

Taxi and Private Hire Licensing – Convictions Policy

Report of the Head of Legal and Democratic (Portfolio: Corporate)

Recommended:

That the policy statement published for consultation in October 2019 and attached as Annex 1 to this report be adopted with effect from 1 April 2020.

SUMMARY:

- The Council's current policy regarding applicants for taxi licences with convictions is in need of revision.
- The Council consulted on adopting a new policy based upon two sets of guidance published by the Institute of Licensing and Local Government Association.
- Only a handful of responses to the consultation were received and the policy is recommended for adoption.

1 Introduction

- 1.1 In considering applications for taxi driver and operator licences the Council must not issue a licence unless it is satisfied that the applicant is 'fit and proper'. In this regard the consideration of an applicant's criminal convictions and other relevant character or behaviour information is a key part of the 'fit and proper' assessment. Test Valley Borough Council, in common with many other licensing authorities, has for many years used a policy based upon Home Office guidance dating from the 1990s. This policy is now outdated and needs a complete revision to reflect the current issues impacting upon the taxi trade nationally.

2 Background

- 2.1 In recent years there have been cases across the country of licensed drivers and operators being involved in criminal activity including the sexual exploitation of children. It is important that all licensing authorities take appropriate steps to prevent future cases by ensuring that licensed drivers are 'fit and proper'. Consideration of a person's criminal convictions and other relevant character or behaviour information is a key part of the 'fit and proper' assessment.
- 2.2 Many licensing authorities nationally are seeking to standardise the information taken into account when determining if someone is 'fit and proper' by adopting the same convictions policy. Whilst there are significant similarities in many convictions policies, there are some differences and these could result in applicants being revoked or refused in one authority and then being granted a licence in another authority area with different standards.

Guidance on an appropriate convictions policy has been produced by the Institute of Licensing following extensive research and consultation nationally. This guidance, along with a similar document produced by the Local Government Association, has been used as the basis for a new policy which was consulted upon from October to December 2019 and is attached as Annex 1 to this report. The Committee may wish to note that a similar policy has been adopted by all of the licensing authorities in Surrey.

3 Corporate Objectives and Priorities

- 3.1 Hackney Carriage and Private Hire licensing falls within the broader remit of public safety which in itself cuts across the Council's corporate priorities with particular reference to growing the potential of our Communities and People. In deciding whether a licensed driver should be issued with and then retain their licence, the overriding consideration will be the protection of the public.

4 Consultations/Communications

- 4.1 The policy was open to consultation from 23 October to 31 December 2019. Details of the consultation were sent to all members of the Council and Heads of Service and also all circa 350 licensed hackney carriage and private hire drivers. The consultation directed persons to a page on the Council's web site which included a copy of the proposed policy together with a consultation questionnaire. At the end of the consultation only five responses were received which are discussed in more detail in paragraph 6 below.

5 Options

- 5.1 The adoption of a criminal convictions policy is a matter entirely at the Council's discretion. It could decide to continue with the current policy but as mentioned in paragraph 2.2 above that could lead to a situation where the Council is seen as an easy choice for those potential applicants with criminal convictions who have been refused a licence elsewhere.
- 5.2 In light of the ongoing discussions and concerns about safeguarding in the taxi trade and wider issues regarding public safety it is felt that the only option for the Council is to adopt a modern and robust convictions policy which has been subject to public consultation.

6 Consultation responses

- 6.1 The consultation exercise allowed any person to complete a response questionnaire; five questionnaires were submitted and the results of these are attached as Annex 2 to this report. A detailed analysis of the responses reveals a number of issues for the Committee to consider.
- 6.2 Response 1 includes a comment highlighting the importance of local licensing authorities adopting a consistent approach and thus can be regarded as supportive of the policy. Response 2 contains no substantive comments. Response 3 has been submitted by a member of the taxi trade and includes the following comment:

“A common sense approach should be taken on ‘minor’ traffic offences. If someone has 3, 6, 9 points accrued say within 1 year doesn’t necessarily make them not fit & proper. If someone has a ban for totting up of minor offences then after the disqualification period and a driver standards test, he or she should be able to have their PH/Taxi licence back regardless whether the Licencing Dept like the person or not.”

The subject of minor traffic offences and how they are addressed is one that has attracted comments from the trade with other Councils undertaking similar consultation exercises. The model policy published by the Institute of Licensing recommends “Where an applicant has 7 or more points on their DVLA licence for minor traffic or similar offences, a licence will not be granted until at least 5 years have elapsed since the completion of any sentence imposed”. It is the view of officers that this policy is unduly restrictive and that the policy set out in section 12 is proportionate in safeguarding the public whilst acknowledging that licensed drivers will by the very nature of their work have a higher potential to be convicted of traffic offences. Officers accept that the occasional conviction for a minor traffic offence may not render a driver not fit and proper but, in a situation where a driver has lost their licence through “totting up” of penalty points officers do not accept the respondent’s comments that a driver should be relicensed as soon as their period of disqualification has ended.

Response 4 contains no substantive comments. Response 5, again submitted by a member of the taxi trade, makes the following comment:

“Please make it clear the proposed policy adjustments are for new applicants only and existing license holders are excluded from the proposed policies.”

6.3 Section 1.5 of the policy states that it is not the intention to apply the policy retrospectively to existing licensed drivers (unless they are subsequently convicted of an offence or otherwise come to the attention of the Council, e.g. they are arrested for an offence). It is suggested that this section be highlighted in the document so it is made clearer.

6.4 Accordingly, it is recommended that the policy as published for consultation is adopted without any revisions save for that mentioned in paragraph 6.3 above.

7 Resource Implications

7.1 There are no direct resource implications as a result of the recommendation. If approved, the adoption of the new policy can be undertaken from within existing budgets.

8 Legal Implications

8.1 There are specific powers contained in legislation, most notably the Local Government (Miscellaneous Provisions) Act 1976, which allow the Council to specify the requirements that vehicles and drivers must meet in order to be licensed, and to refuse a licence to drivers if the Council is not satisfied that the drivers are fit and proper persons to hold a licence.

9 Equality Issues

- 9.1 There are no equality and diversity implications in adopting the proposed new policy.

10 Other Issues

- 10.1 Community Safety – none other than the general comments in section 2 above.
- 10.2 Environmental Health Issues – no implications identified.
- 10.3 Sustainability and Addressing a Changing Climate – no implications identified.
- 10.4 Property Issues – no implications identified.
- 10.5 Wards/Communities Affected – none specific but potentially the whole Borough.

11 Conclusion

- 11.1 There is no statutory requirement to have a taxi and private hire licensing criminal convictions policy; however, it is good practice to do so. A policy assists with consistent decision-making and sends a clear message to potential applicants (and those already licensed) as to the standards the Council expects persons to meet. However, each case must be considered on its own merits with the decision maker being prepared to make exceptions to the policy in appropriate circumstances.

Background Papers (Local Government Act 1972 Section 100D)

Guidance on determining the suitability of applicants and licensees in the hackney carriage and private hire trades – the Institute of Licensing, April 2018.

Taxi and PHV Licensing Criminal Convictions Policy – Local Government Regulation, September 2010.

Confidentiality

It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.

No of Annexes:	2		
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