

**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 documents<sup>1</sup>**

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

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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.

- 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 documents<sup>2</sup>**

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<sup>2</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.

## 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](mailto:customer.services@acro.pnn.police.uk) .

Further details can be found at [http://www.acro.police.uk/police\\_certificates.aspx](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](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

## Appendix 2

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](mailto: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.



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.

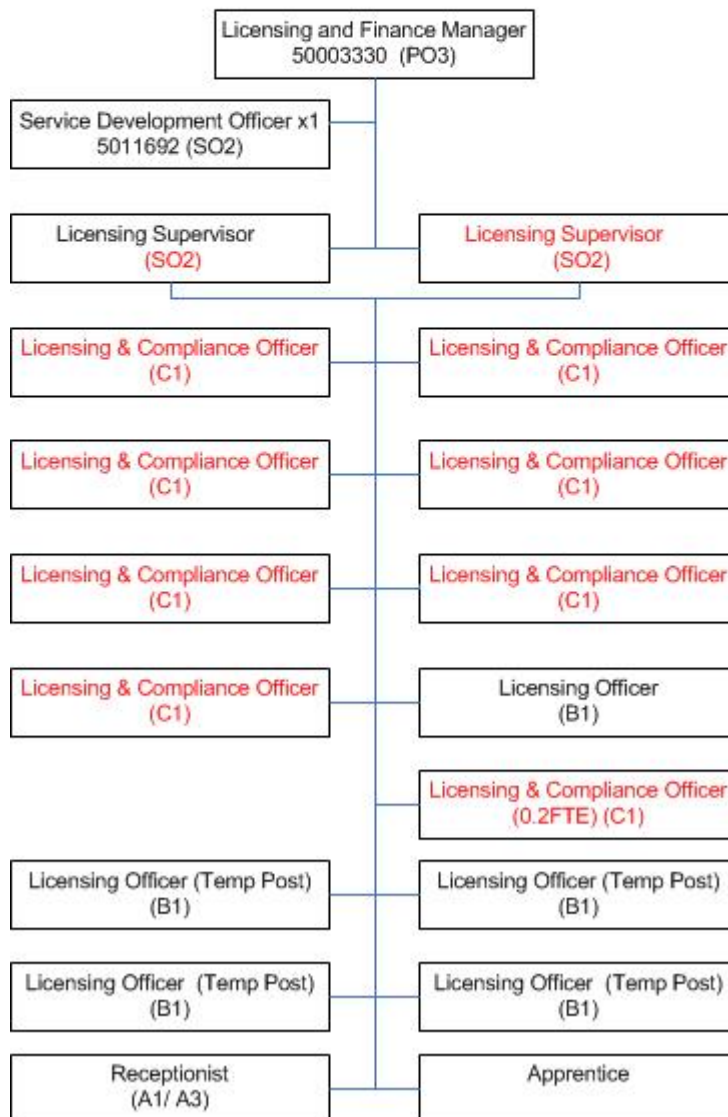
The young people may appear under the influence of drugs or alcohol. Older men often being picked up near schools or children's care homes.

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.



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](mailto: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.

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

**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.

<b>Questions</b>	<b>Yes</b>	<b>No</b>
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"> <li>• Eliminating unlawful discrimination, victimisation and harassment</li> <li>• Advancing equality of opportunity</li> <li>• Fostering good relations</li> </ul>	√	

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**.

<p><b>4. Considering the impact on equality, diversity, cohesion and integration</b></p> <p>If you can demonstrate you have considered how your proposals impact on equality, diversity, cohesion and integration you have carried out an impact assessment.</p> <p>Please provide specific details for all three areas below (use the prompts for guidance).</p> <ul style="list-style-type: none"> <li>• <b>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)</b></li> </ul> <p>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.</p> <p>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</p>
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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 18<sup>th</sup> September – 30<sup>th</sup> 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)	

<b>6. Governance, ownership and approval</b>		
Please state here who has approved the actions and outcomes of the screening		
<b>Name</b>	<b>Job title</b>	<b>Date</b>
Des Broster	Section Head	.....
<b>Date screening completed</b>		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](mailto: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 <b>Governance Services</b>	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate <b>Directorate</b>	Date sent:
All other decisions – sent to <a href="mailto:equalityteam@leeds.gov.uk">equalityteam@leeds.gov.uk</a>	Date sent: