

Taxi and Private Hire Licensing – Convictions Policy

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

Recommended:

1. That the draft policy statement attached as an Annex to this report be subject to consultation with the public and taxi trade.
2. That the result of the consultation be reported back to this Committee at a future meeting.

SUMMARY:

- The Council's current policy regarding applicants for taxi licences with convictions is outdated and in need of revision.
- It is recommended that the Council consult on adopting a new policy based upon two sets of guidance published by the Institute of Licensing and Local Government Association.

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 This policy is now outdated and needs a complete revision to reflect the current issues impacting upon the taxi trade nationally.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 to be consulted upon 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 This matter does not directly align with the Council's Corporate Priorities. However, Hackney Carriage and Private Hire licensing falls within the broader remit of public safety. 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 There has not yet been any consultation with the taxi trade on this matter. It is recommended that a six week consultation period be undertaken which will be open to the taxi trade and the wider public. This Committee will receive a further report in early 2019 on the findings of the consultation with a view to adopting the new policy shortly after.

5 Options and Option Appraisal

- 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 The Council could adopt the proposed policy at Annex 1 without any form of consultation. However this is not recommended best practice and could potentially result in an aggrieved applicant challenging the Council's decision to refuse their application.
- 5.3 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 Resource Implications

- 6.1 There are no direct resource implications as a result of the recommendation. The consultation exercise and the subsequent adoption of a new policy can be undertaken from within existing budgets although it should be noted this will place an additional demand upon an already busy staff team.

7 Legal Implications

- 7.1 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.

8 Equality Issues

- 8.1 There are no equality and diversity implications in consulting on the proposed new policy.

9 Other Issues

- 9.1 Community Safety – none other than the general comments in section 2 above.
- 9.2 Environmental Health Issues – no implications identified.
- 9.3 Sustainability and Addressing a Changing Climate – no implications identified.
- 9.4 Property Issues – no implications identified.
- 9.5 Wards/Communities Affected – none specific but potentially the whole Borough.

10 Conclusion

- 10.1 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.

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| No of Annexes: | 1 | | |
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