

TITLE	Criminal Convictions Policy For Licensed Drivers And Operators
FOR CONSIDERATION BY	Licensing and Appeals Committee 21 November 2017
WARD	Non-specific
DIRECTOR	Josie Wragg, Interim Director for Environment

OUTCOME / BENEFITS TO THE COMMUNITY

Members of the Licensing and Appeals Committee are asked to consider a consultation exercise in respect of adoption of a new criminal convictions policy for licensed drivers and operators.

RECOMMENDATION

Members are asked to agree:

1. That a consultation exercise will be carried out with all existing hackney carriage and private hire licence holders in respect of adoption of a new criminal convictions policy for licensed drivers and operators, as at Annex B, and for any responses to be reported on for consideration at a future meeting of the Committee.

SUMMARY OF REPORT

It is good practice to keep policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The existing policy can be found at Annex A, and the proposed new policy at Annex B. The recommendation, if adopted, would see a comprehensive review of the current policy applied when making decisions on licensing of drivers and operators, to produce a document which sets out clearly the process and options for decision making.

Background

The Local Government (Miscellaneous Provision) Act 1976 provides that a Licensing Authority must satisfy them selves that the applicant is a fit and proper person to hold a driver's licence. This has not been judicially defined but in the case of a suspension of a driver in Leeds City Council v Hussain it was said by the Judge *"To prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty and that they are people who would not take advantage of their employment to abuse or assault passengers"*.

There have been a number of nationwide high profile incidents in recent years particularly relating to child protection and sexual attacks on women. It is therefore vital to ensure the authority has a robust and clear criminal convictions policy to apply when making decisions as to whether persons are safe and suitable to drive licensed vehicles. Hackney carriages and private hire vehicles are used by a large selection of the public but most regularly they are used by vulnerable groups such as children, the elderly, disabled people, lone females and the intoxicated – all of whom place

themselves and their personal safety, completely in the hands of a licensed driver.

The Council at present requires applicants and licensed drivers to provide medical certificates and DVLA licences on request, In addition they must also undertake tests on their knowledge of the relevant law and the local area. All these elements are considered within the “fit and proper” test. Applicants for hackney carriage and private hire driver licences are exempt from the Rehabilitation of Offenders Act 1974. This means that there are no ‘spent’ convictions and any and all criminal convictions can be taken into account by a local authority in assessing safety and suitability. Enhanced Disclosure and Barring Service (DBS) certificates are obtained by the authority in respect of a new applicant and these are renewed every 3 years.

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

List of Background Papers

LGA Taxi and PHV Licensing – A Handbook for Councillors – August 2017
LGA Taxi and PHV Licensing Criminal Convictions Policy - August 2017

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