

AGENDA FOR

LICENSING AND SAFETY COMMITTEE

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To: All Members of Licensing and Safety Committee

Councillors : S Walmsley (Chair), J Grimshaw, T Holt, S Hurst, K Leach, J Lewis, G McGill, M Smith, C Walsh, S Wright and Y Wright

Dear Member/Colleague

Licensing and Safety Committee

You are invited to attend a meeting of the Licensing and Safety Committee which will be held as follows:-

Date:	Thursday, 27 May 2021
Place:	Council Chamber - Bury Town Hall
Time:	7.00 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	The meeting will be live streamed: https://councilstream.com/burycouncil

AGENDA

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

Members of the Licensing and Safety Panel are asked to consider whether they have an interest in any of the matters on the agenda, and if so, to formally declare that interest.

3 MINUTES OF PREVIOUS MEETING *(Pages 5 - 10)*

The Minutes of the Meeting held on the 22nd April 2021 are attached. Members of the Licensing & Safety Committee are asked to consider whether these are a correct record of the meeting, and if so, to formally approve them.

4 PUBLIC QUESTION TIME

Questions are invited from members of the public present at the meeting on any matters for which this Committee is responsible.

Approximately 30 minutes will be set aside for Public Question Time if required.

5 OPERATIONAL REPORT *(Pages 11 - 14)*

A report from the Executive Director (Operations) is attached.

6 REVIEW OF DECISIONS TAKEN BY THE COUNCIL FOR HACKNEY CARRIAGE / PRIVATE HIRE TRADES DURING THE COVID 19 PANDEMIC *(Pages 15 - 20)*

A report from the Executive Director (Operations) is attached.

7 URGENT BUSINESS

Any other business, which by reason of special circumstances, the Chair agrees may be considered as a matter of urgency.

8 EXCLUSION OF PRESS AND PUBLIC

To consider passing the appropriate resolution under section 100 (A)(4) of the Local Government Act 1972 that the press and public be excluded from the meeting during consideration of the following item of business since it involves the likely disclosure of the exempt information stated.

9 SUSPENSION/REVOCATION OF A PRIVATE HIRE DRIVER LICENCE *(Pages 21 - 30)*

A report from the Executive Director (Operations) is attached.

10 APPLICATIONS FOR PUBLIC/PRIVATE HIRE DRIVER LICENCES
(Pages 31 - 58)

A report from the Executive Director (Operations) is attached.

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Minutes of: LICENSING AND SAFETY PANEL

Date of Meeting: 22 April 2021

Present: Councillor S Walmsley (in the Chair)
Councillors J Grimshaw, T Holt, G Keeley, K Leach, M Smith,
C Walsh, S Wright and Y Wright

Public Attendance: 2 members of the public were present virtually at the meeting.

Apologies for Absence: Councillors S Hurst, C Morris and I Schofield.

LSP.1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted by Councillors S. Hurst, C. Morris and I. Schofield.

LSP.2 DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

LSP.3 MINUTES OF PREVIOUS MEETING

That the Minutes of the last meeting held on the 4th March 2021 be approved as a correct record and signed by the Chair.

LSP.4 PUBLIC QUESTION TIME

No public questions were submitted to the meeting.

LSP.5 OPERATIONAL REPORT

The Executive Director (Operations) submitted a report advising Members on operational issues within the Licensing Service.

The report set out updates in respect of the following issues:

Easing of Lockdown – Assistance to Businesses

Officers from the Licensing Service had been working with colleagues within the Public Protection Service to inform businesses of the requirements for re-opening on the 12th April 2021. This involved the Covid Marshals delivering approximately 320 letters to licensed premises which included a checklist for licence holders.

In addition, to the work above an additional 2,356 letters were sent either by post or email to all hospitality businesses and close contact services.

Recovery Action Plan

Officers of the Licensing service are working with Greater Manchester Police and other Council departments to assist businesses to recover and this involved:

- Consideration to applications for Pavement Café Licences that have been submitted to the Council's Highways Department for approval.
- Undertaking of visits to licensed premises in partnership with Greater Manchester Police to ensure that businesses are compliant and operating in a covid secure way.

Licensing Hearings Panel- 1st April 2021

The Licensing Service have received an application for the grant of a premises licence under the Licensing Act 2003 in respect of Prestwich Social, Unit 3, Radius Scheme, South East Side, Fairfax Road, Prestwich, M25 1AS. This application attracted representations from Greater Manchester Police in their capacity as a Responsible Authority and 10 representations from interested parties. Members considered this application at a Licensing Hearings Panel on the 1st April 2021 and resolved that the premises licence be granted as set out in the operating schedule subject to the operating amendments listed below under the grounds of prevention of public nuisance:

- A change to the supply of alcohol on a Friday and Saturday being amended to 12.30am from 1.00am;
- A change to the opening times on a Friday and Saturday being amended to 1.00am from 1.30am.

The Panel also attached 22 conditions to the premises licence following mediation between Greater Manchester Police and the applicant prior to the meeting.

Taxi Matters- Grant/ Enforcement

The Licensing Service had been assisting the Strategic Planning and Economic Development service to engage with the Hackney Carriage and Private Hire Trade to help promote awareness to enable them to apply for a small and micro business grant being given by the Authority.

Delegated decision:

That the report be noted and the Chair placed on record her thanks to Officers in the Licensing Department.

LSP.6 URGENT BUSINESS

No urgent business was reported at the meeting.

LSP.7 EXCLUSION OF PRESS AND PUBLIC

Delegated decision:

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items of business since it involved the likely disclosure of information

relating to individuals who hold Licences granted by the Authority or Applicants for Licences provided by the Authority.

LSP.8 SUSPENSION/REVOCATION OF PRIVATE HIRE DRIVER LICENCES

Licence Holder 27/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 27/2020 who was not in attendance at the virtual meeting.

A request had been made by their legal representative to adjourn this case to a later date due to the bereavement of a close family member.

Delegated decision:

That the Panel unanimously agreed to defer the case for Licence Holder 27/2020 and arrange a panel meeting for a later date.

Licence Holder 28/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 28/2020 who attended the virtual meeting.

The Chair made introductions of the panel and the Legal Officer present outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder subject to the amendment below set out the reasons for the Licence Holder being before the Panel.

It was noted by the panel and accepted by the Licence Holder that there was an error in the report and he had notified the Licensing Service on the 9th March 2021 (Not 2020 as stated in the report) by email and that he had received 5 points for speeding (Not 3 as stated in the report).

This Licence Holder had previously held a private hire driver's licence continually since 5th April 2012 until its expiry on the 12th April 2021. The licence has been extended without prejudice until the date of this Committee hearing. He submitted an online application to renew his Private Hire driver's licence on the 1st April 2021. As part of the application the applicant was presented with the information shown in the agenda report.

The online application screen explains that any traffic offences must be declared irrespective of when they occurred. This client selected yes and disclosed a speeding offence. A subsequent check of this applicants DVLA driving licence indicated the following conviction:

Offence	Offence Date	Expiry Date	Sentence
SP50 - Exceeding speed limit on a motorway	30 th June 2020	30 th June 2023	Licence endorsed with 5 penalty points Fine - £440

This applicant is before the committee for the following reasons: - A) Failing to declare the convictions during his previous licence period as required by condition 13 of a private hire driver's licence. B) The offence falls within the Conviction Guidelines.

This applicant was subsequently interviewed by a licensing enforcement officer. He explained that that he was travelling on the M62 moving a vehicle for British Car Auctions (BCA) when he was caught by a speed enforcement camera travelling in excess of 90mph. The applicant explained that due to the nature of the employment there was a delay in him receiving the penalty notice as it had been incorrectly issued to the previous keeper of the vehicle and then BCA before being passed to himself. He stated that he had not tried to deliberately mislead the licensing service and as soon as he received the letter he had notified the licensing service as per the conditions of his private hire drivers licence

This client was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which was attached at Appendix 1 of the report in the agenda pack.

This applicant was before members for consideration to be given as to his suitability to be a private hire driver in Bury.

Delegated decision:

The Panel carefully considered the report, the additional written documentation and oral representations by licence holder 28/2020.

They heard that the applicant had originally disclosed the offence but failed to declare this motoring conviction within the correct time frame as stipulated in the private hire driver's licence conditions. The Panel accepted the explanation for the long delay between the conviction date and the applicant receiving information of the penalty notice. It was noted that there had been no recorded complaints made against the applicant since being a licence holder in 2012.

The applicant stated that he was intending to follow the guidelines. The Panel unanimously agreed that this was not a deliberate decision to evade disclosing the offence and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, resolved, to take no action against the licensee.

LSP.9 APPLICATIONS FOR PRIVATE HIRE DRIVER LICENCE

Licence Holder 29/2020

The Executive Director (Operations) submitted a report relating to Licence Holder 29/2020 who attended the virtual meeting via audio only alongside his son to aid with any translation difficulties.

The Chair made introductions of the panel and the Legal Officer present outlined the procedure to be followed and clarified that all those present had read the report. The report which was accepted by the Licence Holder set out the reasons for the Licence Holder being before the Panel.

The applicant had been continually licensed as a driver since the 12th September 2003. His current licence expired on the 12th March 2021. During that time frame he had held private hire and hackney carriage drivers' licences. His most recent licence entitled him to drive private hire vehicles.

On the 16th March 2021, the applicant submitted an online application for a private hire driver's licence. Within the application he declared a conviction for battery dating back to the 25th August 2020. The licensing service does not have a record of this applicant having ever previously declared this conviction.

The applicant has subsequently provided a DBS certificate which indicated the following:

Offence	Offence Date	Expiry Date	Sentence
Battery contrary to Criminal Justice Act 1988 s.39	16 th March 2020	25 th August 2020	Fine £333 Costs £85 Victim Surcharge £33

The licensing service was not aware of these offences previously.

This applicant was before the committee for the following reasons: - A) Failing to declare the convictions during his previous licence period as required by condition 13 of a private hire driver's licence. B) The offence falls within the Conviction Guidelines.

The applicant was subsequently interviewed by a licensing enforcement officer. He explained that the conviction occurred because of an argument that had taken place within the marital home towards the end of his marriage. He explained that during the argument his ex-wife had hit him several times and wound him up. He therefore retaliated which left a mark on her face.

When asked why he had failed to notify the service of the conviction, as per his licence conditions, the applicant apologised and explained that he had made a mistake and was not aware of this requirement as he has not been working due to the covid-19 pandemic.

The applicant was emailed a summary of what had been discussed over the telephone and asked whether he agreed with this or wanted to amend anything. He agreed with the summary which is attached to the restricted agenda pack as Appendix 1.

The Council's convictions policy and guidelines state: Members of the Licensing & Safety Panel are required to have regard to Bury Council's convictions policy and guidelines when considering an application for a private hire or a hackney carriage driver licence. Members should adhere to the policy and guidelines unless there are exceptional circumstances for them to depart from them.

Delegated decision:

The Panel heard from the licence holder who stated that he had held a licence for 18 years and would like to continue in this role until retirement.

He told the panel that he had not considered that the Licensing Panel would need to know about what he classed as a family problem and apologised. His Solicitor had allegedly informed him that a family matter was not a criminal matter and that he didn't need to tell licensing. He told the Panel that he understood the conditions of having a licence.

The Panel also sought to clarify what the apology was intended for, either by not informing the Council of the criminal act or the battery incident, he stated he was apologising for not informing the Council.

The Panel carefully considered the report, the additional documentation and oral representations by licence holder 29/2020 and taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, resolved, on a majority basis, to refuse the Licence application. The panel agreed that the applicant was dishonest and minimised his actions for the offence. The Panel determined that the conviction was less than 3 years old and they had heard nothing that would move them to detract from the licencing policy. Therefore, the panel unanimously agreed that the applicant was not a fit and proper person to be granted a taxi licence.

Before closing the meeting the Chair paid thanks to Members of the panel who were not seeking re-election to the Council at the local elections in early May. She also thanked Council Officers and those members of staff who were leaving the authority.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.00pm and ended at 8.07pm)



Classification	Item No.
Open / Closed	

Meeting:	Licensing & Safety Committee
Meeting date:	27 th May 2021
Title of report:	Operational Report
Report by:	Executive Director (Operations)
Decision Type:	N/A Report for information only
Ward(s) to which report relates	N/A

Executive Summary: A report to advise members on operational issues within the Licensing service.

Recommendation(s)

That the report be noted.

Key considerations

Not applicable

Community impact / Contribution to the Bury 2030 Strategy

Equality Impact and considerations:

24. *Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
None	.

Consultation:

Legal Implications:

Not Applicable

Financial Implications:

Not Applicable

Report Author and Contact Details:

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Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
None	

1.0 BACKGROUND

1.1 The report advises Members on operational issues within the Licensing service.

2.0 MANDATORY SAFEGUARDING

2.1 Members of the panel may recall a report regarding the introduction of mandatory safeguarding training for all new applicants who wish to become a licensed Hackney Carriage / Private Hire Driver and for all existing holders of Hackney Carriage / Private Hire Drivers badges. The Licensing Service have been reviewing the records and have identified 39 drivers who have not undertaken the training. The Licensing Service will be writing to those drivers to advise them that they need to complete the training as a matter of urgency. Failure to complete the training may result in the Licensing Service taking further action.

3.0 CLEAN AIR PLAN – EXECUTIVE MEMBER BRIEFING

3.1 On the 21st May 2021, an Executive Member Briefing took place in relation to the Clean Air Plan, this was held by Transport for Greater Manchester.

4.0 EASING OF LOCKDOWN – STEP 2 - WORKING WITH MARKETS

4.1 Officers of the Public Protection Service have been advising the markets office in relation to the requirements of Step 2 – Lockdown easing. Cafes that were unable to put tables and chairs outside their stalls and businesses were permitted to create a food court style operation for patrons to utilise.

5.0 EASING OF LOCKDOWN – STEP 3 – HOSPITALITY

- 5.1 Officers of the Public Protection Service have hand delivered 326 letters to licensed premises to advise them of their obligations before the Step 3 requirements came into force on the 17th May 2021.

6.0 GO ELECTRIC TAXI EVENTS

- 6.1 The Licensing Service have been working with Transport for Greater Manchester to inform both the Hackney Carriage and Private hire Trade of two workshops that have taken place on the 15th April and the 29th April 2021. The workshops were arranged to assist Hackney and Private Hire drivers understanding about EV vehicles, charging, debunking myths and to allow questions directly to manufacturers of Electric Vehicles.

7.0 INCREASE IN VEHICLE AND OPERATOR LICENCE FEES

- 7.1 The Licensing Service have advertised the increase in fees for vehicle and operator under section 70(3) of the Local Government (Miscellaneous Provisions) Act 1976. No objections to the fee increase was received therefore the fees were increased on the 23rd April 2021. The new fees are as follows:

- Vehicles under 2 years old £229.00 (£173.00 plus £56.00)
- Vehicles over 2 years old £285.00 (£173.00 plus £112.00)
- Any Vehicles allocated 3 tests per year £341.00 ((£173.00 plus £168.00)
- Private Hire Operators 1-2 vehicles (One Year) £274.00
- Private Hire Operators 3 or more vehicles (One Year) £390.00
- Private Hire Operators 1-2 vehicles (5 Year) £1334.00
- Private Hire Operators 3 or more vehicles (5 Year) £1862.00

8.0 REQUEST TO CONTACT LICENCE HOLDERS WHO LIVE IN BOLTON

- 8.1 Following the request of the Health Protection Board, the Licensing Service have sent out over 998 emails and 49 letters to licence holders that live in Bolton to advise them of the variant of concern that is in circulation and reminding them of their responsibilities and to follow the latest Government advice.



Classification	Item No.
Open / Closed	

Meeting:	LICENSING AND SAFETY COMMITTEE
Meeting date:	27 th May 2021
Title of report:	Review of decisions taken by the Council for Hackney Carriage / Private Hire Trades during the covid 19 Pandemic
Report by:	EXECUTIVE DIRECTOR (OPERATIONS)
Decision Type:	Council
Ward(s) to which report relates	All

Executive Summary:

Recommendation(s)

This report relates to the review of decisions taken by the Council to the Hackney Carriage / Private hire Trade during the covid 19 Pandemic.

OPTIONS & RECOMMENDED OPTIONS

Members are requested to consider the following:

- To continue with the current amended arrangements which are:
 - To postpone the Knowledge test until further notice
 - To grant Hackney Carriage/Private hire Driver's licences for a 12-month period rather than up to 3 years as permitted under the legislation.
 - To permit self-certification declarations in respect of medical certificates
 - To postpone the receipt of new applications for Hackney Carriage and Private Hire Drivers licences
- To revert back to the original arrangements which were:
 - To re-commence the Knowledge Test with immediate effect
 - To re-commence the issuing of three year hackney carriage/private hire licences paying the requisite fee

- To request that all existing drivers that are due a group two medical produce a medical examination certificate from their own doctor or the approved contractor.
 - To commence taking new applications for Hackney Carriage/Private Hire driver's badges
- To consider a combination of any of the options believed to be appropriate at this time.

Key considerations

This is a Council Function that is delegated to the Licensing and Safety Panel by the Council's Constitution.

This paper is in the Public Domain.

Community impact / Contribution to the Bury 2030 Strategy

Not Applicable

Equality Impact and considerations:

24. *Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
25. *The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Not Applicable	.

Consultation:

Not applicable

Legal Implications:

Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

The cost of the licensing function are funded through the fees and charges levied by the Council.

Members are advised that Licences are regarded as possessions within the terms of the Human Rights Act 1998. Under the Act everyone is entitled to the peaceful enjoyment of one's possessions and so actions interfering with those possessions must be lawful, reasonable and proportionate. It is lawful to impose reasonable conditions as a way of protecting the safety of the travelling public, so long as it is not out of proportion. It is a balancing act between the public interest and the individual's rights.

Financial Implications:

There are no specific issues from the report other than potential costs/risks associated with legal appeals

Report Author and Contact Details:

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Background papers:

Emergency Powers Group reports

Please include a glossary of terms, abbreviations and acronyms used in this report.

Term	Meaning
None	

1.0 BACKGROUND

- 1.1 As a result of the COVID 19 pandemic lockdown a number of practical matters were required to be implemented to ensure safe working practices for clients of the licensed hackney carriage and private hire trade as well as for officers of the licensing service.
- 1.2 In light of this an urgent report was considered by the Council Emergency Powers Group on the 14th July 2020.
- 1.3 The Licensing Service requested authorisation of the following matters:-
 - **To postpone the receipt of new applications for Hackney Carriage and Private Hire Drivers for a period of three months until the 30th September 2020.**
This was requested as new applicant drivers would not be able to satisfy the Council's pre-requisites requirements before applying for a licence. Partner agencies took decisions to the suspend their services as a result of Covid 19 including providers of taxi driving tests, safeguarding training, and communications tests.
 - **To suspend the requirement for medical examinations for Hackney Carriage and Private Hire driver's renewal applications until the 30th September 2020.**
Drivers are required to produce medical certificates that prove that they meet the DVSA Group 2 Medical Fitness to drive. Drivers were experiencing difficulty getting medical appointments due to doctors amending their working practices following the COVID19 pandemic. The Licensing Service currently require drivers to self-certify medical fitness and submit to medical examinations once such appointments become easily available.
 - **To issue a twelve-month Hackney Carriage and Private Hire driver licence provided that all the requirements to hold the licence have been satisfied.**
This was done following the request to provide some financial assistance to drivers, the reduced duration of the licence therefore attracted a reduced charge and costs £60 instead of £180 which is the cost for a 3 year licence. These fees have been reviewed and currently an annual drivers licence is £62 and a three year licence is £185
 - **To suspend the provision of the required Private Hire & Hackney Carriage knowledge test for new applications until further notice due to the Covid 19 pandemic.**
This was done to ensure government guidelines on safe working practices which affect licensing staff were followed. There was also a need to implement social distancing measures for drivers attending the test to reduce Covid 19 transmission. The provision of individual tests for drivers is not considered a viable option.

1.4 The decisions requiring consideration are council matters that must be approved by council decision, delegated to Licensing and Safety Panel. This was considered at the meeting on the 23rd July 2020. Members resolved to note the report and work of the licensing service.

1.5 On the 15th October 2020, a further report was considered by members. Members resolved to approve that current arrangements as set out below continue:

- To postpone the Knowledge test until further notice
- To grant a Hackney Carriage/Private hire Drivers Licences for a 12-month period rather than up to 3 years under the legislation
- To permit a self-certification declaration in respect of medicals
- To postpone the receipt of new applications for Hackney Carriage and Private Hire Drivers licences.

2.0 ISSUES

2.1 The Licensing Service have reviewed the previous decisions and would like members to consider whether or not to reinstate the following:

- To re-commence the provision of the Knowledge Test for new applicant drivers

The preferred option would be to re-instate the knowledge Test. This ensures that applicants have a good knowledge of the local area and are aware of the conditions of their licences should they be granted.

- To re-commence the issuing of three-year hackney carriage/private hire licences, with drivers paying the requisite £185 fee.

The preferred option would be to re-commence issuing three-year driver's licences at the current fee and cease to issuing 12 month drivers licences. Section 53 (1) (a) of the Local Government (miscellaneous Provisions) Act 1976 states every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case

- To re-commence the requirement that all existing drivers due a group two medical produce a medical examination certificate from their own doctor or the approved contractor.

This would be the preferred option. This will ensure that all licensed drivers meet the group 2 standard set out in the Driver and Vehicle Licensing Agency document "Assessing fitness to drive – a guide for medical professionals".

- To re-commence the receipt of new driver applications for Hackney Carriage/Private hire driver's licences.

The preferred option would be to re-commence the receipt of new applications due to applicants now being able to fulfil the pre-requisite requirements of the application process.

3.0 CONCLUSION

- 3.1 Members are requested to consider the report.

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