

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 30th September 2015

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WARD(S): ALL

PART I **FOR DECISION**

REVISED POLICY FOR THE DISCLOSURE AND BARRING SERVICE (DBS)

1. **Purpose of Report**

For the Committee to formally approve the revised Disclosure and Barring Service (DBS) policy following the consultation with all hackney carriage and private hire drivers and Operators.

2. **Recommendation(s)**

That the Committee recommend the adoption of the revised DBS policy to Full Council.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The primary responsibility of the Licensing Authority is to ensure that all new applicants for and current holders of Hackney Carriage and Private Hire drivers licenses are 'Fit and Proper Persons' to hold such a licence. Any criminal behaviour can be taken into account when determining whether an applicants is 'fit and proper'.

The revision of the DBS policy making registration with the DBS Update Service compulsory will ensure that the Licensing Team are able to conduct annual checks with the Update Service to confirm any status of the licence holder.

3a. **Slough Joint Wellbeing Strategy Priorities –**

As the report outlines there has been a dispute between the Police, the Home Office and the DBS over the disclosure to Licensing Authorities in relation to arrest, cautions, conviction and 'any other information' held on the DBS Certificate. As the primary responsibility of the Licensing Authority is ensuring that all persons are 'Fit and Proper' to be granted and hold a drivers licence the approval and recommendation of the adoption of the revised DBS policy will contribute to the following wellbeing themes.

- Economy and Skills
- Safer Communities

Cross-Cutting themes:

Recommending the adoption the revised policy will contribute to the cross cutting theme of **Improving the image of the town**, in that all licensed drivers will be 'Fit and proper Persons' to hold such licences and ensure the safety and wellbeing of the public.

3b. **Five Year Plan Outcomes**

The report outlines fully the reason for the revision to the DBS policy which will ensure the safety and wellbeing of the public. This will contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) Financial

There will be financial implications by approving the revised policy. There are on average 289 DBS applications made annually which includes an £11.00 administration fee for processing each application. This totals £3,179 on an annual basis. This administration fee income will be lost, however there are (on average) 90 new applications per year which will produce administration fees totalling £990, therefore the annual loss is estimated to be approximately £2,189.

Although there will be minimal loss in income the approval of the revised policy will go further to ensure that all licensed drivers are and will continue to be deemed 'Fit and Proper' and enhance the protection, safety and wellbeing of the public which is of paramount importance at all times.

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	The Council is under a duty to ensure that all new applicants and current licence holders of Private Hire and Hackney Carriage Driver licenses are fit and proper persons to hold a licence and that they do not pose a risk to any fare paying passengers or other members of the public.	The adoption of this revised policy will ensure that all relevant checks have been conducted on an annual basis in relation to any criminal conviction or caution or 'other information' detailed on the DBS certificate.

(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(c) Equalities Impact Assessment

A further review of the EIA has been conducted which indicates that there are no negatives or adverse impacts on any equality group.

5. Supporting Information

- 5.1. As has been previously outlined to the Committee, the Council, as the Licensing Authority (the 'District Council') under the 1976 Act is responsible for licensing all Hackney Carriage and Private Hire Drivers pursuant to the Local Government (Miscellaneous Provisions) Act 1976 operating within its area. In doing so the Council has a legal duty to ensure that all licensed drivers are 'Fit and Proper Persons' to apply for and continue to hold such a licence. This includes the power to refuse to grant a licence and suspend or revoke a licence where a driver is not deemed or no longer deemed to be 'Fit and Proper' where they have been convicted or cautioned for criminal and/or road traffic offences.
- 5.2. On 22nd July 2015 the Licensing Committee resolved to approve the revised draft policy and for officers to commence a full consultation exercise with all current licensed Hackney Carriage and Private Hire Drivers and Operators.
- 5.3. A full consultation to obtain any views or comments from all hackney carriage and private hire drivers and Operators was conducted between 4th August and 4th September 2015 to which there has been no response. The draft DBS Policy to be approved and recommended to Full Council is attached at **Appendix A**.
- 5.4. As detailed and presented to the Committee on 22nd July 2015, the benefits of the revised policy are;
 - Mandatory registration with the DBS Update Service by all new applicants at the initial application stage and at the next renewal by current licence holders
 - Licence holders will only have to pay an annual fee of £13.00 to the DBS to maintain the registration rather than the current fee of £55.00 every 3 years to the Council for a new DBS application.
 - By maintaining the registration with the Update Service this creates a living certificate which becomes portable and can be accepted by any other licensing authority, rather than a new application being made in each licensing authority area.
 - Officers will be able to carry out a status check with the DBS at the anniversary of the previous status check rather than deal with DBS applications for each licence holder on a 3 year basis.
 - If a Status Change is shown then this means that a criminal conviction or caution has been put on or taken off the DBS certificate, which will require a new DBS application being made.

- Where information is received or obtained that there may be a 'status change', officers will conduct a further 'status check'.

The Financial Aspects document at **Appendix B** details the financial benefits to licence holders through compulsory registration with the Update Service.

- 5.5. A copy of the 'DBS Update Service - Applicant Guide' and 'How to subscribe to the Update Service' document are attached at **Appendices C and D** respectively.

6. **Comments of Other Committees**

On 22nd July 2015 the Licensing Committee resolved:

- a. That the draft Disclosure and barring Service (DBS) policy be approved
- b. That officers commence the consultation exercise on the new draft policy.

7. **Conclusion**

The Committee to recommend the approved revised DBS policy to Full Council for adoption.

8. **Appendices Attached**

- 'A' - Revised DBS Policy
- 'B' - Financial Aspects document
- 'C' - DBS Update Service - Applicant Guide
- 'D' - How to subscribe to the Update Service

9. **Background Papers**

The Police Act 1997

The Protection of Freedoms Act 2012

The Disclosure and Barring Service Privacy Impact Assessment

Jays Report (Rotherham)

Rotherham Council Independent Inspection Report

Deregulation Act 2015