

Cheltenham Borough Council

Cabinet – 14 June 2016

Amendments to Licensing Policy, Guidance and Conditions for Private Hire and Taxis Operating within the Borough of Cheltenham

Accountable member	Councillor Andy McKinlay, Cabinet Member Development & Safety
Accountable officer	Mike Redman, Director of Environment
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>The council has a statutory duty to ensure all of its licensed hackney carriage and private hire drivers and operators are, and remain, fit and proper people.</p> <p>The council is committed to keeping its policies under review to ensure they continue to be effective and comply with the latest guidance and national best practice.</p> <p>Consultation with the licensed trade has been undertaken proposing minor technical changes to the council's convictions policy and to introduce mandatory safeguarding training for licensed drivers.</p>
Recommendations	<p>Cabinet is recommended to:</p> <ol style="list-style-type: none">1. Approve the amendments to Appendix J of the council's adopted "Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators" policy as set out in Appendix 2 of this report;2. Approve an amendment to the council's adopted Licensing Policy, Guidance and Conditions for Private Hire and Taxis Operating within the Borough of Cheltenham to introduce a new mandatory requirement for all new and licensed drivers to undertake safeguarding training;3. Subject to resolution 2, that the Director of Environment (in consultation with the Cabinet Member for Development & Safety) be delegated authority to take the necessary steps to implement the training and the date when the new mandatory policy requirement is to come into effect.

Financial implications	<p>There is a financial implication associated with the training provision in paragraph 2.14, estimated at approximately £5,000. This cost is intended to be covered by funds already collected from the Late Night Levy in 2015/16, which are sufficient to cover this cost, and potentially the Police and Crime Commissioner's Victim Fund may contribute towards the cost.</p> <p>Contact officer: Myn.Cotterill@cheltenham.gov.uk, 01242 774958</p>
Legal implications	<p>As outlined in the report.</p> <p>Contact officer: Vikki.Fennell@tewkesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>There are no direct HR implications in this report.</p> <p>Contact officer: Carmel.Togher@cheltenham.gov.uk, 01242 775215</p>
Key risks	As identified in Appendix 1
Corporate and community plan Implications	People live in strong, safe and healthy communities
Environmental and climate change implications	None
Property/Asset Implications	<p>None</p> <p>Contact officer: David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1 The council has a statutory duty to ensure all of its licensed hackney carriage and private hire drivers and operators are, and remain, fit and proper people.
- 1.2 The council's policy sets out assessment criteria for assessing applicants' fitness. These include, amongst others:
 - i) Enhanced criminal records checks;
 - ii) Enhanced medical checks;
 - iii) Satisfactory knowledge of law, conditions and local geography; and
 - iv) Mandatory NVQ training.
- 1.3 The council is committed to keep its policies under review to ensure they continue to be effective and comply with the latest guidance and national best practice.
- 1.4 Recently, a lot of national licensing focus has been on the Louise Casey report into Child Sexual Exploitation (CSE) in Rotherham that identified, amongst others, a variety of licence holders as key culprits in the scandal. Since the report a number of other councils have come under the spotlight for poor practice and policies to robustly protect the public.
- 1.5 As a consequence, officers have taken the opportunity to review local policy and practice to ensure that these continue to be sufficiently robust to maintain a high standard of public safety in line with national best practice.
- 1.6 On the whole officers are satisfied that Cheltenham continues to set a high standard of fitness for all its licensed drivers and operators compared to acceptable national standards and best practice guidance.
- 1.7 It has however been identified that the council's conviction policy can be strengthened.
- 1.8 Furthermore, officers consider it appropriate that all licence holders receive mandatory safeguarding training.

2. Consultation

- 2.1 In September 2015 Cabinet approved consultation on the proposals set out below.
- 2.2 Consultation with the local licensed trade was undertaken between October and November 2015 on a number of proposals. These were:
 - i) Proposed changes to the council's adopted relevance of convictions policy;
 - ii) Proposal to introduce mandatory safeguarding training for licensed drivers; and
 - iii) Proposed new style and design licences.
- 2.3 Consultation responses are included in the background papers to this report.

Revised relevance of convictions policy

- 2.4 The council's current "Relevance of Convictions, Cautions and Fixed Penalty Notices in Relation to the Licensing of Drivers and Operators" policy sets out the council's assessment of the suitability of an applicant to be licensed, in terms of their criminal and driving records.

Specifically, it is to be applied where an applicant for a driver or operator's licence has received a relevant conviction, caution or fixed penalty.

- 2.5 In addition, it is also relevant and referred to where a relevant conviction, caution or fixed penalty has been received during the period of a driver or operator's licence, and used to help inform any decision as to the licensed driver's continuing fitness to hold a licence.
- 2.6 The current policy is largely based on DfT Circular 2/92 which gives advice to local authorities on the procedures to adopt for checking criminal convictions for private hire and hackney carriage drivers.
- 2.7 This is an important policy for the council to safeguard the public against unfit licence holders and therefore it is important that it is sufficiently robust to properly vet applicants and licensed drivers. The above mentioned DfT circular has not been updated since 1992 when it was first published.
- 2.8 The proposed changes to the policy that officers consider appropriate to maintain high standards of fitness are set out in **Appendix 2** for approval and adoption.

Mandatory safeguarding training for licensed drivers

- 2.9 The council does not currently require licensed drivers or operators to undertake any form of training relating to their safeguarding responsibilities and conduct when conveying passengers.
- 2.10 It is proposed that all licensed drivers be required to undertake appropriate safeguarding training which will form part of the council's conditions of fitness for all licensed drivers.
- 2.11 The proposed training will broadly cover safeguarding in general but with a focus on child sexual exploitation ("CSE"). It is important to note that the training will not merely focus on inappropriate behaviour by licensed drivers but will also include more widely the role the licensed trade can play in promoting good safeguarding practices and preventing CSE (i.e. identification of types of abuse, signs and symptoms, children with disabilities, internet safety, CSE, "vulnerability", how to respond and report etc.).
- 2.12 It is proposed that the safeguarding training be made a mandatory requirement for all licensed drivers both existing and new.
- 2.13 To facilitate the new mandatory requirement on drivers, a twelve month transitional period is also proposed during which time training will be offered to licensed drivers. In practice this means that should Cabinet approve this resolution (2), the new mandatory requirement will be implemented on all licensed drivers at an appropriate date twelve months from the Cabinet decision date.
- 2.14 The training offered during the transitional period will be free to drivers, be externally supplied and take no more than 2 hours of their time.

New style and design licences

- 2.15 From the consultation feedback officers have decided not to move ahead with the third proposal for new style licences.

3. Reasons for recommendations

- 3.1 To comply with the council's commitment to keep its policies under review to ensure they continue to be effective and comply with the latest guidance, national best practice and protect the public.

4. Alternative options considered

4.1 To make no amendments to the policy but this is not considered appropriate for the reasons set out in the report.

5. Consultation and feedback

5.1 Consultation has been undertaken with the licensed trade. Feedback is outlined in the background papers.

6. Performance management – monitoring and review

6.1 The effectiveness of these proposed changes will be measured against the effectiveness and uptake of the training and decision making by the licensing committee against the adopted policies.

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Appendices	1. Risk Assessment 2. Proposed new Relevance of Convictions policy
Background information	1. Consultation feedback

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council does not continuously review and update its taxi policy then it may not be able to adequately protect the public and risk damaging the council's reputation.	Mike Redman		3	2	6	Accept	Approve resolutions			
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											