

REPORT TO:	GENERAL LICENSING COMMITTEE
DATE:	13 MARCH 2023
SUBJECT:	DBS UPDATE SERVICE – HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVERS
PURPOSE:	To undertake a review of the hackney carriage and private hire driver licensing procedures in relation to the DBS Update Service.
REPORT OF:	Assistant Director – Regulatory.
REPORT AUTHOR:	Mr Adrian Twiddy (Principal Licensing Officer)
WARD(S) AFFECTED:	All Wards.
EXEMPT REPORT?	NO

SUMMARY

In line with the Department for Transport (DfT) minimum licensing standards this Authority has adopted a policy making subscription to the Disclosure and Barring Service (DBS) Update Service a requirement for all hackney carriage and private hire vehicle drivers licensed with this Authority.

The DBS rules indicate that drivers must register for the DBS Update Service within 30 days of their Enhanced DBS Certificate being issued. The certificate cannot be registered on the Update Service outside the 30-day window. The Licensing Team are now being faced with a small number of drivers who (for whatever reason) have failed / forgotten to register within the 30-day period.

The Committee is asked to consider amending the Council's licensing policy to indicate that such drivers will be issued with a six-month driver licence rather than the normal three-year licence. The driver would then have to apply for licence renewal in six-month's time, pay the licence renewal fee, undergo another Enhanced DBS Disclosure (at their own cost) and ensure that they registered that new Disclosure within the required 30-day window.

RECOMMENDATIONS

That the Committee amend the Hackney Carriage and Private Hire Vehicle Driver Licensing Policy to indicate that drivers who have failed to register their Enhanced DBS Disclosure within the required 30-day period (or any subsequent registration period set down by the DBS) will be issued with a six-month driver licence rather than the normal three-year licence. The driver

would then have to apply for licence renewal in six-month's time, pay the licence renewal fee, undergo another Enhanced DBS Disclosure (at their own cost) and ensure that they registered the new Disclosure within the required DBS registration window.

REASONS FOR RECOMMENDATIONS

To ensure the protection, safety and wellbeing of the public. To ensure that this Authority has robust policies and procedures in relation to the licensing of hackney carriage and private hire vehicle drivers. Having a robust licensing scheme protects public safety and commands the confidence of the general public.

OTHER OPTIONS CONSIDERED

Not Applicable.

1. BACKGROUND

- 1.1. The primary role of the Council in relation to hackney carriage and private hire licensing is the protection, safety and wellbeing of the public. Hackney carriage and private hire vehicle hirings will often involve the placing of a vulnerable person in the company of a stranger.
- 1.2. All driver licence applicants are required by this Authority to undergo Enhanced DBS (Disclosure and Barring Service) checks. Such enhanced criminal record checks are used as one of the mechanisms to assess an applicant's suitability for the role of licensed driver. Any information disclosed, on an individual's DBS certificate, is vital to the decision-making process to enable the Council to meet its statutory requirement of ensuring that driver licence applicants are fit and proper persons.
- 1.3. The DBS provides an update service which allows individuals to keep their DBS Certificate up to date online. Prior to September 2020 this Authority had been strongly encouraging all licensed drivers to subscribe to the update service – however, this Council now requires drivers to maintain a DBS update subscription. The service is subject to an annual fee which is currently set at £13.

2. REPORT

- 2.1. This Council has adopted a policy making subscription to the DBS Update Service a requirement for all drivers licensed with this Authority. With this in force licence applicants should now register for the DBS update service and nominate the Licensing Authority to receive updates.
- 2.2. Adoption of the DBS Update Service requirement is a step endorsed in the Department for Transport (DfT) minimum licensing standards. The Council has a legal duty to have regard to the minimum standards when undertaking its hackney carriage and private hire vehicle licensing function.

- 2.3. Subscription to the update service is quick and simple and must be done within specified timescales. The DBS Update Service allows Officers to carry out a quick online status check to see if an individual's certificate is up to date. It enables the Council to see if any relevant information has been identified about the individual since their DBS Certificate was issued. The DfT minimum licensing standards indicate that this online status check should be done by the Licensing Team every six months.
- 2.4. On 29 July 2022 the Committee considered the case of drivers (holding three-year driver licences) who had been identified by the Licensing Team as having not maintained their subscription to the DBS Update Service (i.e., those drivers who had failed to pay the £13.00 annual maintenance fee to the DBS and so their DBS registration had lapsed). At that meeting the Committee adopted procedures for the revocation or suspension of such driver licences.
- 2.5. Drivers must register for the DBS Update Service within 30 days of their Enhanced DBS Certificate being issued. The certificate cannot be registered outside the aforementioned 30-day window. The Licensing Team are now being faced with a small number of drivers who (for whatever reason) have failed / forgotten to register within the 30-day period.
- 2.6. With this in mind, Officers are seeking authority from the Committee to issue such drivers with a six-month driver licence rather than the normal three-year licence. The driver would then have to apply for licence renewal in six-month's time, pay the licence renewal fee, undergo another Enhanced DBS Disclosure (at their own cost) and ensure that they registered that new DBS Disclosure within the required 30-day window.
- 2.7. The Local Government (Miscellaneous Provisions) Act 1976 sets a standard length at three years for hackney carriage and private hire vehicle driver licences. The 1976 Act does permit the Council, where appropriate, to issue licences for a period less than three years. The DfT minimum standards indicate that any shorter duration licence should only be issued when the Licensing Authority thinks it is appropriate in the specific circumstances of the case.

3. CONCLUSION

- 3.1. The Council has a duty to ensure that any person to whom it grants a hackney carriage or private hire vehicle driver's licence is a fit and proper person to be a licence holder.
- 3.2. The Council has a legal responsibility to ensure that it is in a position to be able to comply with the DfT minimum licensing standard indicating that an online DBS status check should be done by the Licensing Team on licensed drivers every six months.

EXPECTED BENEFITS TO THE PARTNERSHIP

Any decision made by the Committee to amend this Authority's hackney carriage and private hire driver licensing policy will be feed back to the Authority's within the SELCP.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

Any decision made by the Committee to amend this Authority's hackney carriage and private hire driver licensing policy will be feed back to the Authority's within the SELCP.

CORPORATE PRIORITIES

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.

STAFFING

There are no staffing implications arising from the recommendations of this Report.

CONSTITUTIONAL AND LEGAL IMPLICATIONS

The Council must be satisfied that individuals are fit and proper persons to hold a hackney carriage or private hire vehicle driver's licence (Sections 51 and 59, Local Government (Miscellaneous Provisions Act 1976).

The 1976 Act permits driver licences to be issued for a maximum period of three years. The DfT minimum standards indicate that any shorter duration licence should only be issued when the Licensing Authority thinks it is appropriate in the specific circumstances of the case.

There is a right of appeal to the Magistrates Court regarding the conditions attached to the grant of a licence – which in theory could include the period of a licence (e.g., deciding to issue a six-month licence rather than a three-year licence).

DATA PROTECTION

There are no data protection implications arising from the recommendations of this Report.

FINANCIAL

As with all licence decisions it is possible that if a Licensing Committee decision is appealed to the Courts and the appeal is upheld, costs may be awarded against the Council. However, the judgement of the Courts is that costs should not normally be awarded against the Local Authority provided the Authority has acted properly and reasonably.

RISK MANAGEMENT

There is a theoretical risk of civil action against the Council if they are found not to have exercised due diligence in licensing matters.

STAKEHOLDER / CONSULTATION / TIMESCALES

Not Applicable.

REPUTATION

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

CONTRACTS

Not Applicable – This is a General Licensing Committee Report.

CRIME AND DISORDER

All Local Authorities must fulfil their obligations under Section 17 of the Crime and Disorder Act 1981 when carrying out their functions as Licensing Authorities. Section 17 places a duty on Local Authorities to do all they reasonably can to prevent crime and disorder in their area.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

Equality Implications: There are no equality implications arising from the recommendations of this Report.

Human Rights: The Licensing Authority must ensure that its decisions can withstand scrutiny by reference to the principle of proportionality, i.e., is the decision / action proportionate to what it wishes to achieve, or colloquially does the end justify the means.

Safeguarding: Councils must consider the need to protect children and vulnerable adults from harm when undertaking licensing functions. Care must be taken by the Council to ensure that individuals are not placed in an environment where they can be a source of danger or harm to children or vulnerable adults.

HEALTH AND WELL BEING

Not Applicable – This is a General Licensing Committee Report.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

Not Applicable – This is a General Licensing Committee Report.

ACRONYMS

DBS – Disclosure & Barring Service

DfT – Department for Transport

APPENDICES

There are no appendices attached to this Report

BACKGROUND PAPERS

The following background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

Department of Transport – Statutory Taxi and Private Hire Vehicle Standards – July 2020

<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>

CHRONOLOGICAL HISTORY OF THIS REPORT

A Report about the DBS Update Service was previously considered by the General Licensing Committee on 29 July 2022.

REPORT APPROVAL

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