

AGENDA FOR
LICENSING AND SAFETY COMMITTEE



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To: All Members of Licensing and Safety Committee

Councillors : S Walmsley (Chair), R Brown, N Boroda,
J Grimshaw, K Hussain, G Marsden, G McGill, I Rizvi,
J Rydeheard and M Walsh

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:	Monday, 17 April 2023
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:	

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 3 - 8)*

The minutes of the meeting held on the 16th March 2023 are attached. Members of the Licensing and 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 Panel is responsible.

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

5 OPERATIONAL REPORT *(Pages 9 - 14)*

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

6 NATIONAL REGISTER OF REFUSALS, REVOCATIONS AND SUSPENSIONS (NR35) *(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 PUBLIC/PRIVATE HIRE DRIVER LICENCES *(Pages 21 - 42)*

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

Minutes of: LICENSING AND SAFETY COMMITTEE

Date of Meeting: 16 March 2023

Present: Councillor S Walmsley (in the Chair)
Councillors R Brown, N Boroda, J Grimshaw, K Hussain,
G Marsden, G McGill, I Rizvi, J Rydeheard and M Walsh

Also in attendance: M Bridge- Licensing Unit Manager
M Cunliffe – Democratic Services
M Hope – Barrister instructed as Legal Advisor on behalf of the
Council
L Swann- Assistant Director of Operations and Strategy

Public Attendance: 3 members of the public were present at the meeting.

LSP.1 APOLOGIES FOR ABSENCE

Apologies for absence were submitted by B Thomson- Head of Public Protection.

LSP.2 DECLARATIONS OF INTEREST

Councillor Rydeheard declared an interest that in his employment he had worked on a number of cases involving both Private Hire and Hackney Carriage drivers.

Councillor Brown declared an interest in item 6 on the agenda and that in his employment area he had dealt with Mr Oakes who was a Director of the Hackney Drivers Association Limited.

LSP.3 MINUTES OF PREVIOUS MEETING

Delegated decision:

That the Minutes of the last meeting held on the 7th February 2023 be approved as a correct record and signed by the Chair.

LSP.4 PUBLIC QUESTION TIME

3 members of the public were in attendance at the meeting although no questions had been pre submitted or were verbally asked at 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:

The Licensing Service had dealt with a number of compliance and enforcement matters between the 23rd January and the 5th March 2023.

BEST BAR NONE

Greater Manchester Police and the Licensing Service had attended the awards ceremony on the 7th February 2023. The venues that were awarded the Best Bar None Accreditation were as follows:

1. Art Picture House (gold)
2. Wylde (silver)
3. The Bank (gold)
4. Trackside Bar (bronze)
5. Martini's On the Rock (gold + best presentation)
6. The Wellington (silver)
7. Rayners (gold + best training)
8. Stanley's of Bury (gold)
9. Blind Tiger (bronze)
10. House of Bridget's (gold + Community engagement)
11. Sky Bar (silver)
12. Earl of Derby (gold)

IMMEDIATE REVOCATION OF A PRIVATE HIRE DRIVERS LICENCE

The Licensing Service received information from Greater Manchester Police in relation to a private hire drivers conduct which has resulted in him being charged for a serious offence. The driver concerned has been given a right of reply before the Head of Public Protection and the Chair of this Committee considered taking action in the interests of Public Safety under the Road Safety Act 2006, it was felt appropriate to immediately revoke his private hire drivers licence on the 17th February 2023.

PURPLE FLAG ACCREDITATION

Officers of the Council took part in the external assessment for the Purple Flag accreditation on the 4th March 2023. The external assessment was conducted with assessors from the Association of Town Centre Management. The Council awaits the decision in relation to the accreditation.

It was agreed:

That the report be noted and the Chair placed on record her thanks to the Licensing Department for the Best Bar None and Purple Flag accreditation schemes.

LSP.6

AMENDMENTS TO THE GREATER MANCHESTER MINIMUM LICENSING STANDARDS FOR THE HACKNEY CARRIAGE AND PRIVATE HIRE TRADE

The Executive Director (Operations) submitted a report advising Members on the following proposals:-

- Amendment to the implementation date for the hackney carriage and private hire transitional arrangements in relation to age and emissions standards for existing Bury licensed vehicles.
- Amendment of the implementation date for the written-off vehicle to 1 April 2026 for existing licensed vehicles.

- The removal of the minimum age requirement for new vehicles coming onto fleet for hackney carriages and private hire vehicles.

The Assistant Director of Operations and Strategy explained that the existing standards were proposed as part of the Greater Manchester Minimum Licensing Standards project and adopted by Council on the 24th November 2021.

The proposed recommendations in the report acknowledge concerns raised by the taxi trade and the amendments take account of the current economic climate, cost of living crisis and the delayed opening of the Clean Taxi Fund.

The Licensing Unit Manager also read out a statement in support of the changes submitted by the Bury Hackney Association.

The Licensing Unit Manager also read out a statement in support of the changes submitted by the Private Hire Drivers Association.

A letter was also circulated to the Committee from the Hackney Drivers Association Ltd with their comments included.

Members placed on record the good working relationship between Council Officers and the taxi trade was working well on matters such as this.

Delegated decision:

That the Licensing and Safety Committee considered and adopted the following amendments to the Minimum Licensing Standards and recommended to Full Council that the amendments are approved:

For existing vehicle licence proprietors:

- That the transitional arrangements in relation to age and emissions standards are extended from 1 April 2024 to 1 April 2026 - This will assist hackney carriage and private hire vehicle owners to transition to the new requirements, whilst allowing them the ability to take advantage of the funding support package (Clean Air funding) once it is available. In order to achieve this compliance date, the amended policy will state that from 1 April 2025 a vehicle licence will not be renewed if the vehicle does not meet the above standards.
- The implementation date for the written-off vehicle standards is extended to 1 April 2026. The amendment of to the written off policy is to permit vehicle licence holders who are currently licensed in Bury with a previously written off vehicle prior to the implementation of the Stage 2 of Common Minimum Standards in November 2021 to continue to be able to licence the vehicle until the 1 April 2026. In order to achieve compliance, the amended policy will state that from 1 April 2025 a vehicle licence will not be renewed if the vehicle has been previously written off. There will be no change to Council Policy relating to new vehicle licence applications in relation to this standard.

For new applications for vehicle licences

- The minimum age requirement for new vehicles coming onto fleet is removed for hackney carriages and private hire vehicles - the current policy in relation to

hackney carriage and private hire vehicles has a coming on age (new to fleet) as follows:-

- PHV – under 5 years on to fleet and 10 years off
- PHV WAV – under 7 years on to fleet and 15 years off
- Purpose built HVC – under 7 on to fleet and 15 years off

LSP.7 URGENT BUSINESS

No urgent business was reported at the meeting.

LSP.8 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.9 SUSPENSION/REVOCAION OF PUBLIC/PRIVATE HIRE DRIVER LICENCES

Licence Holder 13/2022

The Executive Director (Operations) submitted a report relating to Licence Holder 13/2022 who was in attendance at the meeting. The Chair made introductions and the Committee's Legal Advisor 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 and presented by the Licensing Manager, set out the reasons for the Licence Holder being before the Committee.

The report stated that the Licence Holder had held a private hire driver's licence continually since the 26th July 2012 until its expiry on the 30th January 2023 (extended without prejudice to today).

This Licence Holder submitted an online application on the 14th January 2023 to renew his private hire driver's licence. Within that application he had declared the offence MS90 which occurred on the 17th May 2022 until expiry on the 17th May 2025.

The Licensing service had no record of this offence. Consequently, it had not been declared within the correct time frame as stipulated in the private hire drivers licence conditions.

The Licence Holder had been contacted by a Licensing Enforcement Officer for an explanation. The applicant was emailed a summary of what had been discussed over the telephone and asked whether they agreed with this or wanted to amend anything. They agreed with the summary which was attached at Appendix 1 in the private agenda pack.

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

Delegated decision:

The Committee carefully considered the report, and oral representations by the Licence Holder. The Committee noted the explanation provided in relation to personal family circumstances at the time the offence took place and the remorse by the Licence Holder of failure to complete relevant paperwork and inform the Licensing Department.

The Committee understood this was a serious offence and a professional driver was required to adhere to the rules and in this case the responsibility for submission of paperwork following the offence.

Taking into account the Council's Conviction Policy and Guidelines and in accordance with the Local Government (Miscellaneous Provisions) Act 1976, the Committee resolved **to suspend the licence for a period of 2 weeks**. The Committee departed from Policy because they accepted that another individual had driven the vehicle, but the required paperwork had not been completed and submitted to the relevant bodies by the driver himself, as required by law and by the conditions of his licence. As it was an administrative mistake by the licence holder in not taking responsibility of the paperwork, the Committee departed from Policy.

COUNCILLOR S WALMSLEY
Chair

(Note: The meeting started at 7.05pm and ended at 8.10pm)

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Classification	Item No.
Open / Closed	

Meeting:	Licensing & Safety Committee
Meeting date:	17 April 2023
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

1.0 BACKGROUND

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

2.0 COMPLIANCE/ENFORCEMENT

2.1 The Licensing Service have dealt with the following compliance and enforcement matters for the following periods

2.2 **6 March – 12 March**

Client

Enforcement 3

Vehicles

Enforcement 5

Premises

Compliance 1

Multi agency visit 16

Enforcement 1

2.3 **13 March – 19 March**

Client

Complaint 5

Enforcement 1

Premises

Compliance 2

Enforcement 2

Vehicle

Enforcement 12

2.4 **20 March to 26 March**

Client

Enforcement 9

Premises

Compliance 6

Enforcement 8

Intel 1

Vehicle

Compliance 3

Enforcement 5

2.5 **27 March to 2 April**

Client

Complaint 2

Enforcement 2

Premises

Compliance 3

Enforcement 1

Intel 1

Vehicle

Compliance 2

Enforcement 7

3.0 MULTI AGENCY SCRAP YARD DAY OF ACTION

3.1 On 20 March Licensing Enforcement Officers accompanied Greater Manchester Police as part of their Neighbourhood enforcement week. Three licensed sites were visited with no issues. Two possible unlicensed sites were also visited with no issues found.

4.0 REPRESENTATION AGAINST A TEMPORARY EVENT NOTICE

4.1 A representation was received from Greater Manchester Police on 24 March against a Temporary Event Notice for Club 66, 24 Silver Street, Bury. A Licensing Hearings Sub-Committee was arranged for 31 March 2023. The members of the Sub-Committee decided to issue a counter notice to stop the event going ahead.

5.0 APPLICATION FOR REVIEW OF A PREMISES LICENCE

5.1 An application to review the Premises Licence at Club 66, 24 Silver Street, Bury, was received from Greater Manchester Police on 27 March. The application is now in a 28-day objection period which will end at midnight on 24 April. A Hearing will then be arranged.

Community impact / links with Community 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.*

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
<i>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.</i>	

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
None	.

Consultation:

Not applicable

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	

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Classification	Item No.
Open / Closed	

Meeting:	Licensing & Safety Committee
Meeting date:	17 April 2023
Title of report:	National Register of Refusals, Revocations and Suspensions (NR3S)
Report by:	Executive Director (Operations)
Decision Type:	Council
Ward(s) to which report relates	All

Executive Summary:

A report to consider the proposal to adopt the National Register of Refusals, Revocations and Suspensions (NR3S)

Recommendation(s)

That:

Members are requested to consider the following option:-

1. Recommend approving the proposals

Key considerations

This is a Council function that is delegated to the Licensing & Safety Committee by the Councils constitution. This paper is in the public domain.

1.0 Background

- 1.1 The Council is responsible for licensing of hackney carriage and private hire drivers. In determining such applications, the legal test is that the Council must be satisfied that the applicant is a "fit and proper" person to be granted the licence. There is no precise definition as to what constitutes "fit and proper" and the Councils discretion is wide ranging.
- 1.2 In assessing an application for a private hire/hackney carriage driver's licence, the Council currently requires new applicants to complete:
 - A screening test – language skill, numeracy and literacy tests
 - A topographical and licensing knowledge test
 - An independently assessed practical driving test

- A DVLA group 2 standard medical (the same standard as required for HGV/PCV drivers)
- The completion of an enhanced DBS disclosure (criminal records check)
- A verification of status of DVLA driving licence (FPN and motoring convictions status)

- 1.3 All applicants are asked on the application form if they have ever had a licence application refused or revoked by a Local Authority. If they indicate yes, then further investigations are undertaken with the relevant Local Authority. If an applicant indicates that they have never had an application/licence refused or revoked, the Council currently has no mechanism to check the accuracy of the statement. There is therefore the potential for an applicant to have had a licence application refused or a licence revoked without Bury Council knowing, and whilst it is reasonable to assume that an enhanced DBS will detail relevant convictions, a DBS will not normally provide details of driver conduct/ customer complaints unless such actions result in a conviction.
- 1.4 The situation described in the paragraph above can be reversed in that a licensed driver whose licence has been revoked by Bury Council due to conduct/complaint issues may choose not to disclose this on any subsequent application made to another Local Authority.
- 1.5 During recent years there has been several high-profile case where the conduct of licensed drivers has been unacceptable and whereby one means or another those people have been allowed to continue to operate within the taxi industry (taxi in this context being a generic name for hackney carriage and private hire). This has undermined confidence in the industry and left some licensing authorities open to criticism for something which has until now been very difficult for them to control.
- 1.6 The LGA and the Institute of Licensing launched the National Register of Taxi Licence Revocations and Refusals (NR3S) in 2018. The Register provides a mechanism for licensing authorities to record details of where a taxi or PHV drivers' licence has been refused, suspended or revoked, and allows licensing authorities to check new applicants against the Register. The simple objective of the NR3 is to ensure that licensing authorities can take properly informed decisions on whether an applicant is 'fit and proper', in the knowledge that another authority has previously reached a negative view on the same applicant.
- 1.7 On 31 March 2022, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent. Statutory Guidance was published on 23 May 2022. From 27 April 2023, the Act places new duties on taxi and private hire vehicle (PHV) licensing authorities in England. The Act contains provisions that require licensing authorities to record information relating to drivers' adverse licensing histories (refusals, revocations or suspensions) on a National Register. Furthermore, before a licensing authority in England decides whether to grant or renew a driver licence, it must search the Register for any entry relating to the applicant.
- 1.8 In response, the NR3S Register has been enhanced to meet these new operational requirements and rebranded as the NR3S National Register. The Secretary of State has approved the new Register and confirmed that it will be hosted and maintained by NAFN Data and Intelligence Services.

2.0 **The proposal**

- 2.1 NAFN is a Local Authority owned not for profit organisation and is hosted by Tameside Council. To utilise the register Local Authorities are required to be members of NAFN. Bury Council is currently a member as are all officers employed in the Licensing Unit. There are

no additional costs associated with this although NAFN membership costs approximately £1600 per annum which is paid corporately.

- 2.2 As part of the registration process, each licensing authority is required to nominate a relevant officer who will be designated as the NR3S Single Point of Contact (SPOC). The SPOC must accept relevant Data Processing and Data Sharing Agreements on behalf of their licensing authority. These agreements outline the necessary steps the authority will need to take to ensure compliance and will cover requirements under both the General Data Protection Regulation (GDPR) and Data Protection Act 2018 (DPA). Additionally, the nominated NR3S SPOC is the only officer who can submit requests to NAFN for deletion or amendment to NR3S records. In due course, other officers will be able to create user accounts allowing them to submit data or search the NR3S National Register, but these accounts will need to be verified/ approved by the SPOC/Manager.
- 2.3 The intention is that when a licensing authority receives an application for a licence or a renewal, the applicant's details will be checked on the Register to confirm that there is no record of any previous license having been revoked, refused or suspended elsewhere. Where a match is identified and returned to a licensing authority, it will be up to that individual licensing authority to follow up on any searches that come back with a match with the appropriate licensing authority, whose contact details will be included in the search result.
- 2.4 As specified in the 2022 Act, every entry made in the database will be retained for a period of 11 years beginning with the day on which the decision to refuse, revoke or suspend a licence was made. The NR3S system will recognise when 11 years has elapsed and automatically delete the Register entry/data. Following approval local governance policies will be updated to make reference to the NR3S retention period.
- 2.5 There is an option for licensing authorities to populate the Register with historic data of licence revocations, refusals and suspensions. Before any historic data is uploaded, the authority must write to those individuals to whom the data relates stating that the data will be uploaded at a future date. Individuals should be informed about the purposes of the data processing, the legal basis for it, and their various rights to object in this regard. These individuals should be allowed a period of not less than 28 days to respond.
- 2.6 Once implemented any affected person(s) will be provided with written notice of the Councils statutory requirement to update the NR3 system with their data. General information on the NR3 scheme will be added to the Council website and shared with Trade Representatives.

3.0 IMPACTS AND IMPLICATIONS:

- 3.1 The Secretary of State has approved the new Register and confirmed that it will be hosted and maintained by NAFN Data and Intelligence Services.
 - 3.2 The NR3S register would be utilised in respect of 11 years of historical driver revocations, suspensions and refusals and all driver revocations, suspensions and refusals going forward. At this stage it is not anticipated that the proposals will have a disproportionate impact on any of Bury diversity groups.
-

Community impact/links with Community Strategy Adoption of this proposal will permit the Licensing Service to undertake appropriate checks of the NR3S database to establish the suitability of applicants / licence holders.

Equality Impact and considerations:

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.*

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.

Equality Analysis	<i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i>
The Licensing Service has considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative impact on any of the protected characteristics.	

**Please note: Approval of a cabinet report is paused when the ‘Equality/Diversity implications’ section is left blank and approval will only be considered when this section is completed.*

Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Failure to adopt these proposals will result in the Council being not compliant with requirements of legislation.	Report to adopt these proposals placed before the Licensing & Safety Committee.

Consultation:

All licence holders of private hire / hackney drivers’ licences will be advised of the proposals and previous licence holders that were refused / revoked / suspended.

Legal Implications:

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

The costs of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

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.

Hackney carriage and private hire driver licensing is a statutory function of the Council. In undertaking those statutory functions, the Council must be satisfied that the applicant/licence holder is a "fit and proper" person to hold a licence. The adoption of the register and Guidance would enhance the decision making in terms of the fit and proper test.

Participation in NR3S is mandatory as prescribed under the Act. The policy changes recommended, if agreed by the Council, will be implemented and form the basis on which decisions are made on applications for vehicle licences received by the Council.

Financial Implications:

Revenue and Capital: The Licensing Regime is a self-funded service through the licensing fees. There are no financial implications as a result of this report as the changes do not have any cost implications to the Council. There is the financial cost of annual membership of NAFN, currently £1600.00, the Councils already holds a corporate membership. So, there are no financial implications.

Report Author and Contact Details:

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Background papers:

Secretary of State letter dated 28 February 2023

Insert/Embed letter here



Secretary of State
letter.pdf

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

Term	Meaning
DBS	Disclosure & Baring Service

DPA	Data Protection Act
DVLA	Driver and Vehicle Licensing Agency
FPN	Fixed Penalty Notice
GDPR	General Data Protection Regulation
HGV	Heavy Goods Vehicle
NAFN	National Anti Fraud Network
NR3S	National Register of Refusals, Revocations and Suspensions
PCV	Passenger Carrying Vehicle
PHV	Private Hire Vehicle
SPOC	Single Point of Contact

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

Document is Restricted

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