

 Institute of Licensing

These are Session Notes. Both these and the actual content of the Session reflect the views of James Button & Co., Solicitors, but they DO NOT constitute legal advice.

Legal advice is available from James Button & Co following an agreement to provide such advice. For further details please contact us on 01629 735566 or james@jamesbutton.co.uk

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Public Registers

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Taxi Licence Databases

- Statutory requirements under the legislation to maintain certain public registers of licences

Town Police Clauses Act 1847 41. What shall be specified in the [Hackney Carriage Proprietors/Vehicle] licences.

In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor specified in the of the hackney carriage in respect of which such licence is granted, or licences, who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such licence . . . together with such other particulars as the commissioners think fit.

#NTC2021 *Promoting Excellence in Licensing for 25 years*

 Institute of Licensing

Taxi Licence Databases

Town Police Clauses Act 1847 46. [Hackney Carriage] Drivers not to act without first obtaining a licence.

No person shall act as driver of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the commissioners, which licence shall be registered by the clerk to the commissioners, . . .

#NTC2021 *Promoting Excellence in Licensing for 25 years*

 Institute of Licensing

Taxi Licence Databases

Town Police Clauses Act 1847 42. [Hackney Carriage] Licences to be registered.

Every [hackney carriage] licence shall be made out by the clerk of the commissioners, and duly entered in a book to be provided by him for that purpose, and in such book shall be contained columns or places for entries to be made of every offence committed by any proprietor or driver or person attending such carriage; and any person may at any reasonable time inspect such book without fee or reward.

#NTC2021 *Promoting Excellence in Licensing for 25 years*

 Institute of Licensing

Taxi Licence Databases

Local Government (Miscellaneous provisions) Act 1976 51.— Licensing of drivers of private hire vehicles.

(3) It shall be the duty of a council by which [private hire drivers] licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely—

- (a) the name of the person to whom it is granted;
- (b) the date on which and the period for which it is granted; and
- (c) if the licence has a serial number, that number,

and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Other Registers/Licences

- Putting other information on registers breached Data Protection legislation unless it meets DPA requirements
- Must have active informed consent from the licensee
- Must be kept up to date
- Must be made clear that this information will be made public
- Cannot use it if the licensee does not consent.

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Policies

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

New Policies

- DfT Statutory Standards require all local authorities to update their policies to reflect the (relatively) new Guidance
- Most authorities have done so, or as doing so.

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Previous Convictions Policies

- IoL Guidance issued 2018 contains a suggested previous convictions policy.
- DfT used that as the basis for the previous convictions policy in the Statutory Standards.
- Very similar but not identical.
- Important differences.

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Criminal Convictions and Rehabilitation

- Annex A broadly similar to IoL Guidelines but missing crucial part:
“Generally, where a person has more than one conviction, this will raise serious questions about their safety and suitability. The licensing authority is looking for safe and suitable individuals, and once a pattern or trend of repeated offending is apparent, a licence will not be granted or renewed.” – IoL Guidelines para 4.22

 Institute of Licensing

IoL Guidance on Determination

- Minor motoring offences – 5 years where 7 or more DVLA points
- Major motoring offences – 7 years
- Hackney carriage and private hire offences – 7 years
- Vehicle use offences – 7 years
- Not the same in “Statutory Standards” which says the following . . .

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

DfT Statutory Standards Annex

- *“Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.”*
- DfT Statutory Standards Annex

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

DfT Statutory Standards Annex

- *“Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.”*
- DfT Statutory Standards Annex

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Using the IoL Guidelines

- Can be used in preference to the DfT suggestions
- Choose the correct parts of the Document!
- Only parts of Chapter 4

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Previous Convictions Policy

- How do Councils apply them?
- Is there an understanding of the effect of the Policy?
- Why depart from the policy?

“all too often local authorities depart from their policies and grant licences (or do not take action against licensees) without clear and compelling reasons. It is vital that Councillors recognise that the policy, whilst remaining a policy and therefore the Authority’s own guidelines on the matter, is the baseline for acceptability. It should only be departed from in exceptional circumstances and for justifiable reasons which should be recorded” – IoL Guidance Para 3.29

#NTC2021

Promoting Excellence in Licensing for 25 years

 Institute of Licensing

Not covered by Policy

- Even the best policies may not cover every eventuality
- Effectively no policy on the point
- Back to basics
- Start from 1st Principles
- PUBLIC SAFETY!

#NTC2021

Promoting Excellence in Licensing for 25 years

