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**Report of Head of Licensing and Registration**

**Report to Licensing Committee**

**Date: 9<sup>th</sup> December 2014**

**Subject: Additional Taxi and Private Hire Licensing safeguarding measures – annual DBS checks & the online DBS Update Service.**

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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

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**Summary of main issues**

1. The current DBS requirement on licensed drivers is every three years and it is proposed that this is replaced with an annual on-line DBS Status check which provides financial benefit to licence holders and increased access to notifiable information for licensing Officers.

**Recommendations**

2. That Members consider the information within this report and approve in principle the introduction of annual on-line DBS Status checks on all existing licence holders and new applicants to the trade, before it is considered as an Executive decision.

## **1 Purpose of this report**

- 1.1 For Members to consider Officer recommendations for the introduction of annual on-line DBS Status checks, the potential impact upon licence holders and the potential resource implications for the Taxi and Private Hire Licensing Section.
- 1.2 To enable Members to consider approving the report, in principle, and make any observations that they may have before it is considered as an Executive decision.

## **2 Background information**

- 2.1 Members are aware that the information disclosed within a DBS disclosure is vital to the decision making process to ensure that the Council meets its statutory requirement to ensure all drivers are a fit and proper person.
- 2.2 Since 2001 all applicants to the licensed trade have undertaken CRB or DBS checks. Prior to that the responsibility for disclosure rested with the Police and all drivers prior to 2001 were subject to a Police check (DP1).
- 2.3 In December 2013, the Licensing Committee recommended the introduction of reassessment of all licensed drivers every 3 years via online DBS checks. This is being managed over a three year period; Officers have prioritised Escorts, Permit holders & Contract drivers as these people work directly with children and vulnerable adults. Officers will then progress to those licence holders who have not undertaken a DBS check for the longest period of time.
- 2.4 In the interim information has been received that the Notifiable Occupation Scheme has not been as effective as it once was due to a change in the arrest and custody procedures within the Police Service. Additionally the Association of Chief Police Officers (ACPO) have reverted to a form of disclosure assessment which Officers feel could lead to weaknesses in the type of disclosure that has been so important to this Authority. These changes create a dangerous void for the Taxi and Private Hire Licensing Section in being able to take necessary action on criminal intelligence or convictions relating to its licensed drivers.

## **3 Main issues**

- 3.1 The DBS process is a credible means of checking on a person's criminal activity, whether convicted or otherwise. The introduction of the DBS' online update service would allow Officers to carry out a quick online Status check to see if an individual's certificate is up to date. It reduces the need to apply for a further DBS certificate and therefore saves both time and money.
- 3.2 Licensing Officers have been actively encouraging existing licensed drivers and new applicants to sign up to the online DBS service since the introduction of three yearly DBS checks. Applicants can register online as soon as they have their DBS application form reference number or they can wait and register with their certificate number when they receive their DBS certificate. This must be done within 19 days of the certificate being issued.

- 3.3 The online DBS service costs £13 per annum and the licence holder must register for the service every year. This represents a significant reduction in the costs year on year associated with undertaking a full DBS disclosure at a cost of £66.50 every three years.
- 3.4 The DBS update service will enable the authority to see if any relevant information has been identified about the individual since their certificate was last issued. The outcome of a valid Status check will be one of the following;
- **This Certificate did not reveal any information and remains current as no further information has been identified since its issue.** This means that the individual's Certificate contains no criminality or barring information and no new information is available.
  - **This Certificate remains current as no further information has been identified since its issue.** This means that the individual's Certificate did contain criminality or barring information and no new information is available.
  - **This Certificate is no longer current. Please apply for a new DBS check to get the most up to date information.** This means that the individual's Certificate should not be relied upon as new information is now available and a new DBS check must be requested.
- 3.5 To establish exactly what the new information is, the licence holder would need to undertake a full enhanced disclosure (paying the applicable fee) and Officers would be reliant on the individual producing their certificate before we can continue on the decision making process.
- 3.6 In order to introduce this process a condition could be placed upon a driver's licence that requires them to sign up to the online service and provide the Taxi and Private Hire Licensing Section, and gives permission to use, their reference number to carry out a status check on an annual basis. This would also contribute in some way to overcoming the flaw in legislation which does not currently compel Hackney carriage drivers to report convictions during the lifetime of their licence.
- 3.7 Potentially if a licensed driver does not renew their annual DBS status then the licence would not be renewed or may be suspended. To overcome this, as far as is possible, the Taxi and Private Hire Licensing Section would propose to change the format of the drivers badge so it has a DBS expiry date on it. A program could also be written within the licensing system to alert the driver, Operator and/ Taxi Association in sufficient time about the necessity to renew their online DBS check.
- 3.8 Members are advised that there are no easy solutions in moving drivers forward to understand, accept and undertake their responsibilities in line with this recommendation. Officers are concerned about the conflict and increasing workloads in the event if even moderate compliance. To mitigate against this a programme of information and awareness would be undertaken by the Taxi and Private Hire Licensing Section. Private hire operators and taxi associations should also understand it is in their business interests to work much more closely

with the drivers working under their operating licence or association membership so they have a consistent pool of drivers.

- 3.9 Members are informed that the Taxi and Private Hire Licensing Section is turning to technological solutions such as text and email reminders for disseminating information. This provides an opportunity for non-sensitive information to be shared with the private hire operators and taxi associations to prompt them to work collaboratively with their drivers.
- 3.10 Although the licensing system is unable to automatically alert Officers when an individual has not registered for the online DBS service, a programme can be written to search a set parameter of licensing records each month for the presence of the DBS Status reference number. A weighting assessment could be constructed to focus on the areas of most concern.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Full public consultation was carried out between 10 October 2014 and 10 November 2014. The results are presented at Appendix 1.

### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 An Equality and Diversity Screening Assessment is available as a background document.
- 4.2.2 The assessment concludes that the safe licensing and monitoring of licensed drivers 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.
- 4.2.3 There are strong reasons for the introduction of an annual online DBS policy; the adoption of the policy would meet the Council's statutory requirement to ensure drivers are 'fit and proper' in a proportionate manner. It is considered that the proposals are very necessary to contribute to the Council's Safeguarding responsibilities.

### **4.3 Council policies and City Priorities**

- 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

#### **4.3.3 Safeguarding children and vulnerable adults:**

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 Although the implementation of annual online DBS checks would ultimately save time and money, there would be an increased impact on the Licensing Office to ensure that all licence holders undertake their initial enhanced DBS disclosure.

4.4.2 This would need to be managed operationally with agreed timescales to fully implement across the 5,800 licence holders.

### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 The Local Government (Miscellaneous Provisions) Act 1976, Section 51 deals with the granting of a licence to a private hire driver. Section (1) (a) requires that the Council must be satisfied that the applicant is a 'fit and proper' person.

4.5.2 Similarly, in respect of Hackney carriage drivers the 'fit and proper person' test is applied at Section 59 (1) (a).

4.5.3 The 'fit and proper test' applies not only at the point of first application but also at any renewal and it is proportionate for the Council to apply a means of checking that suitability, using DBS checks at reasonable periods.

#### **4.6 Risk Management**

4.6.1 It is considered that the proposals are very necessary to contribute to the Council's Safeguarding responsibilities.

4.6.2 The time frame for moving the licensing service to an annual on-line DBS check is a three year cycle. This is due to the volumes of drivers and the logistical problem of handling nearly 6,000 licence holder applications. This could be short-cut by a small margin with the annual fall-out of licensed drivers who are replaced by first time applicants who will naturally fall into the annual on-line DBS service.

### **5 Conclusions**

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

### **6 Recommendations**

6.1 That Members consider the information within this report and approve in principle the introduction of annual on-line DBS Status checks on all existing licence holders and new applicants to the trade, before it is considered as an Executive decision.

### **7 Background documents<sup>1</sup>**

Equality Impact Screening Assessment

Licensing Committee Report – 17 December 2013

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<sup>1</sup> 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.