

Item

MANDATORY SUBSCRIPTION TO THE DISCLOSURE & BARRING SERVICE (DBS) UPDATE SERVICE FOR ALL LICENSED DRIVERS

To:

Licensing Committee

Report by:

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Wards affected:

All

1. Executive Summary

- 1.1 Under the powers conferred to Cambridge City Council under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976, (as amended), Cambridge City Council has responsibility for licensing Hackney Carriage, Private Hire and Dual Licence Drivers as well as vehicle proprietors and Private Hire Operators within the City.
- 1.2 Licensed drivers provide a public service and the City Council will not licence any individual to drive a Hackney Carriage or a Private Hire Vehicle unless it is satisfied that they are a fit and proper person.
- 1.3 There is no definition of 'fit and proper' in legislation, nor a fixed legislative process. It is for Cambridge City Council to determine how it wishes to be satisfied that a driver is fit and proper and, to this end, the Authority considers a range of documentary evidence, practical criteria

and testing mechanisms provided by an applicant in order to be satisfied of this.

- 1.4 One of the requirements is for a driver to undertake a criminal record check at 'enhanced disclosure' level upon application and at three yearly intervals. This check is known as an Enhanced DBS (Disclosure and Barring Service) Check.
- 1.5 The DBS is an executive non-departmental public body sponsored by the Home Office. It aids organisations to make safer decisions and prevent unsuitable people from working with vulnerable groups, including children.
- 1.6 The DBS checking process is a credible means of checking on an individual's criminal activity, whether convicted or otherwise. The DBS Update Service is an online service which allows licence holders to keep their DBS Certificates up to date and the City Council to be able to check a DBS Certificate.
- 1.7 Since the launch of the Update Service in June 2013, Cambridge City licensed drivers have been encouraged to subscribe to it. Given the benefits for licence holders and the authority, it is proposed that subscription to the DBS Update Service becomes mandatory for all licensed drivers (<https://www.gov.uk/dbs-update-service>).

2. Recommendations

- 2.1 Members of the Licensing Committee are recommended to consider making subscription to the DBS Update Service mandatory for all licensed drivers with immediate effect.

3. Background

- 3.1 Cambridge City Council has responsibility for licensing Hackney Carriage, Private Hire and Dual Licence Drivers as well as vehicle proprietors and Private Hire Operators within the City.
- 3.2 In doing so, Cambridge City Council seeks to promote the following objectives that impact on the Hackney Carriage and Private Hire trades:
- i) The protection of the public;
 - ii) The establishment of professional and respected hackney carriage and private hire trades;
 - iii) Access to an efficient and effective public transport service; and
 - iv) The protection of the environment
- 3.3 Cambridge City Council will not licence any individual as a Hackney Carriage, Private Hire or Dual Driver unless it is satisfied that they are a fit and proper person (Local Government (Miscellaneous Provisions) Act 1976, Section 51 (1)(a) and Section 59 (1)(a)).
- 3.4 There is no definition of 'fit and proper' in legislation, nor a fixed legislative process. Cambridge City Council considers a range of documentary evidence, practical criteria and testing mechanisms provided by an applicant in order to be satisfied of an individual's fitness and propriety.
- 3.5 Since 2001 all driver applicants to the licensed trade have undertaken CRB (Criminal Records Bureau) or (as is known now) DBS (Disclosure and Barring Service) checks. Prior to that, the responsibility for disclosure rested with the Police and all drivers prior to 2001 were subject to a Police check.
- 3.6 The Council is registered with the DBS in order to carry out Criminal Record Checks, which are used as one of the testing 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 of the Council to enable the Authority to meet its statutory requirements.

- 3.7 An Enhanced DBS Check (for a fee of £44) is sought upon first application by an individual for a driver's licence and every three years thereafter (for a fee of £44, and if subsequent renewal applications are made).
- 3.8 The DBS Disclosure Certificate includes details of spent convictions, Police cautions and other relevant information for an individual undertaking the role of a licensed driver.
- 3.9 The City Council may, at its discretion, require additional DBS Checks within the standard three year cycle.
- 3.10 Currently the City Council process dictates that all renewal applicants for the role of licensed driver will need to apply for the DBS check through Cambridge City Council, unless they are subscribed to the DBS Update Service for the same level and workforce check.
- 3.11 A DBS check is undertaken, face to face, at an appointment with an Officer of the Council. Following an application being made, the DBS certificate is issued directly to the applicant. It is then the applicant's responsibility upon receipt of the certificate to present it to the Council as part of their renewal application, before their licence application can be fully processed.
- 3.12 If an individual's DBS certificate is not presented to the Council as part of the application prior to the expiry date of the current licence, the licence will be deemed to have expired. In this instance, should an individual wish to be a licensed driver, they would be expected to commence the new application process.

- 3.13 Upon receipt of a disclosure certificate from the DBS, via the applicant, the information (if there is any) will be risk assessed by an Authorised Officer who will consider whether the information disclosed is capable of having real relevance as to whether or not the individual is a fit and proper person to hold a licence in line with the Hackney Carriage and Private Hire Licensing Policy and the guidance as set down in the Hackney Carriage and Private Hire Licensing Handbook (<https://www.cambridge.gov.uk/taxi-licensing-policy-and-handbook>)
- 3.14 In undertaking the assessment, consideration will be given to the Rehabilitation of Offenders Act 1974 (which can be found at Appendix E of the Handbook) which exists primarily to support the rehabilitation into employment of reformed individuals.
- 3.15 Consideration will also be given to the Hackney Carriage and Private Hire Enforcement Management System (which can be found at Appendix D of the Handbook) and determine what action, if any, should be taken.
- 3.16 Up until this point in time, the Council has been strongly encouraging all licensed drivers to subscribe to the Update Service (Appendix A). In doing so the Update Service allows individuals to keep their DBS Certificate up to date online, subject to an annual fee which is currently set at £13. This represents a reduction in the costs year on year associated with undertaking a full DBS Check.
- 3.17 Some licensed drivers are subscribed to the Update Service and this works well for them and for the Council in undertaking relevant checks and in processing their licence application.
- 3.18 Subscription to the Update Service is quick and simple and must be done within specified timescales. Subscription lasts for a year and must be renewed annually, before the current subscription ends.

3.19 In addition to other benefits, 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.

3.20 Further benefits are detailed in the table below:

Benefits for Licence Holders	Benefits for the Licensing Authority
Saves time.	Saves time.
Saves money.	Allows an instant update of any relevant information.
No more DBS application forms to fill in.	Strengthens application and renewal processes.
Can take DBS certificate from role to role within the same workforce.	Supports safeguarding and protection of the public.
Individual is in control of their DBS certificate.	Reduces risks.

3.21 The outcome of a check being undertaken via the DBS Update Service could be one of three, details of which can be found at Appendix B. Depending on the outcome, will depend on the process that Officers follow as part of the assessment/ application process for the individual. Staffing processes will be amended to reflect the changes, should Members agree to the proposal.

3.22 Furthermore, the Hackney Carriage and Private Hire Licensing Policy will be amended to reflect the changes, should Members agree to the proposal. The details of which are set out below:

Current Policy	Proposed Policy
<p>An enhanced DBS shall be undertaken upon application and every three years thereafter (if subsequent renewal applications are made).</p> <p>The Licensing Authority may, at its discretion, require additional DBS checks within the standard three year cycle.</p>	<p>An enhanced DBS shall be undertaken upon application and all licensed drivers will at that point be required to subscribe to the DBS Update Service within the specified timescale of receiving their DBS Certificate.</p> <p>Every three years, officers of the Council will undertake an online check of the DBS Update Service in order to check the applicant's current status.</p> <p>Depending on what is revealed from the online status check, the Council may require an additional DBS check to be undertaken.</p> <p>All licensed drivers will be required to renew their subscription to the DBS Update Service on an annual basis, before their current subscription ends, should they wish to continue to hold a Cambridge City Council driver's licence.</p> <p>Where an individual fails to maintain and/or renew their subscription before it ends; they will be required to apply for a new DBS Check and register for the Update Service again.</p>
<p>The Council encourages all drivers, to join the DBS Update Service which allows the applicant to keep the Council informed of their criminal record history at all times.</p> <p>It is believed that all responsible and professional licensed drivers will do this. Further guidance on the DBS Update Service can be found in the Hackney Carriage and Private Hire Handbook.</p>	<p>The City Council requires all licensed drivers to subscribe to the DBS Update Service and to maintain the annual subscription.</p> <p>Licensed drivers will need to retain their DBS Certificate once they have subscribed as this will need to be provided to the officer undertaking the online check.</p>

3.23 In conclusion, it is considered that the proposals are very necessary in order to contribute to the City Council's Safeguarding responsibilities, along with the statutory licensing obligations. The time frame for moving all existing licensed drivers to the DBS Update Service is a

three year cycle, due to the logistical set up of licence renewals. Members are recommended to consider the information within this report and approve the changes in policy as described.

4. Implications

(a) Financial Implications

Costs for subscription to the DBS Update Service will be borne by licence holder.

(b) Staffing Implications

Nil.

(c) Equality and Poverty Implications

An Equality Impact Assessment has not yet been undertaken but will be carried out on the reviewed policy after the consultation process has been completed and prior to any changes to the policy being formally adopted.

(d) Environmental Implications

Nil.

(e) Procurement Implications

Nil.

(f) Community Safety Implications

Cambridge City Council is responsible for regulating Hackney Carriage and Private Hire Vehicles, the drivers of Hackney Carriages and Private Hire Vehicles and the operators of Private Hire Vehicles under the provisions of the Town Police Clauses Act 1847 and Part II of the Local Government Miscellaneous Provisions Act 1976.

Vehicles, drivers and operators are regulated to ensure the protection of the public and the Council is dedicated to providing a safe and secure Hackney Carriage and Private Hire service for its residents and visitors alike.

5. Consultation and communication considerations

5.1 A consultation took place from 2nd July to 10th August 2018. 1 response was received and this is presented at Appendix C.

6. Background papers

Background papers used in the preparation of this report:

- (a) Cambridge City Council's Hackney Carriage & Private Hire Taxi Policy (<https://www.cambridge.gov.uk/sites/default/files/hackney-carriage-and-private-hire-licensing-policy.pdf>)
- (b) Cambridge City Council's Hackney Carriage & Private Hire Handbook (<https://www.cambridge.gov.uk/sites/default/files/hackney-carriage-and-private-hire-handbook.pdf>)
- (c) DBS Update Service: Employer Guide (<https://www.gov.uk/government/publications/dbs-update-service-employer-guide>)
- (d) Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades (<https://www.instituteoflicensing.org/NewsJobsArticle.aspx?NewsOrJob=news&NewsID=11318>)

7. Appendices

Appendix A – DBS Update Service Flyer.

Appendix B – Outcomes of DBS Update Service Checks

Appendix C – Results of Consultation.

9. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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