

# **Consideration to review the Licensing Conditions in regard to background checks with the Disclosure and Barring Service**

**Licensing Sub Committee**

**Date: 18th December 2017**

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Author:	Kathryn Ashton – Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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## **1. Purpose and Reasons**

- 1.1 To seek the agreement of the Licensing Committee to include a mandatory condition within the Drivers Handbook, Appendix A, to require hackney carriage and private hire drivers (“drivers”) to register with the Disclosure and Barring Service (DBS) update service. This will enable Swindon Borough Council Licensing Authority to carry out annual DBS checks on all new and existing hackney carriage and private hire drivers.
- 1.2 The Licensing Authority currently checks all new drivers, and thereafter existing drivers, every three years in line with best practice guidance. Once a driver is licensed the Licensing Authority relies on drivers voluntarily declaring any convictions that they might receive during 3 year life of their licence.

## **2. Recommendations**

That The Committee:

- 2.1 Endorse the request that a mandatory condition requiring all drivers register with and maintain a subscription with the DBS update service for the duration of their licence, to enable the Licensing Authority to check all drivers’ DBS Certificate status on an annual basis. Officers are of the opinion that such a condition is reasonable and necessary for the safeguarding and safety of the travelling public in general, and in particular to protect against Child Sexual Exploitation (CSE); and
- 2.2 Agree that this condition would apply to applicants for a new licence and upon renewal of all existing licences as and when they become due for renewal from 1 January 2018

## **3. Detail**

- 3.1 Previously drivers would renew their licence on an annual basis, at which time they would sign a declaration disclosing any convictions for offences (including traffic offences). This relied solely on the honesty of the driver as to the accuracy of the declaration. The Licensing Authority carried out a DBS check every three years and in the intervening period relied upon partner agencies to provide intelligence in respect of any issues with drivers. This changed recently and drivers are now required to renew their licence every 3 years with no requirement

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: [kashton@swindon.gov.uk](mailto:kashton@swindon.gov.uk)

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in the intervening period for the drivers to sign a declaration disclosing convictions with no mechanism for the Licensing Authority to undertake a DBS check.

- 3.2 When an applicant receives a baseline DBS clearance they have 19 days within which to register for the up-date service at a cost to the driver of £13 per year. This provides the driver with a DBS Certificate and allows the Licensing Authority to undertake an on-line check of the status of the Certificate.
- 3.3 It is current practice that every new driver that applies for a licence with the Licensing Authority, is subject to an enhanced online DBS check. The proposed mandatory condition would require drivers to register with the DBS online update service to ensure that the Licensing Authority can carry out annual checks of drivers' DBS status.
- 3.4 If a driver fails to comply with the proposed condition and the Licensing Authority is prevented from carrying out an online DBS status check, it is proposed that where it appears that the interests of public safety require it, the Licensing Manager may suspend with immediate effect a Hackney Carriage or Private Hire Drivers Licence under the scheme of delegated authority
- 3.4 Officers are of the opinion that the overarching principle behind the licensing of private hire and hackney carriage vehicles is one of public safety. Based on this overarching principle the mandatory condition is to ensure public safety and safeguarding.

## **4.0 Options**

- 4.1 Agree to amend the current conditions contained with Swindon Borough Council's Driver Handbook as in accordance with the recommendation of this report.
- 4.2 Do not agree to the recommendation of the report and retain current conditions.

## **5.0 Consultation with the trade**

- 5.1 There have been discussions with the taxi Licensing Forum but no separate formal consultation with all individual licence holders. The taxi forum support this proposal.

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## **6. Conclusion**

- 6.1 It is intended that if Members agree to any change in conditions, that this will be implemented from 1st January 2018.

## **7 Financial and Procurement Implications**

- 7.1 There are no direct financial implications arising from the report.
- 7.2 Any additional condition would have a small initial cost to the licence holder but would have an overall saving over a three year period. There are no additional costs for the Council, nor does the change generate any income for the Council.
- 7.3 However there will be cost to the Council in terms of officer time in the carrying out checks.

## **8 Legal and Human Rights Implications**

- 8.1 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.
- 8.2 All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder) this report relates to the requirements of licensing legislation.

## **9.0 Diversity Impact Assessment**

It is not considered that the preparation of a DIA is required in respect of this report.

## **10.0 Consultees**

The Director of Law and Democratic Services (Monitoring Officer) is consulted in respect of all reports.

## **11.0 Appendices**

- 11.1 Appendix A – SBC Drivers Handbook

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- 11.2 Appendix B – Email from Swindon Hackney Drivers Association
- 11.3 Appendix C – DBS Update service information

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