

## Summary Sheet

### Council Report

Licensing Board 30<sup>th</sup> October 2017

### Title

Administrative amendments to the Hackney Carriage and Private Hire Licensing Policy.

### Is this a Key Decision and has it been included on the Forward Plan?

This is not a key decision.

### Director Approving Submission of the Report

Karen Hanson – Assistant Director of Community Safety and Street Scene

### Report author(s):

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### Ward(s) Affected

All wards

### Executive Summary

It has become evident that in order to facilitate the effective application of the Council's Hackney Carriage and Private Hire Licensing Policy, a number of minor administrative amendments are required to be made to the policy. The amendments are in relation to the acceptance of DBS Certificates from other authorities and the period after which a medical examination is required.

These amendments will not have a significantly detrimental on the licensed trade; indeed the proposal in relation to medicals will have a positive effect (although public safety will be maintained).

## **Recommendations**

- That the Licensing Board approve amendments to the Council's Hackney Carriage and Private Hire Licensing Policy in relation to the acceptance of Enhanced DBS Certificates from other local authorities (as detailed in section 3.1.8 below).
- That the Licensing Board approve amendments to the Council's Hackney Carriage and Private Hire Licensing Policy in relation to the frequency that drivers are required to undergo medical examination by their GP (as detailed in section 3.2.6 below).

## **List of Appendices Included**

- None

## **Background Papers**

- Rotherham MBC Hackney Carriage and Private Hire Licensing Policy

## **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Not applicable.

## **Council Approval Required**

No.

## **Exempt from the Press and Public**

Not exempt.

# **Administrative amendments to the Hackney Carriage and Private Hire Licensing Policy.**

## **1. Recommendations**

- 1.1 That the Licensing Board approve amendments to the Council's Hackney Carriage and Private Hire Licensing Policy in relation to the acceptance of Enhanced DBS Certificates from other local authorities (as detailed in section 3.1.8 below).
- 1.2 That the Licensing Board approve amendments to the Council's Hackney Carriage and Private Hire Licensing Policy in relation to the frequency that drivers are required to undergo medical examination by their GP (as detailed in section 3.2.6 below).

## **2. Background**

- 2.1 The Council's Hackney Carriage and Private Hire Licensing Policy was introduced in July 2015.
- 2.2 A review of the workings of the policy was undertaken in July 2016, with a report being presented to the Licensing Board in September 2016. However, since this report was submitted, it has become clear that two areas within the policy require review and amendment.
- 2.3 The two areas concerned relate to:
  - 2.3.1 The acceptance of Enhanced DBS Certificates issued by other local authorities.
  - 2.3.2 The frequency that licensed drivers are required to undergo medical examination by their GP.
- 2.4 This report seeks amendment to the Council's policy (and associated appendices) in order to address these concerns.
- 2.5 Further detail on these matters is provided below.

## **3. Key Issues**

- 3.1 The acceptance of Enhanced DBS Certificates that have been issued by other local authorities.
  - 3.1.1 Section 5.3 of the Council's Hackney Carriage and Private Hire Licensing Policy states:

*"The Council will only accept DBS certificates which are applied for through Rotherham Council's Licensing Unit. However, DBS certificates that are issued to other local authorities will be accepted if it has been printed within the last four weeks, is to an enhanced level and has been processed in relation to the child*

*and adult workforce employment position (as specified on the certificate).”*

- 3.1.2 This statement was added to the Council’s policy as information from the Disclosure and Barring Service suggested that certificates were “portable” and could be transferred between employers by a particular individual.
- 3.1.3 This would mean that drivers licensed by one authority could obtain an Enhanced DBS from Council A and use that to apply for a licence in Council B.
- 3.1.4 However, information has been received from South Yorkshire Police’s Disclosure Unit (that provides input to the compilation of the DBS certificate) has highlighted a potential risk in the Council adopting this process.
- 3.1.5 The Disclosure Unit has confirmed that there may be a need for them to make a “Sensitive disclosure” to a potential employer that they do not want the applicant to have sight of. Although such disclosures are few and far between they may still happen and would be sent to the authority identified as the employer as part of the DBS Certificate application process.
- 3.1.6 In the example given above, the disclosure would be made to Council A – meaning that Council B may not be aware of the fact that a disclosure has been made.
- 3.1.7 This means that if Rotherham MBC were “Council B” then we may not be aware of information that calls an applicant’s fitness and propriety into question – this in turn could have significant implications for public safety.
- 3.1.8 It is therefore proposed that section 5.3 of the Council’s Hackney Carriage and Private Hire Licensing Policy is amended to read:

*“The Council will only accept DBS certificates which are applied for through Rotherham Council’s Licensing Unit.”*

3.2 The frequency that licensed drivers are required to undergo medical examination by their GP.

- 3.2.1 The Council’s requirements in relation to medicals are detailed in Section 5.6 of the Council’s Hackney Carriage and Private Hire Licensing Policy and Paragraph 8 of Appendix A to the policy.
- 3.2.2 There is currently a disparity between these two parts of the policy.
- 3.2.3 The second paragraph of Section 5.6 of the policy states:

*“Applicants shall provide a completed medical examination form supplied by the Council and completed by their own General Practitioner **on first application and every 5 years thereafter until aged 65 years when annual examinations are required.** Licence holders with certain medical conditions (for example certain neurological conditions) may also be required to submit annual forms and adhere to additional requirements in order for them to retain their driver’s licence.”*

3.2.4 The third paragraph of Paragraph 8 of Appendix A states:

*“A medical to Group 2 standards will be required on first application. A new medical will then be required every five years from the age of 45. On reaching the age of 65 a new medical will be required annually and therefore a licence will only be issued for a period of 1 year.”*

3.2.5 The requirements of Paragraph are those that are currently applied to drivers (as these reflect the current guidance from the DVLA). It is therefore proposed to amend the second paragraph of section 5.6 to bring this in line with DVLA guidance.

3.2.6 However, as RMBC driver licenses are typically issued for a 3 year period, it would facilitate the administration of the process if the requirements were brought into line with the licence renewal process. It is therefore proposed that the requirements outlined in Paragraph 8 and Section 5.6 are amended as follows:

*“A medical to Group 2 standards will be required on first application. A new medical will then be required at the next renewal after a driver reaches the age of 45. Thereafter, a medical will be required every six years until the driver reaches the age of 65 when a medical will be required annually.”*

3.2.7 It is considered that the above requirement maintains public safety, whilst ensuring that the process can be administered as efficiently and effectively as possible.

#### **4. Options considered and recommended proposal**

4.1 The recommendations detailed above are the only options that have been considered and are the recommended proposal.

#### **5. Consultation**

5.1 There is no requirement for statutory consultation in relation to these proposals, however they will be brought to the attention of the licensed trade representatives for their information and comment.

5.2 Any comments received will be assessed and if necessary brought back to the Licensing Board for consideration (this will be undertaken in agreement with the Chair and Vice Chair of the Licensing Board).

## **6. Timetable and Accountability for Implementing this Decision**

6.1 If agreed, these proposals will be introduced with immediate effect.

## **7. Financial and Procurement Implications**

7.1 There are no financial or procurement implications directly associated with this report.

## **8. Legal Implications**

8.1 Failure of the licensing service to effectively implement and administer the requirements of the council's policy may result in a legal challenge being made against the council.

8.2 A successful legal challenge will have a financial and reputational impact on the council – it is therefore essential that the policy is implemented effectively and administered appropriately.

8.3 The Council must be able to demonstrate effectiveness of the policy and provide confidence and reassurance regarding its implementation.

## **9. Human Resources Implication**

9.1 There are no Human Resources implications introduced by the report.

## **10. Implications for Children and Young People and Vulnerable Adults**

10.1 Both the Jay report into Child Sexual Exploitation (CSE) in Rotherham and the subsequent Corporate Governance Inspection led by Louise Casey CB identified issues, amongst which was the importance of having an effective taxi licensing service.

10.2 In order to ensure the Council's Licensing Service is effective, fit for purpose, and has addressed the concerns raised in Louise Casey's report; a number of outcomes must be demonstrated. The outcomes include:

- All licence holders are "fit and proper" to hold licences.
- The licensing team must consistently provide high quality, timely processing of licensing applications.
- The Council's Private Hire and Hackney Carriage Licensing Policy will be effectively implemented.

10.3 It is considered that the proposals detailed within this report support the above outcomes.

## **11. Equalities and Human Rights Implications**

11.1 In undertaking its licensing function, the Council comply with relevant legislative requirements including the Human Rights Act 1998.

11.2 The policy (along with the council's General Enforcement Policy) will ensure the consistent and fair determination of licences – recognising that every individual is entitled to dignity and respect.

11.3 When making licensing decisions the Council and its officers aim to ensure there is no discrimination on the grounds of culture, ethnic or national origins, gender, disability, age, sexual orientation, political or religious beliefs, socio-economic status, or previous criminal conviction or caution which is not relevant to the current issue.

11.4 Adherence to these requirements are assured by means of officer awareness, observation, case reviews and both customer satisfaction and complaints received into the service. In addition, those affected by licensing decisions have the legal right to challenge that decision in the Magistrates Court.

## **12. Implications for Partners and Other Directorates**

12.1 There are no specific implications for partners and other directorates introduced by this report.

## **13. Risks and Mitigation**

13.1 Failure of the Council to effectively discharge its licensing function may compromise public safety.

13.2 It is considered that the proposals referred to in this report will facilitate the effective discharge of the Council's licensing function and support the effective application of the Hackney Carriage and Private Hire Licensing Policy.

## **14. Accountable Officer(s)**

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