

EAST HERTS COUNCIL

LICENSING COMMITTEE – 14 JULY 2016

REPORT BY THE CHIEF EXECUTIVE

CONSIDERATION OF FEEDBACK ON REVISED DRIVER
CONVICTIONS POLICY

WARD(S) AFFECTED: ALL

Purpose/Summary of Report:

- To present responses to consultation to the draft revised Driver Convictions Policy.

RECOMMENDATIONS FOR DECISION: that	
(A)	The Committee consider the responses to the consultation;
(B)	The revised Driver Convictions Policy be recommended to Council for approval to take effect from 1st August 2016; and
(C)	Authority to make decisions under the new policy be delegated to Officers.

1.0 Background

1.1 East Herts, as an authority that licenses hackney carriage and private hire drivers, vehicle proprietors and operators, can set its own criteria to ensure that applicants are 'fit and proper' to hold a licence. As such the authority requires all applicants to pass a DVSA driving test, a medical and a criminal records check. Additionally dual driver applicants have to undertake and pass a knowledge test.

1.2 Currently if a criminal records check comes back with an offence shown officers consult the convictions policy attached at **Essential Reference Paper 'B'**. If the offence is described within the policy then officers must arrange a licensing sub-committee to consider that conviction as they have no delegated authority to make the decision based on the policy. If a conviction is not

covered by the convictions policy then it automatically goes to a licensing sub-committee for consideration.

- 1.3 Since March 2002, Hackney Carriage and Private Hire drivers have been included within the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. The consequence of this is that all convictions, irrespective of age, sentence imposed or offence committed, remain live for an applicant for a Hackney Carriage or Private Hire drivers licence and will be recorded on an enhanced criminal record check.
- 1.4 Following comments from the licensed Hackney Carriage and Private Hire trade the licensing service started with a comprehensive review of the convictions policy. The trade have made it clear that they want high standards to be maintained and every effort to be made to ensure that issues that have arisen elsewhere in the country cannot happen in East Herts.
- 1.5 This revision of the policy is a direct response to Louise Casey's 'Report of Inspection of Rotherham Metropolitan Borough Council' February 2015. It is based upon Rotherham's new licensing convictions policy and the lessons learned there. That report provided guidance about preventing the type of child sexual abuse that arose in Rotherham, Oxford and other places, where those Licensing Committees came under intense scrutiny and attracted much criticism.
- 1.6 There is no inference that this activity is taking place in East Herts but the authority will not be complacent and will uphold its responsibility to ensure that every measure is put in place to ensure it does not occur. The public, especially the most vulnerable, must be protected.
- 1.7 The revised policy sets out our minimum standards. It suggests actions that will normally be taken where a new applicant or existing licence holder have relevant convictions we consider inappropriate for a licensed driver, proprietor or operator. These are usually for dishonesty, violence, substance misuse, sexual offending or poor driver standards.
- 1.8 The effect a conviction has on an application varies and takes into consideration the type of conviction, date of conviction and the disposal imposed.
- 1.9 It is the authority's intention to apply this policy to all licensed drivers whether they are making a new application or an

application to renew an existing driver's licence. As a higher standard is being proposed than has historically been in place drivers whose convictions have already been considered may find those convictions being considered again.

- 1.10 This may result in drivers who have previously been granted licences having their renewals refused under delegated authority where that is what the policy indicates. These applicants will have a right of appeal to magistrate's court and the financial impact of the refusal is not a relevant consideration when applying the 'fit and proper test'.
- 1.11 Each application will be considered on its own individual merits and where an application is refused there is always a route of appeal via magistrate's court.
- 1.12 The revision of the convictions policy is part of a wider review of taxi licensing within East Herts.
- 1.13 The purpose and primary concern in taxi licensing is to ensure the safety of the public. The authority must be satisfied that an applicant is a 'fit and proper' person to hold such a licence. The draft convictions policy has this principle at its core.

2.0 Report

- 2.1 The consultation with the East Herts licensed taxi trade was open between 8th January 2016 and 19th February 2016. Every member of the trade was contacted directly with details of the consultation and links to the draft policy and a quick reference table listing offences. The table quickly showed how we propose that convictions will affect an application (whether for a new driver or renewal application).
- 2.2 The draft revised policy was also sent to all the other authorities that license taxis in Hertfordshire. Many of the authorities have recognised the same emerging issues as East Herts and are now in the process of reviewing their own policies. This step was taken in the hope that it would help to promote similar standards county wide.
- 2.3 As a result of the consultation 6 responses were received, 3 from the licensed trade and 3 from other local authorities. The responses from the trade represent 79 drivers and two private hire operators all of whom are regularly required to provide criminal

record checks. The responses can be found at **Essential Reference Paper 'C'** and includes the authority's replies.

- 2.4 The final draft of the new convictions policy is attached at **Essential Reference Paper 'D'** and shows the amendments to the consultation draft, as tracked changes, made following consideration of the responses received.
- 2.5 The quick reference table circulated as part of the consultation is attached as **Essential Reference Paper 'E'**. Minor modifications have been made to this to reflect the changes made to the draft policy and one drafting error. The error was in relation to licensing offences where the penalty upon conviction is a fine so would not result in a prison sentence or a period 'on licence'. This table will be used on the website to quickly add new applicants in knowing how a previous conviction will affect any application.
- 2.6 Following discussions with Hertfordshire Constabulary a protocol has been set up where by the Police will do a check on the Police National Computer (PNC check) on all new and renewing applicants. This will ensure that the criminal record checks we have received are accurate but will also give us access to any appropriate police intelligence or items that may not otherwise have been disclosed. This matter has been added into the convictions policy under the section on 'Non-conviction information' so that applicants will be aware that this will take place.
- 2.7 It should be noted that none of the consultation responses from East Herts licensed taxi trade raised any objections or queries relating to applying the new policy to drivers at renewal.

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

None.

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