

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 17 December 2013

Subject: Introduction of three yearly Disclosure and Barring Service checks on Hackney carriage drivers, private hire drivers, Hackney carriage proprietors 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 and Private Hire Licensing Section conducts a Disclosure and Barring Service (DBS) Enhanced Disclosure on all drivers at the point of application and may also require existing licensed drivers to undertake a DBS disclosure in other circumstances.
2. An amendment is required to the policy to stipulate that a DBS check must be undertaken at specific intervals.
3. 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.
4. This report is to inform Members of the current position on the proposals to introduce three yearly disclosures undertaken by the DBS.

Recommendations

5. That Members note the information in this report and approve the introduction of three yearly disclosures on all existing licence holders and new applicants to the trade, noting that minor administrative changes may be made, as the policy develops, under delegated decisions.
6. That Members note and approve that a DBS check is a re-requisite to the grant or renewal of a Hackney carriage driver, private hire driver, Hackney carriage proprietor and private hire operator licence.
7. That Members make any observations they may have.

1 Purpose of this report

- 1.1 For Members to consider officer recommendations for the introduction of three yearly DBS disclosures, the potential impact upon licence holders and the potential resource implications for the Taxi and Private Hire Licensing Section.

2 Background information

- 2.1 Members will recall from the report presented to the Licensing Committee in October 2012 that the information in a DBS disclosure is vital in the decision making process to ensure the Council meets its statutory requirement to ensure all drivers are a fit and proper person.
- 2.2 At its meeting in October 2012 and subsequent meeting in May 2013, Members deferred the decision to implement more regular criminal records checks until further information on a new on-line process was available.

3 Main issues

- 3.1 As outlined in the previous report presented to the Licensing Committee in October 2012, Officers became aware of an alternative online Update Service being introduced by the DBS. The DBS introduced this service in June 2013 (Appendix 1).
- 3.2 In addition, since June 2013 the Council's Business Support Centre (BSC) has explored moving away from the submission of DBS application forms manually, to using an e-bulk system via a third party supplier. There is a corporate drive to utilise such a system to undertake all DBS checks carried out by the council, including those at Taxi and Private Hire Licensing.
- 3.3 The use of an e-bulk system potentially means less officer administration time as applicants are able to submit their DBS application online and only attend council offices for the verification of their identity documents. If applicants do not have internet access, the application may be submitted using a PC located at Taxi and Private Hire Licensing.
- 3.4 The e-bulk system would also provide an electronic response within 48 hours and will give an indication as to whether the DBS check was clear. To ensure an audit trail is maintained, officers at the Taxi and Private Hire Licensing Section would remain reliant on the applicant presenting their DBS certificate to begin the decision making process.

- 3.5 The BSC signed a contract with a third party supplier in October 2013 and it is anticipated that they will go live with the new system in January 2014.
- 3.6 The BSC and officers are keen to move forward with the utilisation of the e-bulk system. It is anticipated that the BSC will be able to provide system access and training to enable 3 yearly checks to be introduced from April 2014.

Potential Costs – 3 yearly checks at Taxi and Private Hire Licensing

- 3.7 If the Taxi and Private Hire Licensing Section commenced the process of 3-yearly DBS disclosures in-house at the time of renewal, there would be an additional cost to licensed drivers 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.
- 3.8 This process could not be managed within the existing staffing structure and would require additional resources as there are 894 licence holders alone who have not had criminal records check prior to the year 2000.
- 3.9 For the Taxi and Private Hire Licensing Section to continue to undertake DBS checks and increase these to three yearly, the additional cost to an individual driver would be £66.50 every three years. This is prior to the renewal of their licence and consists of the DBS application fee (£46.50) plus the administration cost of 2 additional staff (£20), please refer to Appendix 2.

DBS Online Update Service

- 3.10 In addition, at the time of submitting their DBS application online, Licensing Officers would be able to assist with registering applicants for the online update service if the applicant wished to register¹. This would result in an annual charge of £13 to the applicant but the potential to never have to undertake a further enhanced disclosure at a further expense. This would see a significant saving to those drivers returning a clear update check every year at the time of their licence renewal.
- 3.11 A further enhanced disclosure would not be required unless the update service flagged up that something had been added to the individual's record. The majority of drivers would only have to pay the annual registration fee.
- 3.12 There is also the potential that if an individual has already undertaken an enhanced disclosure with another employer and registered for the online update service, the council can use their unique registration number to check their record without the requirement to undertake a separate DBS check. Individuals must consent to this and the previous disclosure must have been enhanced.
- 3.13 Additional costs were a significant area of concern raised by the trade during the consultation and utilising the BSC e-bulk system and the online update service has the potential to address this and reduce the need for additional resources for the Section to administer regular DBS checks.
- 3.14 The online update service is reliant on the driver registering themselves every year. Licence holders would therefore be urged to take up this option and re-register on an

¹ Must have access to a PC and an email address

annual basis prior to the renewal of their licence. If this service was not undertaken, a full enhanced DBS disclosure would be due every three years.

- 3.15 Licence holders would need to give their permission for the Taxi and Private Hire Licensing Section to use their unique registration number to carry out the online update check at the time of renewal.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Full public consultation was carried out between 5 July 2012 and 5 October 2012 and was presented to the Licensing Committee when it met in October 2012. Please see Appendix 3.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality and Diversity Screening Assessment is available as a background document.

4.3 Council Policies and City Priorities

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

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

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

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

Our Best Council Outcomes

Make it easier for people to do business with us

Our Best Council Objectives

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

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

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

- Getting services right first time
- Improving customer satisfaction

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

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

4.3.3 Safeguarding children and vulnerable adults:

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

4.4 Resources and Value for Money

4.4.1 The cost of additional resource requirements, either at the Taxi and Private Hire Licensing Section or at the BSC, 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 DBS 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 Members are reminded of the comments of an Internal Audit review of the Section completed in February 2012 and included within the report to Licensing Committee in October 2012.

4.6.2 Members are reminded that at the time of renewal, all licence holders are required to complete a declaration to confirm that they have no new convictions. In the event that a new conviction is declared, the application to renew is checked in accordance with the convictions criteria policy.

4.6.3 In addition, the disclosure of convictions and other information by the police, in relation to people in professions or occupations which carry additional trust or responsibility (often referred to as "notifiable occupations"), is applicable to licensed taxi and private hire drivers. This is however dependant on them being recognised

as a licensed driver by the police and the police determining whether or not it is appropriate to release that information in accordance with their governing guidance.

5 Conclusions

- 5.1 There are strong reasons for the introduction of three yearly DBS checks as indicated by the DfT and the council could be at risk if the guidance is not followed.
- 5.2 The amendment to the criminal records check policy (appendix 4) meets the Council's statutory requirement to ensure drivers are "fit and proper" in a proportionate manner.
- 5.3 Any additional cost has to be met by the licence holders as and when a DBS is required. These additional costs could be minimised by use of the online update service implemented by the Disclosure and Barring Service earlier in 2013.
- 5.4 Officers recommend that the DBS checking process utilises the e-bulk system and encourage take up of the online update service provided by the DBS.

6 Recommendations

- 6.1 That Members note the information in this report and approve the introduction of three yearly disclosures on all existing licence holders and new applicants to the trade, noting that minor administrative changes may be made, as the policy develops, under delegated decisions.
- 6.2 That Members note and approve that a DBS check is a pre-requisite to the grant or renewal of a Hackney carriage driver, private hire driver, Hackney carriage proprietor and private hire operator licence.
- 6.3 That Members make any observations they may have.

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

Equality Impact Screening Assessment

Licensing Committee report – 16 October 2012