

**Report of Head of Elections, Licensing & Registration**

**Report to Licensing Committee**

**Date: 17 November 2015**

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

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

**Summary of main issues**

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

## **Recommendations**

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

## 1 Purpose of this report

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

## 2 Background information

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

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

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

### **3 Main issues**

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

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

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

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

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

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

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

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

### 4.3 Council policies and Best Council Plan

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

#### **Best Council Plan 2013 -17**

#### **Towards being an Enterprising Council**

#### **Our Ambition and Approach**

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

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

#### **Our Best Council Outcomes**

Make it easier for people to do business with us

#### **Our Best Council Objectives**

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

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

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

- Getting services right first time
- Improving customer satisfaction

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

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

4.3.3 Safeguarding children and vulnerable adults:

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

#### **4.4 Resources and value for money**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **4.6 Risk Management**

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

## **5 Conclusions**

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



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

## **6 Recommendations**

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

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

Equality, Diversity, Cohesion and Integration Screening Assessment

DfT Best Practice Guidance

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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.

## 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)



## 2014 Additional Safeguarding Proposals Consultation: Talking Point Questionnaire

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2015 Additional Safeguarding Proposals Consultation: Talking Point Questionnaire

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

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

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

### Open Comments:

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

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

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

### Open Comments:

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

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

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

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

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

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



expensive legal costs or compensation to any victim?

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

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### **LEEDS CITY COUNCIL CONSULTATION RESPONSE:**

#### **NON EU APPLICANTS: TAXI & PRIVATE HIRE**

Date: November 2<sup>nd</sup> 2015

Compiled by: Paul Landau - Branch Chair

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

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

In our response we will cover the issues of:

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

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

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

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

#### **1: Safety**



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

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

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

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

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

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

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

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

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

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



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

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

### **2: Impact**

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

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

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

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

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

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

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

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



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

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

### **3: Equality**

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

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

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

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/333083/MAC-Migrants\\_in\\_low-skilled\\_work\\_Full\\_report\\_2014.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/333083/MAC-Migrants_in_low-skilled_work_Full_report_2014.pdf)

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

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



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

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

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

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

SOC } Standard Occupational Classification

LPC } Low Pay Commission

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

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

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



### 4: Proposal

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

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

Leeds and thus uncover aspects related to an application that would be possibly problematic for the LA if such an incident was to occur. Each applicant would be



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

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

This concludes our consultation report

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