

LICENSING COMMITTEE

At a Meeting of the Licensing Committee held in Committee Room 3, Council Offices, Garshake Road, Dumbarton on Wednesday, 24 February 2016 at 10.00 a.m.

Present: Provost Douglas McAllister and Councillors Jim Brown, John Mooney, Lawrence O'Neill, Tommy Rainey and Hazel Sorrell.

Attending: Raymond Lynch, Section Head; Robert Mackie, Senior Officer (Licensing Services); Lawrence Knighton, Licensing Standards Officer and Nuala Borthwick, Committee Officer, Legal, Democratic and Regulatory Services.

Apologies: Apologies for absence were intimated on behalf of Councillors Jim Finn and Jonathan McColl.

Councillor Lawrence O'Neill in the Chair

DECLARATION OF INTEREST

It was noted that there were no declarations of interest in any of the items of business on the agenda at this point in the meeting.

MINUTES OF PREVIOUS MEETING

The Minutes of Meeting of the Licensing Committee held on 2 December 2015 were submitted and approved as a correct record.

APPLICATION FOR GRANT OF A TAXI DRIVER'S LICENCE/PRIVATE HIRE CAR DRIVER'S LICENCE

Name and Address of Applicant

Date Applied

Ryan Firth
91 O'Hare
Bonhill
Alexandria
G83 9DU

18 November 2015

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Taxi Driver's Licence/Private Hire Car Driver's Licence by the above named.

Having heard the Section Head, Licensing it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police authority, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority containing the representation had been issued to members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Constable Brown, were in attendance.

The Committee then heard from Constable Brown in relation to the representation and in answer to Members' questions. Mr Firth was then given the opportunity to address the Committee in support of his application and in connection with the matters detailed in the Police letter.

DECIDED:- After consideration, the Committee agreed that the application be granted.

APPLICATIONS FOR GRANT OF A TEMPORARY TAXI DRIVER'S LICENCE/PRIVATE HIRE CAR DRIVER'S LICENCE

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Shaun Ennis 97 Thistlebank Old Kilpatrick G60 5LZ	5 January 2016

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Temporary Taxi Driver's Licence/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head, Licensing, it was noted: -

- (a) that a letter had been received from the Chief Constable of the Police authority in relation to the application;
- (b) that in view of the letter received from the Police authority, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;

- (c) that copies of the letter from the Police authority dated 15 January 2016 had been issued to Members in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Constable Brown, were in attendance.

The Committee then heard from Constable Brown in relation to the letter from Police Scotland. The Committee also heard from the applicant in support of the application.

DECIDED:-

Following consideration, the Committee agreed that the application be granted for a period of 6 weeks and that Mr Ennis' first application for grant of his full licence be referred to the Committee for consideration.

(b) <u>Name and Address of Applicant</u>	<u>Date Applied</u>
Wilma Cameron 4A Carmona Drive Balloch G83 8AN	3 December 2015

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for grant of a Temporary Taxi Driver's Licence/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head, Licensing, it was noted: -

- (a) that a letter had been received from the Chief Constable of the Police authority in relation to the application;
- (b) that in view of the letter received from the Police authority, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (c) that copies of the letter from the Police authority dated 7 December 2015 had been issued to Members in advance of the meeting; and
- (d) that a letter from Cairns Brown Solicitors, in support of the application, was distributed to Members at the meeting.

It was noted that the applicant and a representative of the Police authority, Constable Brown, were in attendance.

The Committee then heard from Constable Brown in relation to the letter from Police Scotland.

DECIDED:- Following consideration, the Committee agreed that the application be granted for a period of 6 weeks.

**APPLICATIONS FOR RENEWAL OF A TAXI DRIVER'S LICENCE/
PRIVATE HIRE CAR DRIVER'S LICENCE**

(a)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	William Mack 21 Irving Avenue Hardgate Clydebank G81 6AY	28 December 2015

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Taxi Driver's Licence/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head, Licensing, it was noted:-

- (a) that a letter had been received from the Chief Constable of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police authority, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority containing the representation had been issued to members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Constable Brown, were in attendance.

The Committee then heard from Constable Brown in relation to the representation and in answer to Members' questions. Mr Mack was then given the opportunity to address the Committee in support of the application and in connection with the matters detailed in the Police letter.

DECIDED:- That the application be granted.

(b)	<u>Name and Address of Applicant</u>	<u>Date Applied</u>
	Michael McGlashan 203 O'Hare Bonhill Alexandria	11 November 2015

G83 9DX

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Taxi Driver's Licence/Private Hire Car Driver's Licence by the above named person.

Having heard the Section Head, Licensing, it was noted:-

- (a) that a letter had been received from the Chief Constable of the Police authority making a representation with respect to the application;
- (b) that in view of the representation which had been received from the Police authority, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place; and
- (c) that copies of the letter from the Police authority containing the representation had been issued to members of the Committee in advance of the meeting.

It was noted that the applicant and a representative of the Police authority, Constable Brown, were in attendance.

The Committee then heard from Constable Brown in relation to the representation and in answer to Members' questions. Mr McGlashan was then given the opportunity to address the Committee in support of the application and in connection with the matters detailed in the Police letter.

DECIDED:- That the application be granted.

APPLICATION FOR RENEWAL OF A WINDOW CLEANER'S LICENCE

Name and Address of Applicant

Paul Flanagan
11/7 Steven Street
Alexandria
G83 0PT

Date Applied

20 January 2016

A report was submitted by the Head of Legal, Democratic and Regulatory Services concerning an application for renewal of a Window Cleaner's Licence by the above named person.

Having heard the Section Head, Licensing, it was noted:-

- (a) that a letter had been received from the Chief Superintendent of the Police authority making an objection with respect to the application;

- (b) that in view of the objection which had been received from the Police authority, the applicant and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (c) that copies of the letter of objection from the Police authority had been issued to members of the Committee in advance of the meeting; and
- (d) that a separate letter had been received from the Police authority detailing alternatives to prosecution of the applicant that were considered “spent” in terms of the Rehabilitation of Offenders Act 1974 and that it was for the Committee to decide whether or not the letter detailing the spent alternatives to prosecution should be disclosed and taken into consideration.

It was noted that the applicant and a representative of the Police authority, Constable Gordon Brown, were in attendance.

Having heard the Section Head, Licensing with regard to the age, degree of seriousness and relevance of the spent alternative to prosecution, the Committee agreed that the letter from the Police authority detailing the spent alternative to prosecution should be circulated and taken into account. Copies of the letter containing the spent alternative to prosecution were accordingly circulated to Members of the Committee.

The Committee then heard from Constable Brown in relation to both letters from the Police authority and in answer to Members’ questions. The Committee also heard from the applicant and Senior Officer (Licensing Services).

DECIDED:

After consideration, the Committee agreed:-

- (1) that the application be granted; and
- (2) that the applicant’s next application for renewal of his Licence should be referred to a meeting of the Committee for consideration and the applicant be invited to attend the meeting.

PROPOSED CHANGES TO LICENCE CONDITIONS ATTACHED TO SECOND HAND DEALERS AND WINDOW CLEANERS LICENCES

A report was submitted by the Head of Legal, Democratic and Regulatory Services seeking approval of the proposed changes to Second Hand Dealers and Window Cleaners licence conditions.

DECIDED:-

The Committee agreed the proposed changes to existing conditions for Second Hand Dealers and Window Cleaners as referred to in appendices 1 and 2 of the report to reflect current language, practice or changes to legislation.

RESOLUTIONS UNDER THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982

A report was submitted by the Head of Legal, Democratic and Regulatory Services seeking approval to make a resolution, using the Committee's discretionary powers under the Civic Government (Scotland) Act 1982, in order that all existing resolutions for optional activities are contained within a single decision.

DECIDED:-

Having heard the Senior Officer (Licensing) in further explanation of the report and in answer to Members' questions, the Committee agreed to approve the resolution, previously agreed in principle on 21 October 2105 as set out in Appendix 3 of the report, allowing officers to advertise the resolution in order that it comes into effect on 1 December 2016.

PROPOSED AMENDMENTS TO MARKET OPERATORS' CONDITIONS

A report was submitted by the Head of Legal, Democratic and Regulatory Services seeking approval to amend certain existing conditions attached to Market Operators' licences which have become outdated or require amendment and to include additional conditions to ensure better regulation.

DECIDED:-

The Committee approved the proposed changes to the conditions as described in Appendix 1 of the report.

EXCLUSION OF PRESS AND PUBLIC

The Committee agreed to pass the following resolution:-

"That under Section 50A(4) of the Local Government (Scotland) Act, 1973 the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Paragraph 14 of Part 1 of Schedule 7A of the Act."

HEARING REGARDING POSSIBLE SUSPENSION OF A TAXI DRIVER'S/PRIVATE HIRE CAR DRIVER'S LICENCE

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of the possible suspension of a Taxi Driver's/Private Hire Car Driver's Licence following a complaint which has been submitted by Police Scotland.

Having heard the Section Head, Licensing, it was noted:-

- (a) that a letter had been received from the Chief Constable of Police Scotland requesting the immediate suspension of a Taxi Driver's/Private Hire Car Driver's Licence under Paragraph 12(1) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the carrying on of the activity to which the licence relates was likely to cause a serious threat to public order or public safety;
- (b) that having consulted the Chair of the Licensing Committee it was decided that, due to the content of the letter received from the Police authority, the Taxi Driver's/Private Hire Car Driver's Licence held by the licence holder should be suspended with immediate effect under Paragraph 12 of Schedule 1;
- (c) that on 3 February 2016, the taxi driver surrendered the identification badge;
- (d) that the licence holder's current Taxi Driver's/Private Hire Car Driver's Licence expires on 23 March 2016;
- (e) that the Chief Constable had also requested the suspension of the licence under Paragraph 11 of Schedule 1 to the 1982 Act whereby a licensing authority may order the suspension of a licence under Paragraph 11 if, in its opinion, the holder of the licence is not, or is no longer, a fit and proper person to hold the licence;
- (f) that in view of the request for suspension of the licence received from the Police authority, the licence holder and a representative of the Police authority had been invited to attend the meeting in order that a hearing may take place;
- (g) that copies of the letter from the Police authority had been issued to Members of the Committee in advance of the meeting;
- (h) that the matters which the Committee was required to consider in relation to paragraph (e) above were as follows:-
 - (i) whether the alleged misconduct had been established;
 - (ii) if the Committee was satisfied that the alleged misconduct had been established, whether, having regard to the misconduct, the licence holder was no longer a fit and proper person to hold a taxi driver's licence;
 - (iii) if the Committee was of the opinion that the licence holder was no longer a fit and proper person, then the Committee must consider whether his licence should be suspended;
 - (iv) if the Committee was satisfied that the licence should be suspended, the Committee must give the licence holder an opportunity of being heard on the length of the suspension and the date from which any suspension should commence; and

- (v) the Committee must then consider what length of suspension would be appropriate and whether the circumstances of the case would justify immediate suspension; and
- (i) that a copy of a letter dated 19 February 2016 received from the licence holder's solicitor, Cairns Brown Solicitors, was distributed to members of the Committee.

It was noted that the licence holder and a representative of the Police authority, Constable Brown, were in attendance.

The Committee then heard from Constable Brown and then the licence holder on the circumstances relating to the alleged offences, as detailed in the letter from the Police authority.

Thereafter, both Constable Brown and the licence holder were heard in answer to questions from Members. It was noted that the licence was due to expire on 23 March 2016.

DECIDED:-

After consideration and having heard the Section Head, Licensing in answer to Members' questions, the Committee agreed:-

- (1) that the alleged misconduct had not been established at this point in time; and
- (2) that no action would be taken in relation to the request for a suspension.

**HEARING REGARDING POSSIBLE RECALL
OF AN ORDER TO SUSPEND A TAXI DRIVER'S/
PRIVATE HIRE CAR DRIVER'S LICENCE**

A report was submitted by the Head of Legal, Democratic and Regulatory Services requesting consideration of the recall of the order to suspend a Taxi Driver's/Private Hire Car Driver's Licence.

It was noted that the applicant licence holder was not in attendance and had advised officers by email on 15 February 2016 that he would not be able to attend the meeting due to unexpected complications and had requested that the Hearing be continued to the next meeting of the Licensing Committee scheduled to be held on 20 April 2016.

DECIDED:-

After discussion, the Committee agreed:-

- (1) to continue the Hearing regarding possible recall of the suspension to a future meeting of the Licensing Committee until such time that the licence holder is able to attend the Committee; and

- (2) that the applicant be requested to submit an updated medical assessment from his consultant at the Department of Respiratory Medicine at Gartnavel Hospital to the Committee.

The meeting closed at 11.30 a.m.

WEST DUNBARTONSHIRE COUNCIL

Strategic Lead - Regulatory

Licensing Committee – 20 April 2016

Subject: Application for grant of a Taxi Driver's Licence/Private Hire Car Driver's Licence

1. Purpose

- 1.1** To consider an application for grant of a Taxi Driver's Licence/Private Hire Car Driver's Licence submitted by Mr. David Brodie, 20 Whin Street, North Kilbowie, Clydebank, G81 3JE.

2. Recommendations

- 2.1** It is recommended that the application be considered and determined by the Committee.

3. Background

- 3.1** Mr. Brodie submitted an application for grant of a Taxi Driver's Licence/Private Hire Car Driver's Licence to the Council on 18 February 2016.
- 3.2** A letter was received from the Chief Superintendent of the Police authority on 9 March 2016 advising that the Chief Constable has a representation to make in relation to the application.

4. Main Issues

- 4.1** In view of the representation received from the Police, the applicant and a representative of the Police authority have been invited to attend the meeting of the Committee to be held on 20 April 2016.
- 4.2** The terms of the letter from the Police will be made known to the Committee at the meeting as appropriate.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial and Procurement Implications

- 6.1** There are no financial implications

7. Risk Analysis

- 7.1** There is no increased risk to the Council associated with the contents of this

report.

8. Equalities Impact Assessment (EIA)

- 8.1** No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

- 9.1** Police Scotland were consulted in relation to the application.

10. Strategic Assessment

- 10.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Peter Hessel
Strategic Lead - Regulatory
29 March 2016

Person to Contact: Robert Mackie,
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G82 3PU.

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Appendices: N/A.

Background Papers:

- 1.** Application for grant of Taxi Driver's/Private Hire Car Driver's Licence from Mr. David Brodie, 20 Whin Street, North Kilbowie, Clydebank, G81 3JE.
- 2.** Letter dated 9 March 2016 from the Chief Superintendent, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton.
- 3.** Letter to Mr. Brodie dated 5 April 2016.
- 4.** Letter to Chief Superintendent dated 5 April 2016.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL**Report by the Strategic Lead - Regulatory****Licensing Committee – 20 April 2016**

Subject: Application for grant of a temporary Taxi Driver's Licence/Private Hire Car Driver's Licence

1. Purpose

- 1.1** To consider an application for grant of a temporary Taxi Driver's Licence/Private Hire Car Driver's Licence submitted by Mr. William Sweeney, 48 Cherry Crescent, Clydebank, G81 3JA.

2. Recommendations

- 2.1** It is recommended that the application be considered and determined by the Committee.

3. Background

- 3.1** Mr. Sweeney submitted an application for grant of a temporary Taxi Driver's Licence/Private Hire Car Driver's Licence to the Council on 26 February 2016.
- 3.2** A letter was received from the Chief Superintendent of the Police authority on 11 March 2016 advising that the Chief Constable has a comment to make in relation to the application.
- 3.3** A further letter received from the Chief Superintendent of the Police authority on 11 March 2016 details alternatives to prosecution which are considered spent under the Rehabilitation of Offenders Act 1974.
- 3.4** Mr. Sweeney previously applied for the renewal of a Taxi Driver's/Private Hire Car Driver's Licence on 27 May 2014. An objection was submitted by the Chief Constable in relation to the application at the time. At a meeting of the Committee held on 13 August 2014, Members decided to refuse the application on the grounds that Mr. Sweeney was not a fit and proper person to hold a Taxi Driver's/Private Hire Car Driver's Licence.
- 3.5** Mr. Sweeney subsequently submitted an appeal to the Sheriff following which the Sheriff decided to uphold the appeal and require the Committee to reconsider the application for the renewal of a Taxi Driver's/Private Hire Car Driver's Licence and, that the application be dealt with procedurally as though it was being heard for the first time.
- 3.6** At a meeting of the Licensing Committee held on 25 February 2015, Members reconsidered the application for the renewal of a Taxi Driver's/Private Hire Car Driver's Licence and decided to refuse the application on the grounds that the

applicant was not a fit and proper person to be the holder of a Taxi/Private Hire Car Driver's Licence.

4. Main Issues

- 4.1** In view of the comments received from the Police, the applicant and a representative of the Police authority have been invited to attend the meeting of the Committee to be held on 20 April 2016.
- 4.2** The terms of the letter from the Police will be made known to the Committee at the meeting as appropriate.
- 4.3** It will also be a matter for the Committee to decide whether the applicant's spent alternatives to prosecution should be disclosed and taken into consideration. It should be noted that spent alternatives to prosecution cannot be considered unless there is no other way of doing justice.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial and Procurement Implications

- 6.1** There are no financial implications

7. Risk Analysis

- 7.1** There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment (EIA)

- 8.1** No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

- 9.1** Police Scotland were consulted in relation to the application.

10. Strategic Assessment

- 10.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Peter Hessett
Strategic Lead - Regulatory
Date 29 March 2016

Person to Contact: Robert Mackie,
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G82 3PU.

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robert.mackie@wdc.gcsx.gov.uk

Appendices: N/A.

Background Papers:

1. Application for grant of a temporary Taxi Driver's/Private Hire Car Driver's Licence from Mr. William Sweeney, 48 Cherry Crescent, Clydebank, G81 3JA.
2. Letter dated 9 March 2016 from the Chief Superintendent, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton.
3. Letter to Mr. Sweeney dated 15 March 2016.
4. Letter to Mr. Sweeney dated 5 April 2016.
5. Letter to Chief Superintendent dated 5 April 2016.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL
Report by Strategic Lead - Regulatory
Licensing Committee – 20 April 2016

Subject: Application for grant of an Employee Street Trader's Licence

1. Purpose

- 1.1** To consider an application for grant of an Employee Street Trader's Licence submitted by Mr. Connor MacLeod, 431 Alderman Road, Glasgow, G13 4HD.

2. Recommendations

- 2.1** It is recommended that the application be considered and determined by the Committee.

3. Background

- 3.1** Mr. MacLeod submitted an application for grant of an Employee Street Trader's Licence to the Council on 12 February 2016.
- 3.2** A letter was received from the Chief Superintendent of the Police authority on 7 March 2016 advising that the Chief Constable has an objection to make in relation to the application.

4. Main Issues

- 4.1** In view of the objection received from the Police, the applicant and a representative of the Police authority have been invited to attend the meeting of the Committee to be held on 20 April 2016.
- 4.2** The terms of the letter from the Police will be made known to the Committee at the meeting as appropriate.

5. People Implications

- 5.1** There are no personnel issues.

6. Financial and Procurement Implications

- 6.1** There are no financial implications

7. Risk Analysis

- 7.1** There is no increased risk to the Council associated with the contents of this report.

8. Equalities Impact Assessment (EIA)

- 8.1** No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

9. Consultation

- 9.1** Police Scotland were consulted in relation to the application.

10. Strategic Assessment

- 10.1** In terms of the Council's Strategic Priorities, the purpose of licensing is to protect the welfare of the community, including vulnerable people.

Peter Hessett
Strategic Lead - Regulatory
24 March 2016

Person to Contact: Robert Mackie,
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G82 3PU.

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Appendices: N/A.

Background Papers:

- 1.** Application for grant of Taxi Driver's/Private Hire Car Driver's Licence from Mr. Connor MacLeod, 431 Alderman Road, Glasgow, G13 4HD.
- 2.** Letter dated 7 March 2016 from the Chief Superintendent, Police Scotland, 'L' Divisional Headquarters, Stirling Road, Dumbarton.
- 3.** Letter to Mr. MacLeod dated 7 March 2016.
- 4.** Letter to Mr. MacLeod dated 5 April 2016
- 5.** Letter to Chief Superintendent dated 5 April 2016.

Wards Affected: N/A.

WEST DUNBARTONSHIRE COUNCIL**Report by Strategic Lead - Regulatory****Licensing Committee: 20 April 2016**

Subject: Proposed policy and licence conditions to regulate the use of CCTV within Taxi and Private Hire Vehicles

1. Purpose

- 1.1** To propose a policy and conditions in relation to the operation of CCTV in licensed vehicles with a view to protecting the public from the misuse of such systems. Note that this policy does not place a requirement on licence holders to install a CCTV system.

2. Recommendations

- 2.1** It is recommended that the proposed policy and conditions contained within Appendices 1 & 2 be approved.

3. Background

- 3.1** The use of CCTV within Taxis and Private Hire Vehicles is becoming more common in the UK with many operators of such vehicles in the West Dunbartonshire area expressing an interest in installing CCTV.

4. Main Issues

- 4.1** The Licensing Team has received several enquiries in relation to the legality of installing CCTV within vehicles licensed to service the West Dunbartonshire area. In the absence of a policy and licence conditions, licensing staff have no powers to regulate the use of CCTV.
- 4.2** Operators who have sought advice on including CCTV within their vehicles have stated that they wish to utilise such systems to prevent crime, ensure the safety of the drivers and also to reduce insurance costs.
- 4.3** In order to ensure that CCTV systems are operated responsibly, ensuring that members of the public are protected so far as reasonably possible, a policy has been drafted to regulate the use of internal CCTV systems only. 'Dashcams' or other such systems which only record data outside of a vehicle are not covered by this policy.

5. People Implications

- 5.1** There are no personnel issues associated with this report.

6. Financial Implications

6.1 There are no financial implications associated with this report.

7. Risk Analysis

7.1 No formal risk assessment has been carried out in relation to this report. The only perceived risk to West Dunbartonshire Council would be reputational damage if CCTV data recorded within a vehicle licensed by the authority were to be misused.

8. Equalities Impact Assessment (EIA)

8.1 There are no perceived equalities issues relating to this report. In order to arrive at this determination an equalities impact assessment was carried out.

9. Consultation

9.1 Consultation on the content of the conditions referred to in this report was carried out with representatives of the taxi trade and also with Police Scotland. No responses to the consultation were received.

10. Strategic Assessment

10.1 It is envisaged that this body of work will be in line with the following strategic priority:

- Improve the well-being of communities and protect the welfare of vulnerable people.

Peter Hessett
Strategic Lead -
Regulatory Date: 5 April
2016

Person to Contact: Peter Clyde, Licensing Standards Officer, Council Offices Garshake Road Dumbarton G82 3PU. Peter.clyde@west-dunbarton.gov.uk 0141 951 7994.

Appendices:

1. Policy on the operation of CCTV systems within vehicles licensed by WDC.
2. Amendments to the Taxi Operators Conditions required by the Policy on the operation of CCTV systems within vehicles licensed by WDC.

Background Papers: None

Wards Affected: All.

Policy on the Installation and Operation of CCTV Systems in Licensed Taxis and Private Hire Vehicles.

1. Introduction

1.1 The aim of this document is to advise on the safe and secure installation and use of CCTV systems within taxi and private hire vehicles licensed by West Dunbartonshire Council.

1.2 In defining the standards required to operate CCTV, West Dunbartonshire Council acknowledges that these systems can enhance the safety of licensed drivers and their passengers. However it is also acknowledged that the operation of CCTV should be carried out in line with the Data Protection Act 1998 and every care and attention should be taken to ensure that these systems are not operated in an intrusive manner.

1.3 It should be noted that this policy does not place a mandatory requirement on the operators of licensed vehicles to install CCTV within their vehicles. This policy merely seeks to ensure that, should an operator choose to install CCTV, that the system is operated in a responsible manner.

1.4 For the purposes of this policy, a CCTV system is defined as any recording device attached to a licensed vehicle for the purposes of recording and retaining visual images, and/or audio data from inside the vehicle. This policy mainly covers CCTV systems which are set to record data inside the vehicle (internal system) or both inside and outside the vehicle (combined system).

1.5. Where an operator is seeking to install an external system, hereafter referred to as a 'dashcam', the contents of this policy will not apply, provided the system is used to record images from outside the vehicle only and has no audio recording function. If the dashcam is rotated at any time or modified in any way to allow for internal recording, then the contents of this policy will apply in full. Operators with dashcams are advised against uploading any footage to the internet.

1.6 Where an operator wishes to install a CCTV system it will be a condition of the operator's licence that the contents of this policy are complied with. Along with other conditions which specify various requirements of this policy, the operator must notify the licensing team of the intention to operate a CCTV system.

2.1 What is required to operate CCTV Systems in Taxis and Private Hire Vehicles?

2.1.1. This section of the policy will inform operators of licensed vehicles what is required of them in relation to operating CCTV within the vehicle only. Dashcam systems do not require to be registered with the Licensing Team at this time, provided that they fully fit the descriptions of an external only system, or dashcam, as detailed in paragraph 1.5 above.

2.1.2. Also contained in this section is guidance on the requirements of the Data Protection Act, and what responsibilities the plate holder will have to consider in order to be in compliance with this legislation. For information, the Information Commissioner (www.ico.org.uk) is the body responsible for enforcing the Data Protection Act 1998.

2.1.3. Only the Operator, e.g. the Plate Holder of a licensed vehicle is permitted to install CCTV within a licensed vehicle. A licensed driver who leases a vehicle must approach the plate holder and ask them to install and register the system with the Licensing Team. Ultimately, it is the responsibility of the licensed operator of the vehicle to ensure that, should a CCTV system be installed, the system is registered with the Licensing Team and the contents of this policy are complied with.

2.1.4. Prior to installing CCTV, the operator must inform the Licensing Team of their intention to operate a CCTV system and fill out a CCTV registration form. This form will contain details of who operates the system, who the data controller* or third party data processor** (see below) is for the system and the registration number of the system. The registration number is issued by the Information Commissioners Office once the system has been registered.

2.1.5. The installation and operation of a CCTV system should comply with the requirements of the Information Commissioner's CCTV Code of Practice, which is available at the following address:-

http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_specialist_guides/ico_ctvfinal_2301.pdf

*** 2.2 Data Controller**

The Information Commissioner defines a "data controller" as the body or person which has the legal responsibility under the Data Protection Act 1998 (DPA) for all the images and audio which may be recorded on a CCTV system. Note that any information recorded on the system is considered to be personal data. For the purposes of the installation and operation of CCTV systems in the WDC area, the data controller will generally be the plate holder.

The data controller will be responsible for ensuring compliance with the requirements of Data Protection Act and with this policy.

****2.3 Third Party Data Processor**

A third party data processor is a company which is used for the remote storage of CCTV data. A taxi/private hire operator can choose to use such a company to act as a processor on their behalf.

There should be a formal written contract between the data controller and the company acting as the data processor. This contract should contain provisions covering security arrangements, the retention and deletion of images. A copy of the contract should be made available to an authorised officer of the Licensing Team or to the Police upon request.

3.1 GENERAL REQUIREMENTS – INSTALLATION AND OPERATION

3.1.1. As a rule, CCTV systems should not constantly record images or audio, and any recording which has been made in a vehicle licensed by WDC should never be uploaded to the internet.

3.1.2 The recording of images or audio should only occur when the system is activated via one, or a combination of circumstances, such as but not limited to:

- a. The opening of doors – to allow for the capture of images of persons who enter the vehicle.
- b. Driver's panic button – if a driver feels under threat, they can activate the system to start recording.
- c. Pre-determined G-Force parameters – the system can be set to activate based on G-Force parameters set upon one or more axis such as emergency braking, extreme acceleration or on a lateral force which may occur if the vehicle swerves or on a collision.

3.1.3. When the system is activated by one of the above factors, the system should only be recording for a short period of time, predetermined and pre-set by the system before returning to a non-recording state. For the avoidance of doubt, systems which record continuously video and /or audio will be considered to be in breach of this policy and should never be operated in vehicles licensed by West Dunbartonshire Council.

3.2 Installation of the system

3.2.1 The CCTV system should be installed safely and securely as instructed by the equipment manufacturer's instructions by a qualified auto-electrician. All wiring should be fused and routed appropriately as set out by the manufacturer's technical specifications. All equipment should be CE marked.

3.2.2. In systems which include an internal camera(s) these camera(s) must be positioned in such a way as to only record data for the purpose of providing a safe environment for the driver and passenger(s) and not for any other purpose. To this end, the cameras should be located in such a manner which allows the recognition of any person's facial features only.

3.2.3. All equipment must be designed, constructed, installed and located in a manner and with materials as to present no danger to passengers of the driver, including impact with the equipment in the event of a collision. Also the system should be installed to minimise the danger from the electrical integrity being breached either through vandalism or wear and tear. In particular, any camera(s) and equipment must be fitted safely and securely in such a way that it does not adversely encroach into the passenger area and must not impact on the safety of the driver or passengers.

3.2.4. Finally, no part of the system should be located in any part of the vehicle which might block or affect the safe operation of any safety features of the vehicle such as seatbelts or airbag systems, nor should it obscure the driver's view of the road via the windscreen.

3.3 SECURITY OF IMAGES

3.3.1. All Images captured by the CCTV system must remain secure at all times.

The captured images must be protected using encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen. It is recommended by the Information Commissioner that the data controller ensures that any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security.

3.3.2. Screens within the vehicle for the purposes of viewing captured images will not be permitted, nor should the equipment be capable of being adapted to allow for viewing within the vehicle.

3.4 RETENTION OF CCTV IMAGES

3.4.1. The CCTV equipment selected for installation must have the capability of retaining images either:

- a. within its own hard drive;
- b. Using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card; or
- c. where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS GSM telephone signalling to a secure server within the service provider's monitoring centre.

3.4.2. Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle, unless this is a fully secured, encrypted device as described in section 3.3.1

3.4.3 The CCTV system must include an automatic overwriting function, so that images are only retained within the installed storage device for a maximum period of 31 days from the date of capture.

Where a service provider is used to store images on a secure server, the specified retention period must also only be a maximum period of 31 days.

Where applicable, these provisions shall also apply to audio recordings.

3.5 USE OF INFORMATION RECORDED USING CCTV

3.5.1. Any images and audio recordings should only be used for the purposes described in this policy. Requests may be made to the nominated data controller by Authorised Officers of the Licensing Authority, the Police or other statutory law enforcement agencies, insurance companies/brokers/loss adjusters or other appropriate bodies, to view captured images, or obtain audio recordings if applicable. The licence holder, as data controller, is responsible for responding to these requests. Police, Authorised Officers of the Licensing Authority or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternatively a signed statement may be accepted.

3.5.2 Under the Data Protection Act 1998, members of the public may also make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a 'subject access request'.

3.5.3 Operators of vehicles fitted with a CCTV system should be familiar with the Information Commissioner's advice on how to deal with subject access requests:-

<https://ico.org.uk/media/1542/cctv-code-of-practice.pdf> (section 5.2.3 page 17)

3.6 SIGNAGE

3.6.1 All taxis and private hire cars with CCTV must display signage within the vehicle to indicate that CCTV is in operation. The driver should also verbally bring to the attention of the passengers that CCTV equipment may be in operation within the vehicle.

3.6.2 The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle.

In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out. This should also be verbally brought to the attention of the passengers.

3.7 CONTACT DETAILS

The name and the contact telephone number of the licence holder, as data controller must be included on the sign.

3.8 SIGNAGE FOR SYSTEMS WHICH INCLUDE EXTERNAL FACING CCTV SYSTEMS

Where a CCTV system is installed within the vehicle in order to also record incidents outside of the vehicle, it will not be practical to display a sign. Instead, when the CCTV is activated in response to an incident, the driver of the vehicle must inform the person(s) recorded that their personal data was captured - as soon as practicable after the incident.

They should also be informed of the purpose for which the device has been installed, i.e. driver and passenger safety.

Conditions for Taxi Operators who install CCTV within their licensed vehicles

1. A CCTV system may only be operated in line with this policy.
2. Only the Plate Holder can authorise the installation and operation of a CCTV system within a vehicle licensed as a Taxi/Private Hire in West Dunbartonshire.
3. A plate holder **MUST** inform the Licensing Team of their intention to operate a CCTV system.
4. In line with condition 32 of the Taxi/Private Hire Licence Conditions, any change of the information relating to a CCTV system, such as but not restricted to, the named data controller of the third party data processor should be notified to the Licensing Team within 7 days.
5. CCTV systems must not be used to record conversations between members of the public.
6. If the system has audio recording capability, then this functionality should be disabled and only used with the following safeguards;
 - I. The system must have a reset function which disables the audio recording after a specific time period has elapsed.
 - II. The time period that audio recording may be active for should be the minimum possible.
7. There should be no capability for images to be viewed within the vehicle
8. The location of any internal cameras must be for the purpose of providing a safer environment and not for any other purpose.
9. The recording function may only be activated via a number and combination of options, such as but not limited to:
 - I. Door switches
 - II. Drivers panic button
 - III. Predetermined G-force parameters set on one or more axis (i.e. braking, acceleration or lateral forces)
10. Once activated, the system should only record images and audio for a short period.
11. All images captured by the CCTV system must remain secure at all times.
12. The captured images must be protected using encryption software.
13. The CCTV equipment must have the capability of retaining images either:
 - I. Within its own hard drive
 - II. Using a fully secured and appropriately encrypted detachable mass storage device.
 - III. Where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS GSM telephone signalling to a secure server.
14. Images must not be capable of being downloaded onto any kind of portable media device, such as a CD or memory stick.
15. The CCTV system must include an overwriting function which automatically deletes data after a set period. This period should not exceed 31 days.
16. Images and audio recordings may only be used for the purposes described in the CCTV policy.

17. Requests may be made to the Licence Holder by officers of the Council, Police Scotland or other statutory law enforcement officer to view footage recorded on any CCTV system for the purposes of investigating a crime. The licence holder shall provide the footage as soon as possible.
18. Any taxi or private hire vehicle which has installed a CCTV system within it shall display signage visible upon approaching the vehicle to indicate that CCTV is in operation so as to inform any person that they may be the subject of a recording.
19. The signage referred to in condition 18 must specify the name and the contact telephone number of the licence holder, as data controller, unless the licence holder has engaged another party to be the data controller.
20. Where a CCTV system is installed in order to also record incidents which occur outside of the vehicle, the driver must inform any person(s) who may have their images captured that they are being recorded.

DRAFT

WEST DUNBARTONSHIRE COUNCIL

Report by Strategic Lead - Regulatory

Licensing Committee: 20 April 2016

Subject: Proposed Licensing Scheme for Boat Hirers

1. Purpose

- 1.1** To update the Committee on the proposed scheme for boat hirers and advise on progress.

2. Recommendations

- 2.1** Members are requested to note:-

- (a) the update on the proposed scheme contained in the report;
- (b) that officers are arranging for the public advertisement of the proposed resolution for the introduction of a boat hirer licensing scheme in terms of the Civic Government (Scotland) Act 1982; and
- (c) that a further report will be submitted to the Committee detailing the full terms of the proposed scheme and licensing conditions. This is with a view to the Committee considering any representations and making a decision on the matter.

3. Background

- 3.1** On 19 September 2012, a small passenger ferry called the *Vixen* sank in Loch Lomond while crossing from Ardlui (in Argyll & Bute) to Ardleish (in Stirling Council's area).
- 3.2** *Vixen* foundered because the weight of the passengers, bilge water and the dynamic effect of propulsion was sufficient to submerge the corroded weed hatch, which was sited above the rudder and propeller. *Vixen* sank quickly, around 50m from the shore. Five of the six passengers donned lifejackets and jumped out of the boat. One passenger, who was a weak swimmer, was not provided with a lifejacket; she and the skipper remained on board as the boat sank beneath them. They were dragged underwater, but managed to swim back to the surface. Some of the passengers swam ashore; the remainder and the skipper, were quickly rescued by a member of the public who was in another boat nearby.
- 3.3** An investigation carried out by the Marine Accident Investigation Branch (MAIB) found that *Vixen* was in poor condition. The investigation found that there was no effective regulatory oversight of small commercial passenger vessels on Loch Lomond because the available legislation, and the Inland

Waters Small Passenger Boat Code, were not being applied.

- 3.4** The Civic Government (Scotland) Act 1982 allows Councils to require a licence *“for the use of a vessel, in the course of a trade or business carried on from any place within the area of the licensing authority, for the purpose of (a) letting it for hire; or (b) carrying for reward 12 or fewer passengers, for pleasure, recreational, educational or sporting purposes”*.
- 3.5** There are exceptions where such a licensing scheme cannot apply, for example any vessel with a passenger certificate under the Merchant Shipping Act 1995; any vessel used exclusively for fishing in non-tidal waters; or any vessel on any inland waterway or harbour owned or managed by the British Waterways Board.
- 3.6** The Civic Government (Scotland) Act 1982 does not apply a mandatory licensing scheme to boat hirers. Such a licensing scheme only comes into effect if the Council makes a resolution to implement such a scheme.
- 3.7** On the 28 August 2013 members considered a report that was produced to the Committee following the MAIB report. Members at that stage agreed in principle that it was minded to introduce a boat hire licensing scheme for boat hirers throughout West Dunbartonshire.

4. Main Issues

- 4.1** The MAIB report lists various recommendations aimed at different organisations. West Dunbartonshire Council has met regularly with Argyll and Bute and Stirling Councils to implement a new boat hirer licensing scheme and to comply with the MAIB’s recommendations. Officers have worked closely with the other two Councils with the aim of achieving a consistent approach across Loch Lomond.
- 4.2** A consultation pack that sets out the full background to the scheme, the proposed licensing conditions and a questionnaire has been prepared and, will when finally agreed with the other councils be issued to local boat hirers. Argyll and Bute Council currently have a licensing scheme in place and have agreed to improve it in line with conditions that have been proposed in the working group between the Councils. There has been detailed input and guidance from the Maritime and Coastguard Agency.
- 4.3** The proposed scheme is that Stirling and West Dunbartonshire Council propose to delegate power to each other to grant boat hirer licences in their parts of Loch Lomond. Any boat hirer operator who picks up passengers from Argyll & Bute Council’s area, will still need a licence from them. Stirling Council and West Dunbartonshire Council will expect boat hirers to apply from the area in which they have their main operational base, or from where most of their passengers embark. All three councils propose to apply a common set of licence conditions that will as far as possible achieve uniformity. All three councils propose that the applicant will have to pay for a full survey of each vessel by a competent surveyor against the appropriate code. This will be required every three years. All three councils will liaise with Loch Lomond and

the Trossachs National Park who have proposed to create a web page for boat hirer operators that helps direct them to the correct licensing authority.

- 4.4 Prior to the Committee being asked to make a final decision, the matter will be subject of public advertisement in terms of the Act. The responses on the consultations and the full details of the scheme will be reported back to the Committee. They will also be available on request for public inspection and comment.

5. People Implications

- 5.1 The extra work involved in administering a boat hirer licensing scheme would have to be absorbed within the workload of the Licensing Team.

6. Financial and Procurement Implications

- 6.1 **Financial** - The legislation requires the Council to charge fees for licences that cover the costs of administering the licensing regime, therefore changes to the types of activity licensed by the Council are cost neutral.
- 6.2 **Procurement** – There are no procurement implications.

7. Risk Analysis

- 7.1 There would be a reputational risk for the Council if it fails to use powers to regulate activities that could cause harm to citizens or businesses.

8. Equalities Impact Assessment (EIA)

- 8.1 An equalities impact assessment identified that a licensing scheme should take account of the need to ensure the safety of people with disabilities or age-related infirmities. If the Committee agrees the recommendation, these issues would be fully considered prior to a report being presented to the Committee.

9. Consultation

- 9.1 Consultation with Argyll & Bute and Stirling Councils is at an advanced stage. Boat hirers and the public will be consulted before the Committee is asked to approve the licensing conditions. The results of the consultation will be reported back to the Committee.

10. Strategic Assessment

- 10.1 A licensing scheme will improve the wellbeing of communities and protect the welfare of vulnerable people.

Peter Hessett
Strategic Lead – Regulatory
Date: 6 April 2016

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Appendices:	None
Background Papers:	<p>Report on the investigation of the foundering of the small passenger ferry Vixen in Ardlui Marina, Loch Lomond, on 19 September 2012 <i>Marine Accident Investigation Branch, June 2013</i>)</p> <p>Report to Licensing Committee - 28 August 2013</p>
Wards Affected:	All

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