

Licensing Committee

Disclosure & Baring Service Checks

Report of Executive Member for Neighbourhoods & Culture

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Executive Summary

Recently issued Government statutory guidance requires Licensing Authorities to conduct a Disclosure and Baring Service criminal records check every six months on licensed drivers. A new procedure has therefore been developed to facilitate this process.

Recommendations

That Members:

- 1) Note the report; and
 - 2) Approve the procedure as outline in the report
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Disclosure & Barring Service Checks

1. Purpose of the report

- 1.1 The purpose of this report is to inform Members of the issuing of statutory guidance by the Government relating to criminal records checks on applicants for and existing private hire and hackney carriage driver licences.

2. Introduction

- 2.1 There reason for issuing of the guidance, as extracted from its introduction, is as follows:

There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and, in some cases, perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers.

3. Focus of the Guidance

- 3.1 The Government intention behind issuing the guidance is to improve consistency of licensing policy and focuses attention on protecting children and vulnerable adults.
- 3.2 The guidance states:

All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.

Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list. Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.

4. Implementation of the Guidance

- 4.1 Officers across Greater Manchester have discussed the guidance and firmly believe that there is no compelling reason not to implement the recommendations within it.
- 4.2 In order to comply with the guidance and ensure that six monthly checks take place a procedure has been written. This includes those requiring a DBS check to register for the online service which will be a cheaper and quicker option of conducting checks every six months rather than submitting a full application every time.
- 4.3 The procedure also covers the situation where an online check has failed or the driver has failed to apply for the online service in time (30 days) and enforcement action needs to be taken.
- 4.4 A copy of the proposed procedure can be found at Appendix 1 of this report.

5 Legal Services Comments

- 5.1 Under section 57 of the Local Government (Miscellaneous Provisions) Act 1976, the Council can require an applicant for a licence under the Town Police Clauses Act 1847 (in respect of hackney carriages) or the Local Government (Miscellaneous Provisions) Act 1976 (in respect of private hire vehicles and private hire operators) to submit such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted or whether conditions should be attached to any such licence. Any person aggrieved by the refusal to grant him a licence may appeal to the magistrates' court.
- 5.2 Under section 51 of the Act, the Council may attach such conditions to the grant of a private hire vehicle driver's licence as the Council considers to be reasonably necessary. Under section 55 of the Act, the Council may attach such conditions to the grant of a private hire operator's licence as the Council considers to be reasonably necessary. Any person aggrieved by any conditions attached to a private hire vehicle driver's licence or private hire operator's licence may appeal to the magistrates' court (A. Evans)

6 Co-operative Agenda

- 6.1 The licensing process is in place not only to protect the public but also to support and where necessary regulate businesses within the Borough.

7 Environmental and Health & Safety Implications

- 7.1 None

8 Equality, community cohesion and crime implications

- 8.1 None

9 Equality Impact Assessment Completed?

9.1 No

10 Key Decision

10.1 No

11 Key Decision Reference

11.1 N/A

12 Background Papers

12.1 None

13.0 Appendices

13.1 Appendix 1 – DBS Procedure

Appendix 1

PROCEDURE INVOLVING DISCLOSURE BARRING SERVICE (DBS) CERTIFICATION

1.0 Purpose

- 1.1 This document aims to outline the procedure involved for DBS applications and renewals and the requirement to sign up to the DBS Online Update Service.

2.0 Background

- 2.1 This procedure has been implemented to guide drivers and members of the Licensing Team in the correct way to process DBS applications and necessary actions where there is a failure to sign up to the DBS Update Service.

3.0 Procedure

- 3.1 Currently licensed Dual Drivers must apply for a new DBS a minimum of 8 weeks prior to the expiry of their existing DBS, unless they are already registered to the DBS Update Service with their existing one.
- 3.2 All applicants, whether licensed or otherwise, are required to apply for their DBS Certificate through Personnel Checks. Personnel Checks are an independent company who have been instructed by Oldham Council Licensing Service to accept and process DBS applications on behalf of the Council. The fee for the application must be paid directly to Personnel Checks.
- 3.3 Document verification associated with the DBS application procedure must be carried out via the Post Office. Any associated fees with this process must be covered by the applicant.

- 3.4 Applicants must provide their DBS Certificates to the Licensing Service within 30 days of receipt. Within those 30 days the client must have registered for the DBS Update Service. Signing up to this service allows applicants to keep their DBS Certificates up to date and allows employers to check the certificate.
- 3.5 At the time of writing this procedure the current timeframe for being able to register a DBS Certificate to the DBS Update Service is 30 days (from the date printed on the certificate).
- 3.6 Where an applicant/driver fails to register their DBS Certificate to the DBS Update Service within those 30 days, they will be required to apply for and obtain a new DBS Certificate, via Personnel Checks, and sign up to the DBS Update Service upon receipt of the new certificate.
- 3.7 Where a currently licensed Dual Driver fails to sign up to the DBS Update Service in time and is required to re-apply, the Licensing Service will allow the driver to continue to work under their original DBS Certificate providing they evidence they have made a second application within 7 days. Where the currently licensed Dual Driver refuses to submit a further DBS application, their Dual Driver Licence will be suspended until such time as they comply.
- 3.8 Where a new applicant fails to sign up to the DBS Update Service in time and is required to reapply, the Licensing Service will allow the applicant to continue through the Licensing process, however, no licence shall be granted until such time as the new DBS Certificate is provided and the applicant has signed up to the DBS Update Service.
- 3.9 It is the applicant/driver's responsibility to keep the Update Service live by paying the annual amount to the DBS (£13) which will be charged to the credit/debit card they have registered with them. If the credit/debit card details change, the applicant/driver must update the details immediately on their account.
- 3.10 In the instance where the applicant/driver's DBS Update Service registration is terminated for any reason, and their DBS certificate is no longer part of the scheme, the applicant/driver must complete a new DBS application within 7 days and pay the associated fee. Failure to do so will result in the Dual Driver Licence being suspended, or in the case of a new applicant, a Dual Driver Licence will not be granted, until such time as the applicant/driver complies.
- 3.11 For all currently licensed Dual Drivers who already hold a DBS Certificate that is not registered to the DBS Update Service, the Licensing Service will allow those drivers to continue to be licensed. When a 3-year period has elapsed from the date on those DBS Certificates, the driver must comply with the directions of this procedure at such time as they renew their DBS.
- 3.12 Any suspension or refusal of licence can be undertaken by the Principal Officer or Trading Standards & Licensing Manager.

- 3.12 Only in exceptional circumstances, will the Licensing Office depart from this procedure.
- 3.14 The commencement date for the procedure is ****