



Taxi Licensing

City of York Council

Internal Audit Report 2017/18

Business Unit: Economy and Place
Responsible Officer: Assistant Director (Planning & Public Protection)
Service Manager: Head of Public Protection
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| | P1 | P2 | P3 |
|------------------------------|----------------------|----|----|
| Actions | 2 | 1 | 2 |
| Overall Audit Opinion | Reasonable Assurance | | |

Summary and Overall Conclusions

Introduction

The Council is responsible for issuing driver, vehicle and operator licences for the City of York area. Currently the Council licences over 770 hackney carriage and private hire vehicles, approximately 1050 drivers and 61 operators (figures as at May 2018) Local Authorities can set their own requirements for drivers; however each driver must pass a 'fit and proper person' test. Assessing this will mean that a potential driver's background and character will be checked.

The Local Government (Miscellaneous Provisions) Act 1976 includes the statutory obligations by which the Council has to operate these arrangements. The Act allows the Council to charge the reasonable cost of carrying out this work, sufficient to cover the whole or part of the cost. Charges should not exceed the cost of providing the services.

There have been a number of high profile cases in other Local Authorities during recent years in relation to taxi licensing. This has particularly related to child safeguarding, resulting in taxi licences being revoked. As a result, it was felt prudent to include this audit as a variation to the annual plan to provide assurance that those procedures are robust, there is a clear process and sufficient checks are made.

Objectives and Scope of the Audit

The purpose of this audit was to provide assurance to management that procedures and controls within the system will ensure that:

- Drivers are required to meet a suitable level of standards (a "fit and proper person") and relevant checks are made;
- Applications for vehicle and operator licences are processed efficiently (including being checked and assessed) before being granted;
- Compliance with licensing requirements is enforced by the Council;
- The restriction on the number of taxi licences is appropriate.

The audit reviewed the Council's compliance with relevant legislation and its own Taxi Licensing Policy (including its effectiveness). The audit did not cover the setting of the licence fees by the Council.

Key Findings

We found that the renewal of criminal record checks had not been kept up to date for existing drivers. Checks were out of date by several years and records had not been updated. Work had commenced in 2017 to address this issue but it was not completed. A criminal record check is an

important safety measure and the policy dictates that this should be carried out every 3 years. An action has been raised at the highest priority level to reflect the seriousness of the issue, which is detailed further in the report.

The existing drivers, whose licences were renewed in 2016, have not undertaken the safeguarding and equality training which is now mandatory for new drivers. A process is in place to ensure that a new licence is not issued without this training being undertaken. A letter has been sent out to advise existing drivers that this training must be undertaken as a condition prior to licence renewal in 2019. It is important that a process is developed to ensure that compliance with this requirement is checked and recorded on the licensing system for each driver.

A comprehensive Hackney Carriage and Private Hire Licensing Policy was introduced in January 2017. There are a few other areas that could be considered for inclusion in the Licensing Policy when it is next reviewed. These could include details about the right to appeal and enforcement.

For new driver applications we found that all of the checks as detailed in the Licensing Policy were being carried out. All new applicants tested in our sample, apart from one, had undergone a criminal records check and these were recorded on the Civica system. The DBS check for one of the new drivers was not recorded as having been returned. This was going to be followed up by a Licensing Officer as it is a requirement of the application process. We found that all of the other checks for new drivers were being carried out. These included checks to insurance documents, immigration and right to work status, medical checks where necessary, knowledge test and driver assessments, and equality and safeguarding training. The majority of the new drivers' licences that have been issued this year have been issued to foreign nationals. These applications involve more complex vetting procedures, such as checking to a certificate of good conduct from a previous country of residence.

Civica Flare was introduced in 2016 to record all of the taxi licensing data. At the time of the audit it was not fully populated with all of this data. Details about Operators were mid-way through being populated on the system. In the meantime, paper records are being held securely. Our testing found that Operators' licences are being issued in accordance with the terms of the Licensing Policy. The process is working well and licences are issued promptly subject to the receipt of all required documentation. The appropriate checks are being carried out before vehicle licences are issued. Vehicles are inspected within the correct timescales, and MOT and insurance documents are checked.

Around 400 complaints each year are made about taxis. Around half of these complaints over the last year have been in relation to Uber. There is a good system in place to record them all uniquely and all correspondence is retained. Our testing found that all complaints are investigated and responded to promptly and within the target of 3 working days. Frequent proactive multi-agency inspections are carried out in York, where vehicles are inspected and driver details are checked. Any infringements of the Licensing Policy are recorded and action is taken where appropriate. Details are recorded against the individual driver record on Civica Flare. Prior to 2017, before the employment of the current Licensing Enforcement Officer, such details were not recorded against each driver record. Where infringements have been committed by drivers licensed by a Local Authority other than the City of York, an email is sent to inform the relevant Licensing Authority. Unless a specific complaint has been received, inspections of Operator's premises are only carried out when required. A finding in respect of this is discussed further below.

The Council chooses to limit the number of hackney carriages that it licences. Justification for this is supported by an Unmet Demand Survey. These surveys should be carried out at least every 3 years. The most recent survey has recently been completed but it is more than 3 years since the previous survey. York is not unique in limiting the numbers of hackney carriages: Leeds, Bradford, Sheffield and Hull are among many other neighbouring authorities who also limit numbers. However, imposition of quantity restrictions is not regarded as best practice by the Department for Transport, the Council may want to consider whether restrictions should remain in place.

Overall Conclusions

The arrangements for managing risk were satisfactory with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. Our overall opinion of the controls within the system at the time of the audit was that they provided Reasonable Assurance.

1 Criminal Record Checks

| Issue/Control Weakness | Risk |
|---|--|
| Criminal record checks have not been kept up to date. | A potential risk to the travelling public if drivers have not been vetted. Reputational risk to the Council. |

Findings

DBS checks play a very important role in the monitoring of whether drivers remain ‘fit and proper’ to hold a licence. Additionally, it is not the only means of checking driver’s suitability. All drivers are ‘checked’ when they apply for a licence. There are also systems in place whereby the Police notify the council of any driver who has been arrested and/or charged so the consequences on their licence can be considered. Action has been taken against a number of drivers following such notification. Furthermore, as a number of drivers transport vulnerable passengers under ‘school contracts’, all of these drivers have been DBS checked by the Council’s Children’s Services.

The Department for Transport’s “Taxi and Private Hire Vehicle Licensing: Best Practice Guidance” (2010) states “it would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every 3 years”.

Eight hackney carriage drivers and 11 private hire drivers were selected at random for testing. We looked to ensure that all of the necessary checks as per the Licensing Policy had been carried out before a driver’s licence was issued. Nine of the sample was for licence renewals. A current up to date criminal record check from the DBS was not found for any of these nine. The previous checks that had been carried out were a number of years overdue for five of them, and no details could be found for the other four drivers.

Following further analysis of all drivers, it was found that at the time of the audit DBS checks had not been refreshed for 789 of the 1049 total drivers. (205 of these have up to date clearance which has been checked by the schools team). A PNC check or CRB check was done when the driver first applied for a licence, but this has not been refreshed. There is a backlog of DBS checks to complete and review. The task of updating and renewing the DBS checks was started in 2017 but was never completed due to staff leaving.

The appropriate checks were being completed in respect of new drivers. Criminal record checks had been completed prior to the new licences being issued, apart from one case which will be followed-up by one of the Licensing team.

Agreed Action 1.1

| | | |
|---|----------------------------|----------------|
| A review has been undertaken as to how the service came to be in a position where the checks had not been refreshed and this was down to oversight. | Priority | 1 |
| | Responsible Officer | Head of Public |

A temporary member of staff was recruited to undertake the work in 2017, but after leaving at short notice was not replaced. This enabled officers to consider improvements in the way the council process such a large volume of checks.

Furthermore, the council have recently completed a 'restructure of the Licensing service' which, amongst other things, should create capacity to help deal with competing demands and help to prevent a repeat of this situation arising.

Timescale

Protection
Completed

Agreed Action 1.2

An improved 'on-line' process for undertaking this work using the help of an accredited third party provider is now in place. Three temporary staff have been appointed and the process to bring all taxi drivers up to date began in earnest on 16th July 2018. All drivers who have not had a DBS check with in the last 3 years have been written to.

Drivers are engaged with the process, with over 300 of the 584 drivers to check at various stages in the process already (as of 17.08.18 and is increasing significantly daily). A verbal update will be given to the Audit and Governance Committee in September 2018 as to the latest position regarding the backlog. The service aims to complete the work by the end of March 2019.

Priority

1

Responsible Officer

Head of Public
Protection

Timescale

31 March 2019

2 Unmet Demand Surveys

Issue/Control Weakness

The Unmet Demand Survey, the results of which form the basis of the decision to restrict the quantity of hackney carriages, has not been completed within the 3 years maximum reasonable period between surveys, as specified by the Department for Transport's Best Guidance Practice dated March 2010.

Risk

The Council is not meeting the conditions of the Department for Transport's Best Guidance Practice and may face a legal challenge of its decision to restrict the numbers of hackney carriages.

Findings

The Department for Transport's "Taxi and Private Hire Vehicle Licensing: Best Guidance Practice" states that the number of licensed taxis may be limited by the Council but only if it is satisfied that there is no significant demand for the services of hackney carriages which is unmet. The DfT does not regard the imposition of quantity restrictions as being best practice, and, where such restrictions are imposed, urges that the matter should be regularly reconsidered. The DfT suggests that the issue is addressed by means of a survey, to be carried out by the Council sufficiently frequently to be "able to respond to any challenge to the satisfaction of a court. An interval of 3 years is commonly regarded as the maximum reasonable period between surveys."

The report of the previous Unmet Demand Survey is dated August 2014. The most recent survey was carried out in October 2017 with the report being issued in February 2018. The gap between the previous survey and the current survey is more than the recommended 3 years maximum, and this is in contravention of the DfT's Best Practice Guidance.

As the imposition of quantity restrictions is not regarded as best practice, the Council should consider whether restrictions should remain in place.

Agreed Action 2.1

Following a report by Officers to the Gambling Licensing and Regulatory Committee on 16 July 2018, Members asked Officers to provide an 'all options' report on the restriction of hackney carriage vehicle licences following consultation with all interested parties including taxi drivers and users. In the mean time, Members determined to continue with the existing policy of not issuing any new licences on the basis that they were satisfied there was no significant unmet demand.

Priority

3

Responsible Officer

Corporate Director
(Planning & Public Protection)

Timescale

Unmet demand survey
– completed



3 Enforcement of Operators' licensing conditions

Issue/Control Weakness

There is no programme of inspection of the premises of Taxi Operators.

Risk

A risk to the travelling public if Operators are not complying with their licence conditions.

Findings

Operators are not risk-assessed for inspection purposes. Visits to premises are not carried out unless there has been a complaint that is being investigated. It is not compulsory for inspections to be carried out. Instead, an "intelligence led" approach to enforcement has been used to ensure that resources are focussed on any areas of concern. For example, issues with out of town drivers has resulted in regular out of hours patrols where drivers have been checked, and multi-agency checks have been held to inspect vehicles and drivers.

Agreed Action 3.1

Visits to a sample of local Operators will be carried out to check compliance with licence conditions, for example checking their complaints logs and booking records. This will potentially give officers a valuable source of information to act upon. A 'sample' approach will help officers identify patterns and trends in compliance in the local trade and help determine the priority that should be given to rolling out a further programme of inspections. This will satisfy the council's obligations under the Regulators Code to determine activity based upon the risk posed (and the principle that there should be no inspection without a reason).

Priority

2

Responsible Officer

Head of Public Protection

Timescale

31 December 2018

4 Licensing Policy

Issue/Control Weakness

There are some areas which are not covered in the Licensing Policy.

Risk

There may be ambiguity in some areas if all procedures are not included in the Policy.

Findings

A Hackney Carriage & Private Hire Policy, reflecting the requirements of the Local Government (Miscellaneous Provisions) Act 1976 and the DfT's "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance", was approved in January 2017. The new Licensing Policy contains very comprehensive details in respect of the requirements needed to be fulfilled by applicants before a licence is issued. The Policy would benefit from some additional areas for inclusion in when it is next reviewed. These include the following :

- the right of appeal in respect of taxi and private hire licensing decisions
- Suspension and revocation
- Hearings
- Complaints against licence holders
- Enforcement & inspections

Agreed Action 4.1

The Public Protection Enforcement Policy makes reference to the need to comply with the Regulators Code 2014 and defines the circumstances in which formal enforcement action will be taken. However, the points identified above will be included and, detailed specifically in relation to Taxi Licensing, when the Licensing Policy is next reviewed and updated.

Priority

3

Responsible Officer

Head of Public Protection

Timescale

31 December 2019

Audit Opinions and Priorities for Actions

Audit Opinions

Audit work is based on sampling transactions to test the operation of systems. It cannot guarantee the elimination of fraud or error. Our opinion is based on the risks we identify at the time of the audit.

Our overall audit opinion is based on 5 grades of opinion, as set out below.

| Opinion | Assessment of internal control |
|-----------------------|---|
| High Assurance | Overall, very good management of risk. An effective control environment appears to be in operation. |
| Substantial Assurance | Overall, good management of risk with few weaknesses identified. An effective control environment is in operation but there is scope for further improvement in the areas identified. |
| Reasonable Assurance | Overall, satisfactory management of risk with a number of weaknesses identified. An acceptable control environment is in operation but there are a number of improvements that could be made. |
| Limited Assurance | Overall, poor management of risk with significant control weaknesses in key areas and major improvements required before an effective control environment will be in operation. |
| No Assurance | Overall, there is a fundamental failure in control and risks are not being effectively managed. A number of key areas require substantial improvement to protect the system from error and abuse. |

Priorities for Actions

| | |
|------------|--|
| Priority 1 | A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management. |
| Priority 2 | A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management. |
| Priority 3 | The system objectives are not exposed to significant risk, but the issue merits attention by management. |

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