



**REPORT of  
CHIEF EXECUTIVE**

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to  
**PLANNING AND LICENSING COMMITTEE**  
**16 NOVEMBER 2017**

**TAXI AND PRIVATE HIRE CRIMINAL CONVICTIONS POLICY, LICENSING  
CONDITIONS AND SCHEME OF DELEGATION**

**1. PURPOSE OF THE REPORT**

- 1.1 To consider a draft policy for the taxi and private hire trade in relation to the suitability of new applicants and current licence holders with criminal convictions. To make changes to the taxi and private hire licensing conditions and the scheme of delegation to reflect the draft policy and to bring it up to date.

**2. RECOMMENDATIONS**

To the Council:

- (i) That the policy for the taxi and private hire trade in relation to the suitability of new applicants and current licence holders with criminal convictions (**APPENDIX 2**) is endorsed;
- (ii) that the licensing conditions and scheme of delegation are updated and changed to reflect the policy.

**3. SUMMARY OF KEY ISSUES**

**3.1 Criminal Convictions**

- 3.1.1 Before granting a driver's licence, the Council is required by the Local Government (Miscellaneous Provisions) Act 1976, section 51, to be satisfied that the applicant is a fit and proper person to hold a driver's licence. To ensure that the applicant is a fit and proper person, the Council requires all applicants to submit an enhanced Disclosure and Barring Service (DBS) certificate which reveals whether or not they have any criminal convictions.
- 3.1.2 In determining an application for a driver's licence, the Council checks the DBS certificate and the history of criminal convictions. The current Criminal Convictions Policy (**APPENDIX 1**) is very basic and out of date. A new policy (**APPENDIX 2**) is proposed based on the Local Government Association's (LGA) recommended template. A number of local authorities, including other Essex licencing authorities, have adopted policies based on the LGA's recommended template.

- 3.1.3 A comprehensive policy will assist Officers and Members when considering and determining licensing applications. A policy gives customers information and transparency about the process. It also ensures that applicants are treated fairly and consistently when decisions are being made regarding their application. By using a policy based on the LGA's template, it will also aid consistency across district boundaries.
- 3.1.4 The draft policy requires that applicants who have spent 6 continuous months or more overseas to provide evidence of a criminal record check from the country or countries covering the period before a licence application can be granted. The criminal record check must be in English, if not, it must be translated into English at the applicant's expense by a certified translator acceptable to the Council. It is proposed that the pre-licensing conditions for drivers (**APPENDIX 3**) are amended to reflect this requirement.

## 3.2 **Licensing conditions for taxis and private hire**

- 3.2.1 The Council's current licensing conditions (**APPENDIX 3**) require the following of current licence holders:

'The driver shall within 7 days disclose to the Licensing Authority, in writing, details of any conviction, fixed penalty or caution imposed on or accepted by him or her during the period of the licence.'

It is proposed that this condition is amended to include arrest and driving licence endorsements as proposed in the draft policy:-

'The driver shall within 7 days disclose to the Licensing Authority, in writing, details of any arrest, criminal conviction (including cautions), fixed penalty notice or driving licence endorsement during the period of the licence.'

- 3.2.2 The Council's current licensing conditions state that a licence will not be granted if an applicant has been convicted of or received a caution in relation to a serious criminal offence during the past five years or three years for less serious offences. The conditions will need to be amended to ten years for very serious criminal offences and five years for serious offences to align with the draft policy and the LGA's recommendations.
- 3.2.3 The Council's current licensing conditions state that an applicant must have one year post driving experience. The draft policy stipulates a minimum of three years post-qualification driving experience (or if not, successful completion of an advanced driving assessment). The conditions will need to be amended to align with the draft policy and the LGA's recommendations.
- 3.2.4 The Council's current licensing conditions allow applicants with Great Britain (GB), European Union (EU) or Northern Ireland driving licences. Following a Member's concerns about the suitability of applicants with EU driving licences, this matter has been considered on the grounds of safety. It is proposed that applicants with EU driving licences have at least a year's experience of driving on UK roads within three years of their application for a driver's licence. In order to reflect this requirement, the licensing conditions will need amending to stipulate that applicants evidence this,

for example, by providing proof of insurance; UK vehicle registration forms; or employment as a driver in the UK. This could be subject to challenge from an EU citizen as the Driver and Vehicle Licensing Agency (DVLA) recognise the right of EU citizens to drive in the UK, including in a commercial capacity. The Council's Senior Solicitor, however, feels that such a challenge could be defended on the grounds of safety.

3.2.5 The Council's current licensing conditions require the following in terms of lost property:-

'If any such property is found it shall be returned to the owner within a reasonable period of time or if this is not practical, it shall be taken within 48 hours to the Maldon District Council Offices for deposit.'

Feedback from the trade about the draft policy questioned this condition saying that there is so much lost property, the Council would possibly need extra staff and a secure unit for storage. As this condition places an unnecessary burden on the Council, it is proposed that this condition be amended to the following:

'If any such property is found, it shall be returned to the owner within a reasonable period of time.'

3.2.6 In the notes that accompany the licensing conditions, the following advice is given to drivers:

'The original paper copy of the full driving licence is required to be presented as part of the application. Copies will not be accepted'.

Driving licences are no longer issued in this format. In order to check an applicant's driving record, a mandate is completed by the applicant that allows the Council to check their driving record through the Driver and Vehicle Licensing Agency (DVLA). It is proposed that this advice is amended as follows:

'Applicants are required to submit a DVLA Driving entitlement consent form with their application.'

3.2.7 The Council has the power so suspend as well as revoke current licences. The scheme of delegation refers to revocation but not suspension of licences: it is proposed that this is addressed, giving the Council the full range of enforcement powers. This change in delegation will also reflect the draft policy. The yearbook terms of reference and scheme of delegation in relation to 'Other Licensing Functions' (including the taxi and private hire trade) delegates 'To the Environmental Health and Licensing Manager':

'5. In consultation with the Chairman of the Planning and Licensing Committees, the revocation of Hackney Carriage and Private Hire Drivers' licences.'

It is proposed that this is amended to include suspension as follows:

'5. In consultation with the Chairman of the Planning and Licensing Committees, the suspension or revocation of Hackney Carriage and Private Hire Drivers' licences.'

#### 4. CONCLUSION

- 4.1 A policy will assist Officers and Members when determining licensing applications. It informs the public about the process, offering transparency to the Council's decisions. It ensures that applicants are treated consistently and fairly. The licensing conditions and scheme of delegation also need to be amended to reflect the draft policy and to bring them up to date.

#### 5. IMPACT ON CORPORATE GOALS

- 5.1 The licensing function plays a key role in delivering the corporate goal of helping communities to be safe, active and healthy. By ensuring applicants are fit and proper persons before granting a licence, it ensures the safety of the passengers using taxis and private hire vehicles.

#### 6. IMPLICATIONS

- (i) **Impact on Customers** – A policy will help ensure that customers are treated fairly and consistently whilst ensuring that applicants are fit and proper persons thereby protecting the safety of their passengers.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – There may be some reputational damage if applicants are treated differently and a policy provides information and ensures transparency of process.
- (iv) **Impact on Resources (financial)** – It would help avoid any civil claims if an applicant felt they had been treated unfairly.
- (v) **Impact on Resources (human)** – None, although a policy should assist officers and Members when making decisions.
- (vi) **Impact on the Environment** – None.

#### Background Papers:

LGA's recommended template for a criminal convictions policy.  
Licensing conditions for taxi and private hire drivers.

#### Enquiries to:

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