

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO PUBLIC PROTECTION COMMITTEE**

**17 September 2024**

**Report Title:** Consultation on Suitability Guidelines

**Submitted by:** Licensing Administration Team Manager

**Portfolios:** Finance, Town Centres & Growth

**Ward(s) affected:** All

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision</u></b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
To notify Members of a consultation into the Suitability Guidance for taxi and private hire licensing by the Institute of Licensing.			
<b><u>Recommendation</u></b>			
That Committee:			
1. Note the contents of the report; and			
2. Agree that the officer proposed consultation response be sent to Government prior to the closing date.			
<b><u>Reasons</u></b>			
The original Suitability Guidance was published by the Institute of Licensing in April 2018 and subsequently incorporated into the Council's taxi licensing policy in November 2019. In 2020 the Department for Transport incorporated sections of the guidance into their Statutory Standards. In 2022 the Institute conducted an initial consultation exercise and have recently published a draft update to the guidance which is being consulted upon.			

**1. Background**

- 1.1 In April 2018 the Institute of Licensing (IoL) published the first edition of the "Suitability Guidance: Guidance on determining the suitability of applicants and licensees in the taxi and private hire industry" document (Suitability Guidance) that was produced in partnership with the Local Government Association (LGA), National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government (LLG).
- 1.2 The suitability guidance was intended to assist local licensing authorities in determining the suitability of applicants and licence holders for taxi and private hire licensing, and the desire was that it would be adopted across the UK to promote consistency in decision making.

- 1.3 In November 2019 the Council adopted the Suitability Guidance and incorporated it into the new taxi licensing policy.
- 1.4 In July 2020 the Department for Transport (DfT) issued their first ever Statutory Guidance for taxi licensing. At section 10 of the statutory guidance DfT incorporated the IoL Suitability Guidance with minor differences.
- 1.5 In 2022 the IoL created a working group to undertake a review of the suitability guidance and carried out an initial informal consultation in September of that year. 114 responses were received, including one from this Council, which have been reviewed and considered when drafting the updated document being consulted upon. A copy of the updated document is attached as **Appendix A**.

## 2. **Issues**

- 2.1 On 10<sup>th</sup> July 2024 the IoL opened a formal consultation into the updated document and invites views from all interested parties. The consultation closes on 30<sup>th</sup> September 2024.
- 2.2 The suitability guidance is made up of four chapters and the consultation deals with each one in turn:
  1. “*An Introduction*” – which introduces the guidance, the purpose of it, refers to the importance of the licensing regime in protecting public safety and the onus on licensing authorities to determine each case on its merits;
  2. “*Offenders, Offending, Re-offending and Risk of Harm - An Overview*” – which looks at behaviour patterns, trends and aims to assist licensing authorities when considering conviction and non-conviction information when coming to decisions;
  3. “*Taxi Licensing Overview*” – which provides an overview of relevant legislation and the framework used to protect the public; and
  4. “*Guidance on Determination*” – which provides the overriding principles on determination, lists the categories of offences and the suggested timeframes before an applicant/licence holder would normally be deemed suitable.
- 2.3 Chapter 1 – *An Introduction* – has not really been amended since the original 2018 publication of the suitability guidelines. As such Officers’ have not offered any response to this section of the consultation.
- 2.4 Chapter 2 - *Offenders, Offending, Re-offending and Risk of Harm - An Overview* – has been extensively reviewed since the initial publication, particularly around sexual offences, and maintains the original position that the licensing regime acts as a form of safeguarding and risk management of activities where individuals work with potentially vulnerable passengers.

Officers’ have commented in relation to paragraph 2.17, and footnote 22, that suggests general offences (not violent or sexual) have a rehabilitation period of around seven years. Within chapter 4 several of the offence categories have a timescale of five years which is at odds with this study. Officers’ have asked for the reasoning behind the difference in the timescales.

- 2.5** Chapter 3 - *Taxi Licensing Overview* – has received minor amendments to include reference to the DfT Statutory Guidance from 2020 and the mandatory register of revocations, refusals and suspensions (NR3S), which were not in place when the initial suitability guidelines were drafted. Officers' have commented that there appear to be some typographical errors, that the wording in footnote 34 needs amending, that clarification is required in paragraph 3.22 around the NR3S being mandatory in England and a request for the basis for the proposed timescale in relation to overseas criminal records checks. These comments are to obtain clarity around the proposed provisions.
- 2.6** Chapter 4 - *Guidance on Determination* – has been reviewed significantly since the initial publication in 2018 and formed the focus of the IoL's informal consultation in 2022. Some categories have been expanded, such as '*offences involving violence*' now including '*fear of violence*' and '*sex and indecency offences*' now including references to the 'Sex Offenders Register' and 'barred' lists.

There are three additional categories: 1. Alcohol misuse and dependency; 2. Discrimination; and 3. A section on non-criminal behaviours where they may be a cause for concern. As with the other categories, the guidance provides timescales and what may be relevant considerations when decision making.

There have also been several amendments to the motoring offences section as it was the main area of feedback in the 2022 consultation. In the current iteration of the suitability guidance where an individual accrues 7 or more penalty points on their DVLA licence there is a five year period before they would be considered suitable again to hold a licence. In the proposed guidance the time frame has been replaced. Now the individual should undertake a driver assessment, and if they pass the assessment with less than 8 minor infringements they should be classed as suitable. If they do not pass the assessment, then there is a 12-month period where they must remain conviction free.

Notwithstanding that there is no formal driving assessment, other than the 'new DVLA driver', that Officers' are aware of, that has 'minor infringements' included. Officers' view is that a period of 12 months is not considered long enough for the individual to be deemed suitable and the original provision should be returned to the document.

It is the first time that the totting-up of DVLA points and disqualification from driving has been included which was a point Officers' raised in the 2022 consultation.

Officers' have also suggested that paragraph 4.7 should be clarified that NR3S checks are mandatory in England (see above), that the guidance should reference 'overseas' criminal checks in the driver section and a category for '*Terrorism offences*' should be added with a brightline approach, similar to that of sexual offences.

- 2.7** A copy of the Officers' proposed response to the consultation is attached as **Appendix B**.

### 3. **Recommendation**

- 3.1 Note the contents of the report; and
- 3.2 Agree that the officer proposed consultation response be sent to Government prior to the closing date.

### 4. **Reasons**

- 4.1 The Council has a duty as a licensing authority to have a policy on determining the suitability of applicants and licence holders with a view to protecting the public. The 2018 version of the guidance has been used by the Council since November 2019 in making determinations into the fitness and propriety of those wishing to enter or are part of the taxi trade.
- 4.2 As a 'user' of the current guidelines it was felt appropriate to respond to the proposed changes.

### 5. **Options Considered**

- 5.1 To not respond to the consultation and await the outcome.

### 6. **Legal and Statutory Implications**

- 6.1 None identified at this stage as there is no statutory requirement to respond.

### 7. **Equality Impact Assessment**

- 7.1 Not applicable.

### 8. **Financial and Resource Implications**

- 8.1 None identified.

### 9. **Major Risks & Mitigation**

- 9.1 Not applicable.

### 10. **UN Sustainable Development Goals (UNSDG)**

#### 10.1



### 11. **Key Decision Information**

- 11.1 Not applicable

**12. Earlier Cabinet/Committee Resolutions**

12.1 [June 2019 – Licensing and Public Protection Committee](#)

**13. List of Appendices**

13.1 Appendix A – 2024 Draft Updated Suitability Guidelines.

13.2 Appendix B – Proposed Officer Response to Consultation.

**14. Background Papers**

14.1 [2018 Edition of Suitability Guidance Document](#)

14.2 [Department for Transport Statutory Guidance for Taxi Licensing 2020](#)