a licence, this Authority requires all applicants to provide a current Enhanced Disclosure and Barring Services (DBS) Certificate and a DVLA Disclosure. All licence holders must subscribe to the online DBS update service and maintain the subscription for the full duration of the licence. Where a driver fails to maintain their subscription with the online DBS Update service, or the DBS update check reveals new information their licence may be suspended with immediate effect on the grounds of public safety. The licence holder will have to submit a new DBS application, provide the DBS Certificate and online subscription, which may take several weeks to be processed by DBS.
- 7.6 Where the Authority has a reasonable cause for concern in regards to a licence holder, an Enhanced DBS update check may be carried out. Should the check reveal any concerns or new information, the driver shall be notified of the outcome. The Authority shall also carry out an annual background checks (DBS) to ensure no changes in circumstances occurred during the validity of the licence.
- 7.7 A licence may be suspended or revoked with immediate effect pending the outcome of any investigation or trial where a licensed driver has been arrested or charged with a serious offence. Serious offences can include but are not limited to:
  - Driving or being in charge of a vehicle whilst under the influence of alcohol or drugs
  - A drug related offence
  - An offence of a sexual nature
  - An offence involving violence
  - An offence involving dishonesty
- 7.8 A licence may also be suspended or revoked with immediate effect where information received raises grave doubts as to the fitness of a driver, regardless of whether criminal charges are brought or if the police determine to take no further action. In all cases the licence holder will be given an opportunity to make representations and these will be taken into account by the decision maker/s.

## 8. Suitability to Hold a Licence - A 'Fit and Proper' Person

- 8.1 When considering whether someone should serve the public as a taxi driver, the range of passengers that a driver may carry must be borne in mind. For example, elderly people, unaccompanied children, the disabled, those who could be intoxicated, lone women, foreign visitors and unaccompanied property. Some areas give rise to particular concern, including:
  - **Honesty and trustworthiness** – drivers are very often trusted with sensitive information whilst carrying out their duties. They have the knowledge of passenger vulnerabilities, convey customers who do not know the city and its locations, as well as manage a property lost in the vehicles. They must not abuse their position of trust.
  - **Abusive behaviour** – drivers are often subject to a disagreement, unpleasant or dishonest behaviour. The Council does not consider that such situations excuse any aggressive or abusive conduct on the part of the driver. Drivers are expected to avoid confrontation, attempt to defuse the situation and to address disputes through the proper legal channels.
  - **A good and safe driver** – Passengers paying for a transport services rely on their driver to get them to their destination safely. Licensed drivers are professional drivers and should be fully aware of all road traffic legislation and conditions attached to the licence.
- 8.2 Licensing authorities have a duty to ensure that any person to whom they grant a Taxi or Private Hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

**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?**

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

- 8.3 Licensing Authorities have a duty to safeguard the public. 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 and can take into consideration conduct that has not resulted in a criminal conviction.

- 8.4 The relevant legislation provides that the Council may grant a licence **ONLY** if it is satisfied that the individual is a 'fit and proper' person – **the onus is on the applicant to prove this, NOT the Council to demonstrate that they are not.**
- 8.5 The Licensing Authority is entitled to take into account all matters concerning an applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the Hackney Carriage or Private Hire trade. This consideration is far wider than criminal convictions or other evidence of unacceptable behaviours, and the entire character of the individual will be considered. This can include but is not limited to, the individual's attitude and temperament.
- 8.6 Where sufficient and appropriate enforcement measures have been taken by the Licensing Officers, in relation to a licence holder who has failed to adhere to the conditions and regulations pertaining to his or her licence, their suitability to hold a licence may be placed before the Hackney Carriage and Private Hire Licensing Sub-Committee to determine. It is therefore prudent for all new applicants and existing licence holders to be familiar with the content of this Policy on the Relevance of Warnings, Offences, Cautions and Convictions, and with the criteria, conditions and regulations specific to the licence that they hold.
- 8.7 Full details of the criteria, conditions and regulations relating to the Taxi Licensing function can be found in the following documents:
- **Hackney Carriage and Private Hire Driver Licence Application Pack**
  - **Hackney Carriage and Private Hire Vehicle Licence Application Pack**
  - **Private Hire Operator Licence Application Pack**

## 9. Information Sharing

- 9.1 Applicants and licensees are required to disclose if they hold or have previously held a licence with another authority. As well as, if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Where drivers have been licensed with other authorities, this authority shall carry out checks with those authorities for any information that may be relevant to the application being considered. In addition, the council will use the National Anti-Fraud Network's - National Register of Taxi and Private Hire Vehicle Driver Licence Refusals and Revocations (known as 'NR3'), to share information and mitigate the risk of non-disclosure of relevant information by applicants.
- 9.2 The police are an invaluable source of intelligence when assessing whether a licensing applicant or current licence holder is a 'fit and proper' person. This Authority is committed to work in partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, action taken by the licensing authority as a result of information received may be reported to the police. Safeguarding concerns resulting in a revocation or refusal on public safety grounds may be reported to the police and other relevant agencies.
- 9.3 In order to assist effective information sharing on a local level, this Authority is a partner in the Oxfordshire Joint Operating Framework (JOF) for the Transportation of Children and Adults with Care and Support Needs and Taxi Licensing. The framework provides a single set of minimum standards for agencies with responsibilities for transporting children and adults with care and support needs in Oxfordshire, including addressing vetting, training, awareness raising and most importantly information sharing between agencies.

## 10. Protecting the Public

- 10.1 It is not the Licensing Authorities role to balance a driver's right to work against the public's right to protection. The Licensing Authority is duty bound to treat the safety of the public as its principle consideration. Having considered and applied the appropriate guidelines, the council shall determine each case on its own merits.
- 10.2 The character of the driver in its entirety is the central consideration when considering whether they should be licensed. It is important to recognise that local authorities are not imposing any additional punishment in relation to previous convictions or behaviour. They are using all the information that is available to them to make an informed decision as to whether or not the applicant or licensee is or remains a 'fit and proper' person.

## 11. Licensing history

- 11.1 The Licensing Officer may take into account a person's licensing history whilst holding a licence, from this or any other Authority. The Licensing Officer may take into account, in deciding whether a person is a 'fit and proper' person to hold (or to continue to hold) a licence, such matters as the record of complaints about them, any enforcement actions, their compliance with Licence conditions and their willingness to co-operate with the reasonable requests of Licensing Officers.

## 12. Safeguarding

- 12.1 The council acknowledge that all licensed drivers who transport children, young people and vulnerable adults play a very important role in safeguarding, and this is why mandatory training is required for all licensed drivers. **The key message is that safeguarding is everyone's responsibility.**
- 12.2 The Authority recognise the opportunities provided by Taxi and Private Hire drivers to spot the signs and alert the appropriate authorities to concerns about the safety of children and adults with care and support needs. Taxis and Private Hire vehicles regularly transport passengers who may be vulnerable, for example when the passenger is under the influence of alcohol or drugs or is travelling alone, hence the need to promote the highest safeguarding standards to protect both passengers and drivers
- 12.3 Vulnerable children and adults are those whose mental health, disability, age, illness or other reasons means that they may be unable to take care of themselves and/or unable to protect themselves against serious harm or potential exploitation. Some people may have more advanced needs than others and therefore are more likely to face abuse or be directly abused by others because they require assistance to speak, move themselves or understand others; these are some of the types of needs that make them vulnerable.
- 12.4 Drivers are expected to report all safeguarding concerns to the police if there is an immediate risk of harm to a child or vulnerable adult and / or the relevant social care providers. Drivers are also expected to inform the Private Hire Operator under whose licence they operate at the time and inform the Council's Licensing Authority.



# **GUIDELINES RELATING TO THE RELEVANCE OF WARNINGS, OFFENCES, CAUTIONS AND CONVICTIONS**

## **1. General Principles**

- 1.1 Each case shall be considered on its own merits.
- 1.2 Any applicant having a previous or current conviction should not necessarily prevent them from obtaining a Hackney Carriage or Private Hire Licence. However, they should remain free of conviction for an appropriate period of time, according to the circumstances, before the Licensing Authority will consider whether a licence should be granted or renewed. This places passenger safety as the priority while enabling those with past offences to be considered for a licence. However, there are certain offences that are considered so serious that they will usually prevent a person obtaining or keeping a licence.
- 1.3 Cautions shall also be taken into consideration. They can give indication as to an applicant's (licensee) character and whether they are a 'fit and proper' person to hold or be granted a licence. A caution is given where there is sufficient evidence for a prosecution and guilt has been admitted.
- 1.4 Should a Court have found as a matter of fact that a person has committed an offence, the Licensing Authority will not take into consideration the applicant's assertion that they did not commit the offence. The applicant can, however, explain any mitigating circumstances that led to them committing the offence, which could be taken into account when determining whether the applicant is a 'fit and proper' person to hold a licence. Such cases may be referred to the Hackney Carriage and Private Hire General Licensing Sub-Committee for determination.
- 1.5 In the case of offences that have led to a term of imprisonment, whether or not suspended, the periods given will run from the date that the full sentence awarded by the court would have been completed.
- 1.6 Warnings issued by the Licensing Officers shall be considered relevant to the determination of the suitability of all applicants and existing licence holders with regard to the grant or continuation to hold a licence issued by the Authority.
- 1.7 A new applicant is a person who has not previously held a licence with this authority or whose licence had expired for 12 months before a valid application form was received in the Taxi Licensing Office.
- 1.8 Where an applicant has more than one conviction / caution showing a pattern or tendency irrespective of time since the convictions, serious consideration shall be given as to whether they are a 'fit and proper' person to hold a licence.
- 1.9 In relation to a single conviction / caution, the following time periods should elapse following completion of the sentence (or the date of conviction if a fine was imposed) before a licence may be granted. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed.

## **2. Assessment of previous convictions**

### **2.1. Crimes resulting in death**

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

### **2.2. Exploitation**

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

### **2.3. Offences involving violence against the person**

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least ten (10) years have elapsed since the completion of any sentence imposed.

### **2.4. Possession of weapon**

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed.

### **2.5. Sexual and indecency offences**

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity or any form of indecency, a licence will not be granted.  
The licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

## 2.6. Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed.

Failure to declare endorsement convictions, cautions, warnings, reprimands, anti-social behaviour orders, community protection notices, criminal behaviour orders, community service orders, restraining orders, fixed penalties (including traffic offences), driver education courses and any disqualifications from driving is regarded as a serious matter, whether it is through the omission of such matters when submitting an application to the Authority, or by not informing the Authority within 48 hours of receipt of their issue.

**Any person, who fails to declare on his or her application any such matters, should expect their application to be referred to the Hackney Carriage and Private Hire Licensing Sub-Committee, to determine their suitability to hold a licence.**

## 2.7. Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least ten (10) years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five (5) years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

## 2.8. Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed.

## 2.9. Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of transporting the public. Any motoring conviction demonstrates a lack of professionalism and will be considered seriously. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the grant of a licence. However, applicants with multiple motoring convictions indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

New applicants should not normally be considered if they have acquired more than three penalty points within the twelve months prior to the application for the grant of a licence; or they have in the previous two years been convicted of any single offence which resulted in a points penalty of five or more points, or offences totalling more than six points.

If sufficient points have been accrued or offences committed resulting in a period of disqualification of the applicant's DVLA driving licence then an application for a Hackney Carriage or Private Hire driver licence may not normally be considered until a period of twenty-four (24) months has elapsed following its restoration and a warning should be issued as to future conduct.

If the DVLA driving licence of an applicant or an existing driver is revoked following the acquisition of six or more points during the first two years since passing the DVLA driving test, then a period of twenty-four (24) months following the restoration of the licence must have elapsed before a Hackney Carriage or Private Hire driving licence may be applied for.

Any motoring conviction while a licensed driver demonstrates that the licensee does not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a 'fit and proper' person to retain a licence. Subsequent convictions reinforce the fact that the licensee does not take their professional responsibilities seriously and is therefore not a safe and suitable person to be granted or retain a licence.

When a driver who is already licensed with this authority is disqualified from holding or obtaining a DVLA driving licence, the Hackney Carriage or Private Hire licence shall be suspended or revoked. A period of twenty four (24) months following the restoration of the licence must have elapsed before a Hackney Carriage or Private Hire driving licence application may be considered. The driver may be required to appear before the Hackney Carriage and Private Hire General Licensing Sub-Committee for determination.

Drivers already licensed by the authority and applicants awaiting the grant of a licence must inform the Taxi Licensing office within 48 hours of any new conviction.

For **existing licence holders**, a guideline is provided below in relation to penalty points:

**6 or less penalty points:** Where any current licence holder, has 6 or fewer points on their DVLA driving licence, the Licensing Officer will usually consider granting the licence with a written warning, as long as the licensee remains 'fit and proper' person. The number, type and frequency of an offence(s) will be taken into account when considering the level of warning.

**7 or more penalty points:** Where any current licence holder is convicted during the course of the licence of any single offence which results in a penalty of six or more points or acquires



seven or more penalty points should expect their licence to be suspended, refused or revoked taking into account the number, type and frequency of an offence(s). In exceptional circumstances the Licensing Officer may request an additional / new driving standards test at the expense of the Licence Holder.

**“Totting Up” under S35 Road Traffic Offenders Act 1988:** Where an applicant or current licence holder, has been disqualified under the “totting up” procedures, the Authority will normally consider refusal until there has been a **period of twelve (12) months** free of relevant convictions. If an applicant has agreed “exceptional hardship” and avoided disqualification, refusal shall still be considered and a **period of twelve (12) months** free of relevant convictions required.

#### **2.10. Other motoring offences**

A minor traffic or vehicle related offence is one which does not involve loss of life; or driving under the influence of drink or drugs; or driving whilst using a mobile phone, and has not resulted in injury to any person or damage to any property (including vehicles). Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least five (5) years have elapsed since the completion of any sentence imposed.

A major traffic or vehicle-related offence is one which is not covered above and also any offence which resulted in injury to any person or damage to any property (including vehicles). It also includes driving whilst disqualified, fail to stop after an accident, driving without insurance or any offence connected with motor insurance. Where an applicant has a conviction for a major traffic offence or similar offence, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed

#### **2.11. Drink driving / driving under influence of drugs**

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs

#### **2.12. Using hand-held telephone or hand-held device whilst driving**

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five (5) years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

#### **2.13. Hackney Carriage and Private Hire offences**

Where an applicant has a conviction for an offence concerned with or connected to hackney carriage or private hire activity (excluding vehicle use), a licence will not be granted until at least seven (7) years have elapsed since the completion of any sentence imposed.

#### **2.14. Plying for Hire**

A serious view is taken of this offence, particularly since the vehicle will almost certainly have been carrying fare-paying passengers whilst uninsured. The offence is making one's vehicle available for public hire without a licence; this could be by taking a passenger without a booking in a licensed Private Hire vehicle or a picking up a fare without a booking in a Hackney Carriage vehicle outside of its licenced district. It is illegal for Private Hire drivers to park or stop in a prominent positions for the intention of taking a passenger (i.e. where people are likely to congregate, locations with a high level of footfall, near a taxi rank), without a pre-booked journey having been provided by a Private Hire Operator. The licence holder should expect further enforcement measures to be taken against them, including a full inspection of the vehicle and driver compliance against the conditions relating to both licences.

Licensing Officers may request from Private Hire Operator details of all bookings given to a driver, and further evidence if required that could assist with the Licensing Officer's investigation. If a Private Hire Operator is complicit in allowing the driver to book a journey for a member of public, rather than the passenger book the journey directly with the Operator, the Operator should expect for the Licensing Officer to undertake any necessary enforcement measures against the Operator itself.

The Licensing Authority regularly carries out what are known as “Test Purchase” Operations, where attempts are made to ascertain whether individual licence holders and Private Hire Operators knowingly ply for hire. If any licence holder is found to be non-compliant with regard to this matter during such an operation, they should expect the matter to result in a prosecution against them in the Courts. If convicted by the Court of a single offence of plying for hire, the licence holder will be required to appear before the Hackney Carriage and Private Hire Licensing Sub-Committee, where the licence holder should expect to receive a revocation of their licence.

If a licence is revoked a period of seven (7) years should have elapsed before any application is considered.

#### **2.15. Licensing History**

Applicants who have had a licence revoked or an application refused by the council or any other local authority will not be licensed for a minimum of five (5) years after the date of the revocation or refusal.

### 3. Complaints Against Licence Holder

- 3.1. Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence.
- 3.2. The Authority operates a robust system for recording and investigating complaints, as well as analysing trends across the trade and individual licensees. This helps the authority to build a fuller picture of the potential risk an individual may pose and could tip the 'balance of probabilities' assessment that the authority must take. All complaints submitted to the Authority are investigated and dealt with by Licensing Officers. The licence holder is invited to make representations in regards to the complaint made against him/her. Should the complaint be of a serious nature, the licence holder may be requested to attend an interview.
- 3.3. The Licensing Officer will consider the conduct of the licence holder and determine what action should be taken, if any, whilst taking into account written submissions, evidence submitted or gathered during the investigation and the circumstances surrounding the alleged incident. The Licensing Officer will also consider the history of all complaints made against the driver to assess any patterns of behaviour and if deemed appropriate request additional background checks to be carried out.
- 3.4. In assisting the process all licensed vehicles are required to display information for passengers on how to make complaints directly to the licensing authority. For renewals, this requirement will take effect from the next licence renewal after the date of publication of this policy. The licensing authority will provide the information card to be displayed

### 4. Warnings Issued by Licensing Officers

- 4.1. The Licensing Officers carry out the day to day enforcement functions of the Licensing Authority. They deal with complaints made about licence holders, and carry out enforcement operations throughout the district. Such operations include the inspection of Hackney Carriage vehicles at the ranks, the checking of licensed drivers for adherence to the conditions attached to the driver, vehicle and operator licences, and checking that licence holders are complying with the relevant regulations pertaining to the licence.
- 4.2. Any failures on behalf of the licence holder to adhere to the criteria, conditions and regulation pertaining to the licence are dealt with, in the first instance, by way of Warnings. Unless the incident is of serious nature and must be escalated. It is this Authority's policy to provide advice and to educate the licensed trade in order to meet the licensing objectives as described in this Policy.
- 4.3. The levels of Warning issued by the Licensing Officers shall be proportionate to the incident that they deal with. However, should a licence holder be found to be continually failing to meet with the requirements of their licence, display a repetitious behaviour or be subject to a serious incident, the level of Warning shall be escalated.
- 4.4. A licence holder, who has shown a propensity to fail to adhere to the conditions and regulations pertaining to his or her licence, should expect the consequences to be much more severe. If deemed necessary the matter will be referred to the Head of Regulatory Services and Community Safety or the Hackney Carriage and Private Hire Licensing Sub-Committee or possibly lead to the suspension or revocation of the licence.
- 4.5. Any licence holder, who is issued with a Warning by the Licensing Officer and disagrees with that decision, has a right of appeal by way of written submission ([licensing@oxford.gov.uk](mailto:licensing@oxford.gov.uk)), to the Licensing Team Leader (or higher management) within **21 days of the Warning being issued**.

# Street Trading Policy

Proposed Final Version

Subject to approval this version will apply from 1<sup>st</sup> April 2023



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**Glossary**

The Council	Oxford City Council
The Applicant	The trader who has submitted an application for Street Trading Consent.
The Consent Holder	An individual that holds a Street Trading Consent.
A Street	Includes any road, footway, beach or other area to which the public have access without payment.
A Consent Street	A street in which street trading is prohibited without the Consent of the Council.
A Street Trading Consent	A permission to trade, which is granted by a council subject to conditions and payment of a fee.
A Roundsman	An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. A person operating an ice-cream van is not classed as a roundsman.
A Pedlar	A pedlar is a trader who must: <ul style="list-style-type: none"> <li>• keep moving, stopping only to serve customers at their request</li> <li>• move from place to place and not circulate within the same area</li> <li>• hold a valid pedlar's certificate, issued by a Chief Constable of Police.</li> </ul>
A Peripatetic Trader	A peripatetic street trader is one that: <ul style="list-style-type: none"> <li>• continually moves from location to location</li> <li>• moves at least 50 metres from the last trading location and does</li> <li>• not return to that location within four hours</li> <li>• does not wait in one location for more than twenty minutes</li> <li>• does not trade within 100 metres of any entrance to any school or college (without formal invitation from the establishment).</li> </ul>
The Licensing Officer	An officer employed by the Council and authorised by the Council to act in pursuance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Activities that do not require Street Trading Consent	Trading: <ul style="list-style-type: none"> <li>• as a pedlar under a pedlar's certificate</li> <li>• as a news vendor</li> <li>• at a market or fair, the right to hold which having been obtained by a grant, enactment or order</li> <li>• at or adjoining a shop premises as part of the business of the shop</li> <li>• as a roundsman (i.e. delivering pre-ordered goods to customers)</li> <li>• from a licensed highway area (.e.g. Pavement or Street Café Licence) under a street collection permit for charitable purposes.</li> <li>• Areas or events where there is an admission fee.</li> </ul>
Single Use Plastic	This includes: plates, cutlery, balloon sticks, expanded and extruded polystyrene food and drink containers and plastic carrier bags

## Introduction

Oxford City Council (hereafter referred to as the Council) recognises that street trading is an established commercial activity that contributes to the vibrancy and vitality of the city and increases the diversity of the local economy.

As the growth and development of the city continues it is vital that the street trading environment responds to the physical changes and remains sensitive to the needs of the city. The policy allows the Council to continue to regulate the location and number of traders, ensuring that they meet the requirements set out and do not adversely impact the streets they occupy.

In keeping with its vision for a successful and attractive city the Council aspires to provide an improving street trading offer in terms of appearance/visual amenity and the quality of the goods on sale.

A key priority of the Council is to deliver health and wellbeing improvements in the city. Working with partners, we have made a commitment to reduce sugar intake, particularly amongst young people. The policy supports the objectives of [SUGAR SMART](#) Oxford's campaign to seek to make positive change and facilitate healthier food choices.

The pursuit of a zero carbon Oxford is a corporate priority of the Council and this Policy includes measures to encourage environmentally sustainable street trading. We will provide guidance on how to achieve these and related measures in support of that priority.

## **1 Purpose of the Policy**

- 1.1 This Policy sets out the legal framework for the management of street trading in Oxford and will guide the Licensing Authority when it considers applications for Street Trading Consents.
- 1.2 It outlines how decisions are made and aims to provide a transparent and consistent approach for dealing with the regulation of street trading.
- 1.3 It also highlights the Council's undertaking to avoid duplication with other statutory provisions and commitment to work in partnership with other enforcement agencies.

## **2 Consultation**

- 2.1 In determining this policy, the Council has undertaken a public consultation exercise involving the following stakeholders and organisations:
  - Thames Valley Police
  - Oxfordshire County Council
  - All current Consent Holders
  - All relevant departments within Oxford City Council
  - Members of the public
- 2.2 The Council has considered and taken into account the views of all consultees.

## **3 Review of the Policy**

- 3.1 This policy will be reviewed every three years and all interested parties consulted. In addition, we will continue to evaluate the policy and may update it at any time. Any minor changes may be agreed by the General Purposes Licensing Committee.

## **4 Legislation and current provision**

- 4.1 In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (LGA82) should apply to its area. Under Schedule 4 of the Act a local authority can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.
- 4.2 All streets in Oxford City Council area are designated as consent streets and any trading requires consent.
- 4.3 Street Trading is defined as "*the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions*".

The LGA82 exceptions include:

- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;



- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order;
- (c) Trading as a news vendor;
- (d) Trading at or adjoining a shop premises as part of the business of the shop;
- (e) Offering or selling things as a roundsman

Schedule 4 of the LGA82 defines a street as “*any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.*” This includes privately owned land

- 4.4 Street Traders that serve hot food or drink at any time between the hours of 23.00 and 05.00 will also require a Premises Licence under the Licensing Act 2003.

## **5 The Licensing Process and Delegation of Functions**

- 5.1 This part of the document sets out how we will deal with applications for Street Trading Consent in the City of Oxford. The Council aims to provide a clear, consistent licensing service for service users. It also aims to protect the safety of highway users and to prevent nuisance or annoyance.

- 5.2 Delegation is laid out in the Council’s Constitution as follows:

Full Council sets policies on licensing.

The General Purposes Licensing Committee:

- recommends and reviews policies on general licensing
- sets and reviews licence fees
- agrees and varies a street trading scheme.

The General Purposes Licensing Committee appoints a General Purposes Licensing Casework Sub-Committee to:

- a) Decide street trading applications [that are for longer than three months] referred by the Head of Regulatory and Community Safety Services
- b) Decide applications to renew Street Trading Consent when there has been a complaint about the trader or the trader has breached the conditions of their Street Trading Consent in the past year
- c) Decide for cases referred by the Head of Regulatory Service & Community Safety whether to reinstate, suspend, extend suspension, vary or revoke a street trading consent

- 5.3 The General Purposes Licensing Committee has in turn delegated authority to the Responsible Head of Service to:

- (a) Issue Street Trading Consents and to attach such conditions as are necessary under the Local Government (Miscellaneous Provisions) Act 1982;
- (b) Refuse any application for a Consent:

- (i) that is considered unsuitable under this policy;
- (ii) where there are valid adverse comments from any of the following consultees; (Police or Highways on the grounds of Public or Highway safety);
- (c) Refer applications/Consent holders to the General Purposes Licensing Casework Sub-Committee:
  - (i) when there has been a complaint or safeguarding concern about the trader or the trader has breached the conditions of their Street Trading Consent in the past year;
  - (ii) where there are multiple applications for a vacant approved site
  - (iii) where there are valid adverse representations, serious food safety issues or any other reasonable cause for referral
- (d) Suspend a Consent for a period of up to 28 days pending referral to the General Purposes Licensing Casework Sub-Committee, where serious food safety issues or any other reasonable cause are found.

## **6 Applications for a Street Trading Consent**

- 6.1 An application for Street Trading Consent must be made to the Council in writing. The following will be required to be submitted with the application:
- (a) A completed and signed Street Trading Consent Application Form.
  - (b) The full application fee as appropriate.
  - (c) Proof of Identity (a passport or UK driving licence) for applicant and employees
  - (d) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line. Initial or changed applications only)
  - (e) Colour photographs of the stall or vehicle that is proposed to be used for the street trading activity. (initial or changed applications only)
  - (f) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
  - (g) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.
  - (h) A valid Waste Transfer Contract/Agreement or Waste Carrier Licence.
  - (i) Proof of the applicant's and any prospective employee's right to work in the UK.
  - (j) Disclosure and Barring Service (DBS) checks for applicant and employees (dated within last 30 days before application date). Applies to traders operating in the night time and those who often sell items to children.
  - (k) Gas safety certificate for the vehicle or stall if applicable.
  - (l) A description of the type of food and drinks to include sugar free and lower sugar drinks options.
- 6.2 Street Trading Consents are issued for a period of up to one year and are renewed annually for the period 1 April to 31 March, unless granted for a reduced period.
- 6.3 Before a Street Trading Consent is granted or refused, the Council will carry out a consultation process with various stakeholders including:

- Oxfordshire County Council Highways
- Thames Valley Police
- Ward Councillors
- Planning Service
- Environmental Health Authority for food safety and commercial pollution

Written observations from the above organisations will be sought and taken into consideration when determining an application.

6.4 Street Trading Consents will not normally be granted where:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site.
- There is a conflict with Traffic Orders such as waiting restrictions.
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes.
- The trading unit obstructs the safe passage of users of the footway or carriageway.
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities.
- The supply of hot or cold food, drinks or confectionery between 07:30 and 18:00 within 100 metres of the boundary of a school or college (during term time).

6.5 The council will not allow the sale of:

- Tobacco, tobacco products or e-cigarettes
- Items made of animal fur
- Items that cause or contribute to crime and disorder
- Energy drinks to children below 16 years old.
- the sale of plastic and helium balloons and sky lanterns

6.6 The Council will not allow the use, sale or distribution of single-use plastic, as defined in the Glossary to this Policy, in street trading in Oxford.

6.7 In the absence of representations, the application will be referred to the Council's General Purposes Licensing Casework Sub-Committee who will use the criteria listed below to make their determination of the application, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration. When there are valid adverse representations, the Responsible Head of Service acting under delegated powers may refuse an application.

6.8 In considering applications for the grant or renewal of a Street Trading Consent the following criteria will be considered:

**(a) Public safety**

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include: obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

**(b) Public order**

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order.

**(c) Avoidance of public nuisance**

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public, particularly in residential areas.

**(d) Appearance of the stall or vehicle**

The stall or vehicle must be maintained in good condition, be of smart appearance and meet the criteria, including size, laid down in the standard Consent Conditions. Photographs or sketches, including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area.

**(e) Needs of the area**

The demand for the articles for sale and the geographical location of the proposed site.

**(f) Environmental sustainability**

Measures to minimise the impact of the proposed operation on the local and global environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, recycling and waste disposal, adopting sustainable sourcing approaches to food and drink; using sustainable sources of energy for their trading activities; and considering how their customers' rubbish is dealt with responsibly including composted and recycled.

**(g) Food safety and food offer**

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health. Consideration will be given to applicant's ability to meet SUGAR SMART Oxford criteria (see Annex 3 for guidance).

**(h) Highway safety**

The location and operating times will be such that the highway can be maintained in accordance with the Oxfordshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

- 6.9 There is no statutory right of appeal against refusal to issue a Consent.

**7 Nature of goods on offer**

- 7.1 The type of goods allowed to be sold will be considered on a site by site basis and will be specified in the Consent. Consent holders must seek approval before making significant changes to the type of goods offered for sale.

## **8 Suitability of Applicant**

8.1 When determining an application for the grant or renewal of a Consent, the Council will consider all relevant information relating to the suitability of the applicant and any employees including:

- Whether they have been cautioned or convicted of any offences of:
  - a. Violence
  - b. Dishonesty
  - c. Drug related offences
  - d. Sexual offences
  - e. Public Order offences
  - f. Food safety or health and safety offences
  - g. Any offence resulting in a sentence of imprisonment

This will involve the applicant making a declaration to confirm their status relating to any 'unspent' cautions or convictions under the Rehabilitation of Offenders Act 1974. Guidance on the relevance of cautions and convictions is contained in Annex 4.

- Failure to pay the Council's Street Trading Consent fees.
- An applicant's history of street trading including whether previous Consents have been used appropriately.

8.2 The Council reserves the right to request a Disclosure and Barring Service (DBS) check where it considers there is a significant risk to children and/or vulnerable people, e.g. traders operating in the night time and those who often sell items to children.

## **9 Advertisements**

9.1 The use of 'A' boards is prohibited on the highway (unless express permission is given).

9.2 Advertising should only relate to goods offered for sale at the consented site.

9.3 Third party advertisements are prohibited.

## **10 Peripatetic Street Trading**

10.1 Street traders that meet the conditions below will be classed as peripatetic. Ice cream vans and mobile sandwich sellers would typically be deemed to be peripatetic street traders.

10.2 Traders must meet all of the criteria below to be classed as peripatetic:

- Move from location to location.
- Move at least 50 metres from the last trading location and do not return to that location within four hours.
- Do not wait in one location for more than 20 minutes.

**11 Renewal Applications for a Street Trading Consent**

- 11.1 Street Trading Consents are renewed annually for the period 1<sup>st</sup> April to 31<sup>st</sup> March, unless granted for a reduced period. A renewal application for Street Trading Consent must be made to the Council in writing by 1<sup>st</sup> February.
- 11.2 If a renewal application is not received before the expiry of the current licence, a new application must be made. In this situation, trading will not be permitted until a new Consent is issued.
- 11.3 At renewal, the Council may take into consideration any relevant information about the trading operation
- 11.4 Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application may be referred to the General Purposes Licensing Casework Sub-Committee.

**12 Advertising new or vacant sites**

- 12.1 The Council will advertise new unallocated or vacant sites on the Council's website for 28 days. Applications will be referred to the Council's Licensing Sub-Committee who will use the criteria listed at paragraph 5.8 of this policy to make their determination.

**13 Transfers**

- 13.1 A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub-letting of a pitch/site is prohibited.

**14 Markets**

- 14.1 A market or fair, the right to hold which has been obtained by a grant, enactment or order is exempted from the street trading regime and is outside the scope of this policy.

**15 Special Events**

- 15.1 For events such as Christmas or Continental Street Markets, the Council will accept one application from the person organising the event. The event street trading application will require full details of each trader attending the event. Consent will be issued to each individual stall holder. This provision aims to promote events and encourage traders to attend.
- 15.2 Trading at charity or small community events, where the proceeds of the event are to be used solely for charitable or community purposes are exempt from the Council's Street Trading fees.

**16 Fees**

- 16.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the Consent, trading hours and the articles to be sold. Details of the current fees can be found on the Council's website

- 16.2 Fees must be paid in advance as set out in Annex 2, General Condition 24.
- 16.3 Applications for Consents must be accompanied by the relevant non-refundable fee. If the application is approved, the balance of the fee will be due before the Consent is issued. If the application is not successful the application fee will be retained to cover the cost incurred in processing the application.
- 16.4 A Consent Holder may terminate a Street Trading Consent by written notice to the Responsible Head of Service. Where trading ceases during the term of Consent, a refund will not be given for any remaining period of less than 3 months. Where payable, a refund of the portion of the fee equal to the remaining full months will be given, less £50 which the Council will retain to cover administrative costs.

## **17 Conditions**

- 17.1 The Council applies Standard Conditions to Street Trading Consents and other Individual Conditions may be added to individual Consents where appropriate.
- 17.2 Standard Trading Hours are:
- (a) Roadside locations for vehicles
    - Daytime site from 08:00 to 18:00.
    - Evening sites for the Sale of Hot Food from 18:30 to 03:00 (can be extended to 04:00 Thursdays, Fridays, and Saturdays on application and subject to approval).
  - (b) Pavement locations
    - 08:00 to 21:00.
  - (c) Weekly Let Sites
    - 08:00 to 21:00.
- 17.3 The Standard Conditions applied to Street Trading Consents are attached to this policy as Annex 1.

## **18 Enforcement**

- 18.1 The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues in accordance with the Council's Corporate Enforcement Policy.
- 18.2 The Business Regulation Team aims to work closely with other enforcement authorities to regulate relevant legislation where necessary.
- 18.3 The Council will investigate any complaints relating to street trading activities e.g. trading without Consent or breach of conditions and may take enforcement action as appropriate. Consent holders should liaise with the Council to resolve complaints.
- 18.4 If the Council feels that there is an issue of public order or threat to public safety associated with any street trading activity it will call for assistance from Thames Valley Police.



- 18.5 Failure to comply with one or more of the standard conditions of Consent may lead to suspension, variation, revocation or non-renewal of Street Trading Consent. The Consent Holder may also be prosecuted where a criminal offence has occurred

## **19 Revocation**

- 19.1 The Council may revoke a Street Trading Consent at any time, on any reasonable grounds. This may be for a variety of reasons including breach of conditions, non-payment of fees or when the site location is no longer suitable/accessible e.g. due to emergency repairs in the street or construction/redevelopment work.

## **20 Contacts**

The Street Trading function is part of the Business Regulation Team within Regulatory Services and Community Safety.

Business Regulation Team SA3.2  
Oxford City Council  
Town Hall  
St Aldate's  
Oxford  
OX1 1BX

## **ANNEX 1**

### **General Conditions for Street Trading Consents**

1. Street trading must only take place between the dates specified on the Certificate of Street Trading Consent.
2. Street trading must only take place during the operational hours specified on the Certificate of Street Trading Consent.
3. The Street Trading Consent relates only to the area/site vehicle or stall specified on the Certificate of Street Trading Consent.
4. The Street Trading Consent relates only to the vehicle or stall specified on the Certificate of Street Trading Consent.
5. Any significant changes to or replacement of a stall or vehicle must be approved by the Responsible Head of Service.
6. The vehicle or stall must be removed from the site at the end of each day's trading.
7. The Consent Holder's vehicle/stall must be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
8. The Consent Holder's vehicle must be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must



- be carried out legally and must not present a risk to people and structures.  
The Consent Holder shall not drive or park a vehicle on any part of a footway.
9. The Consent Holder must ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued.
  10. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they must immediately comply with that request.
  11. The Consent Holder must comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant). Advice on these requirements is available from the Business Regulation Team.
  12. The Consent Holder must conduct their business in a professional manner and in a way that minimises risks to employees and others.
  13. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
  14. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
  15. The Consent Holder must not cause any nuisance or annoyance to any other user of the highway or the occupier of any land or building. In particular, Consent Holders must prevent excessive noise.
  16. The Environmental Protection Act 1990 (as amended) places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property.
  17. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, including by making a bin available for customers to use where a public litter bin is not available within 20 metres from their vehicle.
  18. A Street Trading Consent must not be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The subletting of a consent site is prohibited.
  19. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Council of the name and address of that person. An administration fee will be payable.
  20. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Council.

21. Consent holders must make adequate provisions to ensure access for wheelchair users or customers with disabilities.
22. A copy of the Consent must be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
23. Consent Holders must have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance must specifically include cover against food poisoning to the same amount. Proof of cover must be produced to an officer of Oxford City Council on application and as required.
24. Annual Street Trading Consent fee installments are required quarterly, in advance. The first installment must be paid in advance of the issue of Consent. The remaining fee can be paid in installments on the following dates 1<sup>st</sup> July, 1<sup>st</sup> October and 2<sup>nd</sup> January. Alternatively, annual fees may be paid in full in advance.
25. General Conditions, which apply to all Street Trading in Oxford, may be varied, having regard to a particular location. They are termed Special Conditions and are listed on the Consent Certificate. These Special Conditions must also be complied with.
26. Consent holders must make full use of their Consent.
27. Consent holders must not sell any of the following items: Tobacco, tobacco products or e-cigarettes; items made of animal fur; items that cause or contribute to crime and disorder; energy drinks to children below 16 years old; plastic and helium balloons and sky lanterns
28. Consent holders must not use, sell or distribute single-use plastic in street trading in Oxford

### **Conditions Specific to Food Traders**

29. Food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.
30. Food handlers must hold a Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health with a certificate dated within the last 3 years...
31. Food businesses must be registered as a food business with the Local Authority where the van/stall is kept overnight. Food businesses registered outside of the Oxford City Council area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant Local Authority.
32. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.

### **Conditions Specific to Peripatetic Traders**

- 33. The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.
- 34. The vehicle must not trade within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (without formal invitation from the establishment).
- 35. The vehicle must not wait in one location for more than twenty minutes, moving at least 50 metres to the next trading location. The vehicle must not return to that location within four hours.

### **Conditions Specific to Weekly Street Traders**

- 36. Weekly Street Trading Consents fees must be paid two weeks in advance before trading commences. This is to allow sufficient time to process the application and receive the consent. Traders must be in possession of their Consents before they can trade.
- 37. The items to be sold must be agreed before a Weekly Consent will be issued.
- 38. The sale of food and/or drink is not permitted by Weekly Street Traders.
- 39. For Weekly Street Traders on Cornmarket Street, the Consent Holder's stall must not exceed 2.3 metres in height nor occupy an area greater than 2.3 metres x 1.4 metres.

**ANNEX 2****Guidance on SUGAR SMART Oxford Criteria**

The Council welcomes applications from food traders who meet all the following criteria:

- Offer 80% low\* sugar and sugar free drinks options
- Make low sugar and sugar free drinks more visible and prominently displayed to customers
- Adopt a simple traffic light sticker system for drinks (traders will receive free resources, support and advice to set up)

Contact: [mail@sugarsmartoxford.org](mailto:mail@sugarsmartoxford.org) for information. More details about the scheme can be found at <http://goodfoodoxford.org/sugar-smart-oxford/>.

\*Low sugar is defined as 5g per 100g or less

**ANNEX 3****Guidance on suitability of applicants**

The Council will take into account the following guidance concerning any ‘unspent’ cautions or convictions for the offences listed below when determining whether a new applicant, consent holder or their employee is suitable to hold a Street Trading Consent.

**a. Violence**

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for an offence of violence.

**b. Dishonesty**

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for an offence of dishonesty.

**c. Drug related**

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for a drug related offence. For offences of supplying drugs, consent applications will normally be refused for 5 years (at least) following conviction.

**d. Sexual Offences and indecency**

A Consent application will normally be refused when it is made within 5 years (at least) of cautions or convictions for any serious sexual offences. Applications will be refused from applicants currently on the Sex Offender’s Register.

**e. Public Order**

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for an offence relating to breaches of public order.

**f. Food safety or health and safety**

A Consent application will normally be refused when it is made within 3 years of a conviction or caution for an offence relating to food safety (where the consent involves sale of food or drink) or health and safety.

**g. Any offence resulting in a sentence of imprisonment**

A Consent application will normally be refused when it is made within 3 years (at least) of the date of release from prison, where a custodial sentence has been imposed.

The safeguarding of children, young people and vulnerable people is of a particular concern. Where the Council receives notification that:

- i. an applicant or consent holder is the subject of an investigation by the Police into inappropriate conduct, or illegal activity, or
- ii. an applicant or consent holder has been implicated in a safeguarding issue i.e. where children, young people or vulnerable people have been or may be exposed to inappropriate behaviour or language by the applicant/consent holder

the matter shall be referred to the General Purposes Licensing Casework Sub-Committee to determine whether the person can be considered as suitable to either be granted or retain a Street Trading Consent.

Notwithstanding the existence of the convictions guidance, each case will be decided on its own merits.

**BUILDING PRIDE** IN OUR CITY

**Licensing Authority**

[www.oxford.gov.uk](http://www.oxford.gov.uk)



# Street Trading Policy

Business Regulation Team  
Oxford City Council  
Town Hall  
St Aldate's  
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## **Minutes of a meeting of the General Purposes Licensing Casework Sub- Committee on Tuesday 28 February 2023**



### **Committee members present:**

Councillor Mundy (Chair)

Councillor Humberstone

Councillor Miles

### **Officers present for all or part of the meeting:**

Alison Daly, Legal Adviser

Richard Masters, Senior Licensing Compliance Officer

Katie Thorp, Senior Licensing Compliance Officer

Celeste Reyeslao, Committee and Member Services Officer

### **Apologies:**

No apologies were received.

### **56. Declarations of Interest**

None.

### **57. Procedure to be followed at the meeting**

The Sub-Committee noted the procedure for the hearings and the policy on the relevance of warnings, offences, cautions and convictions.

### **58. Minutes**

The Sub-Committee resolved to approve the minutes of the meeting held on 29 November 2022 and the extraordinary meeting held on 17 January 2023 as a true and accurate record.

### **59. Exempt Matters and Confidential Session**

The Sub-Committee resolved that under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the remaining items of business on the grounds that their presence would involve the likely disclosure of exempt information as described in Paragraph 3 of Part 1 of Schedule 12A of the Act.

The Sub-Committee considered matters relating to Hackney Carriage and Private Hire Vehicle licensing in private.

*Cllr Humberstone joined the meeting and when asked confirmed that he had no declarations of interest to make.*

## **60. Application to continue to drive Hackney Carriage and Private Hire Vehicles**

The Head of Regulatory Services and Community Safety had submitted a report to inform the determination of applicant's 'fit and proper' person status to drive Hackney Carriage and Private Hire Vehicles in the City.

The Sub-Committee resolved to:

- **Lift the suspension** on the applicant's licence to drive Hackney Carriage and Private Hire Vehicles in the City.

## **61. Application to drive Private Hire Vehicles**

*The Sub-Committee agreed to take item 10 on the agenda, 'Application to drive Private Hire Vehicles' before item 7 on the agenda, 'Application to drive Private Hire Vehicles' and then return to the remainder of the agenda as listed.*

The Head of Regulatory Services and Community Safety had submitted a report to inform the determination of an application to drive Private Hire Vehicles in the City.

The Sub-Committee resolved to:

- **Refuse** the application to drive Private Hire Vehicles in the City taking into account the details in this report and any representation made at this Sub-Committee meeting.

## **62. Application to drive Private Hire Vehicles**

The Head of Regulatory Services and Community Safety had submitted a report to inform the determination of an application to drive Private Hire Vehicles in the City.

The Sub-Committee resolved to:

- **Refuse** the application to drive Private Hire Vehicles in the City taking into account the details in this report and any representation made at this Sub-Committee meeting.

## **63. Application to drive Private Hire Vehicles**

The Head of Regulatory Services and Community Safety had submitted a report to inform the determination of a new application to drive Private Hire Vehicles in the City.

The Sub-Committee resolved to:

- **Refuse** the application to drive Private Hire Vehicles in the City taking into account the details in this report and any representation made at this Sub-Committee meeting.



## **64. Application to continue to drive Private Hire Vehicles**

The Head of Regulatory Services and Community Safety had submitted a report to inform the determination of an application to drive Private Hire Vehicles in the City.

The Sub-Committee resolved to:

- **Refuse** the application to drive Private Hire Vehicles in the City taking into account the details in this report and any representation made at this Sub-Committee meeting.

## **65. Confidential Minutes**

The Sub-Committee resolved to approve the confidential minutes of the meeting held on 29 November 2022 and the extraordinary meeting held on 17 January 2023 as a true and accurate record

## **66. Dates of future meetings**

The dates of future meetings were noted.

**The meeting started at 6.06 pm and ended at 9.46 pm**

**Chair .....**

**Date: Monday 17 April 2023**

*When decisions take effect:*

*Cabinet: after the call-in and review period has expired*

*Planning Committees: after the call-in and review period has expired and the formal decision notice is issued*

*All other committees: immediately.*

*Details are in the Council's Constitution.*

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# Agenda Item 6

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 7

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 8

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 9

By virtue of paragraph(s) 1, 2, 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 10

By virtue of paragraph(s) 1, 3, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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