

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 16 October 2012

Subject: Introduction of three yearly Criminal Records Bureau checks on Hackney Carriage & Private Hire Drivers and Private Hire Operators – Results of Public Consultation

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

Summary of main issues

1. 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 disclosure 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 it is this guidance that is now being brought forward for Elected Members to consider.
3. In June 2012, the Licensing Committee asked officers to carry out a public consultation on proposals to introduce three yearly Criminal Records Bureau checks on Taxi & Private Hire Drivers and Private Hire Operators. The results of that consultation and officer recommendations are included in this report for Members consideration and discussion.
4. During the public consultation, officers became aware of a new online scheme being introduced by the Criminal Records Bureau. From early 2013 (exact date yet to be confirmed by CRB) a new annual online update service will be introduced. This means that once the initial CRB has been completed, an individual can apply to be registered

for annual updates. This has the potential for reducing costs to drivers significantly and avoiding the need for the section to recruit additional staff to process three yearly CRB checks.

Recommendations

5. That a decision to implement more regular CRB checks be deferred until more information on the new online process is available. A further report will be presented to Licensing Committee in April 2013.

1 Purpose of this report

- 1.1 To inform Members of the outcome of the public consultation.
- 1.2 For Members to consider officer recommendations for the introduction of three yearly CRB disclosures, the potential financial impact upon licence holders and the potential resource implications for the section.
- 1.3 For Members to consider the information regarding the proposed introduction of a new annual online CRB process and the potential resource and costs savings this could bring to the council and drivers.

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 are 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 relating to an individual driver and not a specific policy. For Hackney Carriage drivers the CRB vetting would be a requirement of the renewal process.
- 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 reducing risk of the travelling public and increasing 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 If the Council processed the 3-yearly CRB disclosures in-house 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 would be £68 which is the cost of a CRB application (£47) plus the administration cost of 2 additional staff (£21). 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. A full breakdown of these costs is attached at appendix A.
- 3.5 During the public consultation, officers became aware of an alternative online scheme being introduced by the Criminal Records Bureau. From early 2013 (exact date yet to be confirmed by CRB), a yearly online update service will be introduced. This means that once the initial CRB has been done, an individual can apply to be registered for annual updates. They must do this within 14 days of their initial disclosure being issued.
- 3.6 The council is currently liaising with the CRB to determine if the council can register on behalf of the driver and recover the fee at a later date. This would enable the council to enter the online registration number and instantly check for any convictions, etc, added to the individual's record. The cost has not been finalised but it is anticipated that this would be approximately £10 per year. This new system gives the council the potential to check as many times as was necessary in that one year period.
- 3.7 If the council cannot register on the driver's behalf, this process is reliant on the driver registering themselves every year. In this situation officers would recommend that a new condition be created that the council will not renew a driver's licence unless they have registered. Also, the update will only show the council if something has been added to the record, not any of the details. At this stage we would need to call in the driver to undertake a full CRB again. However, the cost of an additional full CRB would only be required if the driver's online record showed a new conviction, etc. The majority of drivers would only have to pay the annual registration fee.
- 3.8 There is also the potential that if an individual has already undergone a CRB with another employer and registered for the online update service, the council can use the registration number to check their record without the requirement to undertake two separate CRBs. In section 4.1 of this report we received feedback to the consultation that individuals working in the security industry already have an enhanced check done every three years and were concerned about the additional costs of further checks with the council. This online check has potential to alleviate this concern.
- 3.9 As the additional costs were a significant area of concern raised by the trade during the consultation and the online facility has the potential to address this and reduce

the need for additional resources for the section to administer regular CRB checks, officers recommend that a decision regarding the introduction of three yearly CRB checks be deferred until more information on the new online scheme is available for consideration in 2013. Officers recommend that a further report return to committee in April 2013 when details of the new online scheme should be available and whether any additional resource is required to administer it.

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. The results of the consultation are included at appendices B and C. Appendix B summarises the responses we received through the council's public consultation portal, TalkingPoint. Appendix C details responses we received via correspondence.
- 4.1.2 In summary there was very strong support for regular CRB checks for drivers from both the public and the trade. As indicated earlier in this report, the trade raised significant concerns regarding the additional cost regular CRB checks would create for drivers and duplication that already exists within the existing CRB scheme for drivers with other professions requiring the need for a CRB check. Officers recommend that the proposed online facility being introduced by the Criminal Records Bureau will address these concerns, and a decision to implement more regular CRB checks be deferred until more information on the new online process is available.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality and Diversity Screening Assessment was undertaken before the consultation process and is available as a background document.

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 Members are reminded of the comments 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 three yearly CRB checks 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 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 CRB is required. These additional costs could be minimised by use of the new online facility being implemented by the Criminal Records Bureaux in 2013.

5.4 Officers recommend that a decision to implement three yearly CRB disclosures is deferred until more information about the new online scheme is available early next year. A further report can be brought to Members for a decision in April 2013 when details of the new scheme should be available.

5.5 If approved by the Licensing Committee the final policy proposal will need to be referred to Executive Board for approval.

6 Recommendations

6.1 That a decision to implement more regular CRB checks be deferred until more information on the new online process is available. A further report will be presented to Licensing Committee in April 2013.

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

Cost of processing CRBs in-house under existing system

Current number of licensed hackney carriage and private hire drivers is 4,893

Split over three years is 1,631 additional CRB disclosures per year

This is a significant volume of additional work that could not be absorbed within existing resources. Two officers would be required to administer, check and process this number of additional CRB applications per year. This equates to 7 CRB disclosures each day, allowing time for annual leave, etc. Each application takes 1 hour to process on average. This would require an additional two officers and the work would be rotated around all the existing staff, so all Licensing Officers spent a period of time processing CRB renewals.

2 x B1 Licensing Officer costs £33,660

Costs of additional staff per CRB disclosure: -

$$£33,660 / 1,631 = £20.64 \text{ admin charge per CRB disclosure}$$

Current fee charged by CRB per disclosure is £47

Total costs per disclosure for each driver: -

$$£47 \text{ (CRB fee)} + £21 \text{ (admin fee)} = £68$$

The current fee charged by the section for CRB disclosures carried out as part of the application process is £60, so this would represent an increase of £8 per CRB disclosure required. This increase would be applied across all CRB disclosures required for whatever purpose (new application, 3-year refresh, etc).