

## **Licensing Committee – Meeting held on Tuesday, 28th September, 2010.**

**Present:-** Councillors Davis (Chair), Rasib (Vice-Chair), S Chaudhry, P Choudhry, Dhillon, Dodds, Long, Maclsaac, Shine and Sohal

**Apologies for Absence:-** Councillor S K Dhaliwal

### **PART 1**

#### **15. Declaration of Interest**

Councillor Davis declared a personal interest as a family member worked for Burnham Cabs.

Councillor Maclsaac declared a personal interest as a frequent user of the taxi service.

#### **16. Minutes of the Last Meeting held on 22 July, 2010**

The minutes of the Licensing Committee held on 22<sup>nd</sup> July, 2010 were approved as a correct record.

#### **17. Review of Delegated Powers**

Members were reminded that in February 2010 the Committee had considered a report regarding delegation of powers from the Licensing Committee to the Assistant Director Public Protection in respect of private hire and hackney carriage licensing. Following concerns expressed at the meeting by trade representatives, officers held a number of meetings with both operators and drivers to discuss the proposals. Following these meetings, amended proposals had been prepared for consideration by the Committee.

The Licensing Officer outlined that original proposals regarding powers to be delegated relating to a vehicle that was mechanically unfit or where there was no appropriate insurance in place had been removed from the amended proposals. It was explained that these matters could be dealt with by officers or the police by way of a Stop or Prohibition Notice.

Details relating to the decision making process and flow chart illustrating the decision making process were outlined. It was noted that these had been formulated taking into account points raised by members of the trade following the consultation process.

Mr Badial, representing Slough Taxi Drivers Union and Mr Ashraf, representing Slough Private Hire Drivers Association commended officers for carrying out a consultation which had raised a number of constructive points. Both representatives stated that they were pleased with the revised report and endorsed the recommendations being presented to Committee Members.

In the ensuing discussion, clarification was sought in relation to who was given authority regarding suspension or revocation of a taxi or private hire driver's licence with immediate effect. It was confirmed that in September 2007, the Licensing Committee had delegated power to suspend or revoke a licence with immediate effect to the Licensing Manager and Chair of the Licensing Committee. It was noted that these powers would remain as they currently were.

A Member suggested that individuals be given training if caught for minor offences. The Licensing Officer stated that a penalty point system was in place for minor breaches of conditions and that all individuals were provided with a policy booklet, which set out the terms and conditions of their hackney carriage/private hire driver's licence.

**Recommended to Council:- That**

- (a) Delegated powers to be given to the Assistant Director of Public Protection to suspend / revoke a Private Hire or Hackney Carriage driver's licence in any of but not limited to the following areas:
- where a current driver has been found guilty of an offence and has been imprisoned
  - where a current driver has been charged with an offence and has been remanded in police custody
  - conviction for dishonesty, indecency, violence, major traffic offences drunkenness with a motor vehicle, drugs and/or a combination of the listed offences
  - where it is found that the licensee does not have appropriate valid insurance
  - any other reasonable cause which includes, but is not limited to,
    - additional information disclosed on CRB check
    - information received from the chief police officer under separate cover
    - Knowingly making a false declaration / statement during the application procedure.
- (b) Delegated powers to be given to the Assistant Director of Public Protection to refuse to grant a licence for any new applicant who fails to meet any of the criteria as detailed in the legislation or Council policies, including but not limited to:
- convictions (spent or not spent)
  - relevant cautions
  - additional information/separate cover notes received on/after the CRB
  - driving license history – points etc

- Knowingly makes a false declaration / statement during the application procedure
- (c) The Decision Making Process as attached be adopted and the Council's constitution be amended accordingly.

## **Decision Making Process – Delegated Powers**

### **New Application (HC and PH Driver only)**

#### **Licensing Officer**

New application for HC or PH driver licence received.

Relevant convictions or cautions, disclosed on receipt of the application or as a consequence of subsequent CRB check.

Licensing Officers will consider the application in line with the Council's "Policy and Guidance on Convictions and Cautions to be used when determining whether or not to grant, review, suspend or revoke a HC/ PH drivers licence or PH Operators licence".

If the Licensing Officer considers that the convictions or cautions are such that the applicant may not be a 'Fit and Proper Person' the officer will advise the applicant accordingly and invite him to attend for formal interview, together with an advocate should he wish.

- Alternatively, the applicant may choose to make representations in writing within 5 working days
- Due consideration will be given to all representations and the applicant advised in writing of the Officers recommendation to the Assistant Director Public Protection
- Using the "Licensing Officer Referral Form the Licensing Officer will prepare a report for consideration by the Assistant Director.

#### **Assistant Director**

On receipt of the Licensing Officer referral together with all relevant information, material and recommendation the Assistant Director will convene a meeting within 5 working days to:-

- Consider a report from the Licensing Officer together with written or personal representations from the applicant, including through an appointed advocate
- The overriding consideration will be the safety and protection of the public and that the applicant is or is not a 'Fit and Proper Person'.
- The decision to grant or refuse the application will be notified to the applicant in writing within 5 working days of decision, detailing clearly and fully the justifiable reasons for the refusal; and
- Inform the applicant of the right of appeal, as contained in the Local Government (Miscellaneous provisions) Act 1976, to the Magistrates Court by any person aggrieved by a decision of a local Authority.

### **Current Licence Holder (HC and PH Driver only)**

#### **Licensing Officer**

Relevant convictions or cautions are brought to the attention of the Licensing Team or on a CRB check at renewal.

Licensing Officers will consider the convictions or cautions in line with the Council's "Policy and Guidance on Convictions and Cautions to be used when determining whether or not to grant, review, suspend or revoke a HC/ PH drivers licence or PH Operators licence".

If the Licensing Officer considers that the convictions or cautions are such that the licence holder may no longer be deemed to be a 'Fit and Proper Person' the officers will advise the licence holder accordingly and invite him to attend for formal interview, together with an advocate should he wish:

- Alternatively, the licence holder may choose to make representations in writing within 5 working days..
- Due consideration will be given to all representations and the licence holder advised in writing of the Officers recommendation to the Assistant Director Public Protection.
- Using the "Licensing Officer Referral Form" the Licensing Officer will prepare a report for consideration by the Assistant Director

### **Assistant Director**

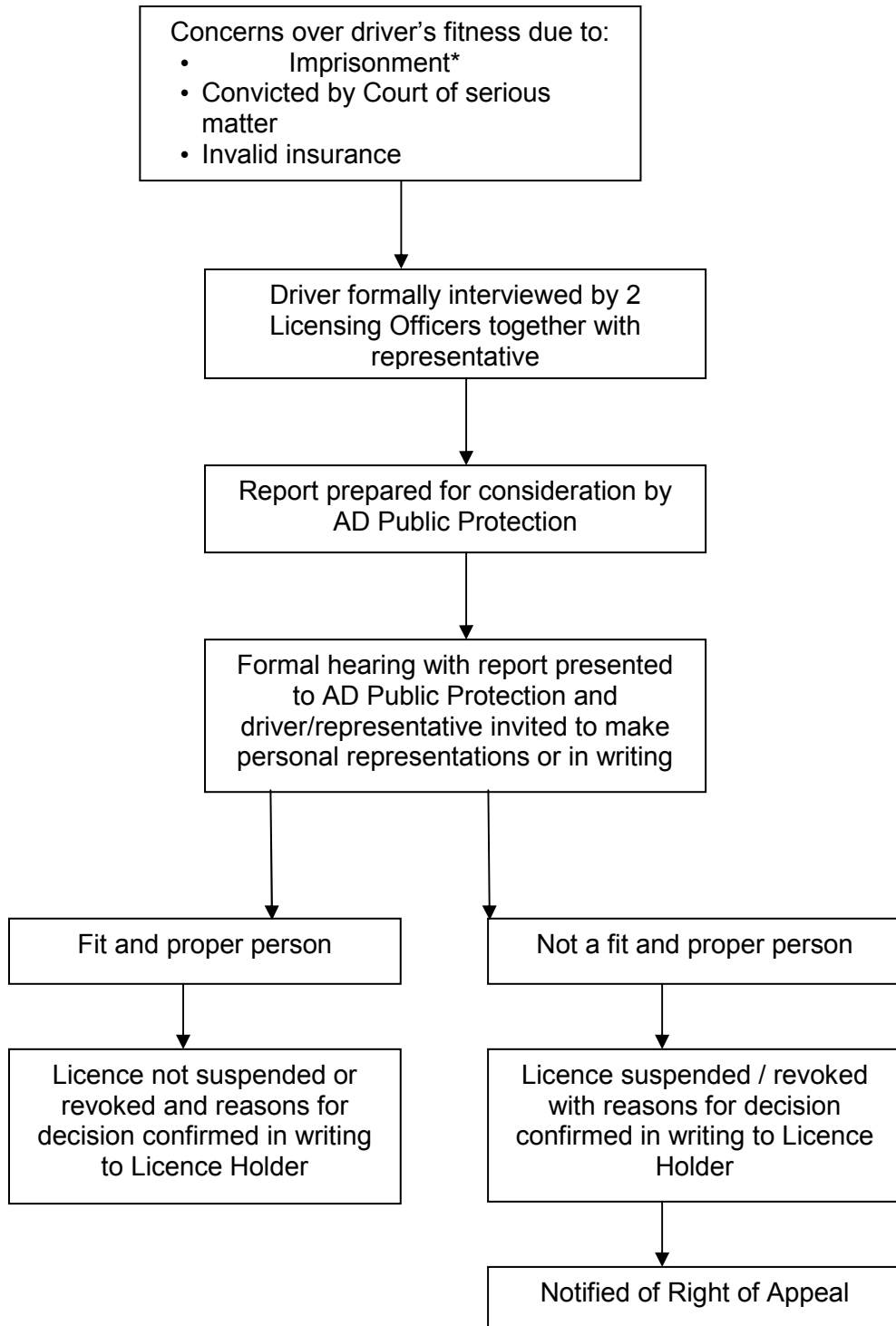
On receipt of the Licensing Officer referral together with all relevant information, material and recommendation from the Assistant Director will convene a meeting within 5 working days to:-

- Consider a report from the Licensing Officer together with written or personal representations from the licence holder, including through an appointed advocate.
- The overriding consideration will be the safety and protection of the public and that the licence holder is or is not a 'Fit and Proper Person' to continue to holder a drivers licence.
- The decision to renew, refuse to renew, suspend or revoke the licence he will be notified to the applicant in writing within 5 working days detailing clearly and fully the justifiable reasons for the decision; and
- Inform of the right of appeal, as contained in the Local Government (Miscellaneous provisions) Act 1976, to the Magistrates Court by any person aggrieved by a decision of a local Authority.

**Flow Chart to illustrate proposed delegation to Assistant Director Public Protection in relation to Private Hire and Hackney Carriage Drivers Licences.**

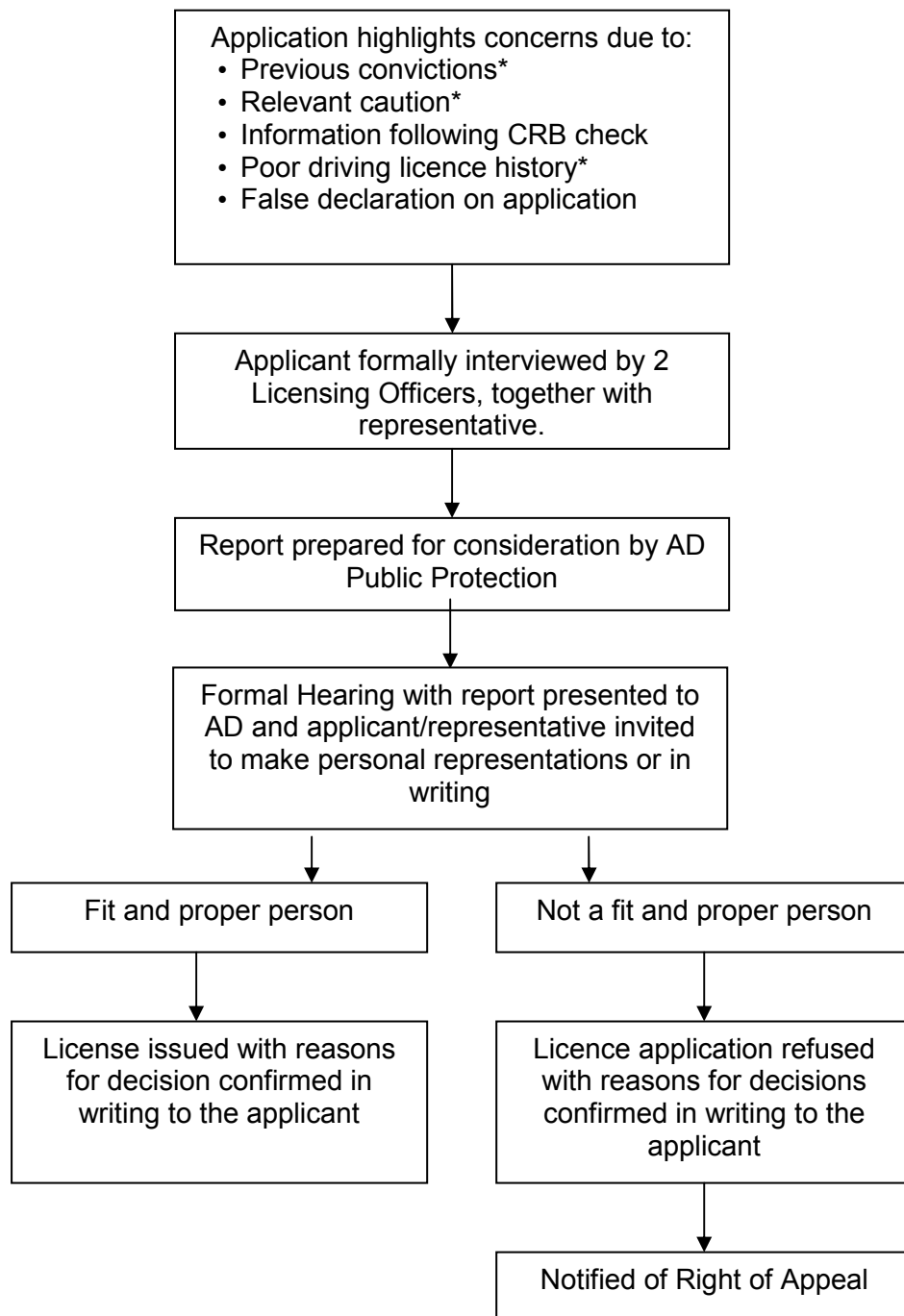
**Flow Chart 1**

**Existing Licence Holder**



\*automatic revocation of licence

**Flow Chart 2**  
**New Applicant**



\*as per current Policy and Guidelines on Convictions and Cautions.

**18. Addition to Private Hire and Hackney Carriage Licence Conditions**

Members were informed that Thames Valley Police (TVP) had contacted the Licensing Department with regard to the number of sexual assaults that had

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been recorded in the Thames Valley Area by either hackney carriage or private hire drivers. It was reported that the TVP Public Vulnerable People Strategy Unit had recorded eight sexual assaults in the Slough area for the period April 2007 to March 2010.

The Licensing Officer explained that TVP had requested that a condition be added to all private hire and hackney carriage drivers licences that 'drivers may not initiate in any dialogue of a "sexual nature" with a passenger. Licensed drivers are not permitted to become involved "sexually" or have sexual contact, even with consent, whilst in a licensed vehicle.' It was clarified that this condition was being proposed as when allegations of such assaults were made, the most frequent defence was that the passenger consented to the activity.

It was brought to Members attention that neighbouring local authorities had adopted, or were in the process of adopting, the proposed condition. The Licensing Officer stated that adoption of the condition would assist in protecting both the drivers and members of the public.

Whilst accepting the general principle of adopting the proposed condition, a number of members suggested that it would be beneficial for a consultation to be carried out with representatives of the trade. It was stated that a consultation would be an effective tool in communicating to the drivers the importance of the condition and ensuring that they were aware that it would be added to their private hire/hackney carriage driver's licence.

**Resolved** – That a consultation with regard to the proposed condition be carried out with representatives of the Hackney Carriage and Private Hire Trade and that the matter be reported to the 3<sup>rd</sup> November 2010 Licensing Committee.

### **19. Members' Attendance Record**

Noted.

### **20. Date of Next Meeting - Wednesday 3 November 2010**

Chair

(Note: The Meeting opened at 6.30 pm and closed at 8.10 pm)