

EAST HERTS COUNCIL

LICENSING COMMITTEE - 21 JULY 2011

REPORT BY DIRECTOR NEIGHBOURHOOD SERVICES

CHANGES CRIMINAL RECORD BUREAU (CRB) CHECKS

WARD(S) AFFECTED: ALL

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**Purpose/Summary of Report**

- To report to members on changes to CRB checks.

<b><u>RECOMMENDATION FOR DECISION that -</u></b>
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subject to consultation with the taxi trade, and further approval by Licensing Committee, clarification issued by the CRB on entitlement to criminal record checks on taxi drivers and applicants be noted.
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1.0 Background

- 1.1 In January 2011 the CRB issued clarification of their guidance on entitlement to a criminal record checks in the case of taxi driver licence holders and applicants.
- 1.2 In addition to the information recorded on a Standard CRB, an Enhanced CRB also records information recorded at the discretion of the Chief Officer of Police.
- 1.3 The Local Government Association is lobbying against the changes.

2.0 Report

- 2.1 In the opinion of the CRB, a Licensing Officer commits a criminal offence if they request an Enhanced CRB on a taxi driver who is not involved in 'Regulated Activity'. Only a Standard CRB may be requested, unless the driver is known to have e.g. a school run contract.

- 2.2 School run contracts and care home contracts are currently let by the Passenger Transport Unit at Hertfordshire County Council. The Unit Manager is currently in discussions with the Herts and Beds Licensing Officers' Group to discuss ways of sharing information, so that drivers undertaking regulated activity can receive the appropriate level of criminal record check.
- 2.3 One taxi licence application has so far been refused on the basis of information recorded at the discretion of the Chief Officer of Police; an Enhanced CRB received showed that in the opinion of the Vetting and Barring Unit, an applicant for a taxi driver's licence was exhibiting a pattern of behaviour consistent with being a paedophile. Without this information on the enhanced CRB, there would have been no known reason to refuse this application.
- 3.0 Implications/Consultations
- 3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers:

Contact Member: Councillor Malcolm Alexander – Executive Member for Community Safety and Environment

Contact Officer: Brian Simmonds – Head of Community Safety and Licensing –Ext 1498

Report Author: Paul Newman – Interim Licensing Manager

ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives:	<b>Promoting prosperity and well-being; providing access and opportunities</b> <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i>
Consultation:	For information only, to implement clarification of revised guidance, no consultation has taken place.
Legal:	No issues that require approval identified by Contact Officer or Report Author.
Financial:	No issues that require approval identified by Contact Officer or Report Author.
Human Resource:	No issues that require approval identified by Contact Officer or Report Author.
Risk Management:	No issues that require approval identified by Contact Officer or Report Author.

## ESSENTIAL REFERENCE PAPER 'B' - Guidance

Taxi Drivers' Licences are included in the Rehabilitation of Offenders Act 1974 (ROA), (Exceptions) Order 1975 List and therefore are clearly entitled to a **Standard Level of Check**

A Taxi Driver or Private Hire Vehicle driver is not listed as an employment or position as set out by the Police Act 1997 . This means it would be illegal to request an **Enhanced CRB Check** for the sole purpose of issuing a licence to a Taxi or Private Hire Vehicle (PHV) driver.

Taxi and PHV drivers are not a specified position in the SVG Act 2006, however in certain circumstances some drivers will be carrying out **regulated activity** but only when they transport children or vulnerable adults to or from a regulated activity **AND** it is organised by the providers of the regulated activity or an organisation working on their behalf, e.g. a Local Authority school contract or NHS contract. Those carrying out regulated activity would qualify for an enhanced crb check.

It is not regulated activity if a child/vulnerable adult hires a taxi in the street or by telephone privately .

### **Regulated Activity for an Enhanced Level CRB Check**

It is not enough to meet the CRB eligibility criteria, to state that a taxi driver may come into contact with children or vulnerable adults. Eligibility to apply for a CRB check depends on the specific role a person will perform whilst conducting their duties within an organisation.

Furthermore, eligibility for Enhanced CRB checks extended to include anyone working in a Regulated Activity with a Regulated Activity provider.

Regulated activity includes any form of work (paid or voluntary) carried out for a setting or establishment specified in the Safeguarding Vulnerable Groups Act which is **on a frequent or intensive basis** and which provides an opportunity for contact with children or vulnerable adults. This may include catering, cleaning, administrative and maintenance staff **if they work once a week or more or four days in a single month or overnight.**

Specified settings are limited to:

- Schools (educational institutions exclusively or mainly for the provision of full-time education to under-18s)
- Pupil referral units
- Childcare premises (including nurseries)
- Residential homes for children in care
- Children's hospitals (hospitals exclusively or mainly for the reception and treatment of children)
- Children's detention centres (institutions exclusively or mainly for the detention of children)
- Children's centres in England and Wales, and
- Adult care homes (residential care or nursing homes in Northern Ireland).

Work in any of the specified settings is regulated activity if it is done frequently or intensively. However, taxi drivers who undertake work for example will not meet the frequent or intensive tests if they visit several different specified settings but **do not work frequently in the same one.**

- frequent means once a week or more

- intensive means four times in a month or overnight
- and both now have to be in the same establishment

For information, a standard CRB check will show all cautions, warnings, reprimands and convictions and furnished with a standard certificate an employer or organisation would be able to access the suitability of a taxi driver and be able to make a sound firm recruitment decision based on the information a standard certificate shows.

For more information see the Department for Transport's [Taxi and PHV Licensing Best Practice Guidance of March 2010](#)