

**Report of Head of Licensing and Registration**

**Report to Licensing Committee**

**Date: 26 June 2012**

**Subject: Introduction of three yearly Criminal Records Bureau checks on Taxi & Private Hire Drivers and Private Hire Operators**

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 type="checkbox"/> Yes	<input checked="" 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. Currently the Taxi & Private Hire Section conducts a Criminal Records Bureau (CRB) Disclosure on all drivers at the point of application and may also require existing licensed drivers to undertake a CRB in other circumstances. There is no policy in place to direct that additional CRB disclosures be required during the lifetime of a licence.
2. Department of Transport (DfT) best practice guidance of March 2010 states it would be best practice for disclosures to be sought every 3 years in respect of licensed drivers and this guidance that is now being brought forward for Elected Members to consider.

**Recommendations**

3. Members approve a three month public consultation period immediately following this report.
4. Note that a further report will return to the Licensing Committee meeting on 16 October 2012 with the results of the consultation and exact costings to inform a final decision.

## **1 Purpose of this report**

- 1.1 To inform Members of the recommendations concerning the frequency of CRB checks for licensed drivers contained in the DfT best practice guidance, the potential financial impact upon licensed drivers and the potential resource implications for the section.
- 1.2 To propose that full three month public consultation will take place and the results of that consultation will be reported back to the Licensing Committee prior to a final recommendation being made to Executive Board.

## **2 Background information**

- 2.1 Since 2000 the Taxi & Private Hire Licensing Section has conducted CRB checks on all applicants. Prior to that checks were conducted by the West Yorkshire Police.
- 2.2 The information in a CRB disclosure is vital in the decision making process to ensure the Council meets its statutory requirement to ensure all drivers remain a fit and proper person.
- 2.3 During the life time of a licence the Council can require a Private Hire driver by way of a condition placed upon their licence to undertake CRB vetting but such a condition cannot be placed upon a Hackney Carriage driver licence due to legislative shortfalls. The intention of this condition on a Private Hire driver was to deal with emerging issues and not a specific policy.
- 2.4 DfT best practice guidance is reproduced below:

*“It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.”*

## **3 Main issues**

- 3.1 The introduction of a three yearly CRB vetting procedure in line with best practice guidance would contribute to a risk reduction in respect of public safety.
- 3.2 Additionally, the Council’s Internal Audit team have identified that the introduction of such a policy would have safety and compliance benefits (see 4.6.1).
- 3.3 There would be an additional cost to licensed drivers in every third year of a licence due to the administrative process that would need to be in place. This would consist of the arranging of appointments, conducting interviews and dealing with the subsequent administrative issues. This process could not be managed within the existing staffing structure and would require additional resources.
- 3.4 The additional cost to an individual driver is estimated to be £64 which is the cost of a CRB application plus the approximate administration cost of two additional staff. This additional cost would be charged every three years when a driver’s CRB is due and prior to the renewal of the existing licence. Exact costs will be provided for the final report before a decision is taken.

- 3.5 This proposal would introduce a new policy which requires the approval of Licensing Committee and a recommendation to Executive Board to adopt the policy, followed by a recruitment process which will be subject to the council's staffing approval process.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 As a new policy which would impact on existing licensed drivers it is proposed that a full three month public consultation period is undertaken and the representative views presented to the Licensing Committee prior to approval. This will give an opportunity for the trade, travelling public and any other interested stakeholders to comment on the proposals.

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

- 4.2.1 An Equality and Diversity Screening Assessment will be undertaken before the consultation process and updated on conclusion of the consultation. A full Impact Assessment will be conducted if required.

### **4.3 Council Policies and City Priorities**

- 4.3.1 Best practice guidance suggests that the adoption of this proposal will contribute to safeguarding communities and child safeguarding matters and there are areas that are closely associated to the role of Taxi & Private Hire drivers.

### **4.4 Resources and Value for Money**

- 4.4.1 The cost of additional resource requirements would have to be met by the existing trade on the adoption of the policy in accordance with the Local Government (Miscellaneous Provisions) Act 1976.

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

- 4.5.1 The Local Government (Miscellaneous Provisions) Act 1976, Section 51 deals with the granting of a licence to a Private Hire driver. Section (1) (a) requires that the Council must be satisfied the applicant is a 'fit and proper' person.
- 4.5.2 Similarly, in respect of Hackney carriage drivers the 'fit and proper person' test is applied at Section 59 (1) (a).
- 4.5.3 The 'fit and proper test' applies not only at the point of first application but also at any renewal and it is proportionate for the Council to apply a means of checking that suitability, using CRB checks at reasonable periods. DfT best practice guidance suggests this should be every three years. This time period is supported by the council's Internal Audit team.

## 4.6 Risk Management

4.6.1 The following is an extract of an Internal Audit review of the Section completed in February 2012: -

“...To comply with current best practice guidance, the Taxi and Private Hire Licensing section should require CRB disclosures to be renewed every three years, in addition to the requirement for new applicants. Those drivers who have not completed a disclosure in the last three years should be checked as a matter of priority.

“Guidance should be developed which clarifies the CRB disclosure process in respect of drivers. This should include:

- Frequency of undertaking the checks;
- Action to be taken on receipt of an unsatisfactory disclosure; and
- Retention of documentation (in line with the CRB Code of Practice).

*“The implementation of this recommendation should ensure that LCC are aware of convictions committed after a licence has been granted and give improved assurance that only “fit and proper” persons are licence holders.”*

## 5 Conclusions

- 5.1 There are strong reasons for the introduction of such a policy as indicated by the DfT and the Council could be at risk if the guidance is not followed.
- 5.2 The adoption of this policy does meet the Councils statutory requirement to ensure drivers are “fit and proper” in a proportionate manner.
- 5.3 The additional cost will be met by the licence holders as and when a CRB is required.
- 5.4 If approved by the Licensing Committee the final policy proposal will need to be referred to Executive Board for approval but those arrangements will be made later.

## 6 Recommendations

- 6.1 Members approve a three month public consultation period immediately following this report.
- 6.2 Note that a further report will return to the Licensing Committee meeting on 16 October 2012 with the results of the consultation and exact costings to inform a final decision.

## 7 Background documents

Department of Transport report entitled :taxi and Private Hire Vehicle Licensing: Best Practice Guidance at :-

<http://assets.dft.gov.uk/publications/taxi-private-hire-licensing/taxi-private-hire-licensing-guide.pdf>

Council’s Internal Audit Report of Taxi and Private Hire Licensing dated February 2012