

# Equality, Diversity, Cohesion and Integration Screening



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

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

Completed at the earliest opportunity it will help to determine:

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

<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: Fit and Proper Person Assessment

Is this a:

**Strategy / Policy**

**Service / Function**

**Other**

**If other, please specify**

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

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

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

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

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

### 3. Relevance to equality, diversity, cohesion and integration

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

investigate certain types of crime.

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

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

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

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

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

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

### **Consultation**

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

#### **• Key findings**

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

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

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

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

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

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

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

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

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

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

A final recommendation will be made in due course.

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

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

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

- **Actions**

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

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

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

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

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

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

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

Date to scope and plan your impact assessment:

Date to complete your impact assessment

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

### 6. Governance, ownership and approval

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

Name	Job title	Date
Des Broster	Section Head	3/11/2015
<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: