

Report from the Assistant Director – Planning and Public Protection

**Update on the Taxi Licensing Internal Audit report**

1. This report seeks to update Members on the recent Taxi Licensing Internal Audit report which was discussed at the Audit and Governance Committee on 19 September 2018. The Corporate Director of Economy and Place committed to providing the Gambling Licensing & Regulatory Committee (GLRC) with an update report on that occasion.

**Recommendations**

2. That Members consider the report noting in particular the progress made on the Disclosure and Barring Service (DBS) checks. That Officers consider whether the handful of drivers who have not engaged in the process can continue to be considered 'fit and proper' persons.
3. Reason: To ensure that the Council is satisfied that all hackney and private hire drivers (from here on referred to generically as taxi drivers) continue to be 'fit and proper persons' to hold a licence as required by the Local Government (Miscellaneous Provisions) Act 1976.

**Background**

4. An Internal Audit was carried out at the request of the Directorate of Economy and Place Senior Management team as part of the 2017-18 audit programme. The purpose of the audit regime is to provide support to management. The council publicly reports the results of our audits (good, bad or indifferent) in the spirit of transparency. Most other councils do not publish internal audit reports.

**DBS checks**

5. DBS checks are 'best practice', there is no legal obligation to undertake them either at the beginning of the application or on an ongoing basis.

However, the City of York council considers these checks an important check for public safety and our taxi licensing policy states that they will be carried out for new drivers and then on an on-going basis at least every three years.

6. It is important to stress that *all* drivers have been DBS checked before being granted a first licence. The one case highlighted in the audit report was an 'unusual case' in which the driver (with a current DBS check) transferred from being a private hire to hackney carriage licensed driver – it was not that he hadn't been checked.
7. It is also important to note that the ongoing/refresher checks are a 'backstop' to a number of other activities which take place to determine whether drivers continue to be 'fit and proper persons' throughout the term of their licence. These other activities are vital as they provide information on the 'here and now', whereas DBS checks are a backward looking check.
8. As part of these other 'activities', taxi drivers are required by law to notify Licensing Officers if they are arrested and/ or charged with any offences. They also make a 'self declaration' of any notifiable offences upon renewal of a licence.
9. There are obvious potential weaknesses in a system of self notification. The Licensing Officers therefore have excellent lines of communication with the police, who inform us upon arrest of a licensed person for any serious crime they are investigating under the common law power of police disclosure. This can and does result in suspension/revocation of drivers licences. Other partners and Council Services also report concerns through a network of contacts.
10. Operators themselves report complaints about their drivers to Licensing Officers (as required by their own licence conditions), and we investigate concerns from other drivers and members of the public. Again this does lead to a range of sanctions from warnings to drivers having licences suspended/ revoked and in the more serious cases, a prosecution. The latest annual report on enforcement activity undertaken by Public Protection – including that taken against taxi drivers – went before the Executive on 27 September 2018.
11. It is important to stress that complaints and issues of concern are a small fraction of the number of taxi journeys which take place each year in the city.

12. It is also worthy of note that all drivers carrying school children under school contracts have had regular refresher checks (as required under the terms of those contracts)
13. It is the 'refresher' DBS checks for 'other drivers' which have not been carried out routinely. When this came to management attention, a process began immediately to rectify the situation. In 2017, 'a Work with York contractor' was brought in to carry out the necessary checks. After 5 months, they left having only 72 checks at various stages in the process using a paper based system. The failure to replace this resource has been addressed within the Council management process. When this issue was raised through the audit process a new methodology was found, which sees the DBS checks carried out electronically.
14. Since 16 July 2018 (9 weeks at the time of writing):-
15. All drivers who have not had a current DBS check have been written to and asked to commence the process – this being 683 of the 1049 total taxi drivers (and this figure includes drivers who have 'become due' during the process).
16. Of these 683 drivers, 351 (51%) checks have been completed. A further, 47 (7%) have or are in the process of surrendering their licence as they are no longer driving. There are 227 (33%) drivers at various stages in the checking process. To date there have been no issues of concern raised as a result of the checks undertaken.
17. The 58 remaining drivers (9%) are being 'chased' through letters and regular telephone calls. Some of these drivers are not thought to be active and have left the trade. A very small minority are simply refusing to engage.

## **Driver training**

18. The issues of driver training have been reported to the GLRC on a number of occasions. Following the findings of the Jay and Casey reports, which related to Child Sexual Exploitation in Rotherham, the Council introduced a requirement that as part of the application process new driver applicants should complete sexual exploitation awareness training to demonstrate understanding in this area. The Taxi Licensing Policy, approved by the Council in 2016, confirmed that existing licensed drivers should also complete this type of specialist training.

19. The Council arranged training sessions for existing taxi drivers 'en masse' with 100 places available at each session. The sessions were to be delivered by social workers and the police. It was determined after the first session (by those delivering it and from feedback from the taxi trade) that this was not a workable approach and a new method of delivering the training in smaller groups, by a professional trainer was developed. The new training also included equalities, disability awareness and customer service following concerns about standards of some drivers in these areas.
20. This was introduced in June 2017 under delegated authority by the Director of Economy and Place after discussion with the Chair and Vice Chair of the GLRC. The Executive Member for Transport was also included. There was a £40 fee for the training (set on a cost recovery basis).
21. A report (13 November 2017) and an update report (18 May 2018) on the training have been considered by GLRC. Furthermore, a petition from drivers against the training was received by the Council in November 2017, and this was heard by the Executive Member for Housing and Safer Neighbourhoods on 19 March 2018. The Executive Member for Education, Children and Young People also attended that meeting to consider the report. Those Members deferred any decision on the training to the 'update' to GLRC on 18 May 2018.
22. The situation – approved by GLRC - is that drivers are required to have completed the training course or otherwise satisfy the council that they meet the required standards by the time their licence is renewed in May 2019. They risk not having their licence renewed on the basis that they are no longer considered a 'fit and proper' person if they do not take these steps.

**Applications for vehicle and operator licences are processed efficiently (including being checked and assessed) before being granted**

23. The audit was positive in this respect recognising that offices are carrying out the myriad of checks required before a licence is granted.

**Compliance with licensing requirements is enforced by the Council**

24. The audit was also positive in this respect. It recognises the significant additional pressure on resources in response to complaints about 'out of town drivers' i.e. those working here, but not licensed by the council.
25. The recommendation to include checks on York Operators – including an audit of the complaints they received – will be introduced as part of our range of enforcement activity. Again, we would draw your attention to the Public Protection Enforcement Report which describes the level of enforcement activity over the last year in more detail.

**The restriction on the number of taxi licences is appropriate.**

26. The GLRC received a report on the restriction on Hackney carriage vehicle licences on 16 July 2018. They determined to continue our existing position of not releasing further licences as there is 'no significant unmet demand', but have agreed to review the position after a full consultation with the trade and other interested parties.

**Consultation**

27. There is no consultation associated with this report

**Options**

28. Option 1 – To note the report, including the progress made on DBS checks (and other areas of the audit requiring attention) and ask Officers to consider whether the handful of drivers who have not engaged in the process can continue to be considered 'fit and proper' persons.
29. Option 2 – To make alternative recommendations

**Analysis**

30. Option 1 will support officers in meeting the deadlines for action in the audit report. In particular, completing all ongoing/refresher DBS checks by the end of March 2019. It will complete the process for ensuring that all existing drivers are fit and proper persons to hold a licence. It is proposed that officers consider whether any driver who has not completed the DBS application process (including having their documents verified by a Licensing Officer) by the end of October 2018, would continue to be a fit and proper person. Furthermore, officers would consider whether the failure of any driver to submit their record (which they receive back from the DBS) for checking by an officer by the end of

December 2018 would mean they were no longer fit and proper to hold a licence. In reaching any decision to suspend or revoke a licence, each case will be considered on its merits.

31. Option 2 enables Members to make alternative recommendations.

### **Council Priorities**

32. The provision of hackney carriage and private hire licensing supports the council plan of a prosperous city for all, where local businesses can thrive.

### **Implications**

33. The direct implications arising from this report are:

- (a) **Financial** – There are no financial implications associated with this report
- (b) **Human Resources (HR)** - There are no HR implications.
- (c) **Equalities** – There are no equalities implications.
- (d) **Legal** - Under Section 61(1) of the 1976 Act the Council has the power to suspend or revoke the licence of a hackney carriage or private hire driver:

i) who since the grant of the licence has been convicted of an offence:

- involving dishonesty, indecency or violence; or
- under the provisions of the Act of 1847 or Part II of the 1976 Act;

or

ii) for any other reasonable cause.

An applicant aggrieved by an officer decision to suspend/revoke a licence has the right of appeal to the Magistrates' Court.

- (a) **Crime and Disorder** – The purpose of the issues highlighted in the audit are related to public safety and reduce the risk of crime and disorder.

- (b) **Information Technology (IT)** - There are no IT implications.
- (c) **Property** - There are no property implications.
- (d) **Other** - There are no other implications.

## Risk Management

34. Applying the council's risk scoring criteria, undertaking the activity in the audit report and considering suspending the licences of drivers who are not engaged in the DBS checking process reduces the risk to the council. The risk scoring criteria suggests the risk moves from a score of 12 – a yellow risk (a 'possible' risk of a driver not being a fit and proper person with a 'major impact' – national media coverage and multiple serious injury) to a score of 8 – a green risk (an 'unlikely' risk of a driver not being a fit and proper person – the 'major' impact score would not change).

## Contact Details

### Author:

Matt Boxall  
Head of Public Protection  
01904 551528

### Chief Officer Responsible for the report:

Mike Slater  
Assistant Director – Planning and Public  
Protection

Report Approved  Date 28.09.2018

## Specialist Implications Officer(s)

### Wards Affected:

All

For further information please contact the author of the report

## Background papers

### Taxi Licensing Internal Audit Report

<http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=2ahUKewj8gffJtNjdAhVsCcAKHUDvCTwQFjAAegQICRAC&url=http%3A%2F%2Fdemocracy.york.gov.uk%2Fdocuments%2Fs126160%2FFinal%2520Report%2520Taxi%2520Licensin%2520unredacted.pdf&usq=AOvVaw0idkJLS3N0zqF7z55GLTdd>