



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 17TH NOVEMBER, 2015 AT 10.00 AM

MEMBERSHIP

Councillors

N Buckley	Alwoodley;
R Downes	Otley and Yeadon;
J Dunn	Ardsley and Robin Hood;
B Gettings	Morley North;
M Harland	Kippax and Methley;
G Hussain	Roundhay;
G Hyde	Killingbeck and Seacroft;
A Khan	Burmantofts and Richmond Hill;
B Selby	Killingbeck and Seacroft;
C Townsley	Horsforth;
G Wilkinson	Wetherby;
B Flynn	Adel and Wharfedale;
M Ingham	Burmantofts and Richmond Hill;
S McKenna	Garforth and Swillington;
A Ogilvie	Beeston and Holbeck;

(Prior to the commencement of the Licensing Committee there will be a training event for all Committee Members taking place at 9.30am)

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

John Grieve
224 3836

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -16 of the Members' Code of Conduct.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence</p>	
6			<p>MINUTES OF THE PREVIOUS MEETING</p> <p>To approve the minutes of the previous meeting held on 8th September 2015.</p> <p>(Report attached)</p>	1 - 4
7			<p>MATTERS ARISING FROM THE MINUTES</p> <p>To consider any matters arising from minutes (If any)</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p>DE-REGULATION ACT 2015 AND DELEGATION OF ENFORCEMENT POWERS ACROSS AUTHORITIES.</p> <p>To consider a report by the Head of Elections, Licensing and Registration and the City Solicitor which draws to Members attention the effect of the introduction of the Deregulation Act 2015 and in particular concerns about the ability from 1 October 2015 for private hire operators to sub-contract to firms outside of the Leeds district.</p> <p>The report highlights some of the potential consequences and seeks approval for the Licensing Committee to recommend to full Council, delegation of enforcement functions across West Yorkshire authorities to help to minimise concerns across the region.</p> <p>(Report attached)</p>	5 - 12
9			<p>SAFEGUARDING IN TAXI & PRIVATE HIRE LICENSING - 12 MONTH REVIEW OF PROGRESS (DRAFT REPORT TO EXECUTIVE BOARD)</p> <p>To consider a report by the Head of Elections, Licensing and Registration / Assistant Chief Executive (Citizens and Communities) which informs the Licensing Committee that a report around safeguarding issues and Taxi & Private Hire Licensing will be considered by Executive Board on 16th December 2015. Members are afforded the opportunity to consider and contribute to the draft report.</p> <p>(Report attached)</p>	13 - 62

Item No	Ward/Equal Opportunities	Item Not Open		Page No
10			<p>POLICY CHANGE PROPOSALS - 'FIT AND PROPER' PERSON ASSESSMENT</p> <p>To consider a report by the Head of Elections, Licensing and Registration which identifies a potential weakness in the application process in respect of the applicant's personal information being available to Officers when making a 'fit and proper' person assessment, particularly in respect of non UK citizens.</p> <p>The report sets out a new policy and procedure to be followed by Officers in carrying delegated decisions on personal licence applications.</p> <p>(Report attached)</p>	63 - 100
11			<p>LICENSING COMMITTEE WORK PROGRAMME</p> <p>To note the contents of the Licensing Committee Work Programme for 2015/16</p> <p>(Copy attached)</p>	101 - 106
12			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note that the next meeting will take place on Tuesday 15th December 2015 at 10.00am in the Civic Hall, Leeds.</p>	
13	Harewood; Wetherby	10.4(3, 7)	<p>LEEDS FESTIVAL 2015 - MEMBERS DEBRIEF</p> <p>To consider a report by the Head of Elections, Licensing and Registration which provides a de-brief of the Leeds Festival held between the 27th and 30th August 2015.</p> <p>(Report attached)</p>	107 - 118

Item No	Ward/Equal Opportunities	Item Not Open		Page No
14	City and Hunslet	10.4(3)	<p>GAMBLING ACT 2005 - LICENSING OF THE LARGE CASINO - SCHEDULE 9 AGREEMENT - ANNUAL UPDATE</p> <p>To receive a presentation from Global Gaming Ventures Limited (GGV) which provides an update on the build and fit –out of the casino and on the delivery of benefits to date.</p> <p>(Report attached)</p> <p>THIRD PARTY RECORDING</p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <p>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</p> <p>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete</p>	119 - 134

Licensing Committee

Tuesday, 8th September, 2015

PRESENT: Councillor M Harland in the Chair

Councillors N Buckley, R Downes, J Dunn,
G Hussain, B Selby, C Townsley, B Flynn,
S McKenna and A Ogilvie

39 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents.

40 Exempt Information - Possible Exclusion of the Press and Public

RESOLVED – That, in accordance with Regulation 4 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the public be excluded from the meeting during Consideration of the following parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated as follows:-

The report entitled “Policing and the Night Time Economy” referred to in Minute No.48 was designated as exempt under Access to Information Procedure Rule 10.4 (3) because it contains information relating to, crime and disorder which may result in future legal proceedings.

It was considered that in respect of the above circumstances, the public interest in maintaining the exemption from publication outweighs the public interest in disclosing the information.

41 Late Items

There were no late items submitted for consideration.

42 Declaration of Disclosable Pecuniary Interests

There were no declarations of Disclosable Pecuniary Interests made at the meeting.

43 Apologies for Absence

Apologies for absence were received from Councillors: Gettings, G Hyde, A Khan and Wilkinson.

44 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting held on 4th August 2015 were approved as a true and correct record.

45 Matters Arising from the Minutes

There were issues raised under matters arising.

46 Information report - De-Regulation Act 2015 and its effect on Taxi & Private Hire Licensing matters.

The Head of Elections, Licensing and Registration submitted a report which set out proposals which are to be included into the De-Regulation Act 2015 which come into force in October 2015.

Appended to the report were a series of articles from organisations who had expressed concern about de-regulation measures relating to taxi and private hire vehicles. (Appendix 1 refers)

The Section Head, Taxi and Private Hire Licensing presented the report and responded to Members questions and queries.

Detailed discussion ensued on the contents of the report which included:

- Removing the discretion of a local Authority not to issue a driver licence for a period of more than one year.
- Allowing for Private Hire Operator licences to be granted for a period of 5 years only without discretion for the Council to grant for a lower period.
- Removal of the strict control of sub-contracting a Private Hire journey from within a licensing district only to enable sub-contracting to take place on a national basis

A number of Members expressed concern about the removal of controls around sub-contracting; querying how a vehicle/ driver could be traced if it had been sub contracted to an operator in another district and was involved in an incident.

In responding the Section Head, Taxi and Private Hire Licensing said in such circumstances the responsibility rested with the lead operator, but accepted if the booking had been sub contracted to several operators, tracing the vehicle/ operator could be difficult.

Commenting on Section 3.4 of the submitted report and the reference that the City Council had no powers to conduct any enforcement activity on Private Hire Vehicles not licenced by this authority, Members questioned who would carry out enforcement proceedings on out of town vehicles.

The Section Head, Taxi and Private Hire Licensing said the City Council were reliant on the local authority that licenced the vehicle to take the necessary action. Work

was currently ongoing with the licensing sections from the West Yorkshire Combined Authorities to share enforcement powers across all authorities, so enforcement officers would be able to inspect vehicles that had been licensed by another authority.

Members referred to paragraph 2.9 of the report and the reference that “There currently was no detailed information or operational guidance on the de-regulation measures available from the Government, Department of Transport (Dft) or other organisations. Members expressed concern at the lack of guidance and the possible implications if something was to go wrong. It was suggested that issues be raised with Members of Parliament with a view to establishing what actions the Government were going to take.

In responding, the Head of Elections, Licensing and Registration said that the issues had been raised at great length by the Local Government Association during the public consultation stage. Following previous discussions with Members on the issues, a proposal had been made to put out a press release highlighting the council’s concerns for public safety as a consequence of the new legislation. Currently there were ongoing discussions to determine the appropriate Member in whose name the press release should go out.

A number of Members expressed the view that this issue had cross party support and the press release should be from the Chair of the Licensing Committee.

RESOLVED –

- (i) That the contents of the report be noted
- (ii) To support the issuing of a Press Release highlighting concerns about the introduction of de-regulation measures relating to taxi and private hire vehicles.

47 Licensing Committee Work Programme 2015/16

Members considered the contents of the Licensing Committee Work Programme for 2015/16

RESOLVED – That the contents of the Licensing Committee Work Programme for 2015/16 be approved.

48 Policing and the Night Time Economy

Members received a Presentation from Sergeant Dave Shaw, West Yorkshire Police, who spoke about Policing and the night time economy.

A summary of the issues/ incidents involving licensed premises in City & South Leeds, West Leeds, East Leeds was presented.

(Due to the confidential nature of the information being presented, this part of the meeting was held in closed session)

The Chair thanked Sergeant Shaw for his attendance and presentation commenting that the session had been informative and interesting.

On a final note Sergeant Shaw extended an invitation to Members of the Licensing Committee to accompany night-time patrols operating in the City Centre at weekends.

A number Members expressed an interest to participate in a night-time tour

RESOLVED –

- (i) That the contents of the presentation be noted
- (ii) That in consultation with WYP, arrangements be made for Members to participate in a night-time tour of the City Centre

49 Date and Time of Next Meeting

RESOLVED – To note that the next meeting will take place on Tuesday, 6th October 2015 at 10.00am in the Civic Hall, Leeds.



Report author: Des Broster
Tel: 3781561

Report of Head of Elections, Licensing and Registration

Report to Licensing Committee

Date: 17 November 2015

Subject: De-Regulation Act 2015 and delegation of enforcement powers across authorities.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. The Licensing Committee received a report in September 2015 explaining the effect of the introduction of the Deregulation Act 2015 and in particular concerns about the ability from 1 October 2015 for private hire operators to sub-contract to firms outside of the Leeds district. This report highlights some of the potential consequences and seeks approval for the Licensing Committee to recommend to full council delegation of enforcement functions across West Yorkshire authorities to help to minimise concerns across the region.

Recommendations

2. That Members recommend to the General Purposes Committee and full council that the Taxi and private hire enforcement powers as set out in paragraph 3.5 of this report be delegated by Leeds City Council to the to the other West Yorkshire authorities as well as being retained by Leeds City Council as licensing authority. To agree to Leeds City Council receiving similar delegated enforcement powers from the other West Yorkshire authorities.
3. That Members recommend to the Executive that the council's licensing policies are amended to reflect and enable the effective delegation of enforcement functions to other authorities.

1 Purpose of this report

- 1.1 The Licensing Committee received a report in September 2015 explaining the effect of the introduction of the Deregulation Act 2015 and in particular concerns about the ability for private hire operators to sub-contract to firms outside of the Leeds district. This report highlights some of the potential consequences and seeks approval for the Licensing Committee to recommend to the General Purposes Committee and full council delegation of enforcement functions across West Yorkshire authorities to help to minimise concerns. To agree to other authorities' enforcement powers to be delegated to this authority and to recommend to the Executive changes to the council's licensing's polices as required to enable the effective delegation of enforcement powers
- 1.2 This report sets out the background to the changes and how they will affect this Authority, particularly issues of general public safety, safeguarding and enforcement capability.

2 Background information

- 2.1 The Licensing Committee has previously been significantly involved in discussing the earlier recommendations of the Law Commission and Taxi & Private Hire licensing reform proposals and putting forward objections to some of the changes which it was felt would dilute the professional standards of licensed drivers working in Leeds or present potential increased safety risks to Leeds residents from licensed drivers (not licensed by this Authority) or the unlicensed drivers of licensed vehicles.
- 2.2 On 26 March 2015, the Deregulation Act 2015 received royal assent. This was followed by The Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015 which set out the commencement date for taxi and private hire deregulation measures. These provisions came into force on 1 October 2015. From the 1st October 2015 the Deregulation Act 2015 removes the strict control of sub-contracting a Private Hire journey from within a licensing district only to enable sub-contracting to take place on a national basis.
- 2.3 Section 11 (private hire vehicles: sub-contracting) inserts two new sections (55A and 55B) into the Local Government (Miscellaneous Provisions) Act 1976 in relation to the sub-contracting of bookings from one private hire vehicle operator to another.
- 2.4 The above is a major amendment to the 1976 Act affecting taxi and private hire drivers and operators and will have far reaching implications for private hire operators in relation to the sub-contracting of bookings from one private hire vehicle operator to another.
- 2.5 There is currently no detailed information or operational guidance on these deregulation measures available from the Government, Department for Transport or other organisations.

3 Main issues

3.1 The individual changes mean that:

3.2 Sub-contracting

This presents significant difficulties for the Council in conducting its enforcement activities and to the public in terms of service standards and potentially public safety as it means:-

- Currently officers in this authority have no powers to conduct any enforcement activity on Private Hire Vehicles not licensed by this Authority.
- Significant difficulties in verifying whether a pre booking was in place when investigating plying for hire concerns
- Potential confusion for the public who may not recognise the vehicle which turns up and cannot readily verify the credentials of the driver
- Investigations may become protracted and on a national basis.
- Timescales for summary prosecutions (6 months) would be extremely tight
- Operators could pick the least challenging authorities in which to be licensed to set up base there and simply transfer bookings from the Leeds district to that operating base
- Licensed vehicles from other licensed authorities may have minimal exterior identification potentially creating opportunities for criminals, unlicensed drivers or sexual predators to more easily slip under the radar on opportunist illegal journeys.
- Leeds City Council is reliant on other authorities having an enforcement capacity dedicated to taxi & Private Hire Licensing.
- Risk to the Section funding is that a significant percentage of drivers migrate to other less regulated authorities.

In effect this part of the Act could virtually put enforcement capability out of reach of the licensing authority.

3.3 These concerns are shared across many leading authorities but the effects are more likely to be significant in areas such as Leeds, Manchester, Birmingham and other large cities but not exclusively so. Leeds is working within the remit of the West Yorkshire Combined Authority to try and establish some common licensing standards and enforcement compatibility across the West Yorkshire area. Some of the key issues being considered by the Combined Authority are the following:-

- Safeguarding- child sexual exploitation- human trafficking– a common minimum training standard for the trade
- Driver application process– improved common minimum standards

- English comprehension - common minimum standards for new applicants, It would only apply to existing licence holders where there was an identified need with the focus being on training and development within an agreeable timeframe.
- Convictions Policy and Convictions Criteria– a standard criteria be adopted.
- Decision making-scheme of delegation - All local Authorities introduce a scheme of delegation to Officers for decision making
- Private Hire Operator Conditions – a common standard across the Combined Authority
- Private Hire Vehicle Conditions - All West Yorkshire licensed vehicles have similar recognisable door livery which deforms when removed.
- Common Byelaws— Hackney Carriages– a common standard across the Combined Authority
- West Yorkshire Centralised Licensing Database– maintaining a centralised record of licence applications, suspensions, revocations to enable greater checking at the point of revocation.
- Enforcement Capability - That each Authority sets out a clear ring-fenced budget and produces annual accounts to demonstrate to the licence holders that all money is being used lawfully and appropriately for that Taxi & Private Hire licensing function. Officers to prepare information sharing protocol and implement.
- Authorised Officer status - Licensing and Enforcement Officers able to carry out inspection and suspension powers on a vehicle licensed by any WY Authority through the scheme of delegation of powers being co-ordinated across all WY Authorities to enable more efficient enforcement action

3.4 Key Licensing officers in all West Yorkshire authorities met on 15th October 2015 to agree an approach going forward to minimise concerns. The outcome of this meeting was that it was agreed that all officers would consider whether there should be cross authority delegation of taxi and private hire licensing enforcement functions. The intention would be to work towards all authorities having this in place as soon as possible but no later than by 1st April 2016

3.5 The current functions which are delegated to licensing officers in this authority are set out in the ACE sub-delegation scheme and include the functions set out in the paragraph below: The intention would be that Leeds Licensing officers would

retain the sub-delegation of these functions but they would also be delegated to the other West Yorkshire authorities.

- Local Government (Miscellaneous Provisions) Act 1976
- Section 53(3) (a) Driver to produce his licence for inspection
- Section 58 Return of identification plate or disc on revocation etc.
- Section 60 to suspend and revoke vehicle licenses
- Section 61 to suspend and revoke driver licences
- Section 68 Fitness of private hire vehicles
- Section 73 – Obstruction of Authorised Officers
- Town and Police Clauses Act 1847
- Section 45 prosecution for plying for hire
- Road traffic Act 1988
- Section 143 (no insurance)
- All criminal matters

3.7 Each authority would retain the ability to grant and renew licenses; those functions will not be delegated. The enforcement functions would be delegated. The ability to prosecute will rest as at present with the district within which the alleged offence occurred. Officers in each West Yorkshire authority will agree to provide evidence where necessary to support prosecutions by the other West Yorkshire authorities where they have been involved in investigating the alleged offence. How this will work in practice including recompense for each authority will be set out in an agreement between all of the West Yorkshire authorities.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Consultation with the Hackney Carriage Associations and the Private Hire Trade is not a legal requirement in these circumstances but is still being undertaken to identify any issues and maintain relationships with the trades. The closure date for consultation responses is Friday 13 November 2015, and the feedback would form part of a late item application to the Licensing Committee to approve presentation of the results to the licensing committee on 17 November 2015 when this proposal is discussed.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Impact Screening Assessment is being conducted for this authority and will be available as a background document to the Licensing Committee report. The

requirements of the Scheme of Delegation in respect of the necessary skills and experience for officers taking decisions under the scheme along with the intended programme of training for officers from other authorities indicate there will be no adverse impact.

4.3 Council policies and Best Council Plan

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot

be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 Leeds City Council Taxi & Private Hire Licensing has a ring-fenced budget with all fees be retained solely for licensing purposes. There may be financial challenges which cannot be evaluated at the moment but the expenditure is closely monitored and any emerging needs would have to be met from the reserve fund or fee variations. The opportunities to seek costs from defendants will be strongly pursued by solicitors representing the Council at court.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The functions subject of this report are council functions. The local Government Act 1972 section 101(1) (b) permits delegations of council functions from one authority to another. Section 101(3) of the same Act permits that other authority to arrange for discharge of those functions by a committee, sub-committee or officer of that authority, effectively as though the function had always been theirs. The function would need to be delegated by full council (rather than by an officer or the licensing committee) and should be captured in the constitution so the delegation across authority is clear.

4.5.2 Officers in this authority would still have the delegated authority to carry out the same functions. All of this should also be captured in the relevant sub -delegation schemes of officers.

4.5.3 If policies need to be altered to reflect the above then aside from minor variations changes to policies would be on recommendation from the Licensing Committee for an Executive decision to be taken.

4.5.4 Changes to Parts 1 and 2 of the Constitution can only be approved by full council after consideration of the proposal by the General Purposes Committee and following advice from the council's Monitoring Officer (Article 15.2 of the Constitution).

4.6 Risk Management

4.6.1 If the steps outlined in paragraph 4.5 of this report are taken the risk to this authority would be low.

5 Conclusions

5.1 The recommendations are intended to facilitate Taxi and Private Hire enforcement activities across the West Yorkshire authorities.

6 Recommendations

6.1 That Members recommend to the General Purposes Committee and full council that the Taxi and Private Hire enforcement powers as set out in paragraph 3.5 of this report be delegated by Leeds City Council to the to the other West Yorkshire

authorities as well as being retained by Leeds City Council as licensing authority. To agree to Leeds receiving similar delegated enforcement powers from the other West Yorkshire authorities.

6.2 That Members recommend to the Executive that the council's licensing polices are amended to reflect and enable the effective delegation of enforcement functions to other authorities.

7 Background documents¹

7.1 De-Regulation Act 2015

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.



Report author: Des Broster

Tel: 3781561

Report of Head of Elections, Licensing and Registration

Report to Licensing Committee

Date: 17 November 2015

Subject: Safeguarding in Taxi & Private Hire Licensing – 12 month review of progress (Draft Report to Executive Board)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. In December 2014 the Executive Board considered issues around safeguarding in Taxi & Private Hire Licensing. They gave certain directions and also required that Officers reported back to them in December 2015 with the progress made.
2. Attached behind this Information Report is the draft report to Executive Board for Licensing Committee to consider. Any views expressed by Licensing Committee may be reflected in an updated Executive Board Report

Recommendations

3. That Members consider the draft Executive Board report and make any appropriate comments.

1 Purpose of this report

- 1.1 To inform Licensing Committee Members of an Executive Board Report for consideration on 16 December 2015 around safeguarding issues around Taxi & Private Hire Licensing and to enable Members to consider and contribute to that report.

2 Background information

- 2.1 Following the Jay and Casey reports into Child Sexual Exploitation in Rotherham, Licensing Committee undertook a review of policy and procedures in 2014 which contributed to a report to the Executive Board in December 2014. The Executive gave some direction and required that Officers report back to the Executive Board in December 2015.

3 Main issues

- 3.1 The draft Executive Board report is attached and members are asked to consider the content of the report and contribute to it.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The key recommendation in the draft Executive Board report is subject to consultation under another report to Licensing Committee on 17 November 2015 entitled: Policy change proposals – ‘fit and proper’ person assessment. The draft Executive Board report does not require any further consultation at this time.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An equality and impact screening assessment is not required on this information report.

4.3 Council policies and Best Council Plan

- 4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

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Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 There are no cost implications for this information report.

4.5 Legal Implications, Access to Information and Call In

4.5.1 All legal matters have been appropriately considered within the context of the individual reports connected to the draft Executive Board report.

4.6 Risk Management

4.6.1 There are no implications within the context of this report.

5 Conclusions

5.1 Any views expressed will be considered and contribute to the draft Executive Board report.

6 Recommendations

6.1 That Members consider the draft Executive Board report and make any appropriate comments.

7 Background documents¹

7.1

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Report of Assistant Chief Executive (Citizens and Communities)

Report to Executive Board

Date: 18 December 2015

Subject: Safeguarding in Taxi & Private Hire Licensing – 12 month review of progress

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 – 2013) and the significant concerns regarding safeguarding controls for Taxi & Private Hire Licensing in Rotherham led to a review of the existing arrangements and controls in place to combat safeguarding threats in Leeds. That review led to enhanced safeguarding procedures which further enhanced what we considered to be already robust procedures in Taxi & Private Hire Licensing.
2. The main issues identified in the report to the Executive Board in December 2014 were:
 - Proposals to progress to annual on-line DBS for all drivers, Operators, Proprietors, Escorts and permit holders.
 - The shortcomings of character references and certificates of good character from non EU countries.
 - Licensing resource issues and appropriate training to assist in identifying fraud.
 - Weaknesses in national legislation enabling the drivers licensed in one Authority with less exacting standards than Leeds to work as a Private Hire Driver in Leeds.
 - The need to have a common application process across West Yorkshire.

- The appropriateness of Members, MPs and Officers supplying references for drivers in the application process.
 - The increased threat to safeguarding with the Police moving away from the 'Notifiable Occupations Scheme' to a common law disclosure approach. (Appendix 1.)
 - The risks posed by proposed legislation changes under the De-Regulation Bill 2015.
3. This report gives an overview for Executive Board of the measures taken to improve safeguarding issues in Taxi & Private Hire Licensing during the previous 12 months which include the key policy change for applicants born outside of the UK; essential compulsory safeguarding training for all drivers, Operators, Escorts and permit drivers; introduction of annual on-line DBS checks; a safeguarding reporting system for drivers and operators to enable immediate enforcement action as well as those other areas identified within part 3 of the report.

Recommendations

4. Executive Board are asked to:-
5. Note and endorse the direction Officers and Members of Licensing Committee are taking regarding improvements for safeguarding in Taxi & Private Hire Licensing.
6. Approve the new 'fit and proper' person character assessment policy recommended to the Executive by Licensing Committee.

1 Purpose of this report

- 1.1 To set out the results of the review of existing safeguarding measures in Taxi and Private Hire Licensing in response to the findings of the independent enquiry into child sexual exploitation (CSE) in Rotherham and inform Executive Board of the safeguarding controls which have been built upon to improve safeguarding issues in Taxi & Private Hire Licensing and present the recommendation of the Licensing Committee for the Executive to approve the new policy in respect of the 'fit and proper' person assessment for applicants born outside of the UK. **(Appendix 1)**.

2 Background information

- 2.1 Following the Independent Inquiry into CSE in Rotherham (1997 – 2013) led by Alexis Jay OBE and the significant concerns highlighted regarding safeguarding controls for Taxi & Private Hire Licensing in Rotherham. It was found that taxi and private hire vehicles had been used extensively by those directly involved in the sexual exploitation of children to move children around the city and to other cities.
- 2.2 A review of the current arrangements in Leeds was undertaken to ensure existing controls regarding safeguarding in Taxi and Private Hire Licensing were robust and to identify any areas for improvement, which included; key policy change proposal for applicants born outside of the UK; essential compulsory safeguarding training for all drivers, Operators, escorts and permit drivers; introduction of annual on-line DBS checks; a safeguarding reporting system for drivers and operators to enable immediate enforcement action as well as those other areas identified within part 3 of this report.
- 2.3 Other concerns about the changes to the Home Office 'Notifiable Occupations Scheme' for the disclosure of relevant licensing information and the resourcing and skills of licensing staff were identified as a weakness following a review.
- 2.4 Members will note that the role of the Combined Authority in moving forward with a common West Yorkshire licensing approach was also recognised. The progress of all of these issues is set out in the report within paragraph 3 of this report.
- 2.5 Officers from a number of agencies including Taxi and Private Hire Licensing, West Yorkshire Police and Children's Services have been meeting on a regular basis within the framework of the Cross Council Safeguarding Board to review current licensing practice and procedure, and develop stronger links and information sharing.
- 2.6 The work being undertaken by the Leeds Safeguarding Children Board, Cross Council Safeguarding Board, and Adult Safeguarding Board on safeguarding issues across Leeds is complimented by the issues set out in this report specific to Taxi & Private Hire Licensing.
- 2.7 Many of the concerns raised during the Rotherham investigation about frailties in policy or procedures, decision making and enforcement were already well establish good practices within Leeds City Council's licensing regime. There are

many long standing policies and procedures which have contributed to reducing risk and these have been subject to a continuous rolling review by the Licensing Committee. That programme of review does not wait for events elsewhere and Members and Officers take every opportunity for early intervention and improvement if necessary.

3 Main issues

- 3.1 The policies approved by Licensing Committee, or the Executive, are varied and the more recent ones highlight the level of resilience put in place by this Authority. In constructing its approach to public safety and safeguarding the Council can convincingly demonstrate that it has in place decision making processes which segregate the policy making role of Members and the decision taking role of Officers, with accountability and appropriate reporting mechanism to Elected Members through public reports of the decisions taken and other issues concerning the public. This policy and decision making model was put in place by the Licensing Committee long before the concerns and issues which have been raised in some other Local Authorities.
- 3.2 The work carried out in the preceding 12 months is set out below along with individual up to date position statements.

3.3 New policies approved by Licensing Committee

- 3.4 Annual on-line DBS Update Service – The introduction of the on-line service enables Officers to conduct DBS checks, not only at the point of renewal of a licence or where a concern is raised, but also to randomly check a percentage of the driver profile each month to ascertain if there are any areas of concern revealed that had not been reported in another way. **(latest position to follow)**.
- 3.5 Private Hire Operator Conditions – requirement to undertake training as necessary; to immediately report safeguarding or other serious allegations to the Section, controls on booking facilities for ‘out of town’ Hackney Carriages and recording all journeys undertaken by them.
- 3.6 Convictions criteria for all licence holders – a complete overhaul of the previous criteria to take account of all types of sexual offending; criminal activity involving drugs, violence or dishonesty.
- 3.7 Additional compulsory Safeguarding awareness training for licence holders is in place. Licensing Committee Members and Licensing Officers also have a program of training on safeguarding issues.
- 3.8 Immediate suspension and revocation policy – reviewed and approved by Licensing Committee

Where an allegation or information is received about a licensed driver, which raises a real concern for public safety consideration is given to the immediate suspension of that licence or revocation. An immediate suspension decision means that the driver cannot drive until the suspension is lifted by the Courts or following investigation by Officers.

3.9 Closer Working Relationships With Children's Safeguarding

- 3.10 A requirement to introduce safeguarding and child sexual exploitation (CSE) awareness training was identified in 2014. That training was developed by the Leeds Safeguarding Children Board (LSCB) in conjunction with Carolyn Eyre, Safeguarding Consultant. Carolyn Eyre's services were procured by the LSCB to deliver the training which was rolled out to licensed operators, escorts and contract drivers. Resources from the LSCB commissioning budget were made available to create and deliver all of the documentation in the initial phase of the training programme.
- 3.11 To ensure a consistent approach to safeguarding and CSE awareness training, a procurement exercise was undertaken to engage the existing training provider previously procured by the LSCB. The sessions are chargeable to the licence holder but the venue costs are met by the T&PHL Session.
- 3.12 At the time of the procurement exercise, September 2015, there were circa 5,600 existing licence holders required to undertake the training. The contract reflects the undertaking by the training provider to deliver 187 sessions to ensure all existing licence holders are appropriately trained.
- 3.13 Since September 2015, approximately 500 licence holders have attended an awareness session. Sessions are being scheduled over the following 12 months at an average rate of three per month, subject to trainer availability. Drivers who fail to attend their scheduled session will need to pay a further training fee before being able to rebook. Licences may not be renewed if the training has not been undertaken
- 3.14 Licensed Escorts who have failed to attend a training session have had their licence suspended. Officers also refer drivers to safeguarding training as urgent referral following the investigation of some complaints. At the conclusion of the training every licence holder has to sign up to a commitment to a code of conduct when working with vulnerable passengers. **Appendix 2**. There has also been the introduction of guidance for Operators (**Appendix 3**) safeguarding reporting mechanisms for licensed drivers and Operators directly to Taxi & Private Hire Licensing, Section Head. (**Appendix 4 and 5**).

3.15 With the 'Combined Authority'

- 3.16 Structured meetings with other Licensing Heads to introduce common standards of:-
- Safeguarding – Child Sexual Exploitation – Human Trafficking Driver Training
- 3.17 Decision making – Scheme of delegation
- A model based on Leeds City Council policy would be developed through Officer Reports to Licensing Committee for policy approval and final decision being taken at Executive level and introduce a scheme of

delegation to Officers for decision making (currently implemented in three Authorities).

3.18 Private Hire Operator Conditions

- Common policy of control measures through conditions being applied to all Private Hire Operators licences in respect of 'Out of Town' Hackney Carriages acting as Private Hire vehicles. Already in place in the Leeds Licensing District.

3.19 Application Process

- A common minimum standard of entry to enable safeguarding improvement. (The proposals for approval in this report will be put forward as the appropriate standard).

3.20 Private Hire Driver and Operator Condition (Training)

- A condition to mirror Leeds City Council's upon driver/Operator licences that sets out a requirement to undertake remedial training as required to expected standards of service and safety during the lifetime of a licence

3.21 Private Hire vehicle conditions

- All West Yorkshire licensed vehicles have similar recognisable door livery to that used by Leeds City Council which deforms when removed.

3.22 Common Bye Laws – Hackney carriages

- Bye Laws that currently exist across most Authorities and have usually been in place since the 1970s. They do not meet today's needs. Officers recommend that there are common bye laws across all of the Authorities which will introduce proportionate additional control measures.

3.23 Enforcement capability

- That each Authority sets out a clear ring-fenced budget and produces annual accounts to demonstrate to the licence holders that all money is being used lawfully and appropriately towards improving the licensing and enforcement function.
- Officers to prepare information sharing protocol and implement to reduce bureaucracy and unnecessary Data Protection concerns.
- 'Authorised Officer' Status - Currently Licensing and Enforcement Officers are only able to carry out inspection and suspension powers on drivers and vehicles licensed by their own Authority. This will be overcome by the scheme of delegation with powers being given Officers from other Authorities to enable more efficient enforcement action across each West Yorkshire licensing area.

3.24 Convictions policy and Convictions criteria

- A standard convictions criteria be adopted which recognises the primary purpose of legislation is public safety and set clear guidelines to decision makers and enables applicants to understand before they apply how their criminal past might be considered.
- The national licensing legislation is due to change in October. Licensed Private Hire Operators in one Authority will then be able to sub-contract to licensed Operators in another Authority. If there is inconsistency in policy and criteria standards it will mean that some drivers will choose the lowest standard and then work in another Authority area. This can be undermining and considered bad practice in light of the Casey Report.

3.25 English comprehension

- This is considered a key element in customer service, understanding legislation and facilitating training. The acceptable level would be ESOL level 3 which is the UK citizenship level with the condition being applied on all new applicants for licences and only applying to existing licence holders where there was an identified need with the focus being on training and development.

3.26

With the West Yorkshire Police

- Introduction of Senior Analyst post secured by Taxi & Private Hire Licensing funding from the West Yorkshire Police staff. The analyst would be able to interrogate a variety of data bases to present early intelligence to the section, the Police or associated agencies to reduce the safeguarding threat.
- Closer and improved operational working with the Police on the streets in the night time economy or in identified risk areas. There has been a significantly higher commitment to a joint working program.

3.27 **Taxi & Private Hire Resources**

3.28 A review of staff skills and responsibilities and administrative issues constantly confronting staff has resulted in positive outcomes in terms of more resilience within a re-structure and increased responsibilities and training for staff to enable a higher level of scrutiny at the point of application.

3.29 An increase in establishment has been approved. **Appendix 6** details the new positions. The temporary posts are to deal with the introduction of annual on-line DBS checks. Members will recall that it was envisaged that the program of work would take 16 months. If staff retention is successful and there is an improvement in driver attendance at appointments, or drivers attending with the correct documentation, that the program should be completed by the end of January 2017 and matched to the licence renewal timetable.

3.30 Enforcement capability has been increased with the introduction of a new rota which extends the number of nights worked during each week and working hours which now extend until 4:30am.

3.31 Overview of the Section and Officer development

- Cross Council safeguarding sub-group (CSE and licensing issues) reporting directly to the Assistant Chief Executive and attended by Deputy Director Children's Services, Executive Officer Partnerships (Citizens and Communities), West Yorkshire Police – Community Safety Superintendent.
- LADO monitoring of Safeguarding concern referrals investigations by Taxi & Private Hire Licensing.
- Officer reports to Licensing Committee twice yearly on decisions and operational matters including safeguarding.
- Cross Council safeguarding Lead Officer briefing and awareness events.
- LeedsWatch CCTV installed in Taxi & Private Hire Licensing enforcement office to more readily secure evidence of offending or suspicious activity by licensed or unlicensed vehicles.

3.32 Concerns and challenges

- 3.33 The Government introduced the De-Regulation Act on 1 October 2015, the purpose of this was to remove layers of bureaucracy but in doing so a consequence was that licensed Operators can now sub-contract a booking outside of the licensing district. It is not unfair to say that the standards set by Leeds are not met by some Authorities on a national picture. Officers feel this is a risk and also presents potentially significant difficulties in investigating complaints and allegations.
- 3.34 The Chair of Licensing Committee approved a media release to highlight the concerns of Members about the new legislation. **Appendix 7.**
- 3.35 The Combined Authority approach to introducing common standards across the West Yorkshire district is an area which will require a very positive attitude to the necessity for change in all of our local Authorities and an understanding that whilst the safeguarding threats may increase across the region the biggest challenges will be in Leeds because of the very nature of the night time economy here.
- 3.36 The decision making processes in all Authorities must be robust and purposeful with the singular primary objective of public safety.
- 3.37 Neither the Local Government Association or the DfT produced any advice to Local Authorities about enforcement issues prior to or following the introduction of the De-Regulation Act, and it does seem to be the case of 'see how it goes'. That viewpoint may also be reflected in the Government response to Law Commission proposals on the reform of Taxi and Private Hire Legislation, which did not proceed through the House of Commons in the 2014/2015 sittings.
- 3.38 A debate was undertaken in the House of Commons on 15 September 2015 primarily on issues surrounding 'London Black Cabs' but also extending to the role of Private Hire . The Government response in Hansard is ' *The Law*

Commission is still work in progress. We recognise its importance, and I am happy to commit to maintaining the Department's energy in delivering it' . There was further comment from the Government Minister 'in conclusion, the Government are fully aware of the changes and challenges affecting the taxi and private hire vehicle industry in London and elsewhere in the country.'

There was no other commitment or direction of change indicated.

3.39 Members of the Children's and Adults Safeguarding Scrutiny Boards considered a draft of the Executive Board report to be presented to the Executive on 16 December 2015. The working group discussed all of the attendant issues and concern was expressed by the working group about the significant risk due to the Deregulation Act. It was acknowledged that whilst West Yorkshire Leaders in principal have agreed to apply the same safeguarding standards as Leeds this has yet to be achieved.

3.40 In summary the working group recommended the following:

- 1) The need to implement robust safeguarding and protections policies across the region is essential. The working group was advised that both the Children's and Adults safeguarding boards are operating on a West Yorkshire basis. The working group recommends that the support of the Regional Safeguarding Boards be obtained to influence change across the region and that this option to drive change be reflected in the Executive Board report.

Action required: That Executive Board direct that LCSB and LASB recognise the concerns and views of the Scrutiny Working Group and report back with developments to the Cross-Council Safeguarding Group

- 2) The working group were advised that a review of the current arrangements in Leeds had been undertaken to ensure that controls regarding safeguarding were robust under the scrutiny of the Executive Board, the Licensing Committee and the Cross Council Safeguarding Board. It is recommended that the Executive Board report provides a clear focus on risk (current or identified during this review) and the steps that are to be or were taken to minimise risk appropriately and safely. This should provide examples if possible and a summary of the action taken protect and safeguard.

Action required: That Executive Board endorse and note the direction of the Licensing Committee and Officers are taking regarding improvements for safeguarding in Taxi & Private Hire Licensing.

- 3) With regard to paragraph 3.1 draft Executive Board report, this should reference the risks associated with decision making models (with reference to the Jay Report) and identify if existing procedures minimise risk in policy, decision making and implementation.

Action required: Note the observation and the current policy and decision making model

- 4) Safeguarding training is required for members it was suggested that reference is made to the updating, training and upskilling of licensing staff.

Action required: Note the observation and the arrangement already in hand.

- 5) The working group support ongoing communication work by signage in cabs to advise people what to do if they have concerns or feel they are at risk.

Action required: That Officers consider the issue and report to Licensing Committee.

- 6) It was felt that the report lacked focus on the transportation of vulnerable adults to the extent it did on children and it was suggested that Adults Safeguarding Board be added to the posters.

Action required: That Executive Board direct that LSCB and LSAB consider the concerns and views of the Scrutiny Working Group and report back with developments within an agreed timescale to the Cross-Council Safeguarding Group

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 All of the existing policies have been the subject of prior consultation and feedback was considered by the Licensing Committee prior to final decisions or recommendations to the Executive.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.2 Equality, Diversity, Cohesion and Integration Screening Assessments are carried out on all policies agreed at Licensing Committee. These are used to inform decision making and are available as Background Documents.

4.3 Council policies and Best Council Plan

- 4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 A review was undertaken of the resource levels and skills profiles of staff by an experienced Revenue and Benefits Officer which resulted in creating four new posts to provide greater resilience and integrity checking along with an increased skills and knowledge base for fraud detection.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The Licensing Committee Report of 6 October 2015 and the approved minutes of that meeting inform the Executive that the advice from Counsel about the proposed policy can be summarised in the words of Counsel as follows,

'The net effect (of the above) is that the policy is, in my view, lawful in terms of what is required of applicants, and how that is communicated to them. It is clear and unambiguous' . (The emphasis is Counsel's)

4.6 Risk Management

- 4.6.1 The very nature of the role identifies that the risk will probably remain in the medium to high category despite all of the measures the Council has in place. It is perceived that risk will increase following the introduction of the De-Regulation Act.
- 4.6.2 The two strongest control measures are the 'fit and proper' assessment conducted at the point of application (which includes the proposed policy change recommendation in this report) and the annual on-line DBS checking facility. However, the latter is dependent upon the appropriate release of information by the Police. The introduction of increased powers for Officers on all West Yorkshire licensed drivers and vehicles can also contribute positively to the public safety issues but there has to be a will, expressed by the Combined Authority, of a joint determination for robust decision making and enforcement action.
- 4.6.3 Lobbying Parliament around the concerns of the De-Regulation Act and the issues around appropriate disclosure to Licensing Officers by the Police have been explained to the Police and Crime Commissioners Office. The concerns were well received on a safeguarding basis and that office is willing to support Local Authorities in making appropriate representations when appropriate evidence is presented to them. Officers will concentrate on providing appropriate evidence.

5 Conclusions

- 5.1 Whilst much positive work has been carried out the momentum has to be maintained and enforcement challenges met. The De-Regulation Act draws into focus the very real necessity for all West Yorkshire Authorities to have sufficient resources, skills and focus on the importance of safeguarding within the licensing environment.
- 5.2 There is a good deal with compliance within the Leeds licensing trade which can be undermined by the effects of the De-Regulation Act and associated 'out of town' licensing issues.

6 Recommendations

- 6.1 Executive Board are asked to:-
- 6.1.1 Note and endorse the direction Officers and Members of Licensing Committee are taking regarding improvements for safeguarding in Taxi & Private Hire Licensing.
- 6.1.2 Approve the new 'fit and proper' person character assessment policy recommended to the Executive by Licensing Committee.

7 Background documents¹

- 7.1 Executive Board Report – Safeguarding in Taxi and Private Hire Licensing - 17 December 2014

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

- 7.2 Alexis Jay Report – The Independent Inquiry into Child Sexual Exploitation in Rotherham (1997 – 2013)
- 7.3 Report on the Inspection of Rotherham Metropolitan Borough Council - Louise Casey CB – 4 February 2015

Report of Head of Elections, Licensing & Registration

Report to Licensing Committee

Date: 6 October 2015

Subject: Policy change proposals – ‘fit and proper’ person assessment

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Members are advised that this report results from concerns previously expressed about proper determinations of character in the ‘fit and proper’ person assessment at the point of application. This is a policy decision report which will in turn, contribute to an update report (Safeguarding in Taxi & Private Hire Licensing) due before Licensing Committee in November 2015 and Executive Board in December 2015.
- 8 A potential weakness in the application process has been identified in respect of the applicant’s personal information available to Officers when making a ‘fit and proper’ person assessment, particularly in respect of non UK citizens.**
- 9 Like other UK authorities and other significant establishments, this Authority has been reliant on information supplied personally by an applicant in the form of a ‘Police certificate of good character’ from foreign non EU countries, or personal references which lack professional focus, credibility, or opportunity to verify them in a credible way. Officers have obtained credible information regarding potential for such fraud with foreign Police disclosure documents.**
- 10 The information in this report sets out a new policy and procedure to be followed by Officers in carrying delegated decisions on personal licence**

applications and assures Members that supportive legal advice has been obtained from Counsel.

Recommendations

- 11 That Members consider the report, contribute any considered points before agreeing the policy for final approval by the Executive.**

1 Purpose of this report

- 1.1 To identify to Members licensing controls which will contribute to reducing the risk of criminal behaviour or, in particular, safeguarding concerns to the travelling public by a more appropriate point of entry 'fit and proper person' test for applicants of Hackney Carriage Driver (HCD), Private Hire Driver (PHD), Private Hire Operator (PHO), Permit Driver Licences or Care Escorts. The latter two groups are not licensed drivers but are involved in the driving or escorting of children on Council contracts and have to meet the same threshold on the 'fit and proper' person test as licensed drivers.
- 1.2 To inform Members of the responses to two stages of consultation; the first following outline considerations in 2014 and secondly following release of these policy proposals in September 2015. *(This is to follow when consultation closes).*
- 1.3 Members, having debated the issues, and having considered the consultation responses have to balance the needs of public safety, Safeguarding, CSE concerns and the statutory responsibility of the Act against the human rights of individuals and any existing European employment conventions, taking into account specific legal advice.

2 Background information

- 2.1 There is little doubt that licensing authorities hold a significant responsibility for carrying out a thorough examination of applicants at the point of application and then exercising appropriate diligence during the life time of a licence. The threshold for the point of entry to obtaining a PHD or HCD licence across the country varies significantly, however the process in Leeds is not dissimilar to some other licensing Authorities.
- 2.2 Currently the point of entry measures in Leeds include:-
- DBS check (or alternative arrangements)
 - English literacy and numeracy screening
 - Group 2 medical
 - Driving Standards Agency (DSA) test
 - Training and testing on equality, conditions, legislation, geography of Leeds.
- 2.3 In addition to the point of entry measures, the council has additional measures in place to monitor licence holders after the licence has been granted. This monitoring includes: -
- **REQUIREMENTS TO REPORT CONVICTIONS & ASSOCIATED INCIDENTS**
 - (a) Any of the following events must be reported in writing to the Taxi & Private Licensing office within 72 hours during the currency of a licence giving full details:-
 - (a) any conviction or finding of guilt (criminal or driving matter);
 - (b) any caution (issued by the Police or any other agency);

- (c) issue of any Magistrate's Court summons against them;
 - (d) issue of any fixed penalty notice for any matter;
 - (e) any harassment or other form of warning or order within the criminal law including Anti-Social Behaviour Orders or similar;
 - (f) their arrest for any offence (whether or not charged)
- (b) When required a licensed driver will undertake enhanced Criminal Records Bureau (CRB) vetting at his/her own expense and within a timescale set by the Council. Such a requirement may be on the basis of the Council's responsibility to ensure continued public safety and monitor licensed drivers.

- Yearly on-line Disclosure and Barring Service (DBS) check
- Appropriate Police disclosure supplied to the authority by the police.
- Public complaints
- Enforcement activity

3 Main issues

- 3.1 Members are aware that the majority of licensed drivers are from ethnic minority groups entering the country from India, Pakistan, Afghanistan, Africa the 'middle east' and from EU member states.
- 3.2 The UK DBS process is a credible means of checking on a long term UK resident's criminal activity, whether convicted or otherwise. One difficulty arises where a person has not been resident in the UK for a period of time which would not allow a proportionate assessment to be made of their character based on DBS disclosure alone.
- 3.3 Dealing with EU Member state applicants first, there is a conflict in the standards of recording, retaining and disclosure of information regarding criminal activity across EU member states and a further problem of accessing that information for licensing purposes. The primary route for obtaining information from EU Member states is in relation to criminal proceedings. Licensing or employment checks are not as easily obtainable by local Authorities and may not be approved for release.
- 3.4 Licensing Authorities across the country currently may have had to satisfy themselves with 'certificates of good character'. These documents take a variety of forms but, generally, they are not able to be verified by licensing staff. The integrity of the document itself, or the relevance of a genuine document, may undermine the principles of a safe licensing regime. What an individual country might regard as 'recordable' or are willing disclose can be entirely different to the UK DBS.
- 3.5 The issue of 'certificates of good character' from outside of the EU is even more of an issue and concern for the Authority. Applicants produce documentation which is not auditable. If the documentation has been obtained through a Consul or Embassy the question still has to be asked of "what value is it" if the host country does not properly recognise, record or properly investigate certain types of crime.
- 3.6 Concerns about the distinct lack of robustness in this arena by some none EU countries is considered to be of significant importance that further robust checking measures are in place for none EU applicants.

- 3.7 Legal advice has been taken from Counsel on the sensitivities and legalities around these issues with emphasis being placed on the primary purpose of the legislation which is public safety and not the opportunity for employment.
- 3.8 Officers feel it is essential that more integrity is built around this assessment process and would seek to require none UK applicants to obtain full criminal disclosure from their country of birth, other countries they have resided in and any other auditable supporting information as required by the Authority to determine the 'fit and proper' test more appropriately.
- 3.9 The areas of concern associated with applications, although mentioned in earlier paragraphs are set out in the policy proposal document at **Appendix 1**.
- 3.10 Members need to have a clear understanding that in recommending this policy for Executive approval it may cause some applicant frustrations which will be felt by Elected Members across the Council. Officers will need positive support in explaining the necessity for these measures to applicants relative to their intended role, their responsibilities and the Council's Safeguarding responsibilities.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The decision to proceed with consultation before bringing proposals to Licensing Committee is a departure from how we would usually proceed with consultation. This change in process emphasizes the need to proceed quickly due to safeguarding concerns. This approach was taken after legal advice and also the agreement of the Chair of Licensing Committee.
- 4.1.2 The response to the consultation process to date appears at **Appendix 2**. The feedback has been edited to remove none relevant material. The full consultation responses will be updated immediately after the closing date for consultation.

4.2 Equality and Diversity / Cohesion and Integration

4.2.3 *Kate to complete.*

4.3 Council policies and Best Council Plan

- 4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.4 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.5 Safeguarding children and vulnerable adults:

4.3.6 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.7 The policy would create more administrative burden on the licensing function but this issue is a further contributory factor to an organisational restructure in respect of resource capacity complained of by the trades.

4.5 Legal Implications, Access to Information and Call In

4.5.8 Counsel advice has been obtained and whilst it is not intended to share all of that advice Members and the Executive will feel reassured by the following points which are direct quotes from Counsel, with any emphasis being that of Counsel.

4.5.9 *“It is abundantly clear from reading the documentation that a great deal of time and thought has been expended in producing the draft policy. It is equally clear*

that the three documents expose a clear progression in that the draft policy presents a much 'tighter' framework for the licensing of drivers within the city.

- 4.5.10 *"In my view, the policy as presented in draft form is entirely lawful.*
- 4.5.11 *"In my view, the draft policy distinguishes in a clear and concise way, and further presents the rationale / logic for doing so. Put simply, the applicant knows what is expected of him and why. The treatment / process of a British applicant is necessarily different to that of a non-EU national.*
- 4.5.12 *"It is abundantly clear that Leeds City Council has taken great time to understand the plight of certain potential applicants and I make specific reference to the paragraph which refers to asylum seekers or refugees who have been granted British citizenship. The policy reflects a regulating authority which understands that not all applicants can be treated the same.*
- 4.5.13 *"In my view, the policy is drafted in such a way that achieves the following:*
- i. It is sufficiently clear so that prospective applicants understand what is required of them and why*
 - ii. Taking this further, there is nothing ambiguous about what is included within the draft*
 - iii. All potential applicants, regardless of their background can achieve a licence to drive a taxi within Leeds (in other words it does not exclude based on nationality and cannot therefore be discriminatory)*
 - iv. The policy is necessarily tight, for it requires applicants to provide a lot of information (but this is reasonable in light of the job they would be performing and the importance of safeguarding overall)*
 - v. It distinguishes properly between different applicants and tells them why it does so*
- 4.5.14 **"The net effect of the above is that the policy is, in my view, lawful in terms of what is required of applicants, and how that is communicated to them. It is clear and unambiguous.**
- 4.5.15 *"In my view there are sound reasons for the provision of all the information required pursuant to the policy. In legal terms there is a legitimate aim which is proportionately achieved through the policy as drafted.*
- 4.5.16 *"... it is legitimate and proportionate to have an applicant provide information at his own cost and in the native language of the decision maker. It is proportionate to require 2 character references. I see nothing in any of the requirements under any of the different heads of applicant that can be properly termed disproportionate or unreasonable or unfair.*
- 4.5.17 *"In my view the policy as drafted is not discriminatory*

4.5.18 *“In my view, those instructing are right to include the fact that the council may reserve the right to require a statutory declaration.*

4.5.19 *“... the policy is helpfully drafted in a way that enables the applicant to go and seek the information required of them.*

4.5.20 *“... the policy is clear, concise, flexible, that it furthers a legitimate aim and is objectively justifiable.”*

4.6 Risk Management

4.6.21 It is considered that the policy proposals are very necessary to contribute to the Council’s safeguarding responsibilities.

5 Conclusions

5.7 This is a difficult and sensitive area of licensing and Members are better informed and more able to make proportionate decisions, balancing public safety requirements, when they have the benefit of legal advice and consultation feedback and the viewpoint of experienced Officers.

6 Recommendations

6.1 That Members consider the report, contribute any considered points before agreeing the policy for final approval by the Executive.

7 Background documents²

² The background documents listed in this section are available to download from the Council’s website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Policy proposals

UK citizens, UK citizens with limited residency, Non UK – EU citizens, non EU citizens, asylum seekers/refugees.

Background to policy proposals

The role of taxi or Private Hire driver has been identified nationally as one which can present significant safeguarding threats if strong assessment measures are not in place at the point of a licensing application. The 'fit and proper' person test is particularly relevant in respect of the increased necessity to be mindful of inappropriate persons applying for licences who may misuse their position of trust and present a potential safeguarding threat.

The necessity is to increase the measures within Taxi & Private Hire Licensing decision making processes to ensure an applicant is a 'fit and proper' person. In doing so, policy has to be proportionate in balancing the statutory requirement of the relevant act and Human Rights legislation.

The relevant part of the Local Government (Miscellaneous Provisions) Act 1976, is:-

Section 51

“a district Council shall not grant a licence

(a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least 12 months been authorised to drive a motor car, or is not at the date of the application for a driver' licence so authorised”

The Council receives applications for Private Hire driver and Hackney Carriage driver licences from a range of nationalities. Applications from long standing UK nationals present no significant difficulties in determining the 'fit and proper' person assessment in respect of convictions, cautions or other relevant background information supplied at the discretion of the Police. A lifelong UK citizen will have a discernible DBS history unless they have lived outside of the country.

When a person has only recently been granted UK citizenship obtaining the same sort of credible information can be difficult and even more difficult to verify, especially when it originates from a non- EU country.

Supporting references are generally vague with none or little meaningful information relevant to the responsibilities of the role applied for. It is often the case that the authors of such references have a personal, community or business interest in supplying a favourable reference

A non UK but EU citizen may have some criminal records history in their own EU country but there are significant differences between EU member states where, on the one hand, Romania has a very rudimentary system and on the other hand established EU member states may have an equivalent of the Disclosure and Barring Service but operate it in a different way. Other states may have a different form of the Rehabilitation of Offenders Act, which may discount convictions relevant to the role of taxi driver at a much earlier stage.

Sentencing policy in other countries may be somewhat different and may cause some conflict with the Council's convictions criteria policy which sets assessments by the seriousness of offence. Finally, in the UK Chief Constables can disclose to Licensing Authorities information they think relevant to the role being applied for. For example:

- “1 - *Mr A has been arrested twice whilst in a vehicle that was being used in the trafficking of drugs.*
- 2 - Mr B was found to have formed a relationship with a teenage boy and girl and taken them back to a bedsit flat rented by a group of Private Hire drivers where they claimed they were indecently assaulted when they slept. No court proceedings were taken by the Police in respect of these matters.”

The Council can and does consider such 'other relevant information' and would question the applicant about it and also seek further information from the Police. The Council is able to do this because the processes in which such applications are determined are a civil process and decisions are based on the balance of probabilities. This enables local Authorities to have a much tighter net to safeguard the public. The majority of such information may not be disclosed by non UK authorities because it is not registered as a conviction. This places the Council at risk in conducting assessments on non UK applicants.

Officers feel that a five year UK DBS history is a good milestone but understand that it may not be achievable by all applicants and there is a concern that a blanket policy stipulating such a requirement may be deemed discriminatory and open to challenge.

Even with a 'five year' history there may still be the need to obtain a longer span of an individual's history to conduct an appropriate assessment.

The difficulties for some non EU citizens are magnified with those applicants from Afghanistan, Iraq and Iran, for example, where a criminal record database is not held. The position is very similar for many African countries.

In countries where there is no central data base of criminal convictions information may be sought from the local police station. Such documents usually appear under the heading of '*police clearance certificate*' or '*character certificate*' or similar titles.

Some of the potential solutions to obtaining character information can leave decision makers exposed when reliant on the integrity of the source of the documentation; not

being able to validate or interrogate that information or trying to prove the authenticity of the document.

There is even greater difficulty in the case of asylum seekers or refugees who have been granted British Citizenship would fear reprisals against their family remaining in that country. A feature amongst some asylum seekers is that they destroy all their identity documents so they cannot be returned to a particular country. It is issues around such circumstances where it is almost impenetrable for a Local Authority to obtain any background information.

All of these issues exist across West Yorkshire.

Policy proposals

It is felt that the statutory test to demonstrate somebody is a 'fit and proper' person should be the determining factor and the responsibility for that rests with the applicant.

In setting a standard the following are put forward as standard requirements at the point of application.

Lifetime UK citizens

UK enhanced DBS check with additional information as required at the discretion of the Council.

UK citizens born outside of UK

- UK enhanced DBS check
- Additional information as required at the discretion of the Council. This may vary depending on the length of time the applicant has been resident in the UK.
- Non UK Disclosure must be in English and interpreted by someone on Her Majesty's Courts Interpretation Services list.
- The Council reserves the right to require a statutory declaration from a UK solicitor in a format prescribed by the Council.
- Applicants have to conduct such transactions through the relevant national embassy or in accordance with UK DBS guidance.

Question:- *"I am a UK national who was not born in the UK. My prospective licensing authority in the UK is asking for a criminal record check for my time spent abroad for public safety and safeguarding purposes. Who should I contact?"*

Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Question:- *“I am a UK national who needs to get a police certificate for my prospective licensing authority for public safety and safeguarding purposes? Who should I contact?”*

The ACRO Criminal Records Office (ACRO) issues Police Certificates to people who want to emigrate or have been required to produce a Police Certificate (sometimes known as a “Certificate of Good Conduct”) by an Embassy, High Commission or Consulate. The certificate details whether or not the applicant has a criminal record in the United Kingdom.

Call: 0845 60 13 999 (International Callers: 0044 1962 871 111)

Email: customer.services@acro.pnn.police.uk .

Further details can be found at http://www.acro.police.uk/police_certificates.aspx

Non UK – EU residents

- UK enhanced DBS check
- DBS certificate from home country with all information submitted via the licensing office to enable checking of all identity information (this corresponds with the UK DBS procedure).
- 2 character references from a UK resident of a professional background who has known the applicant for more than 2 years.
- Non UK Disclosure must be in English and interpreted by someone on Her Majesty’s Courts Interpretation Services list.
- The Council reserves the right to require a statutory declaration from a UK solicitor in a format prescribed by the Council.
- Applicants have to conduct such transactions through the relevant national embassy or in accordance with UK DBS guidance.

Question:- *“I am a foreign national / UK national who has spent time abroad. My prospective employer in the UK is asking for a criminal record check for my time spent abroad. Who should I contact?”*

Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Non UK – EU applicants living in multiple countries

In addition to the above requirements the Council may require non UK DBS disclosure from any country they have lived in for 3 months or more.

Question: *“I am a foreign national / UK national who has spent time abroad. My prospective employer in the UK is asking for a criminal record check for my time spent abroad. Who should I contact?”*

Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Non EU Countries

Question: “I cannot obtain a criminal record certificate from the relevant country. What happens now?”

It is not always possible to obtain a criminal records certificate from countries that do not have functioning criminal record regimes or refuse to provide these to anyone other than their own citizens. In the absence of available checks, we would expect applicants to obtain as much information as possible in the form of references or other evidence before deciding whether or not to grant a licence. The Council has strong responsibilities for safeguarding and protecting children from Child Sexual Exploitation and will make its final decision in balancing the statutory ‘fit and proper’ person assessment and the information available to them about the applicant and how that information can be validated.

‘Police character certificates’ or equivalent should be obtained via the Embassy of a country they have lived in for a period longer than 3 months, or as described in the earlier process under the heading “*UK citizens born outside of UK*”.

Similarly, all of the information provided to the Embassy would need to be submitted via the Taxi & Private Hire Licensing Office in the format prescribed by the relevant Embassy or agency working on behalf of the Embassy.

Statutory Declarations

The purpose of requiring a statutory declaration is to enable the Council to demonstrate that it has taken significant steps to ensure as far as is practicable the credibility of information supplied to it within a legal process, it should also demonstrate to the applicant this significant seriousness of not telling the truth or providing misleading information during an application process to obtain a licence from the Council.

Where the Council requires a statutory declaration it must be obtained from a practising UK solicitor at the cost of the applicant and in a format prescribed by the Council.

References

The Council may also require references from the applicant in support of any part of the application process. It is important that the references are honest accounts and a professional assessment of the applicant in the context of the role they are applying for. The author of the reference must understand the concerns of the

Council in respect of public safety, safeguarding and the prevention of Child Sexual Exploitation.

The reference must demonstrate that the author has full knowledge of the applicant's background and criminal history (if applicable) so they can consider their own position prior to supplying a professional reference. References which are vague, non-specific to the context of the role, supplied by relatives or someone who cannot demonstrate detailed examples of the applicant's character will not be considered. The author must have known the applicant for a minimum of 2 years.

Leeds City Council has a policy which does not favour references being supplied by Councillors, Members of Parliament or Officers of the Council.

Fees and costs incurred

Any fees would be payable by the applicant in addition to the standard application fees set by the Council.

Timescales

All references, statutory declarations or convictions history in any format supplied to the Council must be less than 3 months old from the date supplied by the disclosing authority.

Other points of guidance

ACRO Criminal Records Office:

<http://www.acro.police.uk/home.aspx>

AccessNI:

<http://www.nidirect.gov.uk/index/information-and-services/employment/employment-terms-and-conditions/starting-a-new-job/accessni-criminal-record-checks.htm>

Disclosure Scotland:

<https://www.disclosurescotland.co.uk/>

Making a Subject Access Request

<https://www.gov.uk/copy-of-police-records>

Subject Access Requests (Metropolitan Police area):

<http://content.met.police.uk/Article/Making-a-subject-access-request/140000585548/140000585548>

Disclosure & Barring Service:

<https://www.gov.uk/disclosure-barring-service-check>

How to Obtain Criminal Records Checks for Overseas Applicants

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Department for Education (DfE):

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418686/Keeping_children_safe_in_education.pdf

First consultation feedback

- In my view criminal convictions which are spent should not be a barrier to obtaining a licence, even though they will still show up on CRB check however anyone who has perpetrated serious crimes, IE. Sexual crimes of any nature, murder, etc etc especially child related crime. Further more any non resident UK should not be eligible to apply for a licence for 2 years and also obtain a CRB check from there country of origin.
- In view of the potential vulnerabilities of many taxi and private hire customers, encompassing learning disabilities, autism, acquired brain injuries, dementia and physical impairments, its is essential that effective control of vetting and licensing remains wholly in the control of the Local Authority licensing sections if the safeguarding of customers is to be secured and guaranteed.
- DBS checks are carried out by the same organisation. If he/ she has already got a DBS check the council would be in a strong position to say that we have carried out all necessary precautions to make sure the applicant is a fit and proper person. I know teachers that also work in the private hire industry. A character reference from the head teacher as well may be a good idea as they are people in authority.
- DBS checks are essential
- I cannot see how criminal disclosure from drivers born outside the UK will help as not all countries law enforcement agencies operate to the same standard as the UK's.
- Anybody wanting to be a taxi or private hire driver should not be against a check on their background from where they come from, for the safety of the traveling public.
- All taxi and private hire drivers should be able to provide a complete history of themselves for at least 5 years prior to the granting of a licence. Failure to do this and allow some drivers to give only a partial history or rely on character references are putting the public at risk. We could end up with a criminal being sponsored by a criminal if certain drivers are exempted from a full 5 year DBS
- Past record of drivers should speak for it self, those drivers who have previous convictions should be checked more often .self declaration should be sufficient and a dbs every five years should be enough rather than increase cost to all individual drivers,
- It is important to understand that Leeds taxi licensing is out of touch as private hire driver should be able to pick public when hailed when there are no other public transport available without being in fear of getting prosecuted. The main responsibility of licensing the trade is to provide safe services for our members of public to get to their destination safely this includes driver being checked for suitability and vehicle being fit and proper to carry passengers. So why private hire is restricted to provide this when the public is in need of this service in absence of public transport. The booking should be able to be taken by driver

n forwarded to operator for registration. Pls consider this and breakaway from old practices that are not fit for this day and age.. Modernise your rules and reduce costs

- Leeds is a wonderful & safe place to work
- I think taxi or privert hire drivers should be frim the area there are working and not come from other areas to work takes all the work away from all the people in that area. For example if you work in Leeds you should live in Leeds and not be able to come from Bradford or other places to work here. Thanks
- When a licensed driver is issued a badge then the police must be informed as if theirs a issue then police will email licensing....
- every effort should be made to make sure the drivers are of good character and are able to provide the public with all round excellent service, as you know this is not always the case there are too many bad drivers out there with bad attitudes.The process for taxi/private hire is far too easy. A lot of drivers can not speak English and do not have much knowledge of the Leeds area.
- EU residents and non EU residents should not be able to obtain a licence if they have not been resident in the UK for a minimum of 5 years. This is the only way to have a robust policy and make sure people are fit and proper.
- These are hard working people always transport us all the time, I hope no criminal enter this country any time, when ever we travel any where these are those who take us, we shall give them respect and love instead of making life more difficult for them.
- All check for UK and non UK residents should be made at the application for license and a further 'homeland' check for non UK residents. The all shall have one every 5 years
- when apply for the dbs check it only should be in this country rather then asking from the country the person born, just delaying the process and wasting the time.
- DBS checks from other countries may not be upto par with this country and may have little or no value on the paper it's written on. In these circumstances the citizen must be living in this country for a minimum of 5 years to obtain a licence and to be considered fit and proper.
- For God sake make at least only one law who give a little safety a little favoure a little confidence a little relieve to a taxi driver don't make all law against them



Code of Conduct

When working with Vulnerable Passengers

These guidelines aim to promote good safeguarding practice for drivers and staff working with vulnerable passengers in the taxi or private hire trade. It is recommended that the following safeguarding principles should be embedded into staff/driver training and practice:

- All drivers should register in and out of shifts.
- Drivers/Escorts should carry photo ID at all times.
- The booking process should include a check for vulnerability issues so that provision can be arranged.
- When making a journey with vulnerable passengers, photo-identification should be produced to the carer responsible for the vulnerable person. If necessary, the driver/staff should obtain a record of the carer's contact details if there is no chaperone.
- Never double up passengers unless formal consent and authorisation has been obtained.
- If a vulnerable passenger is refused service, the Operator should be informed so that alternative arrangements can be made.
- Always ask if a vulnerable passenger needs assistance, do not assume.
- All staff should remain professional at all times and should not:
 - Touch a child/young person unnecessarily or inappropriately;
 - Make offensive or inappropriate comments (such as the use of swearing or sexualised language);
 - Behave in a way that may make a vulnerable passenger feel intimidated or threatened
 - Ask any questions of a personal nature, including those about the passenger's relationships
 - Attempt to obtain or misuse personal details from the business about a child (for example communicating with a child at their postal address, or by social network, internet or mobile telephone or by using any other information disclosed as part of placing a booking, or obtained by any other aspect of the business).
- As with all professions, if you are concerned about someone's conduct, report your concerns to your Operator.
- Escorts should inform the Operator and the Designated CP Lead at the relevant school or children's home.
- If you are concerned about the immediate safety, welfare or behaviour of a child or vulnerable person, or you believe a crime is being committed, you must report this to the police (if it is an emergency dial 999), and to your Operator.

Appendix 2

I have received training from Leeds City Council and agree to abide by these guidelines and am committed to the safety and welfare of children and vulnerable passengers.

SIGNED:..... PRINT NAME:..... DATE:



Guidance for Operators

Principles for Taxi/Private Hire Vehicle Drivers, Escorts or Operating Staff

These guidelines aim to promote good safeguarding practice in local taxi or private hire businesses that involve providing a service to vulnerable passengers. It is recommended that the business manager/ Operator implement the following principles in training and operational practice:

- At the point of booking, a vulnerable passenger risk assessment should be undertaken and recorded in writing. This should inform your operating policy and staff briefing in relation to the protection of the vulnerable passenger and the driver. (This can be as simple as a brief note on the Operators computer system used by dispatchers).
- All licenced staff should be trained by the Taxi and Private Licencing Section at Leeds City Council, and staff training records should be maintained.
- Employment records should be maintained for drivers, including name, address, date of birth, national insurance number/documentation giving permission to work in the UK, contact telephone number and vehicle registration numbers; proof of identity, for a driver that isn't licenced by Leeds City Council.
- Drivers/Escorts should be required to register in and out at each shift and these registers should be maintained as part of your due diligence records.
- Drivers/ Escorts must adhere to the Code of Good Safeguarding Conduct to promote safe practice in relation to vulnerable passengers and driver behaviour/customer complaints should be monitored.
- Drivers/ Escorts should be required to produce photo-identification to the carer or if appropriate, vulnerable passenger, at the point collection.
- All staff should remain professional at all times and should not:
 - Touch a child/young person unnecessarily or inappropriately;
 - Make offensive or inappropriate comments (such as the use of swearing or sexualised language);
 - Behave in a way that may make a vulnerable passenger feel intimidated or threatened
 - Ask any questions of a personal nature, including those about the passenger's relationships
 - Attempt to obtain or misuse personal details from the business about a child (for example communicating with a child at their postal address, or by social network, internet or mobile telephone or by using any other information disclosed as part of placing a booking, or obtained by any other aspect of the business).
- Records should be maintained of complaints and any disciplinary action taken against staff who breach the Code of Good Safeguarding Conduct.
- If a member of staff is concerned about the safety, welfare or behaviour of a vulnerable person, s/he must report this to the police (if it is an emergency dial 999) and to their Operator. The Operator must then notify the Taxi and Private Hire Licensing Office at Leeds City Council on: 0113 3781561

This must be followed with an email to: Des.Broster@leeds.gov.uk with details of:

- The names of those involved
- The date/ time and place that the concern occurred.

Appendix 3

I, the Operator of:(Business name) agree to abide by the above guidelines.

SIGNED:..... PRINT NAME:..... DATE:

SAY something,
if you SEE something

Know the signs...

What to do if a driver or escort identifies a concern

If a driver/escort is concerned about the safety, welfare or behaviour of a vulnerable person, he/she will report this to you as their Operator.

You should:

1. Take a full description of the concern **write it down** and include:
 - The names of the people involved.
 - The time, date and place of concern.
2. Contact the Taxi and Private Hire Licensing Office at Leeds City Council on: **0113 3781561** to inform them of the concern.
3. Follow up with an email containing a full description of the concern to: **Des.Broster@leeds.gov.uk**
4. Keep a copy of the written note safely, as you will be asked for this by Licensing Officers later.

If you are concerned about the immediate safety, welfare or behaviour of a child or vulnerable person, or if you believe a crime is being committed, you must report this to the Police (if it is an emergency dial **999**) and to your operator.



www.westyorkshire.police.uk/cse

SAY something,
if you SEE something

Know the signs...

Watch for: Men accompanied by girls or boys who are a lot younger than them. The same men frequently using taxis but often with different young people.

The young people may appear under the influence of drugs or alcohol. Older men often being picked up near schools or children's care homes.

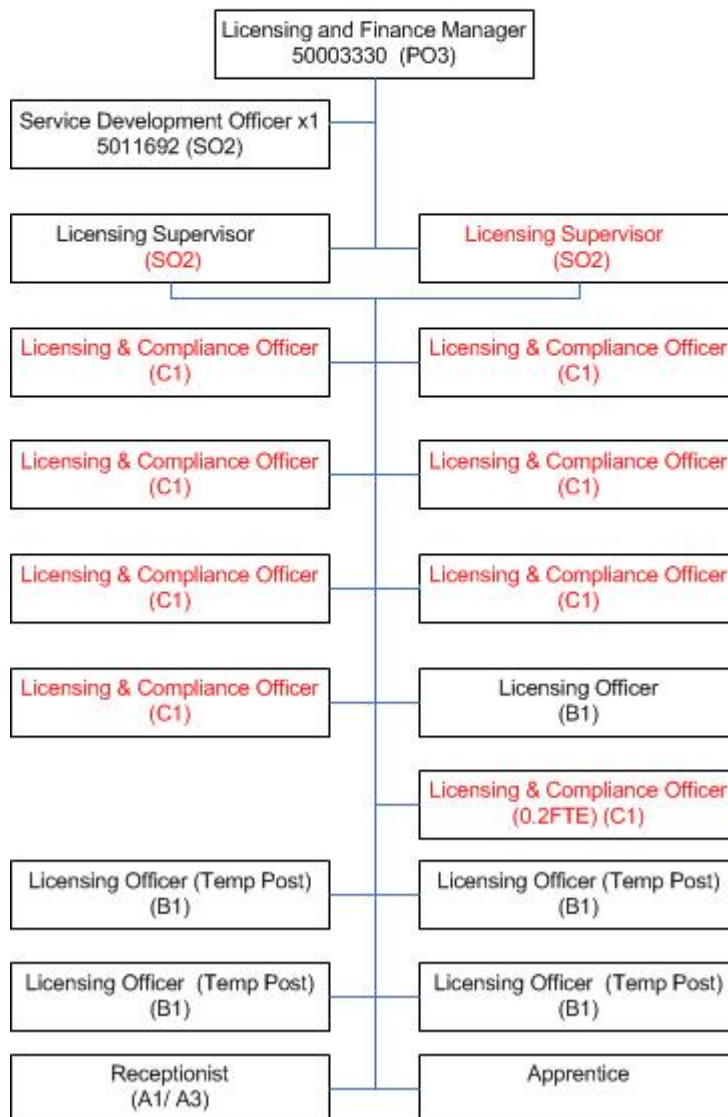
Taxi/Private Hire/Drivers/Escorts or Operating Staff who have a concern should contact their Operator.

If you are concerned about the immediate safety, welfare or behaviour of a child or vulnerable person, or if you believe a crime is being committed, you must report this to the Police (if it is an emergency dial **999**) and to your operator.



www.westyorkshire.police.uk/cse

TPHL Proposed Structure Chart



News Release

25 September 2015

Committee warns new private hire rules could pose safety risk to passengers

The committee responsible for taxi and private hire licensing in Leeds has raised serious concerns for public safety when new national rules come into force next month.

Leeds City Council's licensing committee met earlier this month to discuss how Leeds will try to mitigate potential safety risks when new government legislation is introduced on 1 October which will further de-regulate the taxi and private hire industry.

These deregulation changes will allow private hire operators to sub-contract bookings to other operators anywhere in the country. This could mean customers making a booking with their favourite operator in Leeds only to receive a vehicle from another operator, licensed by a different council with possibly less rigorous licensing arrangements than we have in place in Leeds or West Yorkshire. The licensing committee is especially concerned about this because it could lead to numerous private hire vehicles from other authorities working in Leeds, with very different markings on them which may cause confusion and could allow unlicensed drivers or other drivers to illegally ply for hire. This creates a big safety risk for the travelling public.

Compounding the issue is the fact that council enforcement officers, who carry out roadside spot checks, don't have the powers to inspect vehicles which are licensed by other councils. The Deregulation Act will allow private hire vehicles to work across England and Wales - leaving local enforcement officers powerless to inspect vehicles licensed from other districts.

Councillor Mary Harland, chair of the licensing committee, said:

"In Leeds we take the safety of our residents and visitors very seriously and we are very concerned about the implications of the new Act, and the risk it poses to the travelling public. Here in Leeds we have worked hard to establish a strong licensing policy which includes rigorous checks on new drivers and high standards for vehicle safety and customer service. Our drivers must take part in training in safeguarding, English Comprehension, customer care and private hire law, whereas standards expected in other areas of the country may not meet our own.

“This new Act will make spotting unlicensed drivers, or drivers illegally plying for hire, much more difficult amongst the subcontracted out of town vehicles – which our enforcement officers will have no powers to stop and inspect.”

In order to try to mitigate the impact of the new Act, Leeds is working with other authorities in West Yorkshire to try and establish some common licensing standards and enforcement compatibility across the West Yorkshire area. Some of the key issues being considered include: -

- To co-ordinate a scheme of shared delegated powers across all West Yorkshire authorities to enable Licensing and Enforcement Officers to carry out inspections and suspension powers on vehicles licensed by any West Yorkshire authority;
- Safeguarding including training on Child Sexual Exploitation and human trafficking;
- Establishing improved common minimum standards in the driver application process;
- Establishing common minimum English comprehension standards for new applicants;
- Adopting a standard convictions policy and convictions criteria;
- Adopting a common standard for Private Hire Operator conditions; and
- To ensure all West Yorkshire licensed vehicles have a similar recognisable door livery.

ENDS

**For media enquiries, please contact:
Emma Whittell, Leeds City Council press office, on (0113) 2474713
Email: emma.whittell@leeds.gov.uk**

As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions. Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

Directorate: Citizens and Communities	Service area: Elections, Licensing and Registration
Lead person: Kate Coldwell	Contact number: 3781563

1. Title:

Is this a:

Strategy / Policy

 Service / Function

 Other

If other, please specify

2. Please provide a brief description of what you are screening

In England (outside London), Hackney carriage and private hire licences are issued by local Councils who have a statutory responsibility to make sure drivers are a 'fit and proper' person to drive a Hackney carriage (taxis) and private hire vehicle (hired through a local operator) being used for hire or reward.

The Council has an existing policy dealing with various aspects of the 'fit and proper' issues however the existing control measures have been in place for a considerable period of time and the opportunities for people to move easily across national or international borders to gain employment have increased significantly.

There is a need to ensure that applicants to the licensed trade are adequately assessed to minimise the potential risk to children, vulnerable adults, women and passengers generally.

The Council must consider the safeguarding, and general public safety, statutory responsibility attached to the grant of a personal licence in the context of more open EU borders and reduced employment constraints on EU and foreign nationals from outside of the EU.

3. Relevance to equality, diversity, cohesion and integration

All the council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation. Also those areas that impact on or relate to equality: tackling poverty and improving health and well-being.

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?	√	
Have there been or likely to be any public concerns about the policy or proposal?	√	
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		√
Could the proposal affect our workforce or employment practices?		√
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> • Eliminating unlawful discrimination, victimisation and harassment • Advancing equality of opportunity • Fostering good relations 	√	

If you have answered **no** to the questions above please complete **sections 6 and 7**

- If you have answered **yes** to any of the above and;
- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
 - Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

4. Considering the impact on equality, diversity, cohesion and integration

If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.

Please provide specific details for all three areas below (use the prompts for guidance).

- **How have you considered equality, diversity, cohesion and integration? (think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected)**

It is the Taxi and Private Hire Sections job to make sure the taxi and private hire trade in Leeds is operated in a professional manner and that the correct standards of public safety are met by drivers, proprietors and Operators and all vehicles are safe and meet a reasonable standard of comfort. We are committed to providing a quality transport service within the taxi and private hire trade and our overriding principle is the safety of the travelling public. The Council is alert to public expectations of passenger care and comfort.

In addition, Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency; safeguarding is ultimately the responsibility of everyone and depends on the everyday vigilance of

those who play a part in the lives of children or vulnerable adults. Potential access to the vulnerable can be gained as a licence holder through the Councils' transport contracts.

The responsibility of a local authority to exercise good practice in assessing 'fit and proper' has gained momentum and focus in light of the letter to local authorities from the Rt Hon Eric Pickles MP, Secretary of State, Department for Communities and Local Government dated 24 September 2014. A similar emphasis was adopted in a letter from the Minister of State, Baroness Kramer, Department for Transport dated 18 November 2014.

Nationally there have been examples of EU citizens going under the radar in respect of their previous criminal history. That could pose a significant risk if a personal licence was granted to such a person.

The majority of licensed drivers are from ethnic minority groups entering the country from India, Pakistan, Afghanistan, Africa the 'middle east' and from EU member states.

The UK DBS process is a credible means of checking on a long term UK resident's criminal activity, whether convicted or otherwise. One difficulty arises where a person has not been resident in the UK for a period of time which would not allow a proportionate assessment to be made of their character based on DBS disclosure alone.

Across EU Member states, there is a conflict in the standards of recording, retaining and disclosure of information regarding criminal activity across EU member states and a further problem of accessing that information for licensing purposes. The primary route for obtaining information from EU Member states is in relation to criminal proceedings. Licensing or employment checks are not as easily obtainable by local Authorities and may not be approved for release.

Licensing Authorities across the country currently may have had to satisfy themselves with 'certificates of good character'. These documents take a variety of forms but, generally, they are not able to be verified by licensing staff. The integrity of the document itself, or the relevance of a genuine document, may undermine the principles of a safe licensing regime. What an individual country might regard as 'recordable' or are willing to disclose can be entirely different to the UK DBS.

These variations also cause concern in respect of non-EU countries; applicants produce documentation which is not auditable. If the documentation has been obtained through a Consul or Embassy the question still has to be asked of "what value is it" if the host country does not properly recognise, record or properly investigate certain types of crime.

Concerns about the distinct lack of robustness in this arena by some none EU countries is considered to be of significant importance that further robust checking measures are in place for none EU applicants.

Legal advice has been taken from Counsel on the sensitivities and legalities around these issues with emphasis being placed on the primary purpose of the legislation which is public safety and not the opportunity for employment.

Officers feel it is essential that more integrity is built around this assessment process and would seek to require none UK applicants to obtain full criminal disclosure from their country of birth, other countries they have resided in and any other auditable supporting information as required by the Authority to determine the 'fit and proper' test more appropriately.

Counsel opinion states; *"It is abundantly clear that Leeds City Council has taken great time to understand the plight of certain potential applicants and I make specific reference to the paragraph which refers to asylum seekers or refugees who have been granted British citizenship. The policy reflects a regulating authority which understands that not all applicants can be treated the same."*

"In my view, the policy is drafted in such a way that achieves the following:

- vi. It is sufficiently clear so that prospective applicants understand what is required of them and why*
- vii. Taking this further, there is nothing ambiguous about what is included within the draft*
- viii. All potential applicants, regardless of their background can achieve a licence to drive a taxi within Leeds (in other words it does not exclude based on nationality and cannot therefore be*

discriminatory)

- ix. *The policy is necessarily tight, for it requires applicants to provide a lot of information (but this is reasonable in light of the job they would be performing and the importance of safeguarding overall)*
- x. *It distinguishes properly between different applicants and tells them why it does so.*

Consultation

A full six week consultation period was held 18th September – 30th October. The results of which will form part of the report presented to Elected Members to consider.

- **Key findings**

(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)

The safe licensing and monitoring of licence holders is a statutory responsibility for the Council and contributes significantly to the safety of the travelling public and it is recognised that those who are licensed by the Taxi and Private Hire Licensing Section are the biggest providers of transport in the evening and night time economy.

Applications from long standing UK nationals present no significant difficulties in determining the ‘fit and proper’ person assessment in respect of convictions, cautions or other relevant background information supplied at the discretion of the Police. A lifelong UK citizen will have a discernible DBS history unless they have lived outside of the country.

When a person has only recently been granted UK citizenship obtaining the same sort of credible information can be difficult and even more difficult to verify, especially when it originates from a non- EU country.

Supporting references are generally vague with none or little meaningful information relevant to the responsibilities of the role applied for. It is often the case that the authors of such references have a personal, community or business interest in supplying a favourable reference.

Sentencing policy in other countries may be somewhat different and may cause some conflict with the Council’s convictions criteria policy which sets assessments by the seriousness of offence. Finally, in the UK Chief Constables can disclose to Licensing Authorities information they think relevant to the role being applied for.

The Council can and does consider such ‘other relevant information’ and would question the applicant about it and also seek further information from the Police. The Council is able to do this because the processes in which such applications are determined are a civil process and decisions are based on the balance of probabilities. This enables local Authorities to have a much tighter net to safeguard the public. The majority of such information may not be disclosed by non UK authorities because it is not registered as a conviction. This places the Council at risk in conducting assessments on non UK applicants.

Officers feel that a five year UK DBS history is a good milestone but understand that it may not be achievable by all applicants and there is a concern that a blanket policy stipulating such a requirement may be deemed discriminatory and open to challenge.

Even with a ‘five year’ history there may still be the need to obtain a longer span of an individual’s history to conduct an appropriate assessment.

It is felt that the statutory test to demonstrate somebody is a ‘fit and proper’ person should be the determining factor and the responsibility for that rests with the applicant.

A final recommendation will be made in due course.

Advice from Counsel has been sought on a number of areas. Other areas of advice will continue to be evaluated in the context of developing policy.

The impetus for enhancing the application process in respect of safeguarding issues is clear and significant from Central Government. However the measures identified to enhance the decision making process have to be proportionate and non-discriminatory.

The Council informs of changes to policy by publicising them in a variety of ways e.g. via trade forums, email, quarterly newsletter, information screens in Reception. It is the responsibility of the licence holder to be familiar with those changes and seek appropriate advice and guidance if in doubt.

- **Actions**
(think about how you will promote positive impact and remove/ reduce negative impact)
- Ensure that we take legal advice as applicable prior to making any change proposals regarding our policies.
- Ensure that we continue to consult fully regarding any proposed changes to our policies.
- Ensure any changes to our policies are communicated widely and appropriately.
- Ensure that our publications continue to be written in plain English and that support is offered via Officers to explain our policies.
- Continue to enforce our policies to ensure that the correct standards of safety and comfort are satisfied by licence holders.

5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.

Date to scope and plan your impact assessment:	
Date to complete your impact assessment	
Lead person for your impact assessment (Include name and job title)	

6. Governance, ownership and approval		
Please state here who has approved the actions and outcomes of the screening		
Name	Job title	Date
Des Broster	Section Head
Date screening completed		28.09.2015

7. Publishing

Though **all** key decisions are required to give due regard to equality the council **only** publishes those related to **Executive Board, Full Council, Key Delegated Decisions** or a **Significant Operational Decision**.

A copy of this equality screening should be attached as an appendix to the decision making report:

- Governance Services will publish those relating to Executive Board and Full Council.

- The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions.
- A copy of all other equality screenings that are not to be published should be sent to equalityteam@leeds.gov.uk for record.

Complete the appropriate section below with the date the report and attached screening was sent:

For Executive Board or Full Council – sent to Governance Services	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate Directorate	Date sent:
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent:

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Report author: Des Broster
Tel: 3781562

Report of Head of Elections, Licensing & Registration

Report to Licensing Committee

Date: 17 November 2015

Subject: Policy change proposals – ‘fit and proper’ person assessment

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary of main issues

1. Members are advised that this report results from concerns previously expressed about proper determinations of character in the ‘fit and proper’ person assessment at the point of application. This is a policy decision report which will in turn, contribute to an update report (Safeguarding in Taxi & Private Hire Licensing) due before the Executive Board in December 2015.
2. A potential weakness in the application process has been identified in respect of the applicant’s personal information available to Officers when making a ‘fit and proper’ person assessment, particularly in respect of non UK citizens.
3. Like other UK authorities and other significant establishments, this Authority has been reliant on information supplied personally by an applicant in the form of a ‘Police certificate of good character’ from foreign non EU countries, or personal references which lack professional focus, credibility, or opportunity to verify them in a credible way. Officers have obtained credible information regarding potential for such fraud with foreign Police disclosure documents.
4. The information in this report sets out a new policy and procedure to be followed by Officers in carrying delegated decisions on personal licence applications and assures Members that supportive legal advice has been obtained from Counsel.

Recommendations

5. That Members consider the report, contribute any considered points before agreeing the policy for final approval by the Executive.

1 Purpose of this report

- 1.1 To identify to Members licensing controls which will contribute to reducing the risk of criminal behaviour or, in particular, safeguarding concerns to the travelling public by a more appropriate point of entry 'fit and proper person' test for applicants of Hackney Carriage Driver (HCD), Private Hire Driver (PHD), Private Hire Operator (PHO), Permit Driver Licences or Care Escorts. The latter two groups are not licensed drivers but are involved in the driving or escorting of children on Council contracts and have to meet the same threshold on the 'fit and proper' person test as licensed drivers.
- 1.2 To inform Members of the responses to two stages of consultation; the first following outline considerations in 2014 and secondly following release of these policy proposals in September 2015.
- 1.3 Members, having debated the issues, and having considered the consultation responses have to balance the needs of public safety, Safeguarding, CSE concerns and the statutory responsibility of the Act against the human rights of individuals and any existing European employment conventions, taking into account specific legal advice.

2 Background information

- 2.1 There is little doubt that licensing authorities hold a significant responsibility for carrying out a thorough examination of applicants at the point of application and then exercising appropriate diligence during the life time of a licence. The threshold for the point of entry to obtaining a PHD or HCD licence across the country varies significantly, however the process in Leeds is not dissimilar to some other licensing Authorities.
- 2.2 Currently the point of entry measures in Leeds include:-
- DBS check (or alternative arrangements)
 - English literacy and numeracy screening
 - Group 2 medical
 - Driving Standards Agency (DSA) test
 - Training and testing on equality, conditions, legislation, geography of Leeds.
- 2.3 In addition to the point of entry measures, the council has additional measures in place to monitor licence holders after the licence has been granted. This monitoring includes: -
- **REQUIREMENTS TO REPORT CONVICTIONS & ASSOCIATED INCIDENTS**
 - (a) Any of the following events must be reported in writing to the Taxi & Private Licensing office within 72 hours during the currency of a licence giving full details:-
 - (a) any conviction or finding of guilt (criminal or driving matter);
 - (b) any caution (issued by the Police or any other agency);

- (c) issue of any Magistrate's Court summons against them;
 - (d) issue of any fixed penalty notice for any matter;
 - (e) any harassment or other form of warning or order within the criminal law including Anti-Social Behaviour Orders or similar;
 - (f) their arrest for any offence (whether or not charged)
- (b) When required a licensed driver will undertake enhanced Criminal Records Bureau (CRB) vetting at his/her own expense and within a timescale set by the Council. Such a requirement may be on the basis of the Council's responsibility to ensure continued public safety and monitor licensed drivers.

- Yearly on-line Disclosure and Barring Service (DBS) check
- Appropriate Police disclosure supplied to the authority by the police.
- Public complaints
- Enforcement activity

3 Main issues

- 3.1 Members are aware that the majority of licensed drivers are from ethnic minority groups entering the country from India, Pakistan, Afghanistan, Africa the 'middle east' and from EU member states.
- 3.2 The UK DBS process is a credible means of checking on a long term UK resident's criminal activity, whether convicted or otherwise. One difficulty arises where a person has not been resident in the UK for a period of time which would not allow a proportionate assessment to be made of their character based on DBS disclosure alone.
- 3.3 Dealing with EU Member state applicants first, there is a conflict in the standards of recording, retaining and disclosure of information regarding criminal activity across EU member states and a further problem of accessing that information for licensing purposes. The primary route for obtaining information from EU Member states is in relation to criminal proceedings. Licensing or employment checks are not as easily obtainable by local Authorities and may not be approved for release.
- 3.4 Licensing Authorities across the country currently may have had to satisfy themselves with 'certificates of good character'. These documents take a variety of forms but, generally, they are not able to be verified by licensing staff. The integrity of the document itself, or the relevance of a genuine document, may undermine the principles of a safe licensing regime. What an individual country might regard as 'recordable' or are willing disclose can be entirely different to the UK DBS.
- 3.5 The issue of 'certificates of good character' from outside of the EU is even more of an issue and concern for the Authority. Applicants produce documentation which is not auditable. If the documentation has been obtained through a Consul or Embassy the question still has to be asked of "what value is it" if the host country does not properly recognise, record or properly investigate certain types of crime.
- 3.6 Concerns about the distinct lack of robustness in this arena by some none EU countries is considered to be of significant importance that further robust checking measures are in place for none EU applicants.

- 3.7 Legal advice has been taken from Counsel on the sensitivities and legalities around these issues with emphasis being placed on the primary purpose of the legislation which is public safety and not the opportunity for employment.
- 3.8 Officers feel it is essential that more integrity is built around this assessment process and would seek to require none UK applicants to obtain full criminal disclosure from their country of birth, other countries they have resided in and any other auditable supporting information as required by the Authority to determine the 'fit and proper' test more appropriately.
- 3.9 The areas of concern associated with applications, although mentioned in earlier paragraphs are set out in the policy proposal document at **Appendix 1**.
- 3.10 Members need to have a clear understanding that in recommending this policy for Executive approval it may cause some applicant frustrations which will be felt by Elected Members across the Council. Officers will need positive support in explaining the necessity for these measures to applicants relative to their intended role, their responsibilities and the Council's Safeguarding responsibilities.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 There have been two consultation processes, the first followed the Licensing Committee meeting of 7 October 2014, when an Information and Consultation report on Additional Licensing Safeguarding Proposals was presented to the Licensing Committee. The proposals were released for public consultation following this meeting and the responses received via Talking Point, the Council's Consultation portal is presented at **Appendix 2**.
- 4.1.2 Following the receipt of Counsel's advice on the proposed policy change proposals – 'fit and proper' person assessment, the proposals were released for further public consultation prior to consideration by Licensing Committee. The decision to proceed with this second and specific policy consultation prior to them being presented to Licensing Committee is a departure from how we would usually undertake consultation. This change in process emphasises the need to proceed quickly due to safeguarding concerns. This approach was taken following legal advice and also with the agreement of the Chair of Licensing Committee.
- 4.1.3 The responses to the second consultation process appears at **Appendix 3** which were received via Talking Point, the Council's Consultation portal. A separate response from Unite the Union is presented in its entirety at **Appendix 4**.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality, Diversity, Cohesion and Integration Screening has been carried out on the proposals. The assessment indicates that there are no further issues to be considered at this time and is available as a Background Document.

4.2.2 Statistical data from Migration Yorkshire in respect of net migration into Leeds by ethnicity is reproduced below in respect of the top 15 countries of origin.

1. Poland	1189
2. Romania	1085
3. Spain	653
4. India	615
5. Italy	427
6. Portugal	362
7. Czech Republic	236
8. Republic of Lithuania	221
9. Nigeria	220
10. Slovak Republic	213
11. Pakistan	201
12. Hungary	194
13. China	186
14. Bulgaria	184
15. France	166

4.3 Council policies and Best Council Plan

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

4.3.4 Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 The policy would create more administrative burden on the licensing function but this issue is a further contributory factor to an organisational restructure in respect of resource capacity complained of by the trades.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Counsel advice has been obtained and whilst it is not intended to share all of that advice Members and the Executive will feel reassured by the following points which are direct quotes from Counsel, with any emphasis being that of Counsel.

4.5.2 *“It is abundantly clear from reading the documentation that a great deal of time and thought has been expended in producing the draft policy. It is equally clear that the three documents expose a clear progression in that the draft policy presents a much ‘tighter’ framework for the licensing of drivers within the city.*

4.5.3 *“In my view, the policy as presented in draft form is entirely lawful.*

4.5.4 *“In my view, the draft policy distinguishes in a clear and concise way, and further presents the rationale / logic for doing so. Put simply, the applicant knows what is expected of him and why. The treatment / process of a British applicant is necessarily different to that of a non-EU national.*

4.5.5 *“It is abundantly clear that Leeds City Council has taken great time to understand the plight of certain potential applicants and I make specific reference to the paragraph which refers to asylum seekers or refugees who have been granted British citizenship. The policy reflects a regulating authority which understands that not all applicants can be treated the same.*

4.5.6 *“In my view, the policy is drafted in such a way that achieves the following:*

- i. *It is sufficiently clear so that prospective applicants understand what is required of them and why*
- ii. *Taking this further, there is nothing ambiguous about what is included within the draft*
- iii. *All potential applicants, regardless of their background can achieve a licence to drive a taxi within Leeds (in other words it does not exclude based on nationality and cannot therefore be discriminatory)*
- iv. *The policy is necessarily tight, for it requires applicants to provide a lot of information (but this is reasonable in light of the job they would be performing and the importance of safeguarding overall)*
- v. *It distinguishes properly between different applicants and tells them why it does so*

4.5.7 ***“The net effect of the above is that the policy is, in my view, lawful in terms of what is required of applicants, and how that is communicated to them. It is clear and unambiguous.”***

4.5.8 *“In my view there are sound reasons for the provision of all the information required pursuant to the policy. In legal terms there is a legitimate aim which is proportionately achieved through the policy as drafted.*

4.5.9 *“... it is legitimate and proportionate to have an applicant provide information at his own cost and in the native language of the decision maker. It is proportionate to require 2 character references. I see nothing in any of the requirements under any of the different heads of applicant that can be properly termed disproportionate or unreasonable or unfair.*

4.5.10 *“In my view the policy as drafted is not discriminatory*

4.5.11 *“In my view, those instructing are right to include the fact that the council may reserve the right to require a statutory declaration.*

4.5.12 *“... the policy is helpfully drafted in a way that enables the applicant to go and seek the information required of them.*

4.5.13 *“... the policy is clear, concise, flexible, that it furthers a legitimate aim and is objectively justifiable.”*

4.6 Risk Management

4.6.1 It is considered that the policy proposals are very necessary to contribute to the Council’s safeguarding responsibilities. The policy is in accord with the principles of DfT Best Practice Guidance.

5 Conclusions

5.1 This is a difficult and sensitive area of licensing and Members are better informed and more able to make proportionate decisions, balancing public safety

requirements, when they have the benefit of legal advice and consultation feedback and the viewpoint of experienced Officers.

6 Recommendations

- 6.1 That Members consider the report, contribute any considered points before agreeing the policy for final approval by the Executive.

7 Background documents¹

Equality, Diversity, Cohesion and Integration Screening Assessment

DfT Best Practice Guidance

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Policy proposals

UK citizens, UK citizens with limited residency, Non UK – EU citizens, non EU citizens, asylum seekers/refugees.

Background to policy proposals

The role of taxi or Private Hire driver has been identified nationally as one which can present significant safeguarding threats if strong assessment measures are not in place at the point of a licensing application. The 'fit and proper' person test is particularly relevant in respect of the increased necessity to be mindful of inappropriate persons applying for licences who may misuse their position of trust and present a potential safeguarding threat.

The necessity is to increase the measures within Taxi & Private Hire Licensing decision making processes to ensure an applicant is a 'fit and proper' person. In doing so, policy has to be proportionate in balancing the statutory requirement of the relevant act and Human Rights legislation.

The relevant part of the Local Government (Miscellaneous Provisions) Act 1976, is:-

Section 51

“a district Council shall not grant a licence

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or*
- (b) to any person who has not for at least 12 months been authorised to drive a motor car, or is not at the date of the application for a driver' licence so authorised”*

The Council receives applications for Private Hire driver and Hackney Carriage driver licences from a range of nationalities. Applications from long standing UK nationals present no significant difficulties in determining the 'fit and proper' person assessment in respect of convictions, cautions or other relevant background information supplied at the discretion of the Police. A lifelong UK citizen will have a discernible DBS history unless they have lived outside of the country.

When a person has only recently been granted UK citizenship obtaining the same sort of credible information can be difficult and even more difficult to verify, especially when it originates from a non- EU country.

Supporting references are generally vague with none or little meaningful information relevant to the responsibilities of the role applied for. It is often the case that the authors of such references have a personal, community or business interest in supplying a favourable reference

A non UK but EU citizen may have some criminal records history in their own EU country but there are significant differences between EU member states where, on the one hand, Romania has a very rudimentary system and on the other hand established EU member states may have an equivalent of the Disclosure and Barring Service but operate it in a different way. Other states may have a different form of the Rehabilitation of Offenders Act, which may discount convictions relevant to the role of taxi driver at a much earlier stage.

Sentencing policy in other countries may be somewhat different and may cause some conflict with the Council's convictions criteria policy which sets assessments by the seriousness of offence. Finally, in the UK Chief Constables can disclose to Licensing Authorities information they think relevant to the role being applied for. For example:

- “1 - *Mr A has been arrested twice whilst in a vehicle that was being used in the trafficking of drugs.*
- 2 - Mr B was found to have formed a relationship with a teenage boy and girl and taken them back to a bedsit flat rented by a group of Private Hire drivers where they claimed they were indecently assaulted when they slept. No court proceedings were taken by the Police in respect of these matters.”

The Council can and does consider such 'other relevant information' and would question the applicant about it and also seek further information from the Police. The Council is able to do this because the processes in which such applications are determined are a civil process and decisions are based on the balance of probabilities. This enables local Authorities to have a much tighter net to safeguard the public. The majority of such information may not be disclosed by non UK authorities because it is not registered as a conviction. This places the Council at risk in conducting assessments on non UK applicants.

Officers feel that a five year UK DBS history is a good milestone but understand that it may not be achievable by all applicants and there is a concern that a blanket policy stipulating such a requirement may be deemed discriminatory and open to challenge.

Even with a 'five year' history there may still be the need to obtain a longer span of an individual's history to conduct an appropriate assessment.

The difficulties for some non EU citizens are magnified with those applicants from Afghanistan, Iraq and Iran, for example, where a criminal record database is not held. The position is very similar for many African countries.

In countries where there is no central data base of criminal convictions information may be sought from the local police station. Such documents usually appear under the heading of '*police clearance certificate*' or '*character certificate*' or similar titles.

Some of the potential solutions to obtaining character information can leave decision makers exposed when reliant on the integrity of the source of the documentation; not

being able to validate or interrogate that information or trying to prove the authenticity of the document.

There is even greater difficulty in the case of asylum seekers or refugees who have been granted British Citizenship would fear reprisals against their family remaining in that country. A feature amongst some asylum seekers is that they destroy all their identity documents so they cannot be returned to a particular country. It is issues around such circumstances where it is almost impenetrable for a Local Authority to obtain any background information.

All of these issues exist across West Yorkshire.

Policy proposals

It is felt that the statutory test to demonstrate somebody is a 'fit and proper' person should be the determining factor and the responsibility for that rests with the applicant.

In setting a standard the following are put forward as standard requirements at the point of application.

Lifetime UK citizens

UK enhanced DBS check with additional information as required at the discretion of the Council.

UK citizens born outside of UK

- UK enhanced DBS check
- Additional information as required at the discretion of the Council. This may vary depending on the length of time the applicant has been resident in the UK.
- Non UK Disclosure must be in English and interpreted by someone on Her Majesty's Courts Interpretation Services list.
- The Council reserves the right to require a statutory declaration from a UK solicitor in a format prescribed by the Council.
- Applicants have to conduct such transactions through the relevant national embassy or in accordance with UK DBS guidance.

Question:- *"I am a UK national who was not born in the UK. My prospective licensing authority in the UK is asking for a criminal record check for my time spent abroad for public safety and safeguarding purposes. Who should I contact?"*

Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Question:- *“I am a UK national who needs to get a police certificate for my prospective licensing authority for public safety and safeguarding purposes? Who should I contact?”*

The ACRO Criminal Records Office (ACRO) issues Police Certificates to people who want to emigrate or have been required to produce a Police Certificate (sometimes known as a “Certificate of Good Conduct”) by an Embassy, High Commission or Consulate. The certificate details whether or not the applicant has a criminal record in the United Kingdom.

Call: 0845 60 13 999 (International Callers: 0044 1962 871 111)

Email: customer.services@acro.pnn.police.uk .

Further details can be found at http://www.acro.police.uk/police_certificates.aspx

Non UK – EU residents

- UK enhanced DBS check
- DBS certificate from home country with all information submitted via the licensing office to enable checking of all identity information (this corresponds with the UK DBS procedure).
- 2 character references from a UK resident of a professional background who has known the applicant for more than 2 years.
- Non UK Disclosure must be in English and interpreted by someone on Her Majesty’s Courts Interpretation Services list.
- The Council reserves the right to require a statutory declaration from a UK solicitor in a format prescribed by the Council.
- Applicants have to conduct such transactions through the relevant national embassy or in accordance with UK DBS guidance.

Question:- *“I am a foreign national / UK national who has spent time abroad. My prospective employer in the UK is asking for a criminal record check for my time spent abroad. Who should I contact?”*

Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Non UK – EU applicants living in multiple countries

In addition to the above requirements the Council may require non UK DBS disclosure from any country they have lived in for 3 months or more.

Question: *“I am a foreign national / UK national who has spent time abroad. My prospective employer in the UK is asking for a criminal record check for my time spent abroad. Who should I contact?”*

Details of how to obtain such a check from the relevant authorities abroad are available online at:

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Non EU Countries

Question: "I cannot obtain a criminal record certificate from the relevant country. What happens now?"

It is not always possible to obtain a criminal records certificate from countries that do not have functioning criminal record regimes or refuse to provide these to anyone other than their own citizens. In the absence of available checks, we would expect applicants to obtain as much information as possible in the form of references or other evidence before deciding whether or not to grant a licence. The Council has strong responsibilities for safeguarding and protecting children from Child Sexual Exploitation and will make its final decision in balancing the statutory 'fit and proper' person assessment and the information available to them about the applicant and how that information can be validated.

'Police character certificates' or equivalent should be obtained via the Embassy of a country they have lived in for a period longer than 3 months, or as described in the earlier process under the heading "*UK citizens born outside of UK*".

Similarly, all of the information provided to the Embassy would need to be submitted via the Taxi & Private Hire Licensing Office in the format prescribed by the relevant Embassy or agency working on behalf of the Embassy.

Statutory Declarations

The purpose of requiring a statutory declaration is to enable the Council to demonstrate that it has taken significant steps to ensure as far as is practicable the credibility of information supplied to it within a legal process, it should also demonstrate to the applicant this significant seriousness of not telling the truth or providing misleading information during an application process to obtain a licence from the Council.

Where the Council requires a statutory declaration it must be obtained from a practising UK solicitor at the cost of the applicant and in a format prescribed by the Council.

References

The Council may also require references from the applicant in support of any part of the application process. It is important that the references are honest accounts and a professional assessment of the applicant in the context of the role they are applying for. The author of the reference must understand the concerns of the

Council in respect of public safety, safeguarding and the prevention of Child Sexual Exploitation.

The reference must demonstrate that the author has full knowledge of the applicant's background and criminal history (if applicable) so they can consider their own position prior to supplying a professional reference. References which are vague, non-specific to the context of the role, supplied by relatives or someone who cannot demonstrate detailed examples of the applicant's character will not be considered. The author must have known the applicant for a minimum of 2 years.

Leeds City Council has a policy which does not favour references being supplied by Councillors, Members of Parliament or Officers of the Council.

Fees and costs incurred

Any fees would be payable by the applicant in addition to the standard application fees set by the Council.

Timescales

All references, statutory declarations or convictions history in any format supplied to the Council must be less than 3 months old from the date supplied by the disclosing authority.

Other points of guidance

ACRO Criminal Records Office:

<http://www.acro.police.uk/home.aspx>

AccessNI:

<http://www.nidirect.gov.uk/index/information-and-services/employment/employment-terms-and-conditions/starting-a-new-job/accessni-criminal-record-checks.htm>

Disclosure Scotland:

<https://www.disclosurescotland.co.uk/>

Making a Subject Access Request

<https://www.gov.uk/copy-of-police-records>

Subject Access Requests (Metropolitan Police area):

<http://content.met.police.uk/Article/Making-a-subject-access-request/1400005855548/1400005855548>

Disclosure & Barring Service:

<https://www.gov.uk/disclosure-barring-service-check>

How to Obtain Criminal Records Checks for Overseas Applicants

<https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

Department for Education (DfE):

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418686/Keeping_children_safe_in_education.pdf

2014 Additional Safeguarding Proposals Consultation: Talking Point Questionnaire

1. Are you a regular user of taxis and/ or a private hire service?	
Yes	No
86	66
57%	43%

2. Are you a taxi and/ or a private hire licence holder?	
Yes	No
126	25
83%	17%

3. Do you feel it is important that applicants to the taxi and private hire trade are subject to a 'fit and proper' person test at the point of entry to the licensed trade?	
Yes	No
128	13
91%	9%

4. An enhanced DBS check is currently undertaken at the point of application to become a licensed driver. Do you feel it is important that applicants entering this country from other countries provide a full criminal disclosure from the country of their birth?	
Yes	No
114	21
84%	16%

5. Taxi and private hire licence holders must currently undertake an enhanced DBS check every 3 years. Do you think that licence holders should undertake a further DBS check:				
Every Year	Every 3 years	Every 5 years	Other	No opinion
24	31	42	19	18
18%	23%	31%	14%	13%
Other:				
1. WHEN CONCERNS ARE RAISED BY PUBLIC OR OFFICIALS				
2. DBS is enough				
3. Another DBS check from another organisation				
4. 10yrs				
5. No				
6. No				
7. If there is a reason then yes				
8. 10				
9. Only once				
10. No needs when have taxi licence				
11. 10 years				
12. No needs at all to do this				
13. 10 years as its another money making venture from the council				

14. If free yearly
15. only 1 check before applicatio/test no every three or g years police system should cover the individuals
16. Once
17. 10 years
18. 10 years
19. 3 years and also when a serious complaint is received

6. Please add any further comments you wish to be considered:
1. If public safety is a priority as we are being led to believe and as everyone is fully aware more crimes are committed against females when the jump into unbooked private hire vehicles which plying for hire on a daily basis. If the council is that concerned then this issue would be addressed, even the public are fully aware that council allows this to happen, perhaps a secondary sticker on all private hire vehicles as it's done in other cities advising the public it's not a taxi and has no insurance unless pre booked! At least it will deter and educate at the same time
2. In my view criminal convictions which are spent should not be a barrier to obtaining a licence, even though they will still show up on CRB check however anyone who has perpetrated serious crimes, IE. Sexual crimes of any nature, murder, etc etc especially child related crime. Further more any non resident UK.should not be eligible to apply for a licence for 2 years and also obtain a CRB check from there country of origin.
3. In view of the potential vulnerabilities of many taxi and private hire customers, encompassing learning disabilities, autism, acquired brain injuries, dementia and physical impairments, its is essential that effective control of vetting and licensing remains wholly in the control of the Local Authority licensing sections if the safeguarding of customers is to be secured and guaranteed.
4. DBS checks are carried out by the same organisation. If he/ she has already got a DBS check the council would be in a strong position to say that we have carried out all necessary precautions to make sure the applicant is a fit and proper person. I know teachers that also work in the private hire industry. A character reference from the head teacher as well may be a good idea as they are people in authority.
5. DBS checks are essential
6. I cannot see how criminal disclosure from drivers born outside the UK will help as not all countries law enforcement agencies operate to the same standard as the UK's.
7. Every taxi should have cctv camera provided by council.
8. I think the Taxi Dept are doing a good job regarding the licensing of drivers. I wish the age criteria for cars was a bit more lenient rather than 5 years vehicle up to 7 years from registration should be allowed. Also smaller engine cars and model size. Cars are a lot safer, efficient, bigger and powerful than 10 years ago.
9. I think a three strikes and out system should be in place, as I am fed up with bad press given to this industry. There needs to be much more stringent checks and punishments for faulty cars plying for hire etc.
10. Anybody wanting to be a taxi or private hire driver should not be against a check on their background from where they come from,for the safety of the traveling public.
11. I think the licensing staff at torre road should drink less tea and get on with the job in hand.
12. All taxi and private hire drivers should be able to provide a complete history of

<p>themselves for at least 5 years prior to the granting of a licence. Failure to do this and allow some drivers to give only a partial history or rely on character references are putting the public at risk. We could end up with a criminal being sponsored by a criminal if certain drivers are exempted from a full 5 year DBS</p>
<p>13. Past record of drivers should speak for it self, those drivers who have previous convictions should be checked more often .self declaration should be sufficient and a dbS every five years should be enough rather than increase cost to all individual drivers,</p>
<p>14. Taxi drivers are unsafe and you did nothing.so many taxi drivers have been attacked .if you would improve you would get quality people as taxi driver.</p>
<p>15. the cost of the DBS check should be paid for by the council ,just as the NHS stands the cost to doctors and nurses</p>
<p>16. It is important to understand that Leeds taxi licensing is out of touch as private hire driver should be able to pick public when hailed when there are no other public transport available without being in fear of getting prosecuted. The main responsibility of licensing the trade is to provide safe services for our members of public to get to their destination safely this includes driver being checked for suitability and vehicle being fit and proper to carry passengers. So why private hire is restricted to provide this when the public is in need of this service in absence of public transport. The booking should be able to be taken by driver n forwarded to operator for registration. Pls consider this and breakaway from old practices that are not fit for this day and age.. Modernise your rules and reduce costs</p>
<p>17. Leeds is a wonderful & safe place to work</p>
<p>18. I think taxi or privert hire drivers should be frim the area there are working and not come from other areas to work takes all the work away from all the people in that area. For example if you work in Leeds you should live in Leeds and not be able to come from Bradford or other places to work here.</p>
<p>19. When a licensed driver is issued a badge then the police must be informed as if theirs a issue then police will email licensing....</p>
<p>20. Spot checks on DBS in between 3 year checks</p>
<p>21. Bonnet stickers shouldn't be compulsory</p>
<p>22. All driving or criminal convictions should automatically be sent to VLE by the courts.</p>
<p>23. You MUST make it more well known to Travelling Public that you WANT to know about poor driving, bad conversation, talk around the Syrian Terrorist Situation etc etc Its got to be made easier for people to call you and to know you are who they should tell.</p>
<p>24. I wholeheartedly agree with the safety of passengers but would like the licencing commitee to have a look at the safety of all its paying licence holders too.</p>
<p>25. although the public safety must be top priority but at the same time some thing must be in place to protect the innocent drivers who become victims of certain women passengers, who won't pay the fair and say to driver if you don't let me go i will say you molested me. I think the only way forward with this is cctv, but a generous grant should be given towards it. I also think the majority of drivers got NVQ and yet they can't even write their own address, doesn't that tell you some thing about the person who has NVQ, it tells me that person is not honest and he is not fit and proper person because he got his NVQ by other means. I would strongly recommend that any person with a criminal record, shouldn't be given a licence, also at the renewal every body must be given a simple test that a 14 year old can do</p>

<p>easily, this test must be done at the window where the paper work is done in front of the cashier and any person who can't complete won't be given a licence. Its about time council made its mind up, it either want public safety or more money from each unfit person who gets a badge. Thanks.</p>
<p>26. How about the safety of the private hire driver, how many time driver have to deal with aggressive behaviour without reporting it to the police, and how many time peoples get into private hire car without paying and it go unreported because must driver don't have the time to report such a crime, to you peoples who work there one driver behaviour is a decision for 1000 drivers</p>
<p>27. The driver how don't work why thy need dbs check?</p>
<p>28. I think it should be not forced to tje licence holder to pay for yearly checks it should be included in the annual licence fee</p>
<p>29. only give the plate to badge holders not investors, do not transfer the plate with out badgeone</p>
<p>30. every effort should be made to make sure the drivers are of good character and are able to provide the public with all round excellent service, as you know this is not always the case there are too many bad drivers out there with bad attitudes.The process for taxi/private hire is far too easy. A lot of drivers can not speak English and do not have much knowledge of the Leeds area.</p>
<p>31. EU residents and non EU residents should not be able to obtain a licence if they have not been resident in the UK for a minimum of 5 years. This is the only way to have a robust policy and make sure people are fit and proper.</p>
<p>32. U feel that taxi drivers are discrimated when you make most points regarding safety of public. The more you bring up the issue the more uncomfortable we as taxi drivers feel, you purposely make us out to be criminals in the publics eye.</p>
<p>33. These are hard working people always transport us all the time, I hope no criminal enter this country any time, when ever we travel any where these are those who take us, we shall give them respect and love instead of making life more difficult for them.</p>
<p>34. Taxi department should give black&white plates to private hire driver who perform their duty really well'and the enforcement officers should be treat equal to all drivers from both parties' and can u please change at least 1 day timming of stickers due to drivers working night shift and hard to get up and get the stickers done frm leeds.thanx</p>
<p>35. If someone already has an enhanced dbs form they should not be required to purchase another one. A few years ago the disability awareness course cost me forty pounds and having been an ambulance driver for six years I felt this was unfair.</p>
<p>36. the taxi test should be the same for hackney and phd. It is not fitting that lcc should give an inferior service. From personnel experience at least 60% of drivers, hackney and phd, have very little knowledge of the highway code. To address this a five yearly test would help immensely. When so called professional drivers are unaware of the rules of the road, the safety of the public is put at risk.</p>
<p>37. All check for UK and non UK residents should be made at the application for license and a further 'homeland' check for non UK residents. The all shall have one every 5 years</p>
<p>38. Non english speaking licence holders, must get education in reading, and speaking english, for greater communication with customers they provide a service to.</p>
<p>39. I you should extende the badge period for 3 years every time on the renewal of</p>

the badge must check DBS
40. The easiest way to stop criminal activity is by better enforcement every single night of the week private hire vehicles are parked illegally causing obstruction to other vehicles plying illegally which also means no insurance if I drive my private vehicle without insurance I'm in serious trouble
41. I think that a level playing field is required, between all taxi/private hire companies no matter where in the uk they operate from or what council is licensing them, and add rules and regulations to one set of drivers and not another is unfair, and could have cost implications, it is a pointless exercise to put rules to protect to public in place in Leeds, if that member of the leeds public gets a taxi/Private hire else were and is not protected, Leeds city council could always sit there smuggle and say we do our bit, but is dose not get away from the fact a member of the public is put at risk, How is the general public going to know which councils operate what rules to protect them and were they must be on guard to unsafe operation practice,
42. when apply for the dbs check it only should be in this country rather then asking from the country the person born, just delaying the process and wasting the time.
43. Any driver who commit crime in or outside the job should take licence from him until his punishment is finished. If any drive commit crime or blame come to him court should have to resolve that crime in days or weeks, not months or years
44. DBS checks from other countries may not be upto par with this country and may have little or no value on the paper it's written on. In these circumstances the citizen must be living in this country for a minimum of 5 years to obtain a licence and to be considered fit and proper.
45. DBS checks and enhanced DBS checks. Is there anyway that the council can, working in conjunction with the DBS service minimise costs to someone who has a standard DBS check done with one organisation and an enhanced DBS check done with another? Sincerest apologies for not bringing this matter up earlier.
46. These extra dbs ckecks should not require the driver to pay any costs.
47. Bradford council charges Â£44.50 for a DBS check every 3 years. Leeds has proposed Â£70 due to admin costs. More frequent DBS checks will cost how much from the council if approved to do so? Please include exactly how much you propose to charge in your report?
48. Drivers who are sacked for flagging or pirating, with holding rent or data equipment, smoking in vehicles or taxi offices. should be considered unfit and proper persons to hold a licence
49. Existing licence holders should not need to have a DBS every 3 years. It should be 5 years at most, or not at all. It's important at the beginning for a new starter, as there is no record for them at the licencing point. But any instances of prosecutions are much easier to follow once a person is a licence holder. Having a DBS check every three years smacks of money making. We have to pay for all this. It's just another burden on licence holders... 5 yearly medicals, DBS checks, reduction of age for licensed vehicles (even though they are more reliable, more comfortable, more fuel efficient, more eco friendly, and above all else SAFER than ever before. Makes no logical sense to reduce their lifespan), plate and badge fees each had a 21% increase a year or so back which was far too much. The list goes on.
50. More effort should be made to stamp out plying for hire, the public should be made further aware not to flag down a car due to insurance problems and on the personal safety aspects of flagging.
51. 1 renewal fee should be paid once if you hold a license for both private hire and

hackney carriage. 2. Private hire cars should be able to use bus lanes like the hackney carriage do, as customers complain, why are private hire drivers are not allowed to use the bus lane.

52. For God sake make at least only one law who give a little safety a little favoure a little confidence a little reliefe to a taxi driver don't make all law against them

53. bus lanes should be open to private hire drivers too

54. Bradford TPH licensing do a DBS check every 3 years at a cost of Â£44.50. DVLA mandate for Â£6. I certainly hope our costs are justified to the council and more clearly illustrated to the licensing committee.

2015 Additional Safeguarding Proposals Consultation: Talking Point Questionnaire

1. Are you a regular user of taxis and/ or a private hire service?	
Yes 10 59%	No 7 41%

2. Are you a licensed taxi and/ or a private hire driver with Leeds City Council?	
Yes 8 47%	No 9 53%

3. Do you feel it is important that applicants to the taxi and private hire trade are subject to a 'fit and proper' person test?		
Yes 16 94%	No 0 0%	Not Sure 1 6%

Open Comments:

1. Licensed drivers have a high degree of responsibility taking into account potential vulnerability of passengers. As the Licensing Authority, the council must ensure they only license fit and proper people

2. There must be a limit to information required, especially from EU citizens who can prove their entitlement to hold a licence. Other non EU applicants must be stringently vetted on a higher level than the current DBS allows.

5. Character References for EU Residents Born Outside UK - Fair and proportionate?		
Yes 8 57%	No 5 36%	Not Sure 1 7%

Open Comments:

1. Use the police to get information from the country of origin.

2. These can be bought. You can say you know anyone for a length of time - very hard to disprove. What enforcement would be in place - if a referee were proved to be lying - what would the consequences to them be?

3. No one should be able to obtain a taxi/private hire licence without a full and complete enhanced DBS or equivalent if from EU or elsewhere.

4. Although this is a credible way to 'double check' applicants, it cannot eliminate the possibility that two referees could be found that would be available to sign such forms and not have known the applicant at all.

6. Recently Gained UK Citizenship Police Character Certificates Required From Countries Lived In For Over 3 Months - Fair and Proportionate?		
Yes 8 57%	No 5 36%	Not Sure 1 7%
Open Comments:		
1. If they cannot furnish the information required no licence.		
2. These certificates can't be relied upon as the criminal record keeping in some of these countries are not as good as ours.		
3. They may have lived in several countries for 3 month periods and been perfect citizens - doesn't mean they haven't lived in other countries and committed heinous crimes there		
4. In my opinion the checks are too lenient and people should not be allowed to be a taxi or private hire driver unless a full background check is available.		
5. UK citizens have to provide a 5 year history without exception. If we live in a society promoting equality then the same rules MUST apply. Any less is putting the travelling public at risk.		
6. Agreed. But, it must be noted that an applicant arriving from a war torn area would render the council department in limbo as it would not have the ability to request such documents.		

7. Any further comments on the proposals that you wish to be considered?
1. Like France Germany Holland Italy and all other ec country's no speak or understand the language not even given the paperwork to obtain a licence.
2. Bring in more stringent checks as soon as possible for everyone.
3. Generally feel that there is not enough enforcement around taxi-licensing anyway. The driving test should be stricter and certainly the English and maths tests. Also whatever other written tests - do not seem to be good enough as often drivers do not know the geography of Leeds and its environs.
4. The proposals seem fair in totality. Where applicants cannot meet the requirements, there could be some discretion, but with the emphasis being on public safety.
5. I am a private hire driver in meanwood for Ace cars. I have noticed recently a lot of Uber cars that are licensed in Bradford, Kirklees and Wakefield sat in the Meanwood, Headingley and Hype park areas waiting for jobs. On a personal basis I feel this is wrong as they are obviously working in the Leeds area and do not have a Leeds city council license. I feel what you are trying to do safeguarding children is excellent but on the other hand I fail to see how it can be effective until this practice is stopped. I am aware if somebody wants to book a Leeds taxi and lives in Wakefield the taxi is allowed to go and pick them up but he does not stay in that area picking up fares. These drivers are not subject to as strict licensing terms as in Leeds and really could be anybody. I hope you understand the point I am making and really hope this practice is stopped for my own reasons and protecting the children of Leeds.
6. UK Citizens have to meet an existing criteria. Anyone coming from abroad must provide the same history. Any less is not fair on UK citizens or providing protection for the travelling public. If someone slips through the proposed ideas will the council hold their hands up that it failed in that protection? Will the tax payers have to pay

expensive legal costs or compensation to any victim?

7. Given that the immigration bill is currently running through parliament perhaps to legislate locally on the basis of the immigration bill proposals would lead to a more robust policy that not just Leeds would have to adopt. Perhaps aligning a policy prior to the final proposals in the immigration bill have been agreed could mean Leeds adopting a policy that could be too high or too poor compared to a national one.

Branch NE/302/3
Branch Chairman
Paul Landau
99 Borrowdale Crescent
LEEDS LS12 2JD
Tel 07456171315
Email: paul.landau@unitetheunion.org
North East, Yorkshire&Humberside



LEEDS CITY COUNCIL CONSULTATION RESPONSE:

NON EU APPLICANTS: TAXI & PRIVATE HIRE

Date: November 2nd 2015

Compiled by: Paul Landau - Branch Chair

We would like to thank Leeds City Council for opening up this subject to consultation to stakeholders and the public.

Given the gravity of this issue, it is welcomed that Leeds a City Council is addressing an area which currently there is scope for advancement in the arena of safeguarding and the wider public safety element of which every council is duty bound to ensure safe travel. However, in consideration of this consultation and being of such nature, **Unite feels that this topic separate to this response and those of others, should be entered and looked at by the councils working group moving forward and to ensure that there are no changes to UK policy that would effect and decision made by the licensing panel.**

In our response we will cover the issues of:

- 1: Safety**
- 2: Impact**
- 3: Equality**
- 4: Proposal**

Unite does not seek a long winded and convoluted response. Instead our points will be comprehensive yet may include certain narratives, to which the elements in the four points will have a bearing or vice versa.

Our response will be given from investigative conversations with branches from across the UK and where necessary from both Unites Equalities team and legal teams based at Unite, Holborn, London.

Unite is in a fortunate position to be a credible respondent having access to a wealth of information, similar to that of licensing officers of every council, including the Local Government Association, U.K. Home Office, EHRC, Unite Equality National Office and Unite legal department. As such and within a short timescale, Unite has been able to compile this comprehensive, robust and necessary response.

1: Safety



Is a particular issue, which has been paramount in councils especially with individuals dealing with the vulnerable in our society and so it is with a duty of care that each local authority finds a safe level at which those residents can be assured of that.

Unite Cab Section and Unite the Union places immense importance in the safe travel of passengers whether that be by Taxi, Private Hire, Train, Bus, Air or Maritime.

It is our view that safety for the travelling public MUST at all costs be the lead element to prevent horrific events occurring such as those documented and in the media from London, Rotherham and elsewhere.

Sadly, the government does not provide clear guidance on safety for applicants of Taxi or Private Hire licenses where they're arriving in the UK as a host nation if they're a person who is eligible to remain under the Asylum or Refugee status. It has to be said that this lack of clarity is a huge concern for Unite Cab Section and would be for the travelling public were they to become acutely aware of that lack.

The Local Government Association itself acknowledges that there are massive safety implications on this, but that it ultimately rests with each LA to provide local measures to ensure safe passenger travel in Taxis and Private Hire vehicles at present or at least until comprehensive legislation can be adopted into the Immigration Bill 2015/16, which is currently out for consultation.

Given the propensity of issues that have arisen since the fallout from the Rotherham case, it is obvious that safeguarding be the key element for any LA and especially considering the 'Jay Report' into investigations of impropriety in care homes. Although Taxi and Private Hire drivers rarely or infrequently come into contact with vulnerable children from these establishments, it is not withstanding that other Leeds City Council employees will do so and for that matter this review and bolstering of such policy is welcomed by Unite.

Unite Cab Section and Unite the Union believe that everyone should have the right to travel safe and to never be placed into situations that would make them feel uncomfortable or uneasy. Unite Cab Section wholly agrees with advice which is currently listed on the Taxi and Private Hire website by Leeds City Council.

<http://www.leeds.gov.uk/residents/Pages/a-re-you-taxi-aware.aspx>

However we feel that this information and its effectiveness is not in any way broadened to alert the general public, moreover only those whom know about the site or clamber across it would indeed read the content.

Part of a greater safety element, especially given the safeguarding measures currently in place would be to roll out better, wider and more comprehensive information to the



public via better use of a dedicated social media site such as that used to communicate to the public by Transport for London (TfL) on Twitter.

In such use of social media the public could be informed that Leeds is progressive and that it will not accept any applicants that cannot provide statutory documentation and or proof of good character or conduct from non EU countries that we are discussing or such documentation as the Immigration Bill will most definitely include in their proposals.

2: Impact

When new proposals are likely to be introduced into licensing regimes there will always be an impact, be that negative or positive it is an unassailable fact.

The impact of this change or some might even say, introduction of a new policy should not hinder the licensed drivers already in situ. Licensed Taxi and Private Hire drivers already undergo very stringent tests to allow them to drive Leeds City Council licensed vehicles and proposed changes should not include those.

In the proposed changes to the Immigration Bill 2015/16 there is the scope for the UK Government to include the element of 'Right to Work'. Where current licensed drivers have held a license, which has been granted from evidence given to the Disclosure Barring Service, this should be accepted along with the determination of records held on each drivers as to their 'fit and proper' status to have their licence renewed.

Any inclusion of this element could potentially cause delays in applications as not every applicant or renewee will or does have access to a Passport to which the granting of the right to work would be classified.

The impact of this consultation should be as mentioned in item 1 and that is to restrict nay cease applicants who cannot prove their ability to work in the UK and be classed as a fit and proper candidate.

However, where impact certainly manifests itself, it should be robust and meaningful. It should not be seen as 'just another form to fill in' or 'another box to tick' by those applying under the auspices mentioned. The impact upon an applicant who cannot provide such material should be such that it would make them think very hard about it and if necessary allow them to consider their application fully.

Moreover, such impact should not be seen as the only deterrent to stopping illegitimate applicants and should not be the only method of protecting the system from such.

It is widely known and reported on by the media that articles such as false documentation is readily available in the UK for a price and such measures should be coupled with further ones as will be mentioned later.



Leeds and West Yorkshire as a combined authority, which is and has undergone certain changes, must be ready to protect its citizens fully. An unknown equation in this matter is likely to be the 'Devolution of Yorkshire' issue. As yet and as many will already know, speculation is rife about what and when or how this topic will affect Leeds as a City in its own right. Any measures taken by the licensing panel must reflect a 'future proofing' of the Taxi and Private Hire licensing department and proposals, changes and the impact that they bring must be of such nature that when, if and subject to the Immigration Bill, that the combined authority and or Greater Yorkshire authority must be in a position to adopt those impacts across their licensing departments too.

This should mean Leeds licensing liaising with other authorities connected in West Yorkshire and rolling out such policy changes or introductions as consulted on within this provision themselves. This in turn would have a positive impact on Leeds as a city especially with the onset of the slackened regulation by the Department for Transport on October 1st this year with Clause 12 of the Deregulation Bill and its impact on the safety element that passengers are under currently.

3: Equality

Is an area that can be both contentious to some and protective of others. Most would define equality as the ability to offer the same standards of employment to any person irrespective of their ethnicity, age or gender.

However, for the purposes of this consultation and to avoid becoming bogged down in the point, we refer this section to the right of a non EU Asylum or Refugee seeker to be given the same rights to work in the UK as a domicile inhabitant or EU status inhabitant. While it could be argued that a person whom is fit and able to work should have the right to do so, it should also be argued that in the realms of protection that certain equalities must be waived in those interests.

It is proven that a vast majority of non EU inhabitants often will fall into the classification of low-skilled and as such will more often than not enter jobs in countries that offer such. Data to support this can be found in the: *MIGRANTS IN LOW SKILLED WORK* report July 2014

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/333083/MAC-Migrants_in_low-skilled_work_Full_report_2014.pdf

As this report is over 308 pages in length, I have selected the most appropriate sections from it make the case.

Page 23: This lists the Standard Occupational Standard skill classification that performing the role of Taxi or Private Hire driver would be set at. On the scale of 1 - 9, the skill level achieved is 6, with 1 being highly skilled and 9 being almost unskilled by definition.



The evidence to support such claims is found within the report and points to the actual fact that a NON EU migrant as defined, will most often do low-skilled work despite their educational level from their own country of origin.

While it could be also argued that a NON domicile or EU migrant should have the right to residency status, the report makes it very clear that to achieve this status such migrant must comply with the tariff set by the UK Home Office department of no less than 5 years prior to application.

With that in mind it therefore clearly waives the non EU migrants entitlement to work in any job role, whether in an employed position or self-employed position and this is further backed up by HMRC Immigration Service response levels of migrants found to be working in low-skilled or non-skilled jobs and subsequently not having the right to work, leading to further deportation from the UK.

Further proof of NONEU migrants falling into the low-skilled work, such as Taxi and Private Hire can be found in the Table B1 on Page 308, column 1. Here in this table it lists the organisations that classify such role. Those being:

SOC } Standard Occupational Classification

LPC } Low Pay Commission

On the basis of the above report and from direct information received, it is clear that it is not problematic or discriminatory to deny such applicants for Taxi and Private Hire licenses based on the UK Home Office 5 year rule as stated. It is proven also by the Organisation for Economic Co-operation and Development (OECD) that low pay and low skill are not necessarily linked, but that it follows that methodology in the majority of cases.

Given that a NON EU migrant entering the UK for the first time would be more likely to enter the low-skilled or non-skilled work environment, it is fair and reasonable to ensure that restrictions that do not hinder that person the ability to co-exist should be upheld and not be waived. Nor should the applicant be granted any more special treatment than that of a domicile applicant or EU migrant applying.

To that end and given the data we find no reasonable excuse to deem such action as to discriminate or prevent such NONEU migrants the right to UK domicile, but perhaps defer such application until such time has elapsed in residency and given such time lapse that the DBS service would therefore have a record of such applicant given over by HMRC Immigration and UK Home Office.



4: Proposal

Many of the proposals we would put forward have already been placed within this document. These are not exhaustive and can be added to in the course of this section.

- The addition of a time scale adopted by LA's similar to that of the UK Home Office for domicile residency and British Citizenship Status of no less than 5 years from the date of entry into the UK and proof of continual residency within the UK for that same period.
- Proof of 'Good conduct' or statement from their local Police Service to attest to that for the duration living in that area of residence. Were they to have moved around, then the same would apply for all areas to which that applicant would have resided prior.
- Following the advice relating to the new Immigration Bill 2015/ 16, the proposal of an Asylum / Refugee 'right to work' under new proposals. Removing the ambiguity and making decisions much clearer and fair.
- For all applicants to be placed on a probation basis. This could be for a period up to and including 5 years from date of application (with reference to NON EU migrant) and could be seen as a 'double checking system' where the applicant would have to comply with regulations as set, such as 'plying for hire' and other matters. The current information sharing policy that exists between LA licensing could facilitate such.
- A database of NONEU migrants whom have applied and been rejected on specific grounds to be adopted to which other LA's could tap into to assist in their decision making on applications where such person would travel the country in seek of lesser standards of licensing.
- The immediate removal of a driver found to have been refused a license within the West Yorkshire area and subsequently to be granted one from a NON West Yorkshire authority on the grounds of public safety. It is fair to say that this may not need Dft approval as it could form part of the application information process. Applicants being made aware in written format that if they're refused that they should not seek to work outside West Yorkshire and travel to Leeds for gainful reward with any company seeking to enact such with the cross border hiring regime.
- That any applicant having been refused from another LA to be refused by Leeds licensing on the grounds that set standards elsewhere could display initiatives not in place by Leeds and thus uncover aspects related to an application that would be possibly problematic for the LA if such an incident was to occur. Each applicant would be



made aware that there would be a need to declare such previous applications from other LA's or even from Leeds itself or face being revoked afterwards if found to have misled or purposefully being devious in their application to the department and not have the ability to appeal on safety grounds.

Such measure would possibly prevent applications from such persons and alleviate problems for the licencing section and Leeds City Council in the long run.

This concludes our consultation report

Unite Cab Section - Leeds - NEYH 302/3 - Unite the Union

Equality, Diversity, Cohesion and Integration Screening



As a public authority we need to ensure that all our strategies, policies, service and functions, both current and proposed have given proper consideration to equality, diversity, cohesion and integration.

A **screening** process can help judge relevance and provides a record of both the **process** and **decision**. Screening should be a short, sharp exercise that determines relevance for all new and revised strategies, policies, services and functions.

Completed at the earliest opportunity it will help to determine:

- the relevance of proposals and decisions to equality, diversity, cohesion and integration.
- whether or not equality, diversity, cohesion and integration is being/has already been considered, and
- whether or not it is necessary to carry out an impact assessment.

Directorate: Citizens and Communities	Service area: Elections, Licensing and Registration
Lead person: Kate Coldwell	Contact number: 3781563

1. Title: Fit and Proper Person Assessment

Is this a:

Strategy / Policy

Service / Function

Other

If other, please specify

2. Please provide a brief description of what you are screening

In England (outside London), Hackney carriage and private hire licences are issued by local Councils who have a statutory responsibility to make sure drivers are a 'fit and proper' person to drive a Hackney carriage (taxis) and private hire vehicle (hired through a local operator) being used for hire or reward.

The Council has an existing policy dealing with various aspects of the 'fit and proper' issues however the existing control measures have been in place for a considerable period of time and the opportunities for people to move easily across national or international borders to gain employment have increased significantly.

There is a need to ensure that applicants to the licensed trade are adequately assessed to minimise the potential risk to children, vulnerable adults, women and passengers generally.

The Council must consider the safeguarding, and general public safety, statutory responsibility attached to the grant of a personal licence in the context of more open EU borders and reduced employment constraints on EU and foreign nationals from outside of the EU.

3. Relevance to equality, diversity, cohesion and integration

All the council's strategies/policies, services/functions affect service users, employees or the wider community – city wide or more local. These will also have a greater/lesser relevance to equality, diversity, cohesion and integration.

The following questions will help you to identify how relevant your proposals are.

When considering these questions think about age, carers, disability, gender reassignment, race, religion or belief, sex, sexual orientation. Also those areas that impact on or relate to equality: tackling poverty and improving health and well-being.

Questions	Yes	No
Is there an existing or likely differential impact for the different equality characteristics?	√	
Have there been or likely to be any public concerns about the policy or proposal?	√	
Could the proposal affect how our services, commissioning or procurement activities are organised, provided, located and by whom?		√
Could the proposal affect our workforce or employment practices?		√
Does the proposal involve or will it have an impact on <ul style="list-style-type: none"> • Eliminating unlawful discrimination, victimisation and harassment • Advancing equality of opportunity • Fostering good relations 	√	

If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

4. Considering the impact on equality, diversity, cohesion and integration

If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.

Please provide specific details for all three areas below (use the prompts for guidance).

• **How have you considered equality, diversity, cohesion and integration?** (think about the scope of the proposal, who is likely to be affected, equality related information, gaps in information and plans to address, consultation and engagement activities (taken place or planned) with those likely to be affected)

It is the Taxi and Private Hire Sections job to make sure the taxi and private hire trade in Leeds is operated in a professional manner and that the correct standards of public safety are met by drivers, proprietors and Operators and all vehicles are safe and meet a reasonable standard of comfort. We are committed to providing a quality transport service within the taxi and private hire trade and our overriding principle is the safety of the travelling public. The Council is alert to public expectations of passenger care and comfort.

In addition, Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency; safeguarding is ultimately the responsibility of everyone and depends on the everyday vigilance of those who play a part in the lives of children or vulnerable adults. Potential access to the vulnerable can be gained as a licence holder through the Councils' transport contracts.

The responsibility of a local authority to exercise good practice in assessing 'fit and proper' has gained momentum and focus in light of the letter to local authorities from the Rt Hon Eric Pickles MP, Secretary of State, Department for Communities and Local Government dated 24 September 2014. A similar emphasis was adopted in a letter from the Minister of State, Baroness Kramer, Department for Transport dated 18 November 2014.

Nationally there have been examples of EU citizens going under the radar in respect of their previous criminal history. That could pose a significant risk if a personal licence was granted to such a person.

The majority of licensed drivers are from ethnic minority groups entering the country from India, Pakistan, Afghanistan, Africa the 'middle east' and from EU member states.

The UK DBS process is a credible means of checking on a long term UK resident's criminal activity, whether convicted or otherwise. One difficulty arises where a person has not been resident in the UK for a period of time which would not allow a proportionate assessment to be made of their character based on DBS disclosure alone.

Across EU Member states, there is a conflict in the standards of recording, retaining and disclosure of information regarding criminal activity across EU member states and a further problem of accessing that information for licensing purposes. The primary route for obtaining information from EU Member states is in relation to criminal proceedings. Licensing or employment checks are not as easily obtainable by local Authorities and may not be approved for release.

Licensing Authorities across the country currently may have had to satisfy themselves with 'certificates of good character'. These documents take a variety of forms but, generally, they are not able to be verified by licensing staff. The integrity of the document itself, or the relevance of a genuine document, may undermine the principles of a safe licensing regime. What an individual country might regard as 'recordable' or are willing to disclose can be entirely different to the UK DBS.

These variations also cause concern in respect of non-EU countries; applicants produce documentation which is not auditable. If the documentation has been obtained through a Consul or Embassy the question still has to be asked of "what value is it" if the host country does not properly recognise, record or properly

investigate certain types of crime.

Concerns about the distinct lack of robustness in this arena by some none EU countries is considered to be of significant importance that further robust checking measures are in place for none EU applicants.

Legal advice has been taken from Counsel on the sensitivities and legalities around these issues with emphasis being placed on the primary purpose of the legislation which is public safety and not the opportunity for employment.

Officers feel it is essential that more integrity is built around this assessment process and would seek to require none UK applicants to obtain full criminal disclosure from their country of birth, other countries they have resided in and any other auditable supporting information as required by the Authority to determine the 'fit and proper' test more appropriately.

Counsel opinion states; *"It is abundantly clear that Leeds City Council has taken great time to understand the plight of certain potential applicants and I make specific reference to the paragraph which refers to asylum seekers or refugees who have been granted British citizenship. The policy reflects a regulating authority which understands that not all applicants can be treated the same.*

"In my view, the policy is drafted in such a way that achieves the following:

- i. It is sufficiently clear so that prospective applicants understand what is required of them and why*
- ii. Taking this further, there is nothing ambiguous about what is included within the draft*
- iii. All potential applicants, regardless of their background can achieve a licence to drive a taxi within Leeds (in other words it does not exclude based on nationality and cannot therefore be discriminatory)*
- iv. The policy is necessarily tight, for it requires applicants to provide a lot of information (but this is reasonable in light of the job they would be performing and the importance of safeguarding overall)*
- v. It distinguishes properly between different applicants and tells them why it does so.*

Consultation

The policy proposals were shared with the current licensed trade and the general public via Talking Point, Leeds City Council's consultation tool. A full six week public consultation period was held 18th September – 30th October. The results of which will be considered and used to inform the overall policy and practice presented to Elected Members to consider.

- **Key findings**

(think about any potential positive and negative impact on different equality characteristics, potential to promote strong and positive relationships between groups, potential to bring groups/communities into increased contact with each other, perception that the proposal could benefit one group at the expense of another)

The safe licensing and monitoring of licence holders is a statutory responsibility for the Council and contributes significantly to the safety of the travelling public and it is recognised that those who are licensed by the Taxi and Private Hire Licensing Section are the biggest providers of transport in the evening and night time economy.

Applications from long standing UK nationals present no significant difficulties in determining the 'fit and proper' person assessment in respect of convictions, cautions or other relevant background information supplied at the discretion of the Police. A lifelong UK citizen will have a discernible DBS history unless they have lived outside of the country.

When a person has only recently been granted UK citizenship obtaining the same sort of credible information can be difficult and even more difficult to verify, especially when it originates from a non- EU country.

Supporting references are generally vague with none or little meaningful information relevant to the responsibilities of the role applied for. It is often the case that the authors of such references have a personal, community or business interest in supplying a favourable reference.

Sentencing policy in other countries may be somewhat different and may cause some conflict with the Council's convictions criteria policy which sets assessments by the seriousness of offence. Finally, in the UK Chief Constables can disclose to Licensing Authorities information they think relevant to the role being applied for.

The Council can and does consider such 'other relevant information' and would question the applicant about it and also seek further information from the Police. The Council is able to do this because the processes in which such applications are determined are a civil process and decisions are based on the balance of probabilities. This enables local Authorities to have a much tighter net to safeguard the public. The majority of such information may not be disclosed by non UK authorities because it is not registered as a conviction. This places the Council at risk in conducting assessments on non UK applicants.

Officers feel that a five year UK DBS history is a good milestone but understand that it may not be achievable by all applicants and there is a concern that a blanket policy stipulating such a requirement may be deemed discriminatory and open to challenge.

Even with a 'five year' history there may still be the need to obtain a longer span of an individual's history to conduct an appropriate assessment.

It is felt that the statutory test to demonstrate somebody is a 'fit and proper' person should be the determining factor and the responsibility for that rests with the applicant.

A final recommendation will be made in due course.

Advice from Counsel has been sought on a number of areas. Other areas of advice will continue to be evaluated in the context of developing policy.

The impetus for enhancing the application process in respect of safeguarding issues is clear and significant from Central Government. However the measures identified to enhance the decision making process have to be proportionate and non-discriminatory.

The Council informs of changes to policy by publicising them in a variety of ways e.g. via trade forums, email, quarterly newsletter, information screens in Reception. It is the responsibility of the licence holder to be familiar with those changes and seek appropriate advice and guidance if in doubt.

- **Actions**

(think about how you will promote positive impact and remove/ reduce negative impact)

Ensure that we take legal advice as applicable prior to making any change proposals regarding our policies.

Ensure that we continue to consult fully regarding any proposed changes to our policies.

Ensure any changes to our policies are communicated widely and appropriately.

Ensure that our publications continue to be written in plain English and that support is offered via Officers to explain our policies.

Continue to enforce our policies to ensure that the correct standards of safety and comfort are satisfied by licence holders.

5. If you are not already considering the impact on equality, diversity, cohesion and integration you will need to carry out an impact assessment.

Date to scope and plan your impact assessment:

Date to complete your impact assessment

Lead person for your impact assessment
(Include name and job title)

6. Governance, ownership and approval

Please state here who has approved the actions and outcomes of the screening

Name	Job title	Date
Des Broster	Section Head	3/11/2015
Date screening completed		28.09.2015

7. Publishing

Though **all** key decisions are required to give due regard to equality the council **only** publishes those related to **Executive Board, Full Council, Key Delegated Decisions** or a **Significant Operational Decision**.

A copy of this equality screening should be attached as an appendix to the decision making report:

- Governance Services will publish those relating to Executive Board and Full Council.
- The appropriate directorate will publish those relating to Delegated Decisions and Significant Operational Decisions.
- A copy of all other equality screenings that are not to be published should be sent to equalityteam@leeds.gov.uk for record.

Complete the appropriate section below with the date the report and attached screening was sent:

For Executive Board or Full Council – sent to Governance Services	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate Directorate	Date sent:
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent:

LICENSING COMMITTEE WORK PROGRAMME 2015/16 - LAST UPDATED 04/11/15 (JG)

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
Items Currently Unscheduled			

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
	Meeting date: 10th JUNE 2014. HELD PH operator Conditions Review, HC Proprietors Suitability Assessment, 3 Year Driver Licensing, Convictions Criteria and De Regulations		
	Meeting date: 8th JULY 2014. HELD: BID UPDATE (Late Night Economy), Strong Alcohol Schemes, Otley Cumulative Impact Policy		
	Meeting date: 5th AUGUST 2014. HELD: Entertainment Licensing Section Activity update, TPHL Section Activity Update, TPHL Equality Monitoring, Leeds Festival 2014		
	Meeting date: 9th SEPTEMBER 2014. HELD: WYP Presentation, Hackney Carriage Proprietors – Appropriate Suitability Assessment, Digital Advertising Screens In Licensed Vehicles		
	Meeting date: 7th OCTOBER 2014 HELD: Inner East and Inner West Local Licensing guidance, Shisha Smoking and Smoke Free Legislation Update Report, Outcomes of the Licensing Committee Working Group (WG) and Information and Consultation Report – Additional Licensing Safeguarding Proposals		
	Meeting date: 11th NOVEMBER 2014 CANCELLED		
	Meeting date: 9TH DECEMBER 2014: Review of City Centre Cumulative Impact Policy, Entertainment Licensing Fees and Charges, Fixed Odds Betting Terminals, Fee Wi Fi in Private Hire Vehicles, Additional Taxi and Private Hire Licensing Safeguarding Measures – Annual DBS Checks * the online DBS update Service, Additional Licensing Safeguarding Proposals – Improving Criminal Intelligence Lengths with the WYP, Unmet Demand Survey – Hackney Carriages		
	Meeting date: 6TH JANUARY 2015 CANCELLED		
	Meeting date: 10TH FEBRUARY 2015: Entertainment Licensing Section – Update Report July to December 2014, Working with Health, Hackney Carriage Proprietors (HCP) Appropriate Suitability Assessment – Update, Taxi and Private Hire Licensing Equality Monitoring, Activity Update – Taxi and Private Hire Licensing – 1st July to 31st December 2014, Safeguarding		

Key:

RP – Review of existing policy

DP – Development of new policy

PM – Performance management

B – Briefings

SC – Statutory consultation

LICENSING COMMITTEE WORK PROGRAMME 2015/16 - LAST UPDATED 04/11/15 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Measures – Fit and Proper Assessment for HCD, HCVP, PHD, PHVP, PHO Licences, Escort and Permit Drivers			
Meeting date: 10th March 2015: Taxi and Private Hire Licensing Web Page – Revealing pages following Enforcement Activity, Digital Advertising Screens, Presentation on Legal highs in Leeds, Policing and the Night Time Economy			
Meeting date: 8th April 2015: Shisha Update, Gambling Act 205 Statement of Licensing Policy, First Draft Event Management – Leeds Festival 2015.			
Meeting date: FRIDAY 22ND MAY 2015 – ADDITIONAL MEETING - Governance arrangements, Digital Advertising Screens in Licensed Vehicles.			
Meeting date: 9th JUNE 2015 CANCELLED - Response to the Gambling Commission Consultation on the Guidance to Licensing Authorities – Members views obtained by email and response sent – S Holder			
Meeting date: 7th JULY 2015 - HELD - GAO5 Policy Review, Hemmings C Westminster Case Review			
Meeting date: 4th AUGUST 2015 - HELD - Leeds Festival 2015, Entertainment Licensing Section Activity update, TPHL Section Activity Update, Private Hire Operators that use smart phone apps" and how they comply with the booking requirements.			
Meeting date: 8th September 2015 – HELD - Policing and the Night time Economy and Changes to TPH Licensing in Deregulation Act			
Meeting date: 6th October 2015 - CANCELLED			
Meeting date: 17th November 2015			
Large Casino Presentation	To receive a presentation from Global Gaming Ventures which provides an update on the Victoria Gate Casino scheme	N Raper	B
De-Regulation Act 2015 and Delegation of	To receive a report on Local Authorities and cross border enforcement	M O'Shea D Broster	RP

Key:
 RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

LICENSING COMMITTEE WORK PROGRAMME 2015/16 - LAST UPDATED 04/11/15 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Enforcement Powers Across Authorities.			
Safeguarding Measures – Fit and Proper Assessment for Taxi drivers and operators	To receive report setting out proposals for the introduction of a new policy dealing with Safeguarding Measures – Fit and Proper Assessment for taxi drivers and operators	Des Broster	DP
Leeds Festival De-Brief	To receive a report which provides a de-brief of the Leeds Festival 2015	S Holder	B
Policy change proposals – ‘fit and proper’ person assessment	To receive a report on Policy change proposals – ‘fit and proper’ person assessment	D Broster	B
Meeting date: 15th December 2015			
Hackney Carriage Forum Constitution	To receive a report which highlights recent changes to the Hackney Carriage Forum Constitution	D Broster	B
City Centre CIP Review	To receive a report which provides a review of the City Centre CIP	S Holden	RP
Armley CIP	To receive a report which put forward proposals for a CIP for Armley	S Holden	DP
Mint Festival 2015	To receive a report which provides a de-brief of the Mint Festival 2015	S Holder	B

Key:
 RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

LICENSING COMMITTEE WORK PROGRAMME 2015/16 - LAST UPDATED 04/11/15 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
D-Brief			
Meeting date: 9th February 2016			
Hemming Vs Westminster Judgement – Implications for Council Departments	To receive a report back on the implications for Council Departments following the Hemming Vs Westminster Judgement	M O'Shea	B
Entertainment Licensing Section – Update Report July to December 2015	To receive an update report on Entertainment Licensing covering the period July to December 2015	N Raper	PM
Activity Update – Taxi and Private Hire Licensing – 1st July to 31st December 2015	To receive an activity update for Taxi and Private Hire Licensing covering the period 1 st July to 31 st December 2015	D Broster	PM
Meeting date: 8th March 2016			
Meeting date: 12th April 2016			

Key: RP – Review of existing policy DP – Development of new policy PM – Performance management B – Briefings SC – Statutory consultation

LICENSING COMMITTEE WORK PROGRAMME 2015/16 - LAST UPDATED 04/11/15 (JG)

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
Meeting date: 10th May 2016			
Wheel Chair Accessible Vehicles	To receive an update on Wheel Chair Accessible Vehicles	D Broster	B

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Report author: Stephen Holder
Tel: 0113 2474095

Report of the Head of Elections, Licensing and Registration

Report to the Licensing Committee

Date: 17 November 2015

Subject: Leeds Festival 2015 - Members Debrief

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Wetherby and Harewood		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Paragraph B – exempt information under Access to Information Procedure Rules 10.4(3) as this includes information relating to the financial or business affairs of any particular person, and 10.4 (7), information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.		

Summary of main issues

1. The Leeds Festival is an annual event held over the August Bank Holiday weekend within the grounds of Bramham Park. The Festival is held under the authorisation of a premises licence issued under the Licensing Act 2003.

Recommendations

2. The Licensing Committee is required to note the contents of this report in respect of the de brief following the Leeds Festival 2015 held at Bramham Park.

1.0 Purpose of this Report

1.1 This report is to give a report to Members of the outcome of the Leeds Festival held between the 27th and 30th August 2015.

2.0 Background Information

2.1 The premises licence for the Leeds Festival was considered and approved by the Members of the Licensing Committee on the 28 April 2006.

2.2 The licence granted to Mr. Benn is held for Bramham Park and allows the festival to take place every August Bank Holiday weekend.

2.3 Members resolved to grant the application as requested and accepted the applicants offer to include the following additional three conditions:

- 1) There shall be an Event Management Plan which incorporates the operating schedule submitted to the Licensing Authority at least 6 months prior to the Festival each year.
- 2) The Event Management Plan and any revisions to the Event Management Plan must be approved by the Licensing Authority prior to the Festival.
- 3) The Premises Licence Holder shall comply with the terms and requirements of the Event Management Plan each year.

2.4 In addition the Committee reserved the right to determine how the final amended Event Management Plan for the festival should be agreed with the facility for the final plan to be agreed by the Committee or officers under delegated authority.

2.5 Members were presented with a report on the 2015 Festival arrangements at a meeting of the Licensing Committee held on the 4th August 2015.

2.6 Members resolved to give delegated authority to Mr. Mulcahy, the Head of Licensing and Registration, to approve the final Event Management Plan. This was duly approved on the 26th August 2015.

2.7 Members of the Licensing Committee undertook a tour of the site on the 26th August in the company of Mr. Benn the festival organiser.

3.0 Main Issues

3.1 The car parks and campsites opened to the early bird ticket holders on Wednesday 26th August.

3.2 Multi agency meetings were held on the following occasions:

- | | | |
|------------|-----------|----------|
| • Thursday | 27 August | 17:00hrs |
| • Friday | 28 August | 17:00hrs |
| • Saturday | 29 August | 00:15hrs |
| • Saturday | 29 August | 17:00hrs |

- Sunday 30 August 17:00hrs

- 3.3 No agency concerns were raised at any of these meetings.
- 3.4 Attached at appendix A is a report on the observations made by officers from the Environment Department on their involvement with the event.
- 3.5 A multi- agency debrief was held on the 7 October 2015 and a summary of the outcome of the meeting is attached at appendix B.
- 3.6 It should be noted that the contents of appendix B is potentially exempt information under Access to Information Procedure Rules 10.4(3) as this includes information relating to the financial or business affairs of any particular person, and 10.4 (7), information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 3.7 Agencies and the licence holder are of the opinion that the event went well with a good working relationship between the Festival Republic staff and the responsible authorities.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The application for the premises licence in 2006 was subject to the statutory consultation process involving a newspaper advertisement and public notices displayed around the site for 28 days. Full liaison was held with the Ward Members and responsible authorities. Festival Republic continues to liaise with community representatives through the Parish Councils and local residents.

4.2 Equality and Diversity/Cohesion and Integration

- 4.2.1 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Committee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

4.3 Council Policies and City Priorities

- 4.3.1 When determining applications under the Licensing Act 2003 the Licensing Authority must have regard to the relevant legislation, guidance issued by the Home Office, the council's own statement of licensing policy and any associated local area guidance.
- 4.3.2 Applicants are expected to have had consideration to the relevant policy and any local area guidance when completing their applications and the licensing authority will refer to the policy/local area guidance when making its decision.
- 4.3.3 The licensing regimes contribute to the following outcomes as set out in the Best Council Plan 2013-17:

- Improve the quality of life for our residents, particular those who are vulnerable or in poverty;
- Make it easier for people to do business with us; and
- Achieve the savings and efficiencies required to continue to deliver frontline services.

4.3.4 The application was granted in 2006 with regard to the Council's Licensing Act 2003 Statement of Licensing Policy, and the event will operate in accordance with the licensing objectives as set out in the current Statement of Licensing Policy.

4.4 Resources and Value for Money

4.4.1 There are no resource implications to the licensing authority. The premises licence is subject to an annual maintenance fee as prescribed under the Licensing Act 2003.

4.5 Legal Implications

4.5.1 There are no legal implications known to the Council in terms of its responsibilities held under the Licensing Act 2003.

4.6 Risk Management

4.6.1 The event is subject to a number of multi-agency meetings.

4.6.2 Any matters arising during the event having an implication on the premises licence and objectives of the Licensing Act will be brought back before the Licensing Committee.

5.0 Conclusions

5.1 This report advises Members that the event went well and it is reported that there was a good working relationship between the festival organisers and the responsible agencies. The changes to the event management plan to factor in wet weather contingencies was not called on throughout the event although the memorandum of understanding between Festival Republic and the street cleansing team was called upon on a number of occasions following the egress of day visitors.

6.0 Recommendations

6.1 The Licensing Committee is required to note the contents of this report in respect of the de brief following the Leeds Festival 2015 held at Bramham Park.

7.0 Background Papers

None

Appendix A

Leeds Festival 2015

Environmental Health Summary – September 2015

Officers from Environmental Health (EH) were involved with the pre-planning and multi-agency meetings, and were present on site during the event. EH have a strong working relationship with Festival Republic, and as this summary shows, any issues identified were quickly resolved.

This summary has been broken down into 3 main areas: Environmental Protection (ie, noise nuisance), Health and Safety, and Food Safety.

Environmental Protection

During the 2015 event 3 noise complaints were received directly by Leeds City Council.

Complaints by area:

- Bramham 1
- Boston Spa 1
- Garforth 1 (not connected to Leeds Festival)

This compares to:

7 in 2014

30 in 2013

38 in 2012

Proactive monitoring is carried out by the noise consultants and by EH at pre-determined points. Re-active monitoring can be done as required, and was so, following the complaints. A potential issue was identified Thursday night/Friday morning in Bramham. This was dealt with by Festival Republic's noise consultancy team whilst EH Officers were on-site investigating. Monitoring by EH in Boston Spa did not identify any issues at the time of visits to the area. The complaint in Garforth was investigated by Festival Republic's noise consultants, and found to be unconnected with the event. This was confirmed with a follow-up visit by EH Officers.

Part of the pro-active monitoring carried out by EH in Barwick identified potential issues Saturday and Sunday night which were dealt with promptly by Festival Republic.

Pro-active monitoring points will be reviewed prior to next years event.

This year, the communication, information sharing, liaison and the professional working relationship between EH and Festival Republic's noise consultants had improved compared to the previous years. This resulted in any issues identified by EH being addresses promptly and efficiently.

Health and Safety

Site visits were made to observe and inspect structure builds between the 10th and 21st August 2015. General H&S issues were observed and the site found to be following good practise. Officers from EH worked with colleagues from Building Control during the build-up and the event itself.

Monday 24th August to Thursday 27st August 2015

Water samples for the whole supply were taken on the Monday and the results were received a few days later - all satisfactory. The sampling was undertaken by staff from the Food team. The event organisers own sample results showed one adverse sample early in the week which was investigated and resolved, in conjunction with our own re-sample and investigation.

General site check undertaken. Due to heavy rain, there were some areas of flooding earlier in the week, and these were raised with the event organisers to monitor prior to campsite opening.

Site visit was made to check on the completion of the campsite areas prior to opening. There had been some changes to the campsite layout for 2015. Brown campsite was removed, and orange campsite was a little larger incorporating purple. A few minor issues were identified at that time:-

- a. Red Campsite – water use point needed levelling to allow free draining down to soak-away rather than uphill.
- b. White Village – incorrect tap fittings used.
- c. Trader water stand-pipes required fixing

These issues were raised with Festival Republic and remedied prior to opening the campsites to the public.

Structural checks with Building Control Inspector were undertaken on the 24th and 27th, on the basis that any issues identified would be completed by the 28th August. There were some late changes to secondary barriers for the main stage and the NME Radio1 tent. Initial planning was to have one in the Radio 1 tent and not at the main stage, but then the opposite was implemented. Items raised:-

- a. Stage right cow-shed missing partial handrail and upper barrier at back. This was resolved on the Friday of the event after the event organisers were advised it couldn't be used until fixed.
- b. Pit barrier to Relentless stage required sand placing to front to prevent foot traps. Resolved prior to opening on the Friday night
- c. There was a lengthy discussion between us, LCC building control, the Event safety team, and the stage company, about a vertical support to the back of the main stage which was resting on wooden plates. In the end, it was agreed that as it was a secondary support it didn't need to be resting on a concrete base.

In line with previous events, our checks were married up with the festivals own H&S checks and a small number of snagging issues were identified and rectified.

Friday 28th August to Sunday 30th August 2015 – general overview.

Site visit was made during the day on the Friday to review structural, general health and safety at work, and public safety issues – including main arena (arena 1), arena 2, and campsites. A few issues:-

- a. As per above, Stage right cowshed required work
- b. Secondary barrier to main stage required sanding for toe traps
- c. Alternative stage fire exit signs required uncovering (blocked by tent edging)

Over the weekend, other than minor issues, or transitory issues (e.g. ongoing cleaning) the following significant issues were identified:-

- a. The 2 water points near white toilets were inadequate for usage – suggested that they replaced with more substantial units for 2016 (picture)
- b. As in previous years, a number of traders found to be storing waste, particularly cardboard, near to LPG cylinders – all advised. Less of an issue in 2015 compared 2014 – the event fire brigade had been more active on this, so for us to advise event organisers accordingly.



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- c. Toilet block at orange/purple had issues throughout the weekend with cleanliness. Most likely due to higher usage than expected due to campsite layout changes and the removal of brown camping. The layout changes essentially removed 2 toilet areas from that end of the site. Increased cleaning took place through the weekend after it was identified by their own monitoring team and us. To review for 2016.
- d. A number of security staff in Radio 1 tent and NME tent seen not wearing ear protection – advised individually and to managers and to FR. Will ensure it is raised during planning for 2016 and possibly make an issue for proactive intervention at the event next year.
- e. There were 4 lasers shows at Leeds this year. For all, documents were checked prior to the event, discussions took place with the event safety team, and onsite inspections of installations took place where possible, although most installation checks took place early am.

Throughout the weekend there were daily multi agency meetings, discussions with Festival Republic Production and Licensing Offices, and liaison with Event safety officers.

RIDDORS

No Riddors (Notifiable incident reports) were received/required from the event site. However, it is worth noting that the event does provide its own on-site hospital set up, which would mean some incidents which may have been reportable, were not reportable as they were dealt with on site.

Food Safety

An Officer visited the festival site on Thursday 27th August to monitor the provisions in place to manage the food establishments and inspect a number of premises. The Officer inspected several food vehicles in the main village, campsites and the main arena. Safety and hygiene standards were found to meet legislative requirements. The Officer also spent time with the onsite Environmental Health Officer to understand what expectations and standards the Festival have in place for monitoring food safety and hygiene standards. The food premises are intensively audited by this professional and therefore the Department are satisfied that there are robust provisions in place to maintain standards

Conclusions

Environmental Health has a good working relationship with Festival Republic. EH works closely with their licensing compliance team, their own health and safety team, noise consultant, and food safety professional. Festival Republic also employs a health and safety contractor (TESS), and EH have daily discussions with them throughout the event. Compared to previous years, the relationship between EH and the noise consultants improved.

The nature of this good working relationship means EH, along with Building Control colleagues, are able to identify/raise issues with each other, and the event organiser, and work together to resolve them satisfactorily. As would be expected, the emphasis on resolution falls to Festival Republic. The continued involvement of the EH service in the planning, build up, and throughout the show week, enables the good working relationship to improve year on year.

Throughout the build-up to the event a number of safety related issues were identified, raised with the relevant persons, and actioned appropriately. Given the size and nature of

the event it is difficult to specify whether some or all of these issues would have been identified and/or addressed without the presence of H&S inspectors or Building Control colleagues. The independent water sampling conducted by EH served to confirm the findings of Festival Republics own water sampling. Numerous checks of the general site were undertaken, and ad-hoc issues identified and rectified. Any issues relating to noise were also highlighted and addressed promptly.

There were no major incidents during the weekend this year. However, it is difficult to predict when incidents may occur.

Officers from EH were involved in the multi-agency planning meetings, on-site inspections pre and post event, sound testing and the de-brief meeting and were present on site during the event.

As every year, EH involvement will be reviewed prior to the event. This is to ensure there is the correct balance between effectively managing available resources, while protecting the health and safety of both resident and visitors of Leeds to what is the largest event hosted by the City.

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Report of the Head of Licensing and Registration

Report to Licensing Committee

Date: 17th November 2015

Subject: **Gambling Act 2005 – Licensing of the Large Casino
Schedule 9 Agreement - Annual Update**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): City & Holbeck		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
<p>Appendix A is exempt from publication under the provisions of Access to Information Procedure Rule 10.4(3) as it includes information relating to the financial or business affairs of any particular person and in all circumstances of the case, the public interest in maintain the exemption outweighs the public interest in disclosing the information.</p>		

Summary of main issues

1. In May 2013 the council granted a provisional statement to Global Gaming Ventures Limited (GGV) to operate a large casino at Eastgate, now known as Victoria Gate, Leeds 1. In March 2015 the provisional statement was superseded in the grant of the full premises licence.

2. The casino licence is subject to a Schedule 9 agreement which is a legal agreement made between the council and the licence holder and ensures that the benefits evaluated as part on the large casino application process are secured.

- 3 The Schedule requires GGV provide reports on its progress in delivering the benefits.

Recommendations

- 4 That Licensing Committee note the contents of the appendices to this report, in addition to the presentation of Global Gaming Ventures Limited.

1.0 Purpose of this report

1.1 This report is for GGV to present Members with their report on the delivery of the benefits to-date, and also to provide Members with details of the build and fit-out of the casino.

2.0 Background information

2.1 The Gambling Act 2005 allowed 16 casinos across England, Scotland and Wales – 8 large and 8 small casinos. A large casino allows for up to 150 gaming machines and a small casino 80 gaming machines. .

2.2 Following the approval of Executive Board in March 2006, the Director of Development submitted a bid to HM Government's Casino Advisory Panel for a large casino in Leeds.

2.3 Leeds City Council was successful in their bid for a large casino, together with Great Yarmouth, Middlesbrough, Kingston Upon Hull, Milton Keynes, Newham, Solihull and Southampton.

2.4 In May 2013 the Licensing Committee granted a provisional statement for a large casino licence to GGV Ltd., for the site at Eastgate, Leeds 1, now known as Victoria Gate.

2.5 The provisional statement was granted following a competition exercise and utilising approved evaluation methodology and scoring criteria, which sought to maximise the financial, social and economic benefits for the city.

2.6 On being granted the licence, GGV Ltd committed to undertaking a wide range of benefits, including commitments to employment, training, mitigating problem gambling, and commitment to environmental principles to the physical development of the casino. Such benefits are secured by a Schedule 9 Agreement.

2.7 Included within the Schedule 9 Agreement was commitment to contribute to a Social Inclusion Fund (benefits 2 & 3) with initial funding being received in 2013 and subsequent payments expected once the casino is opened. Following on from an update given to Licensing Committee in February, three projects made formal application to the fund and were successful in receiving funding. These were for:

- An online face to face outreach service.
- Franchising of the successful Money Buddies project.
- A ready for work programme specifically targeting those aged 25+ with severe barriers to work.

2.8 The Social Inclusion Fund is managed by the council's Financial Inclusion Team.

2.9 GGV Ltd went on to secure the full casino premises licence in March 2015.

3.0 Main issues

- 3.1 The Schedule 9 Agreement is strengthened by a condition on the casino premises licence which ensures that the benefits evaluated as part of the large casino Stage 2 application process are secured.
- 3.2 The Schedule 9 Agreement consists of a Schedule 1 document which sets out 38 benefits that the casino will deliver.
- 3.3 A casino management group has been established within the council to monitor the delivery of those benefits.
- 3.4 GGV Ltd have agreed to fund work to independently monitor the performance of the licence and its compliance with the agreed benefits, and the operation of a robust system of monitoring, management and mitigation to ensure that the social and health risks are closely monitored to minimise any potentially harmful effects of the new casino.
- 3.5 The first report of this nature is attached at appendix A for Members information. However Members will be aware that as the casino is still in the stages of development, a number of benefits will have not yet been achieved.
- 3.6 Representatives from GGV are present at today's meeting to present the contents of appendix A and furthermore to provide Members with a visual presentation of the casino final build.
- 3.7 It should be noted that the contents of appendix A and the presentation to be provided before the Licensing Committee are potentially exempt information under Access to Information Procedure Rule 10.4(3) as these include information relating to the financial or business affairs of any particular person and in all circumstances of the case, the public interest in maintain the exemption outweighs the public interest in disclosing the information.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The report of the Director of Development was considered before Executive Board in March 2006.
- 4.1.2 The application for a provisional statement (premises licence) at Stage 1 and subsequent application for a full licence were subject to the prescribed public notice procedures.
- 4.1.3 The Gambling Act Statement of Licensing Policy is reviewed on a three yearly basis, last reviewed and approved in December 2012, and the 2016-2018 policy review is presently underway.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The Gambling Act Statement of Licensing Policy is subject to an EDCI Assessment, and a screening form has been completed.

4.3 Council Policies and City Priorities

4.3.1 The licensing regime contributes to the following Best Council Plan 2013-17 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty
- Make it easier for people to do business with us

4.3.2 The licensing regime contributes to our best council objective:

- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city.

4.4 Resources and Value for Money

4.4.1 Employment and financial benefits have been secured through the Schedule 9 agreement. These will be monitored by casino management group.

4.5 Legal Implications, Access to Information and Call In

4.5.1 There are no legal implications for this report.

4.6 Risk Management

4.6.1 There are no issues relating to risk management.

5 Conclusions

5.1 GGV Ltd holds the large casino premises licence to operate from Victoria Gate, Eastgate, Leeds 1. The development works to Victoria Gate are underway and the casino is set to open in 2016.

5.2 The schedule Agreement is strengthened by a condition on the casino premises licence which ensures that the benefits evaluated as part of the large casino Stage 2 application process are secured.

6 Recommendations

6.1 That Licensing Committee note the contents of this report and presentation, and for GGV Ltd to provide on an annual basis, or lesser period as required, a report on its progress in delivering the benefits set out in the Schedule 9.

7 Background documents¹

¹ The background documents listed in this section are available to download from the Council's website,

7.1 There are no unpublished background documents that relate to this matter.

unless they contain confidential or exempt information. The list of background documents does not include published works.

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