

Report of Assistant Chief Executive (Citizens and Communities), Director of Children's Services and the Director of Adult Social Services

Report to Executive Board

Date: 16 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 checked="" type="checkbox"/> Yes	<input 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. In December 2014 Members of Executive Board received a report on issues associated with safeguarding in taxi and private hire licensing. That report was prepared following the publication of a report regarding child sexual exploitation in Rotherham and significant concerns being expressed regarding safeguarding controls for taxi and private hire licensing in Rotherham.
2. In light of that report, Leeds City Council considered it important to review its own safeguarding arrangements. That review concluded that Leeds' procedures and policies, whilst considered comprehensive, effective and robust, could be further developed and improved. Since that time further work has been undertaken and this report presents members with an update on that work.
3. 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 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; and
 - The risks posed by proposed legislation changes under the Deregulation Bill 2015.
4. This report gives an overview for Executive Board of the measures taken to improve safeguarding issues in Taxi and Private Hire Licensing during the last 12 months which includes: -
- the key policy change for applicants born outside of the UK;
 - essential compulsory safeguarding training for all drivers, operators, escorts and permit drivers;
 - progress of annual on-line DBS checks; and
 - 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

5. Executive Board are asked to: -
- Note and endorse the direction officers and Members of Licensing Committee are taking regarding improvements for safeguarding in Taxi and Private Hire Licensing; and
 - Approve the new 'fit and proper' person character assessment policy as recommended to Members of Executive Board by Licensing Committee and as outlined in appendix 3. This will be implemented immediately on approval by the Section Head of Taxi and Private Hire Licensing.

1 Purpose of this report

- 1.1 To set out developments in regard to further improving safeguarding arrangements in Taxi and Private Hire Licensing following the report submitted to Executive Board in December 2014. The report also recommends the approval of a new policy in respect of the 'fit and proper' person assessment for applicants born outside of the EU.

2 Background information

- 2.1 In December 2014 Members received a report which followed the Independent Inquiry into child sexual exploitation in Rotherham and the significant concerns highlighted regarding safeguarding controls for Taxi and Private Hire Licensing in Rotherham. That report found that taxi and private hire licensed vehicles in Rotherham had been used extensively by those directly involved in sexual exploitation of children to move children around the city and to other cities.
- 2.2 A review of the arrangements in Leeds was undertaken in 2014 and the outcome of that review was reported to Members of Executive Board. That review concluded that Leeds' procedures and policies, whilst considered comprehensive, effective and robust, could be further developed and improved. Since that time further work has been undertaken and this report presents members with an update on that work. The key work undertaken includes: 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; and the implementation of a safeguarding reporting system for drivers and operators to enable immediate enforcement action.
- 2.3 The report details concerns about changes to the Home Office 'Notifiable Occupations Scheme' for the disclosure of relevant licensing information and the resourcing and skills of licensing staff were also identified as issues to address.
- 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. Again, the progress on this issue is set out in the 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 and Private Hire Licensing.
- 2.7 Many of the concerns raised during the Rotherham investigation about frailties in policy, procedure, decision making and enforcement were not considered relevant to Leeds as robust policies and procedures were already in place in reducing risk

and these policies and procedures have been subject to a continuous rolling review by Members of 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 sound 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 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 past 12 months is set out below along with individual up-to-date position statements.
- 3.3 **New policies approved by Licensing Committee**
 - 3.3.1 Private Hire Operator Conditions – requirement to undertake training as necessary; to immediately report safeguarding or other serious allegations to the council; and controls on booking facilities for use of ‘out of town’ Hackney Carriages and recording all journeys undertaken by them.
 - 3.3.2 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.
 - 3.3.3 Additional compulsory safeguarding awareness training for licence holders is in place. Licensing Committee Members and Licensing Officers also have a programme of training on safeguarding issues.
 - 3.3.4 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.
 - 3.3.5 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.

3.4 Joint Working on Safeguarding

- 3.4.1 The Cross Council Safeguarding Group have been involved in the development of the work detailed in this report, which includes representation from both the Adults' and Children's Safeguarding Board.
- 3.4.2 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.
- 3.4.3 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.
- 3.4.4 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.
- 3.4.5 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
- 3.4.6 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. There has also been the introduction of guidance for Operators.
- 3.4.7 Impactive information and guidance posters were designed by Children's Services and were circulated to all Private Hire Operators offices, Hackney Carriage Associations and Contractors for display in the working environment to maintain awareness of the issues, responsibilities and reporting mechanisms. This is currently being re-run to maintain focus on the issues (see **Appendix 1**).

3.5 Joint Work Across West Yorkshire

- 3.5.1 Structured meetings with other Licensing Heads to introduce common standards across West Yorkshire in a number of areas including: -
- 3.5.2 Decision making scheme of delegation - A model based on Leeds City Council's current approach to be developed (currently implemented in three Authorities).

- 3.5.3 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.
- 3.5.4 Application Process - A common minimum standard of entry to enable safeguarding improvement. The proposals for a new policy in respect of the 'fit and proper' person assessment for applicants born outside of the EU in this report will be put forward as the appropriate standard across the West Yorkshire area.
- 3.5.5 Private Hire Driver and Operator Condition (Training) - A condition to mirror Leeds City Council's 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.
- 3.5.6 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.
- 3.5.7 Common Bye Laws for 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.
- 3.5.8 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.
- 3.5.9 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 a proposed scheme of delegation with powers being given to officers from this and other Authorities to enable more efficient enforcement action across each West Yorkshire licensing area. Proposals to make the necessary amendments to the council's constitution to facilitate this were agreed by Licensing Committee in November 2015 and are going forward to General Purposes Committee in December 2015 and Full Council in January 2016 for approval.
- 3.5.10 Convictions Policy and Convictions Criteria - A standard convictions criteria be adopted which recognises the primary purpose of legislation is public safety and sets clear guidelines to decision makers and enables applicants to understand before they apply how their criminal past might be considered. This is already in place in Leeds.
- 3.5.11 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. This is already in place in Leeds.

- 3.5.12 Whilst all of the above actions are being actively progressed by licensing officers across the West Yorkshire districts they are all still subject to formal approval by each individual authority.

3.6 Work with West Yorkshire Police

- 3.6.1 The introduction of a Senior Analyst post within West Yorkshire Police funded by Taxi and Private Hire Licensing has been progressed. The analyst will be able to interrogate a variety of data bases to present early intelligence to the section, the Police or associated agencies to reduce any safeguarding threat. The Analyst capability started on 30 November 2015, located in Safer Leeds, and officers look forward to taking a step forward in the analytical capability working across Licensing and Community Safety.
- 3.6.2 We have also seen a closer and improved operational working relationship with the Police on the streets in the night time economy and in identified risk areas. During the last year there has been a significantly higher commitment to a joint working program.

3.7 Taxi and Private Hire Resources

- 3.7.1 A review of staff skills and responsibilities and administrative issues constantly impacting on staff has resulted in a revised staffing structure which sees increased responsibilities and training for staff to enable a higher level of scrutiny at the point of application. This restructure is intended to achieve greater resilience in the service and deliver more positive outcomes.
- 3.7.2 The restructure includes additional temporary resources to implement and undertake the new policy of annual on-line DBS checks. When this policy was first agreed by Licensing Committee on 9 December 2014 it was anticipated that it would take three years to complete this process for all licence holders. Further temporary resource has now been recruited and officers now expect the work to be completed by January 2017, eleven months ahead of the original planned completion date. The following table shows progress broken down by type of licence as at 3 December 2015. Please note there is a degree of duplication in this table as some clients hold more than one type of licence: -

Licence Type	Enrolled in update service	DBS application pending	DBS process to be started
Hackney Carriage Driver	105	243	639
Private Hire Driver	638	1,169	3,186
Contract Operator Permit	1	3	2
Private Hire Executive Operator	3	2	7
Escort Permit	72	20	61
Contract Driver Permit	12	1	10
Private Hire Executive Driver	1	0	0
Private Hire Operator	17	27	27

Private Hire Novelty Operator	0	0	1
Private Hire Novelty Driver	0	0	1
Total:	849	1,492	3,934

- 3.7.3 The following table shows progress by number of individual clients, which gives a more accurate view of overall progress as there are no duplicates¹: -

Enrolled in update service	DBS application pending	DBS process to be started	Total number of clients
799	1,394	3,779	5,972

- 3.7.4 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.
- 3.7.5 Other key developments include: participation in the cross council safeguarding sub-group (CSE and licensing issues) reporting directly to the Assistant Chief Executive and attended by senior officers from Children's Services, Communities and West Yorkshire Police; Local Authority Designated Officer² monitoring of safeguarding concern referrals investigations by Taxi and Private Hire Licensing; officer reports to Licensing Committee twice yearly on decisions and operational matters including safeguarding; annual decision making report to Corporate Governance and Audit Committee; cross Council safeguarding Lead Officer briefing and awareness events; and, LeedsWatch CCTV installed in Taxi and Private Hire Licensing enforcement office to more readily secure evidence of offending or suspicious activity by licensed or unlicensed vehicles.

3.8 National Changes and Deregulation

- 3.8.1 Despite the lobbying success in the early part of 2015 which resulted in some of the proposed Taxi and Private Hire reforms not being progressed, the Government did take forward and introduce the Deregulation Act on 30 March 2015. The purpose of this more general Act was to remove layers of bureaucracy in a number of areas and in so doing some changes were made to taxi and private hire licensing arrangements that provide a significant cause for concern. The changes specific to Taxi and Private Hire Licensing were introduced on 1 October 2015.
- 3.8.2 This new legislation allows Private Hire Operators to sub-contract a booking to an Operator and driver licensed in another district. This is a significant cause for concern as some other authorities have less robust policies and procedures for taxi and private hire licensing than we do. Indeed, it is feasible that licence holders who have been refused a licence in Leeds could gain a licence in another district and could then be sub-contracted work back in the Leeds district. This change compounds the problem that already existed in Hackney Carriage Drivers

¹ It should be noted that this table shows clients rather than the number of licences issued, as one client can hold a number of different licences. Only one DBS is required for all the licences an individual client holds.

²The Local Authority Designated Officer (LADO) is the person who should be notified when it has been alleged that a person who works with children has either: behaved in a way that has harmed a child, or may have harmed a child; possibly committed a criminal offence against or related to a child; or behaved towards a child or children in a way that indicates she or he may pose a risk of harm to children.

licensed in another district being able to work as a private hire driver in a different district. Whilst officers have introduced a new Operator licensing policy in the last year to seek to combat this latter issue, the recent deregulation change makes it even more difficult to reassure the people of Leeds that taxi and private hire drivers have been subject to the rigorous checks we in Leeds would normally expect. Neither the Local Government Association nor the Department for Transport have produced any advice to Local Authorities about enforcement issues prior to, or following, the introduction of the Deregulation Act. Officers have been informed that the Department for Transport does intend to issue guidance in due course, but they cannot say when this will be published.

- 3.8.3 Considering the significance of this issue the Chair of Licensing Committee approved a media release on behalf of all members of that committee to highlight the council's concerns about the new legislation. A copy of this is attached at **Appendix 2.**
- 3.8.4 Another national change concerns the information local Authorities have been supplied with regarding convictions information and other appropriate disclosure related to criminal activity. This information is provided at the point of application for a personal licence through the DBS disclosure as well as during the lifetime of a licence by virtue of the 'Common Law Disclosure Scheme' previously known as the 'Notifiable Occupations Scheme.' These disclosure arrangements relate to professions or occupations which carry special trust or responsibility, in which the public interest in the disclosure of conviction and other information by the police generally outweighs the normal duty of confidentiality owed to the individual.
- 3.8.5 The previous guidance was revised in 2006 and was part of the government's response to the recommendations of the Bichard Inquiry into the circumstances surrounding the conviction of Ian Huntley for the Soham murders in late 2003. The code, along with relevant revised guidance published in 2006, was designed to provide a common national framework for the management of police information, highlighting the importance of common standards in high risk areas of activity. Relevant information was disclosed to this Authority under the Notifiable Occupations Scheme on the initiative of the West Yorkshire Police or following formal requests from licensing officers. There was significant beneficial information supplied to enable the Council to carry out its statutory responsibility on the 'fit and proper' person test.
- 3.8.6 The Notifiable Occupations Scheme has now been replaced by the 'Common Law Police Disclosure' (CLPD) guidance. The policy says that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to put in measures to mitigate any danger. The scheme focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at charge or arrest. The new scheme is intended to provide robust safeguarding arrangements while ensuring only relevant information is passed on to employers. The scheme aims to strike the right balance between the interests of the individual and the importance of public protection.
- 3.8.7 Unfortunately whilst we continue to receive notifications from the police, we do not receive as many since the Notifiable Occupations Scheme ceased. Officers have

seen a decrease in access to what the Council would consider to be relevant information in performing its public safety decision making functions and there are concerns that the proportionality test applied to the compatibility with Article 8 of the Human Rights Act 1998, which requires that personal information should only be shared with employers and professional bodies where it is necessary and proportionate to a legitimate aim, such as the prevention and detection of crime, is being disproportionately applied. This is a national policy which the West Yorkshire Police have to follow and not a case of them acting in isolation. We are nevertheless working closely with West Yorkshire Police colleagues to satisfy ourselves that the new system is working as intended and any risks are appropriately mitigated.

3.9 Policy change proposals – ‘fit and proper’ person assessment

- 3.9.1 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.
- 3.9.2 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.
- 3.9.3 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.
- 3.9.4 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.
- 3.9.5 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.
- 3.9.6 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.

- 3.9.7 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.
- 3.9.8 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.
- 3.9.9 The areas of concern associated with applications are set out in the policy proposal document at **Appendix 3**.
- 3.9.10 Proposals to adopt this new policy have been subject to consultation with the trade and were considered by Members of Licensing Committee on 17 November 2015. Members of Licensing Committee endorsed the new policy and are now recommending it for approval by Executive Board.
- 3.9.11 Since that Licensing Committee meeting there has been a subsequent change to the wording of the proposed policy to ensure it is fully inclusive of people who have leave to remain in the UK or right to enter, to ensure all people who can apply for a taxi or private hire licence are covered. This change was agreed by the Chair of the Licensing Committee and is presented to Executive Board for consideration and approval as part of this report.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 All existing policies have been subject to consultation with feedback being considered by the Licensing Committee prior to final decisions or recommendations to the Executive. Members of the Children's Services and Adults Social Care Scrutiny Boards considered a draft of this report and their conclusions are attached at appendix 4. This report has also been shared with Licensing Committee who are fully supportive of the actions being taken.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Equality, Diversity, Cohesion and Integration Screening Assessments are carried out on all policies agreed at Licensing Committee.
- 4.2.2 The screening assessment for the "fit and proper" person character assessment policy is attached at **Appendix 5**. The assessment indicates that there are no further issues to be considered at this time.

4.3 Council policies and Best Council Plan

- 4.3.1 Taxi and Private Hire Licensing policies contribute to Leeds' ambition to be the best city. Taxi and Private Hire Licensing policies contribute to a number of specific priorities including reducing crime levels and the impact of crime across Leeds; effectively tackling and reducing anti-social behaviour in communities; and safeguarding children and vulnerable adults:

4.4 **Resources and value for money**

- 4.4.1 The taxi and private hire service is a ring fenced account with all licence income being expended on the service. Whilst this work is incurring additional expenditure it is funded from the carried forward surplus within the service and therefore there is no additional cost to the council.

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

- 4.5.1 The Licensing Committee Report of 17 November 2015 inform the Executive that the advice from Counsel about the proposed new policy (**appendix 3**) 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.”

4.6 **Risk Management**

- 4.6.1 The very nature of the function of taxi and private hire licensing will likely mean that any safeguarding risk will remain in the medium to high category despite all of the control measures the Council has put into place. Much of the risk is influenced by statutory and regulatory controls and recent changes with the introduction of the Deregulation Act on the 1 October 2015 will see risk increase.
- 4.6.2 The three strongest control measures in place are the ‘fit and proper’ assessment conducted at the point of application (which includes the proposed policy change recommendation in this report), the Common Law Police Disclosure scheme and the annual on-line DBS checking facility. However, the latter two controls are very much dependent upon the release of relevant information by the Police.
- 4.6.3 The replacement of the Notifiable Occupation Scheme by the Common Law Police Disclosure has seen a noticeable decline in the number of disclosures received from the police. This reduced disclosure potentially increases the risk posed to the travelling public and also affects the level of information disclosed by the police as part of the DBS process. This is a potential weakness in the current system and officers will continue to work with West Yorkshire Police colleagues to satisfy ourselves that the new system is working as intended and any risks are appropriately mitigated.

5 **Conclusions**

- 5.1 Whilst much positive work has been carried out the momentum has to be maintained and enforcement challenges met. The Deregulation Act draws into focus the very real necessity for all Authorities to have sufficient resources, skills and focus on the importance of safeguarding within the licensing environment. There is a good deal of compliance within the Leeds licensing trade which can be undermined by the effects of the Deregulation Act and associated ‘out of town’ licensing issues.

6 Recommendations

6.1 Executive Board are asked to: -

- Note and endorse the direction officers and Members of Licensing Committee are taking regarding improvements for safeguarding in Taxi and Private Hire Licensing; and
- Approve the new 'fit and proper' person character assessment policy as recommended to Members of Executive Board by Licensing Committee and as outlined in appendix 3. This will be implemented immediately on approval by the Section Head of Taxi and Private Hire Licensing.

Background documents³

All relevant background documents have already been published

³ 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.



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.



www.westyorkshire.police.uk/cse

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

Policy Proposals

‘Fit and Proper’ Person Assessment for 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 leave to remain in the UK or leave to enter, 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 leave to remain in the UK or leave to enter, who 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 .

Further details can be found at 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/1400005855548/1400005855548>

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

Scrutiny Board Considerations

In summary the joint scrutiny working group consisting of members of both the Children's Services and Adult Social Care scrutiny boards concluded 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 the 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 and 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 and 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 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

Equality, Diversity, Cohesion and Integration Screening



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

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

Completed at the earliest opportunity it will help to determine:

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

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

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">• Eliminating unlawful discrimination, victimisation and harassment• Advancing equality of opportunity• Fostering good relations	√	

If you have answered **no** to the questions above please complete **sections 6 and 7**

If you have answered **yes** to any of the above and;

- Believe you have already considered the impact on equality, diversity, cohesion and integration within your proposal please go to **section 4**.
- Are not already considering the impact on equality, diversity, cohesion and integration within your proposal please go to **section 5**.

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

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

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

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

It is the Taxi and Private Hire Section's 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 Council's 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 18th September – 30th 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
Date screening completed		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 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 Governance Services	Date sent:
For Delegated Decisions or Significant Operational Decisions – sent to appropriate Directorate	Date sent:
All other decisions – sent to equalityteam@leeds.gov.uk	Date sent: