

# Public Document Pack



## CIVIC GOVERNMENT LICENSING COMMITTEE FRIDAY 17 NOVEMBER 2017

A MEETING of the CIVIC GOVERNMENT LICENSING COMMITTEE will be held in COMMITTEE ROOMS 2/3, COUNCIL HEADQUARTERS, NEWTOWN S BOSWELLS on FRIDAY, 17 NOVEMBER 2017 at 10.30 am

J. J. WILKINSON,  
Clerk to the Council,

10 November 2017

<b>BUSINESS</b>		
1.	<b>Apologies for Absence</b>	
2.	<b>Order of Business</b>	
3.	<b>Declarations of Interest</b>	
4.	<b>Minute</b> (Pages 3 - 4)  Minute of Meeting held on 20 October 2017 to be approved and signed by the Chairman. (Copy attached.)	2 mins
5.	<b>Licences issued under Delegated Powers</b> (Pages 5 - 10)  (Copy attached.)	5 mins
6.	<b>Taxi Driver and Private Hire Driver Medical Assessments. Consider report by Service Director Regulatory Services.</b> (Copy attached.)	20 mins
7.	<b>Items Likely to be Taken in Private</b>  Before proceeding with the private business, the following motion should be approved:  "That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be exclude from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 14 of Part 1 of Schedule 7A to the aforementioned Act."	
8.	<b>Licensing of Street Traders.</b> (Pages 11 - 18)  Hearing to consider Grant of Street Trader Licence - Graham Schutte. (Copy application and Police representation attached.)	20 mins

9.	<b>Licensing of Taxi, Private Hire Vehicles and Drivers</b> Hearings to consider:-	
	(a) <b>Grant of Taxi Driver Licence - Stuart Ayre</b> (Pages 19 - 22) (Copy application and Police objection attached.)	20 mins
	(b) <b>Continuation of Taxi Driver Licence - James Morrison</b> (Pages 23 - 24) (Copy Licensing Standards and Enforcement Officer representation attached.)	20 mins
10.	<b>Minute</b> (Pages 25 - 28)  Private section of Minute of Meeting held on 20 October 2017 to be approved and signed by the Chairman. (Copy attached.)	2 mins
11.	<b>Any Other Items Previously Circulated</b>	
12.	<b>Any Other Items which the Chairman Decides are Urgent</b>	

#### NOTES

1. **Timings given above are only indicative and not intended to inhibit Members' discussions.**
2. **Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

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**Membership of Committee:-** Councillors J. Brown, J. Greenwell (Chairman), D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol, G. Turnbull and T. Weatherston

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**SCOTTISH BORDERS COUNCIL**  
**CIVIC GOVERNMENT LICENSING COMMITTEE**

MINUTE of Meeting of the CIVIC  
GOVERNMENT LICENSING COMMITTEE  
held in COMMITTEE ROOMS 2 AND 3,  
COUNCIL HEADQUARTERS, NEWTOWN  
ST BOSWELLS on Friday, 20 October 2017  
at 11.00 a.m.

Present:- Councillors J. Greenwell (Chairman), J. Brown D. Paterson, N. Richards, S. Scott, R. Tatler, E. Thornton-Nicol, G. Turnbull, T. Weatherston.

In Attendance:- Managing Solicitor – Property and Licensing, Licensing Team Leader, Licensing Standards and Enforcement Officers (Mr I. Tunnah and Mr M Wynne), Democratic Services Officer (F Henderson), Inspector T. Hodges and PC C Lackenby- Police Scotland.

1.0 **MINUTE**

1.1 The Minute of the Meeting of 22 September 2017.

**DECISION**

**APPROVED and signed by the Chairman.**

2.0 **LICENCES ISSUED UNDER DELEGATED POWERS**

2.1 Miscellaneous Licences issued under delegated powers between 13 September and 11 October 2017.

**DECISION**

**NOTED.**

3.0 **PRIVATE BUSINESS**

**DECISION**

**AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 12 of part 1 of Schedule 7A to the Act.**

**SUMMARY OF PRIVATE BUSINESS**

4.0 **GRANT OF TAXI DRIVER LICENCE – PAUL MASON**

4.1 The Committee agreed to refuse the application for a Taxi Driver Licence submitted by Paul Mason.

5.0 **RENEWAL OF TAXI DRIVER LICENCE – DAVID McCUDDEN**

5.1 The Committee agreed to grant the Renewal of a Taxi Driver Licence submitted by David McCudden.

6.0 **RENEWAL OF TAXI DRIVER LICENCE – ALAN WATT**

6.1 The Committee agreed to continue the application for the Renewal of a Taxi Driver Licence submitted by Alan Watt to a future meeting.

7.0 **MINUTE**

7.1 The Private section of the Minute of 22 September 2017 was approved.

*The meeting concluded at 11.50 a.m.*

**CIVIC GOVERNMENT AND MISCELLANEOUS LICENCES  
ISSUED UNDER DELEGATED POWERS**

**12 October 2017 - 8 November 2017**

<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
Peebles Hydro Limited	House in Multiple Occupation - Grant	Park Staff Accommodation Annex, Park Hotel, Peebles 8 Persons	3/11/17
H20 and The Italian Restaurant	Late Hours Catering - Temporary	88 Overhaugh Street, Galashiels Sunday 8 October 2017 12.00midnight - 3.00am	5/10/17
Royal British Legion Scotland (Coldstream)	Marches and Parades	Remembrance Day Parade - Coldstream Saturday 11 November 2017 10.50am	7/11/17
Royal British Legion Scotland (Coldstream)	Marches and Parades	Remembrance Day Parade - Coldstream Sunday 12 November 2017 10.50am	7/11/17
Ruberslaw Church of Scotland	Marches and Parades	Remembrance Day Parade - Denholm Sunday 12 November 2017 11.30am	19/10/17
Royal British Legion Scotland (Duns)	Marches and Parades	Remembrance Day Parade - Duns Sunday 12 November 2017 10.35am	7/11/17
Earlston Parish Church	Marches and Parades	Remembrance Day Parade - Earlston Sunday 12 November 2017 10.30am	24/10/17
Royal British Legion Scotland (Eyemouth)	Marches and Parades	Remembrance Day Parade - Eyemouth Sunday 12 November 2017 3.20pm	7/11/17
Royal British Legion Scotland (Galashiels)	Marches and Parades	Remembrance Day Parade - Galashiels Sunday 12 November 2017 - 12.20pm	24/10/17
Scottish Borders Rape Crisis Centre	Marches and Parades	Reclaim the Night March - Galashiels Saturday 25 November 2017 7.00pm	24/10/17
Royal British Legion Scotland (Jedburgh)	Marches and Parades	Remembrance Day Parade - Jedburgh Sunday 12 November 2017 10.30am	19/10/17
Jedburgh Events Forum	Marches and Parades	10K and Half Marathon Race - Jedburgh Sunday 29 October 2017	19/10/17
Jedburgh Three Peaks Ultramarathon	Marches and Parades	Ultramarathon - Jedburgh Sunday 29 October 2017 8.00am	19/10/17
Royal British Legion Scotland (Kelso)	Marches and Parades	Remembrance Day Parade - Kelso Sunday 12 November 2017 10.30am	19/10/17
A Grand Parade of Tractors	Marches and Parades	Fundraising Tractor Parade - Lauder Sunday 5 November 2017 11.00am	3/11/17
Lauderdale and Galawater Ex-Service Association	Marches and Parades	Remembrance Day Parade - Lauder Sunday 12 November 2017 10.30am	7/11/17

<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
Royal British Legion Scotland (Melrose)	Marches and Parades	Remembrance Day Parade - Melrose Sunday 12 November 2017 10.25am	24/10/17
Lodge of Melrose St John No. 1	Marches and Parades	Festival of St John March - Melrose Wednesday 27 December 2017 6.30pm	24/10/17
A Bridge Too Far	Marches and Parades	Cycle Sportive - Norham Sunday 15 October 2017 9.00am	28/9/17
Peebles March Riders Association	Marches and Parades	Annual Walk and Trot Rideout - Peebles Sunday 29 October 2017 11.00am	25/10/17
Royal British Legion Scotland (Peebles)	Marches and Parades	Remembrance Day Parade - Peebles Sunday 12 November 2017 10.45am	7/11/17
High Terrain Events	Marches and Parades	Ultra Running Event - Glentress, Peebles Sunday 19 November 2017 7.30am	8/11/17
Royal British Legion Scotland (Selkirk and Ettrick Forest)	Marches and Parades	Remembrance Day Parade - Selkirk Sunday 12 November 2017 10.10am	25/10/17
Royal British Legion Scotland (St Boswells)	Marches and Parades	Remembrance Day Parade - St Boswells Sunday 12 November 2017 10.50am	24/10/17
Gala Cycling Club	Marches and Parades	Scottish National Hill Club 2017 - Stow Area Sunday 22 October 2017 10.00am	17/10/17
Paterson	Market Operator - Temporary	Springwood Hall, Kelso Sunday 22 October 2017 10.00am - 4.30pm	19/10/17
Paxton Trust	Market Operator - Temporary	Paxton House, Paxton Saturday 2 and Sunday 3 December 2017 11.00am - 6.00pm	25/10/17
Treefest Partnership	Market Operator - Temporary	Tweed Green, Peebles Saturday 21 and Sunday 22 October 2017 10.00am - 4.00pm	20/10/17
Peebles Christmas Lights Association	Market Operator - Temporary	High Street, Peebles Thursday 7 December 2017 5.00pm - 10.00pm	1/11/17
John Armstrong Ltd	Metal Dealer - Grant	Galaford Road, Galashiels Monday to Friday 8.00am - 4.00pm	7/11/17
Robert Tams	Metal Dealer - Itinerant - Renewal	Iveco Van - SV05 CYX Monday to Friday 9.00am - 5.00pm All Scrap Metal and General Household	30/10/17
David Burgon	Metal Dealer - Itinerant - Renewal	Iveco Daily - DB54 BRS Monday to Sunday 8.00am - 5.00pm All Scrap Metal and General Household	30/10/17
James Burnside	Metal Dealer - Itinerant - Renewal	Ford Transit - NJ62 OTU Monday to Sunday 6.00am - 6.00pm All Scrap Metal and General Household	30/10/17

<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
Douglas Williams	Metal Dealer - Itinerant - Renewal	Ford Transit T300 - SF63 CWC Monday to Sunday 6.00am - 8.00pm All Scrap Metal and General Household	30/10/17
Julia Anderson	Private Hire Driver - Grant	4/PD3	16/10/17
Brian Richardson	Private Hire Driver - Renewal	1/PD8	20/10/17
Eric Robertson	Private Hire Vehicle - Grant	1/PV7 - Blue Mitsubishi L200 TD5 SMR - 4 Passengers	20/10/17
Marlene Simpson	Private Hire Vehicle - Renewal (Wheelchair Accessible)	1/PV50 - White Vauxhall Movano GU56 HVR - 8 Passengers	19/10/17
My Name's Doddie Foundation	Public Charitable Collection	Street Collection - High Street, Lauder and Thirlestane Castle Sunday 5 November 2017	3/11/17
Lucy Smith	Public Charitable Collection	St Boswells Parish Church - Street Collection - Newtown St Boswells, St Boswells and Dryburgh Friday 22 December 2017	8/11/17
Longformacus Village Hall per Forbes Gamley	Public Entertainment - Renewal	Longformacus Village Hall Sunday to Thursday 8.00am - 12.00midnight Friday and Saturday 8.00am - 1.00am	8/11/17
Martin Slater	Public Entertainment - Temporary	Funfair - Co-op Carpark, Eyemouth Thursday 2 November 2017 5.00pm - 8.00pm	2/11/17
Border Federation of Young Farmers	Public Entertainment - Temporary	Quiz and Disco - Village Hall, Gordon Saturday 11 November 2017	19/10/17
The Haining Volunteers	Public Entertainment - Temporary	Concert - Haining House, Selkirk Friday 13 October 2017 7.30pm - 11.00pm	12/10/17
David James 4X4 Limited	Second Hand Dealer - Grant	Unit B, Hillview Trading Estate, Coldstream Monday to Friday 8.30am - 5.30pm Saturday 8.30am - 12.30pm Sale of motor vehicles, motor cycles, mopeds, trailers and parts thereof	8/11/17
Leisure Venture	Second Hand Dealer - Grant	Hartwoodmyres, Selkirk Sunday to Saturday by appointment only Sale of Motor Vehicles, motorcycles, mopeds, trailers and parts thereof	11/10/17
Border Chainsaw and Lawnmower Services	Second Hand Dealer - Renewal	Unit 4, Station Road Industrial Estate, Earlston Monday to Friday 8.00am - 5.00pm Saturday 8.00am - 1.00pm Sale of Agricultural vehicles, plant, equipment and parts thereof including forest and garden machinery	12/10/17

<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
S and I Thomson	Second Hand Dealer - Renewal	Mill Park, Galashiels Monday to Saturday 8.00am - 5.00pm Sale of motor vehicles, motor cycles, mopeds, trailers and parts thereof	10/10/17
A G Lees Car Sales	Second Hand Dealer - Renewal	Huddersfield Street, Galashiels Sunday 10.00am - 5.00pm Monday to Friday 8.00am - 5.00pm Saturday 9.00am - 5.00pm Sale of motor vehicles, motor cycles, mopeds, trailers and parts thereof	31/10/17
Ralph Forbes and Stuart Ormsby	Second Hand Dealer - Renewal	Central Garage, Island Street, Galashiels Sunday 11.00am - 5.00pm Monday, Tuesday and Wednesday 9.00am - 6.00pm Thursday 9.00am - 7.00pm Friday and Saturday 9.00am - 6.00pm Sale of motor vehicles, motor cycles, mopeds, trailers and parts thereof	31/10/17
Tim Hodgson	Second Hand Dealer - Renewal	Old Melrose Furniture Studio, Ravenswood, Melrose Monday to Sunday 10.00am - 5.00pm (4.00pm Winter) Sale of Furniture and soft furnishings, Antiques, bric-a-brac, works of art and other collectibles including stamps.	10/10/17
John Tyszko	Skin Piercing - Grant	Oral Design, 3 Cherry Court, Cavalry Park, Peebles Monday 9.00am - 5.00pm Tattooing	25/10/17
Zara Pryde	Skin Piercing - Renewal	Pinhead, 7 Overhaugh Street, Galashiels Monday to Friday 10.00am - 6.00pm Saturday 10.00am - 5.00pm Skin Piercing and Cosmetic Body Piercing	10/10/17
Ailsa Turner-Gibb	Skin Piercing - Renewal	119 Tattoo, 119 High Street, Galashiels Monday to Saturday 9.00am - 6.00pm Tattooing	25/10/17
Sheena Murphy	Street Trader - Grant	Catering Unit - M249 EGG Monday to Sunday 6.00am - 11.00pm Meadowfield Golf Range, Glendearg, Galashiels Sale of Hot and Cold Food and Drinks	24/10/17
Paul McDowell	Taxi Driver - Grant	2/TD3	16/10/17
Graham Wilson	Taxi Driver - Grant	2/TD99	7/11/17
Stewart Logan	Taxi Driver - Grant	3/TD67	16/10/17



<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
James McInulty	Taxi Driver - Renewal	2/TD8	1/11/17
Andrew Rae	Taxi Driver - Renewal	2/TD11	16/10/17
George Easson	Taxi Driver - Renewal	2/TD20	25/10/17
Derek Anderson	Taxi Driver - Renewal	2/TD62	16/10/17
Schan Doogan	Taxi Driver - Renewal	2/TD72	8/11/17
Agnieszka Strus-Rabecewicz	Taxi Driver - Renewal	2/TD92	30/10/17
Philip Turnbull	Taxi Driver - Renewal	2/TD239	16/10/17
James Shields	Taxi Driver - Renewal	2/TD292	3/11/17
Alistair Vernon	Taxi Driver - Renewal	2/TD317	25/10/17
Ian Hamilton	Taxi Driver - Renewal	2/TD369	3/11/17
Ian Tait	Taxi Driver - Renewal	2/TD392	8/11/17
George Shepherd	Taxi Driver - Renewal	3/TD30	16/10/17
Alistair Learmonth	Taxi Driver - Renewal	3/TD50	19/10/17
James Wallace	Taxi Driver - Renewal	3/TD52	1/11/17
John Chapman	Taxi Driver - Renewal	3/TD76	25/10/17
Thomas Liddell	Taxi Driver - Renewal	3/TD84	16/10/17
John Smith	Taxi Driver - Renewal	3/TD92	16/10/17
James McKenzie	Taxi Driver - Renewal	3/TD96	16/10/17
Robert Rutherford	Taxi Driver - Renewal	3/TD126	16/10/17
Akbar Agha Khan	Taxi Driver - Renewal	3/TD130	26/10/17
C Stuart Deans	Taxi Driver - Renewal	3/TD155	1/11/17
Gordon Crooks	Taxi Driver - Renewal	4/TD9	10/10/17
Keith Bisset	Taxi Driver - Renewal	4/TD29	3/11/17
John McLean	Taxi Driver - Renewal	4/TD51	25/10/17
Alan Knox	Taxi Driver - Renewal	4/TD53	3/11/17
Keith Muckersie	Taxi Driver - Renewal	4/TD56	8/11/17
Daniel Krata	Taxi Vehicle - Grant	2/TV40 - Black Volvo V60 Estate PK61 ARX - 4 Passengers	18/10/17
Stuart Russell	Taxi Vehicle - Grant	2/TV42 - Blue Mazda 6 ST10 EHB - 4 Passengers	16/10/17
Fergus Hislop	Taxi Vehicle - Grant	3/TV29 - White Vauxhall Insignia SD62 FSN - 4 Passengers	1/11/17
Brian Lyle	Taxi Vehicle - Grant	3/TV31 - Silver Vauxhall Insignia DY16 FVJ - 4 Passengers	16/10/17
Keith Gibb	Taxi Vehicle - Grant	4/TV5 - White Vauxhall Vivaro VU14 DWW - 8 Passengers	5/10/17
Darren Benson	Taxi Vehicle - Material Change (Reg Plate Change)	2/TV102 - Silver Mercedes-Benz T33 DPB - 4 Passengers	25/10/17
William Brownlee	Taxi Vehicle - Material Change (Private Hire to Taxi)	2/TV19 - Silver Vauxhall Zafira MJ09 XVN - 6 Passengers	2/11/17

<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
Colin McLaren	Taxi Vehicle - Renewal	2/TV89 - Iron Grey Peugeot E7 SF14 EYK - 7 Passengers	8/11/17
Christopher Horton	Taxi Vehicle - Renewal	3/TV12 - Silver Peugeot Partner SF64 VLM - 4 Passengers	4/10/17

## MISCELLANEOUS LICENSING

<b>Applicant/Existing Licenceholder</b>	<b>Type and Nature of Application</b>	<b>Description</b>	<b>Date Granted</b>
Rachael Browne	Animal Boarding - Material Change	The Old Farmhouse, Broadhaugh Farm, Chirnside 24 Dogs	13/10/17
Jonathan Cowe	Animal Boarding - Grant	Sandy Paws, West Greenfields, Auchencrow 8 Dogs	7/11/17
Ann Sorbie	Animal Boarding - Renewal	Furry Purries Cattery, Ashkirk 25 Cats	12/10/17
Amanda Scarborough	Animal Boarding - Renewal	Cozy Catz Cattery, 41 Foulden Newton 24 Cats	8/11/17
Stephanie Anderson	Animal Boarding - Renewal	Fingerpost Boarding Kennels, Westruther 38 Dogs	27/10/17
Alison Ferri	Animal Boarding - Home Boarding - Grant	2 Ravelaw Farm Cottages, Whitsome 3 Dogs	2/11/17
Lora Gilchrist	Animal Boarding - Home Boarding - Renewal	27 Bellfield Road, Eddleston 4 Dogs	2/11/17
Thomas and Margareta Thomson	Dangerous Wild Animals - Renewal	Earlyvale Garden Cottage, Eddleston 13 Black and White Ruffled Lemurs 6 Ringtale Lemurs	3/11/17
Pauline Miller	Dog Breeding - Renewal	3 Falside Cottages, Southdean, nr Hawick	17/10/17
Danielle McKinnon	Riding Establishment - Grant	Eat, Sleep, Ride CIC, Heugh Head Farm, Reston 9 Horses	8/11/17



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## **TAXI DRIVER AND PRIVATE HIRE DRIVER MEDICAL ASSESSMENTS**

**Report by Service Director Regulatory Services**

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### **CIVIC GOVERNMENT LICENSING COMMITTEE**

**17 November 2017**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to seek approval for the introduction of a formal policy regulating the assessment of medical fitness to drive taxis and private hire cars.**
- 1.2 The Council as Licensing Authority for the Scottish Borders area is responsible for the licensing of taxi drivers and private hire car drivers under the Civic Government (Scotland) Act 1982.**
- 1.3 In April 2016 the DVLA issued guidance to Licensing Authorities which recommended that taxi drivers and private hire car drivers should be medically assessed to a Group 2 driving licence standard as required for lorry and bus drivers.**
- 1.4 In November 2016 the Scottish Government wrote to the Conveners of all Licensing Authorities in Scotland specifically directing them to the updated guidance issued by DVLA.**
- 1.5 The recommendation contained in this report follows the conclusions of the Working Group set up to assess the need for a policy as explained in paragraphs 3.3 and 3.4.**

#### **2 RECOMMENDATIONS**

**I recommend that the Civic Government Licensing Committee:-**

**Agree to recommend to Council the introduction of a policy requiring all taxi and private hire drivers licensed by Scottish Borders Council be medically assessed to DVLA Group 2 standards:**

- (i) From the age of 18 and thereafter reassessed at age 45**
- (ii) From age 45 onwards reassessed on a five year basis.**
- (iii) From Age 65 to be reassessed on an annual basis.**
- (iv) In the event of a disability or medical condition which may affect an applicant's ability to drive being disclosed to the Council's Licensing Team whilst the grant of a licence is in force.**

### 3 BACKGROUND

- 3.1 The DVLA has different medical standards depending on the type of vehicle being driven. Group 1 covers cars and motorbikes while Group 2 covers buses and lorries. In April 2016 the relevant guidance previously provided by DVLA was updated. The recommendation within the updated guidance for licensing authorities' is that taxi drivers should meet the same medical standards that Group 2 bus and lorry drivers must meet under DVLA's requirements. While Scottish Borders Council as Licensing Authority for the Scottish Borders area does not yet have a policy adopting a Group 2 Assessment as the fitness criteria of all taxi drivers it has occasionally relied upon the terms of Section 13(4) of the Civic Government (Scotland) Act 1982 when an issue regarding a current licence holders continued medical fitness has come into question.
- 3.2 Section 13(4) of the Civic Government (Scotland) Act 1982 provides that a Licensing Authority may at any time for the purposes of satisfying themselves that an applicant is physically fit to drive a taxi or private hire car require an applicant to undergo a medical examination. The Scottish Government subsequently wrote to all Licensing Authorities on 30 November 2016 specifically drawing attention to the updated DVLA guidance with regard to the medical requirements recommended for taxi and private hire drivers. A copy of this letter is attached to this report.
- 3.3 Following the updated guidance from DVLA in 2016 and the subsequent correspondence received from the Scottish Government this authority set up a working group to assess the need to implement a policy to be followed in connection with the standard of medical assessments to be undertaken by taxi drivers and private hire drivers. During discussion members of the working group were of the opinion that a policy requires to be introduced so that taxi driver and private hire driver licence holders were clear about the level of medical required.
- 3.4 The DVLA Group 2 entitlement to drive Lorries or buses is normally given to people over 21 years of age and is valid until the age of 45. Group 2 Licences issued since 19 January 2013 are valid for a maximum of five years. Group 2 licences must be renewed every 5 years or at age 45 whichever is the earlier until the age of 65 when they are renewed annually without an upper age limit. All Group 2 applicants require a medical assessment by a medical practitioner with stipulated assessment criteria which includes nervous system, diabetes, psychiatric illness, including drug/alcohol dependency, cardiac related illnesses and sleep disorders. Upon reaching the age of 45 years a medical examination is required every five years upon renewal and at the age of 65 years an annual review medical is required. Licence Holders' have a legal duty to notify DVLA of any medical condition which may affect their ability to drive. Upon receiving such notification DVLA will make medical enquiries as they deem required. The working group took into account that in terms of the Civic Government (Scotland) Act 1982 an applicant for a taxi/private hire drivers licence must have held a full DVLA Drivers Licence for at least one year prior to submitting an application and therefore the age of assessment would need to be reduced from 21 years of age as required by the DVLA for Group 2 drivers to 18 years of age.

- 3.5 In addition the working group also concluded that in the interests of public safety and in line with the Council's continued efforts as taxi/private hire car licensing authority to improve standards generally then all existing licence holders should be medically assessed to a Group 2 standard when submitting an application for renewal of their licence.
- 3.6 The working group acknowledged that the current process whereby only those applicants who declared a medical condition which is likely to affect their ability to drive are requested to provide evidence from their own GP had worked well and should continue where possible. However there had been occasions where applicants GP's were unwilling to provide written confirmation to a Group 2 standard and in those situations it was felt that applicants should be able to discuss with the Council's Licensing Team alternative options whereby they will be able to undergo the required Group 2 Medical Assessment. For the avoidance of doubt it was the view of the working group that the costs of obtaining a medical assessment to a Group 2 Standard should be met by the applicant in all instances.
- 3.7 In addition and subsequent to the setting up of a working group this authority's decision to suspend a taxi driver's licence pending medical evidence from his doctor that he had been assessed to a Group 2 standard was challenged by way of appeal to the Sheriff at Selkirk Court. The basis of the applicant's appeal was that there was no legal requirement for a taxi driver to complete a Group 2 medical and that this authority had no formal policy to that effect. Following a hearing which took place at Selkirk Sheriff Court on 9 June 2017, the Sheriff issued a judgement whereby he found that this authority had not acted unreasonably in requesting that the applicant provide a medical report that he meets a Group 2 medical standard and that Section 13(4) of the Civic Government (Scotland) Act 1982 gave this authority the power to seek such a report. However, in his judgement the sheriff commented that in his opinion it was unfortunate that this authority do not have a published policy on the medical standards required. The Sheriff's comments reinforce the need for such a policy.
- 3.8 It is therefore proposed that the Council introduce a Policy requiring all taxi and private hire drivers licenced by the Council be medically assessed to DVLA Group 2 standard.
- (i) From the age of 18 and thereafter reassessed at age 45
  - (ii) From age 45 onwards reassessed on a five year basis
  - (iii) From age 65 to be reassessed on an annual basis
  - (iv) In the event of a disability or medical condition which may affect an applicant's ability to drive being disclosed to the Council's Licensing Team whilst the grant of a licence is in force.
- 3.9 In the event that the introduction of this policy is approved then Officers within the Council's Licensing Team will require to intimate the adoption and implementation date of the policy to the Taxi trade and to notify and liaise with the medical profession. In addition, Officers within the Council's Licensing Team will require to make appropriate amendments to the application forms and to the conditions attached to the grant of taxi driver and private hire car driver licences to make it mandatory for licence holders

to report any disability or medical condition which may affect their ability to drive to the Council's Licensing Team.

## **4 IMPLICATIONS**

### **4.1 Financial**

There are no substantive cost implications arising for the Council.

### **4.2 Risk and Mitigations**

There is a risk that the introduction of this policy will not be well received by the taxi trade and is likely to attract criticism. However, the introduction of a policy on medical assessment is desirable in the interests of ensuring public safety and is in line with the Council's continued efforts as taxi/private hire car Licensing authority to improve standards generally. In addition, DVLA have updated their guidance with regard to the suggested medical assessments required for taxi/private car hire drivers and this has been enhanced by the Scottish Government writing individually to the Convenors of all Local Authority Civic Government Licensing Committees in Scotland with the specific purpose of directing Licensing Authorities to the updated guidance.

### **4.3 Equalities**

An equalities impact assessment has been conducted and a copy of the assessment is attached to this report.

### **4.4 Acting Sustainably**

The Council as Licensing Authority for the Scottish Borders area is responsible for the licensing of taxi drivers and private hire car drivers under the Civic Government (Scotland) Act 1982. The proposals contained in this report seek to implement the recommendations contained in updated guidance issued by the DVLA in April 2016 regulating the standard of medical Licensing Authorities should seek from taxi drivers and private hire car drivers which updated guidance was subsequently echoed by the Scottish Government in November 2016.

### **4.5 Carbon Management**

There are no effects on carbon omissions arising from the proposals contained in this report.

### **4.6 Rural Proofing**

There are no effects on rural proofing arising from the proposals contained in this report.

### **4.7 Changes to Scheme of Administration or Scheme of Delegation**

There are no changes required to the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

## 5. CONSULTATION

5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer Human Resources and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

**Approved by Brian Frater**

**Service Director Regulatory Services      Signature:**

### **Author(s)**

Name	Designation and Contact Number
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