

Taunton Deane Borough Council

Licensing Committee – 13th June 2017

Background checks for hackney carriage and private hire vehicle drivers and would be drivers who specifically have lived outside of the UK

This matter is the responsibility of Executive Councillor Patrick Berry

Report Author: Alison Evens, Licensing Officer

1 Executive Summary

- 1.1 Members are asked to consider the hackney carriage and private hire licensing regime for drivers within Taunton Deane and the recommendations set out at section 2 of the report with regard to replacing the current policy in respect of background checks for those applying for the grant or renewal of a hackney carriage/private hire drivers licence that have lived outside of the UK, at any point, since the age of ten.

2 Recommendations

- 2.1 That members approve a proposal to replace the Councils current policy, as shown in appendix A, with the updated policy shown at appendix B
- 2.2 That members agree for this new policy to be applied to all grant applications with immediate effect and to come into effect from 1st January 2018 for existing drivers, to allow time for the necessary paperwork to be obtained.

3 Risk Assessment (if appropriate)

Risk Matrix

Description	Likelihood	Impact	Overall
Members of the public are exposed to harm by being transported by drivers who have not had thorough background checks	3	4	12
The Licensing Authority fail to identify convictions that applicants / licence holders have attained whilst living outside of the UK.	5	4	20

Risk Scoring Matrix

Likelihood	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			Impact				

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

4 Background and Full details of the Report

4.1 In accordance with the Local Government (Miscellaneous Provisions) Act 1976, a district council shall not grant a licence to a driver of a private hire vehicle or hackney carriage unless that council is satisfied that the applicant is a fit and proper person to hold a driver's licence.

Fitness and propriety is not legally defined and thus, the Council has the freedom to consider a wealth of criteria before reaching a decision. In reaching a decision, the Council also has the power to request from the applicant any information as is considered necessary to determine whether a licence can be granted and whether conditions should be attached to a licence. Broadly speaking, this includes assessment of health, background, attitude / demeanour. It is only when an officer is satisfied that the applicant is of good health, background and character that a recommendation is made to the Licensing Manager to grant the licence.

4.2 Due to the nature of the hackney carriage / private hire drivers' role, it is important that we check the background/history of each applicant in order to make an informed decision about granting them a licence, specifically whether they have any convictions,

cautions, reprimands or warnings. To establish if they have, that applicant applies to the Disclosure and Barring Service (DBS – formerly Criminal Records Bureau aka CRB) for an enhanced disclosure of convictions. It is Council policy that once licensed, the holder of the licence applies for a new enhanced disclosure. Please see appendix C for the Taunton Deane Licensing policy on DBS checks for hackney carriage/private hire vehicle drivers.

- 4.3 As stated in the Department for Transport's 'Taxi and private hire vehicle licensing: best practice guidance' – "the aim of the local authority licensing of the taxi and PHV trades is to protect the public"
- 4.3.1 "It is clearly important that somebody using a taxi or PHV to go home alone late at night should be confident that the driver does not have a criminal record for assault and that the vehicle is safe".
- 4.3.2 In essence, the requirement is that an applicant provides a certificate of good conduct (the equivalent to a DBS cert) from any country within which they have lived. When the Licensing team looked into creating a policy on certificates of good conduct, it was discovered that one already existed, but had not been implemented. Furthermore it was not comprehensive or clear enough to enforce with any conviction.
- 4.3.3 Up until recently the licensing team has not imposed the policy of the 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook, (more commonly referred to as the 'Taxi handbook') to obtain background information from applicants who have lived outside of the UK. Introducing a more robust policy to gather background information from applicants that have lived outside of the UK for more than 6 months would ensure that the council are doing the best they can to protect the public.
- 4.4 It is recognised that while licensing seek to protect the public when making decisions on licensing of hackney carriage / private hire drivers, too restrictive an approach can work against public interest, by potentially creating barriers of entry to the trade and therefore restricting the numbers of drivers. This could in turn have unintended safety implications, such as insufficient licensed drivers to ensure passengers get home safely. Licensing would want to ensure that this policy is suitably justified and proportionate to the risks that we are wishing to address.
- 4.5 It is unlikely that introducing the proposed amendment to the policy would have an adverse effect on drivers applying to become a hackney carriage / private hire driver.
- 4.6 Although there may be cost implications for individual applicants in obtaining this information, this does not detract from the safety aspect that a more thorough background check would allow an officer to make a more informed decision with regard to issuing an applicant with a licence. Any costs that may be incurred by the applicant would be commensurate to the benefits of ensuring the safety of passengers.
- 4.7 Licensing consulted with members of the taxi and private hire trade on issues around background checks being carried out on applicants who have lived outside of the UK and attendees were broadly in support of this proposal. Notes from this forum are shown at appendix D, taking note of point 8. Some forum members were concerned that existing drivers would need notice to allow them time to obtain a certificate of good conduct and therefore, it is recommended to delay the implementation of the policy for renewal applications by 6 months.

- 4.8 The process of determining whether an applicant / licensed driver has lived outside of the UK for more than 6 months relies some part on honesty when they are completing the application forms. However if a driver was to lie about this on a form they would be making a false statement which, if discovered, would be looked upon unfavourably when making a decision on whether an applicant is to become a licensed driver.
- 4.9 As per the proposed policy shown at appendix B under 'Additional Requirements of certificates of good conduct' the documents will need to be 'authenticated/certified as a true and accurate record by the relevant embassy' this will assist with confirming the validity. Should there be any concerns, licensing officers would investigate further.

5 Links to Corporate Aims / Priorities

- 5.1 The purpose of licensing hackney carriage and private hire vehicles is to protect the public, which is one of the council's primary roles, as identified in the Corporate Strategy.

6 Finance / Resource Implications

- 6.1 None.

7 Legal Implications (if any)

- 7.1 The Local Government (Miscellaneous Provisions) Act 1976 states that, before the Council can grant or renew a licence to a hackney carriage/private hire vehicle driver or private hire operator, it must be satisfied that the applicant is a 'fit and proper person'. As 'Fitness and propriety' is not legally defined the Council has the freedom to consider a wealth of criteria before reaching a decision.
- 7.2 As detailed in point 4.1 & 4.2, it is important for the Licensing Authority to ensure they have possession of current and relevant information regarding applicants in order to make decisions affecting public safety.

8 Environmental Impact Implications (if any)

- 8.1 No environmental impact implications have been identified within this report.

9 Safeguarding and/or Community Safety Implications (if any)

- 9.1 Through effective regulation of hackney carriage and private hire vehicles and drivers, confidence in a safe public transport regime can be maintained aiding its continued use by vulnerable members of the community.

10 Equality and Diversity Implications (if any)

- 10.1 There are a number of protected characteristics identified in the Equality Act 2010, which are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and members need to

demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process. The three aims the authority must have due regard for are:

- Eliminate discrimination, harassment, victimisation;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Public safety is paramount and licensing are carrying out thorough checks on all applicants, treating all applicants the same. There is requirement for more information to be provided by some applicants and the introduction and enforcement of a more robust policy could be perceived that the Council are making it more difficult for applicants that were born outside of the UK, however the reality is that this policy applies to all applicants that have lived outside of the UK for 6 months or more not just applicants who were born outside of the UK.

11 Social Value Implications (if any)

11.1 No social value implications identified.

12 Partnership Implications (if any)

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications (if any)

13.1 None identified.

14 Asset Management Implications (if any)

14.1 None identified.

15 Consultation Implications (if any)

15.1 As explained within paragraph 4.5, members of the hackney carriage and private hire trade were consulted on the proposals at the meeting of the taxi and private hire trade forum.

16 Scrutiny Comments / Recommendation(s) (if any)

16.1 The purpose of the Licensing Committee is to act for the Council in respect of licensing and registration functions. The Committee's powers include the power to discharge licensing functions on behalf of the licensing authority, outside of the usual democratic process.

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – No**
- **Full Council – No**

Reporting Frequency : Once only Ad-hoc Quarterly
 Twice-yearly Annually

List of Appendices (delete if not applicable)

Appendix A	Current policy on ‘Applicants from outside the UK’
Appendix B	Updated policy for ‘Background checks for applicants resident outside of the UK’
Appendix C	TDBC policy on DBS checks
Appendix D	Taxi Forum Notes - 24 th March 2016

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Appendix A. Extract from the 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook' – current policy.

2.3 Applicants from outside the UK

Drivers from the European Union on making an application must show their Passports or National Identity Card, equivalent CRB from their home countries (with appropriate translation), an EU driving licence and submit a recent medical conducted in the United Kingdom.

Applicants from outside the EU will be subject to an Immigration Status Check. The results of this check may take some time to be finalised and the applicant may not be permitted to work until it is concluded. The Immigration Status check may be done in advance of the applicant arriving in the United Kingdom providing documentation is sent to the Licensing Department at The Deane House, Belvedere Road, Taunton, TA1 1HE.

The Licensing Authority requires a five-year background check for all applicants, if an applicant has lived abroad for any period in the last five years or is from an EU member state or overseas then a certificate of good conduct authenticated and translated by the relevant embassy is required. The Criminal Records Bureau website (www.crb.gov.uk) gives more information about obtaining certificates of good conduct, or similar documents from a number of countries. More generally, the Home Office's Employers' Helpline (0845 010 6677) can be used to obtain general information on immigration documentation. Employers and the Licensing Authority are also able to obtain case specific immigration status information, including whether an applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY. Further details on procedures can be obtained from the unit on 020 8196 3011.

Appendix B. Updated policy for 'Background checks for applicants resident outside of the UK'

"The licensing authority recognises that a DBS disclosure will only give background details of any convictions, cautions etc. that were effected in the UK. It is therefore the policy of the licensing authority to require, where appropriate, a certificate of good conduct (or suitable equivalent document) from any applicant who has been resident in any country (other than the UK) for any length of time since the age of ten (i.e. the UK age of criminal liability) or, where appropriate, since any (pre)existing licence was granted.

For the purposes of this general policy requirement, the licensing authority will normally –

- (a) interpret the term 'resident in any country' in its widest possible meaning and to include any period other than work deployments or holidays less than 6 months duration or any period of service in HM armed forces.*
- (b) Require a certificate of good conduct (or suitable equivalent document) to be provided in respect of each country in which the applicant may have previously lived.*

NB: *The licensing authority notes that different countries and jurisdictions may recognise and use a different minimum age of criminal liability. Where appropriate, a statement of good conduct must reflect the relevant minimum age of criminal liability for the country concerned.*

Additional requirements of certificates of good conduct

To ensure authenticity, currency and efficiency of use, the licensing authority requires that certificates of good conduct (or suitable equivalent) be –

- (a) translated and submitted in written English;*
- (b) authenticated/certified as a true and accurate record by the relevant Embassy; and*
- (c) dated within 6 months of the date of submission or within a period otherwise considered appropriate in the circumstances.*

Relevance of certificates of good conduct

As it will otherwise be unable to satisfy itself of the applicant's propriety, the licensing authority will normally refuse any application for a hackney carriage and or/private hire driver's licence where the applicant fails to provide or obtain suitable and sufficient certificates of good conduct where these may be appropriate.

However, the licensing authority recognises that not all states or provinces can provide for certificates of good conduct. Therefore, in genuinely exceptional circumstances, the licensing authority may require alternative documentation (i.e. suitable equivalent documents) and/or seek to undertake alternative investigation of the propriety of the applicant."

Appendix C. Extract from the 'Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook' - TDBC policy on DBS checks

2.7.1 Disclosure and Barring Service

Taunton Deane Borough Council, as the 'Licensing Authority' is able to make applications to the Disclosure and Barring Service (DBS) to check whether new or existing taxi drivers hold a criminal record.

The results of a DBS application will be required when an application is made for the grant of a Hackney Carriage and Private Hire vehicle driver's licence and then every three years thereafter. The results of DBS applications will only be accepted if applied for through Taunton Deane Borough Council or through Somerset County Council and providing the application was made in connection with work which may involve contact with children and vulnerable adults.

DBS application forms can be collected from Licensing and Planning Reception.

In order for a DBS application to be made, the applicant must fill out the DBS application form and make an appointment to see a Licensing Officer so that their identity can be checked. This is done by the Officer checking a number of identification documents which the applicant brings to the appointment.

When making an appointment, a member of the Licensing Team will explain the types of identification that are acceptable.

Following this appointment, the application is posted to the DBS. The results are sent directly to the applicant, normally within four to six weeks. It is then the responsibility of the applicant to submit the results document that they receive, to us so that we can make a decision. All Information that we receive is kept in the strictest confidence.

Where a DBS application is required when a taxi driver is renewing their licence, the driver is advised to submit a full renewal application (including DBS application) no later than six weeks before the expiry date of the licence.

This deadline date allows plenty of time for the DBS to process the application before the licence expires. In the event that the DBS results are not received before the licence expires, we are able to issue an extension to a licence.

Where the six week deadline is not met and the licence expires, the applicant will be unable to drive a licensed vehicle until the results have been received.

Taunton Deane Borough Council abides by the DBS code of practice.

Appendix D.

Meeting of the Taxi and Private Hire Forum

Meeting of 24 March 2016

18:00 to 19:30, Committee Room 1

Chair: John Rendell, Licensing Manager (JR)

Attendees:

Mark Banczyk-Gee, Licensing Officer (MB)

Cllr Gary James, Licensing Committee Vice-Chair (GJ)

Cllr Patrick Berry, Executive Member for Environmental Services and Climate Change (PB)

Mark Thomas Our Taxis (MT)

Sheila Thomas Our Taxis (STH)

John Bolton, Independent (JBO)

Jason Baxter, Independent (JBA)

Shane Wyatt, Independent (SW)

Martin Jones, Lightning Taxis/Mo's Taxis (MJ)

Seb Toon, TLC Taxis (STO)

1. Welcome and introductions;
2. Review of forum terms of reference (see attached document);
 - JR: forums original terms of reference have been revised and these were circulated in advance of the meeting.
 - Agreed by all
3. Introduction to the Council's guidance on Child Sex Exploitation for licensed drivers (see attached document);
 - JR: a guide for licensed drivers on recognising signs of CSE and how to report was circulated in advance of the meeting. This will become part of the policy, be developed into a pocket sized guide which all drivers will receive a copy of and be incorporated into the knowledge and suitability interview. Feedback was welcomed.
 - General discussion by all. No issues raised
4. Lost property Facebook page;
 - JR: It was raised at the last forum that the Police are unable to process lost property and the Police Station in Taunton is to close soon. It is a condition of every driver licence that lost property must be handed in to Taunton Police

Station. Suggested that, although TDBC does not have capacity to offer a lost property service, Licensing could set up a lost property 'community' page on Facebook. This would be a page that members of the public and drivers could 'like' to join. Licensing would be the administrators and agree rules for the page. It would work in so far as drivers would post on the page if they found property that hasn't been found in the check that must occur after the customer has left the vehicle (part of licence conditions). Driver could also post a photograph of item(s) if appropriate. Members of public would be signposted to Facebook page where they could also post on the page in the hope of contacting the driver who may have their property. Not perfect solution to the problem by any means but better than nothing!

- Pros and cons discussed at length around ownership and issues in respect of Facebook.
- MT - Asked who would monitor the page as this would be needed. Members of the public sometimes post inflammatory remarks about taxi drivers.
- MJ – Does not personally use Facebook but asked if he could ask other drivers to post information for him. JR confirmed this would be fine; the page would be voluntary but drivers would be encouraged to use it.
- JBA – gave an example of how a customer tracked the location of a lost phone using GPS.
- It was agreed that it was better than nothing but that more thought required before implementation. Forum asked to come back to next meeting with some management rules they would like to see in place.

5. Policy relating to incomplete applications;

- JR: The team seem to be wasting a lot of time handling incomplete applications, where information or documents are missing. This is time that could be better spent issuing licences, plates and badges and it can affect the cost of applications. Licensing will adopt a new policy as of the 1st of April whereby incomplete applications will be immediately sent back to the applicant by 2nd class mail unless a member of the team can complete the application by the end of the working day, through a telephone call or email.

Examples of things that the team would expect to correct the same working day:

- Payment (as phone call can be made);
- A box hasn't been ticked;
- A piece of written information is omitted.

Examples of things which we would expect not to be able to correct the same working day:

- A missing document e.g. V5 or MOT.
- A signature is missing from an application (forms cannot be signed by team)

- A DBS form is enclosed but the applicant has not had an appointment to check their ID.
 - STH: asked if the rule would apply only to postal applications. JR clarified it applies to any applications.
 - GJ: believes this approach is quite generous when compared with other government agencies such as the passport office.
 - The approach was, in general, supported.
6. Proposal to introduce a new element to the 'plate test' to ensure vehicle interiors are clean;
- JR: The Licensing Team have inspected a number of vehicles over the course of the past year with appallingly dirty interiors. It is proposed that the 'Plate test' be amended to incorporate a requirement for the interior of the vehicle to be kept clean. This would be something that an officer could check during an inspection and may potentially result in suspension of a vehicle licence. Officers believe this will help to drive up standards as not all operators take the cleanliness of their vehicles seriously. No definitive wording for the requirement has been drafted yet but it must be clear and easy to interpret. Those at the meeting were asked to discuss this proposal.
 - General discussion around the subject but supported by members of the trade at the meeting.
 - JR: Licensing will draft the wording of the criteria and circulate for comment.
 - SW: asked if drivers can use e-cigarettes/vape devices in taxis and made reference to a policy restricting this practice in Wales.
 - MT: questioned the relevancy of such a policy as there is no law against such practice.
 - JR: confirmed there is no law or Council policy against using e-cigarettes etc. in taxis and private hire vehicles but felt that this would look unprofessional none the less.
 - **Agreed to add to the agenda for the next meeting.**
7. An update from the last Licensing Committee meeting and reports presented (including any decisions made);
- JR: gave an update on the two reports presented to the Licensing Committee at its meeting on 2 March 2016, both of which were circulated to the trade prior to the committee meeting. A proposal to commission an unmet demand survey

has been approved by the committee. The second report acted as an update to members on discussions with the trade on ways to tackle VAT evasion amongst drivers and JR advised he will be meeting with HMRC on 29 March to progress.

- JBA: asked when survey will be carried out as last time it was before Christmas which is not a good time.
- JR: explained could be some time as quotes need to be got so possibly not until this time next year.

8. Proposal to require certificates of good conduct from applicants that have lived outside of the UK at any time, since the age of 10 years;

- JR: as discussed previously, current arrangements mean that Licensing cannot check an applicants background/criminal history for any period of time they may have spent living outside of the UK. Proposal is to amend policy so that a certificate of good conduct must be produced. The reason for there being a reference to '10 years of age' is because this is the age of criminal liability for the UK.
- STH: asked if this just for new applicants? Made reference to current drivers who have been driving for some years.
- JR: advised this would apply to applicants and existing drivers as some may not have had full background checks.
- PB: asked why not just for 10 years as he doubted the validity of anything dating further back.
- JR: personal feeling was that it was better to ask for full history as something could potentially be missed by introducing a limit on how far checks must go back.
- JBA: why not get Disclosure and Barring Service (DBS) checks for last 10 years?
- JR: advised that the DBS only checks Police records in the UK. Therefore there is no information available on anyone for a period where they may have lived outside of the UK which is clearly worrying.
- MJ: supported the idea of such a requirement as this would act as a deterrent to people who are not committed to working within the trade.
- MT: gave an example of a driver who was licensed by TDBC after having been rejected by North Devon Council. Asked how this might be possible.

- JR: advised that Councils will make their own decisions on applicants and Council policies may differ.
- STH: identified that DBS checks made by Somerset County Council are different to those done by TDBC and voiced concerns over the validity of the results/checks.
- JR: The DBS have responded to similar concerns raised by other operators in the County and this has been featured in a trade magazine which has been brought to Licensing's attention. A copy of this article (which explains the rationale behind the difference in checks) will be included with the meeting minutes.
- It was agreed a certificate of good conduct is a good idea.
- STH: identified that existing drivers would need at least 6 months' notice so that there is time to contact the relevant nations for certificates, if such a proposal was introduced.

9. Changes to the reception desks in Deane House;

- JR: From the 1st of April, the 'Licensing and Planning' reception desk will close, with those services being incorporated into the main reception desk. There will now be two receptionists at the main desk to cope with the additional demand. Members of staff will help customers to use the PC at the old desk, if necessary e.g. to generate DVLA check codes, except for where the applicant has an appointment with an officer.
- STH: asked if we were expecting an increase in errors.
- JR: explained that Licensing had been training the relevant customer services staff to reduce the risk.

10. Deregulation Act 2015;

- JR: clarified some changes introduced by the Act:
 - Just to make sure all aware that PH Operators can now sub contract bookings to other operators licensed by TDBC and those licensed by other districts. Link to relevant section: [Deregulation Act 2015](#).
 - The standard licence duration for drivers is now three years and for PH operators, five years. Before arrangements can be fully implemented, Licensing will look to align the requirements for DBS certificates and medicals with licence expiry dates so that the renewal process is much easier for drivers and Licensing. Licensing will look at adopting the DBS update service at the same time as this could also help to reduce paperwork. These changes are not likely to be implemented until 1st April 2017.

- MT: endorsed this, adding that no refunds should be given to those who may wish to give up driving part way through the period of a licence.
- JR: advised that the door to refunds cannot necessarily be closed.

11. Any other business.

- JR: the team met today to draft some geographical knowledge questions. These will be incorporated into the knowledge and suitability interview.
- STO: asked specific questions re. a complaint which was reported. This was not discussed as the terms of reference state forum not for discussing individual complaints.
- MT: asked whether the Deregulation Act was extending the standard duration of private hire vehicle licences. JR confirmed they were not changing.
- STH: is aware that Sedgemoor allow travel time to pick ups to be charged. Is this something that can be introduced in Taunton? Licensing to research.
- MJ: commented on the response Licensing received from Highways in respect of taxis using bus gates. JR to clarify who the response was made by: **response made by Steve Deakin, Parking Services Manager.**

Next meeting: Thursday 16th June.