

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: Licensing and Registration
Lead person: Kate Coldwell	Contact number: 3781563

1. Title: Convictions Criteria		
Is this a:		
<input checked="" type="checkbox"/> Strategy / Policy	<input type="checkbox"/> Service / Function	<input type="checkbox"/> 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. In Leeds, licensing and enforcement matters are dealt with by the Councils Taxi and Private Hire Licensing Section.
The Council has an existing policy dealing with various aspects of the 'fit and proper' issues; a key part being the 'convictions criteria'. This describes and tries to assess the potential risk to the public and the Council by categorising types of crime and driving convictions.
The policy is now due for a comprehensive review and it is the proposed changes to the convictions criteria which are now being screened.

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 and any other relevant characteristics (for example socio-economic status, social class, income, unemployment, residential location or family background and education or skills levels).

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.

A report was presented to Licensing Committee on 14 January 2014, which set out options for formal driver 'life skills training' in place of sanctions in some cases but also sought to recognise that consistent bad driver behaviour and disqualification from driving reaches a point of unacceptability. It is not the intention to move away from the existing decision making framework within the 'convictions criteria' but instead to make it more relevant to today's public safety risks and changes in legislation.

Criminal convictions are dealt with quite distinctly from 'driving convictions' and a simplified way of dealing with driving convictions will result in improved understanding to all, consistency in decision making and improved driving skills.

Decision making needs to be justified and consistent and the existing policy has met both of those requirements having been tested in the Courts on many occasions. Time has however brought changes to the law and also the requirement for local Authorities to be far more alert to criminal trends and public protection. Crime and safety are issues of national and local importance and despite falling levels of recorded crime in recent years; it remains a primary concern for the people of Leeds.

Crime affects the lives of everybody - residents, businesses, visitors, students, commuters and investors alike. Reducing crime and disorder is a key element in improving the quality of life for the citizens of Leeds.

In essence convictions and cautions are the same in respect of culpability, evidence and admission of guilt and this is recognised in the previous policy. The proposed changes to the convictions criteria make it clear that in whatever way a finding of criminal responsibility is recorded against an individual, the policy will allow discretion to be exercised in appropriate cases, as has been the case on numerous occasions with the existing policy.

It brings clarity around the issue that the Council can consider not just convictions but all of the Police, other agency and Courts disposal outcomes within the convictions criteria. It also recognises that such criteria cannot accommodate every type of adverse behaviour. In such cases the decision path might be "or any other reasonable cause", in accordance with primary legislation. Discretion then follows on from that principle with appropriate weighting applied to individual cases.

The Council has an obligation to safeguarding children and vulnerable adults and potential access to the vulnerable can be gained as a licence holder through the Councils and transport contracts.

That responsibility is reproduced as follows:

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.

Initial consultation has taken place on the existing policy and all of the trade and public have had the opportunity to contribute. With the exception of one comment that the policy should be suspended, the principles of the policy have been well received over the last decade and in the consultation process.

The Taxi and Private Hire Licensing Section consulted further on the proposed changes to the convictions criteria for a period of three months, 17 January 2014 – 11 April 2014. An online survey was utilised via Talking Point to ensure feedback was received from the general public as well as the licensed trade and Officers.

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.

- **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.

It can be a difficult message for Members and Officers to give to applicants, or licence holders affected by the convictions criteria when licences are refused or revoked, but the statutory guidance is quite clear; when making public safety decisions the financial impact on an individual is not the determining fact to take into account, and the public safety risk for all the citizens of Leeds is the key assessment.

The proposals to adjust the conviction criteria are based upon:

- The public expectation of safety and control of risk with the most serious types of crime and sexual offending
- Reducing the risk potentially caused by serious criminal offending
- The Council being able to demonstrate its commitment to dealing with race/religious hate crime, gender/sexual orientation and disability offending
- Recognition of the opportunities for criminals by being licensed.
- The Councils need to contribute to crime partnerships and safety groups to reduce the risk of crime
- The Councils obligations to Safeguard Children and vulnerable adults
- Significant new types of criminal networks are now more recognisable to society
- Sentencing powers of Courts have increased in some areas recognising the relevance and seriousness of that type of offending
- The need to refresh and update the policy to today's environment
- Recognising that some types of crime have undertaken such criminal preplanning that having trust and being able to professionally interact with them is barely viable

Drugs Crime: When the Local Government (Miscellaneous Provisions) Act 1976 was created it did not define drugs as one of the three recognised types of conviction, most probably on the basis that criminal activity of organisations were not on the radar to the extent they are today and the issues around drug misuse were not as prevalent or as relevant to the licensed trades.

Drugs crime is a major feature of organised crime gangs and there is evidence to show that such organised criminal activity exists in areas of West Yorkshire and that licensed drivers have been involved in the ferrying of drugs, suppliers and drug users to 'supply points'. The existing convictions criteria recognises the dangers to an extent relevant at that time but again, time has moved on. The basis is that trafficking of drugs now has an established association with the licensed trades and its consequential effects on the City's communities, the image of the city and the trades should be addressed within the licensing safety policy.

A licensed taxi or private hire driver is an ideal carrier for such activity, either in isolation or with affiliations to organised crime. The personal use of drugs is an event that can overlap into driving time and that risk should be minimised by control measures on drug misuse.

Racially or religiously aggravated crime: some offences across a range of criminal convictions attract stronger sentences when the offence is racially motivated or the act is intended to stir up racial hatred or where there is possession of racially flammable material.

It would be only in the most exceptional of circumstances that the grant of a licence would be considered for those types of convictions outside of the convictions criteria rehabilitation period.

Hate crime statistics: *in September 2012, the Home Office published statistics on hate crimes recorded by the police in England and Wales for the first time. In 2011 to 2012, 43,748 hate crimes were recorded by the police, of which:*

- 35,816 (82%) were race hate crimes
- 1,621 (4%) were religion hate crimes
- 4,252 (10%) were sexual orientation hate crimes
- 1,744 (4%) were disability hate crimes
- 315 (1%) were transgender hate crime

Exception Hardship: where a defendant accrues 12 or more penalty points in accordance with Section 35 of the Road Traffic Offenders Act 1988, the Court is bound to disqualify them from driving unless it can be proven that to do so would cause them "exceptional hardship".

"Exceptional hardship" is a difficult term to qualify, because there is no strict definition of what the term means or which situations it will necessarily include. It should be noted, that exceptional hardship does truly mean exceptional and even arguing that you will lose your job as a result may not be a sufficient defence.

Typical arguments used to try and persuade the magistrates that exceptional hardship exists could be, for example that if they were disqualified they would lose their job, or if they are disabled or a disabled person is dependent on them for transport, or it would be difficult to visit vulnerable relatives, or there could be problems taking their children to some destination. It is also possible for the exceptional hardship to apply to someone else such as a partner, business partner, family, dependant relative etc.

Nationally this accounts for a significant number of exceptions to disqualification and does occur in respect of some Leeds licensed drivers. This brings into focus the conflict the Council has in ensuring it conforms to its statutory requirements in respect of safety versus a Courts decision not to disqualify on the grounds of exceptional hardship.

The legal focus for the Council is solely in respect of safety and the Court considering an 'exceptional hardship' plea does **not** take account of safety concerns in such pleas, in law it can **only** assess the plea of exceptional hardship. For clarity, to meet its legal obligations the Council must consider proportionate options for public safety which in law cannot take into account the exceptional hardship issue.

The convictions criteria make up a key part of the application process; which has previously been screened and the information we have available for applicants allows them to make informed decisions about their chances of being granted a licence at no extra cost.

The most recent consultation process saw 857 respondents to the online campaign. Equality monitoring breaks the respondents down as follows;

Male: 47% Female: 53%

White English	68%
White Welsh	1%
White Scottish	1%
White British	12%
White Irish	2.0%
Any other White background	1%
Mixed White and Asian	0.5%
Mixed White and Black African	0.5%
Mixed White and Black Caribbean	1%
Any other mixed / multiple ethnic group	0.5%
Asian or Asian British Bangladeshi	1%
Asian or Asian British Indian	1%
Asian or Asian British Kashmiri	2%
Asian or Asian British Pakistani	3%
Any other Asian Background	0.5%
Black or Black British African	1%
Black or Black British Caribbean	1%
Any other Black background	0.5%
Gypsy or Traveller	0.5%
Any other background	1%

British Citizen? Yes: 99% No: 1%

Long term illness/ health problem/ disability? Yes: 10% No: 90%

Gender:

Heterosexual/Straight	93%
Lesbian/Gay woman	2%
Gay man	3%
Bisexual	2%

- **Actions**

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

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.

Continue to investigate complaints made by members of the public against licensed drivers where they are in clear breach of the conditions attached to the grant of their licence.

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.

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:	
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Date to complete your impact assessment	
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Lead person for your impact assessment (Include name and job title)	
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6. Governance, ownership and approval

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

Name	Job title	Date
Kate Coldwell	Service Development Officer	16.05.2014

7. Publishing

This screening document will act as evidence that due regard to equality and diversity has been given. If you are not carrying out an independent impact assessment the screening document will need to be published.

If this screening relates to a **Key Delegated Decision, Executive Board, full Council** or a **Significant Operational Decision** a copy should be emailed to Corporate Governance and will be published along with the relevant report.

A copy of **all other** screening's should be sent to equalityteam@leeds.gov.uk. For record keeping purposes it will be kept on file (but not published).

Date screening completed	16.05.2014
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If relates to a Key Decision - date sent to Corporate Governance	
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Any other decision – date sent to Equality Team (equalityteam@leeds.gov.uk)	
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