
Convictions Guidance - Summary Report

Committee considering report:	Licensing Committee
Date of Committee:	24 June 2019
Portfolio Member:	Councillor Hilary Cole
Date Portfolio Member agreed report:	
Report Author:	Suzanne McLaughlin
Forward Plan Ref:	N/a

1. Purpose of the Report

- 1.1 This report examines the criminal convictions element of the 'fit & proper' test. It sets out the proposals that have been consulted upon since the Committee Meeting on the 11 February 2019 authorised officers to go out consultation.
- 1.2 The report invites officers to consider the responses and consider adoption, amendment or otherwise of the Institute of Licensing guidance in light of these consultation responses or any other considerations the Committee feels are appropriate.
- 1.3 This test applies to existing licence holders and new applicants for Hackney Carriage driver licences, Private Hire driver licences, and Private Hire Operators licences.
- 1.4 The results of the consultation as agreed by the Committee at their meeting on 11 February 2019 are presented for discussion and consideration.
- 1.2 It is proposed to replace the Council's existing criminal convictions guidance document with a more comprehensive policy, which has been drafted to reflect the recently published 'Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades', produced and published by the Institute of Licensing ('IoL').

2. Recommendations

- 2.1 That the Committee:
 - (a) Considers the results of the consultation;
 - (b) Determines whether the Council should adopt the Institute of Licensing guidance document in whole, part or amended form as its policy position on the relevance of criminal convictions in determining whether someone is 'fit or proper' to hold Taxi or Private Hire Drivers Licence or Private Hire Operators Licence.

3. Implications

- | | | |
|-----|-------------------------|--|
| 3.1 | Financial: | There are no specific financial implications arising from this report. |
| 3.2 | Policy: | If adopted in whole or amended form the draft policy would be used as part of the Council's 'fit and proper' test when considering licence applicants or existing licence holders. The policy would be used to inform decision making on the relevance of previous criminal history on applicants suitability. |
| 3.3 | Personnel: | There are no specific personnel implications arising from this report. |
| 3.4 | Legal: | Section 51 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 includes the provision for the fit and proper person test. |
| 3.5 | Risk Management: | There are no specific risk matters arising from the adoption of this policy. A risk would arise should the Council fail in its statutory duty to only licence individuals who are deemed fit and proper to hold a licence. |
| 3.6 | Property: | None |
| 3.7 | Other: | None |

4. Other options considered

- | | |
|-----|---|
| 4.1 | The Committee could decline to adopt the guidance document and new policy, meaning the Council would continue to utilise the existing guidance at Appendix E. |
| 4.2 | The Committee could establish alternative timescales, other than those within the IoL guidance document, and amend the draft policy as they see fit. |

Executive Summary

5. Introduction / Background

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 provides that a Licensing Authority must satisfy themselves, before a licence is granted, that the applicant for a driver or operator licence is a fit and proper person.
- 5.2 The Council includes a criminal records check (DBS) as part of its fit and proper person test, and has published guidance to assist applicants and decision makers in relation to interpreting any trace highlighted on this check.
- 5.3 The IoL has recently published a comprehensive guidance document in relation to determining applicant suitability, specifically in relation to any trace identified within criminal records checks, or other non-conviction information that comes to light.

6. Proposal

- 6.1 It is proposed to adopt the guidance produced by the IoL and to incorporate the timescales included therein into an updated and overhauled Hackney Carriage and Private Hire Licensing Criminal Convictions Policy.

7. Conclusions

- 7.1 A comprehensive and robust policy will aid clarity for applicants, licence holders, Council officers, and elected Members. It will also provide assurance to the general public that the Council has an up to date clear position on the relevance of previous convictions which is good for consumer protection, personal safety, consumer confidence and ultimately the trade.
- 7.2 The Institute of Licensing guidance has been formulated in conjunction with the Local Government Association amongst others and is being considered in the other Public Protection Partnership Member Authority Committees. Ultimately though it remains a local issue for local policy determination.

8. Appendices

- 8.1 Appendix A – Data Protection Impact Assessment
- 8.2 Appendix B – Equalities Impact Assessment
- 8.3 Appendix C – Supporting Information
- 8.4 Appendix D – Institute of Licensing guidance document
- 8.5 Appendix E – Current Council guidance on criminal convictions
- 8.6 Appendix F – Comparison of timescales between current and proposed conviction timescales
- 8.7 Appendix G – Draft Criminal Convictions Policy
- 8.8 Appendix H – Consultation responses

Appendix A

Data Protection Impact Assessment – Stage One

Directorate:	Public Protection and Culture
Service:	Public Protection Partnership
Team:	Case Management and Governance
Lead Officer:	Julia O'Brien
Title of Project/System:	Criminal Convictions Policy
Date of Assessment:	11 June 2019

Do you need to do a Data Protection Impact Assessment (DPIA)?

	Yes	No
<p>Will you be processing SENSITIVE or “special category” personal data?</p> <p><i>Note – sensitive personal data is described as “data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation”</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be processing data on a large scale?</p> <p><i>Note – Large scale might apply to the number of individuals affected OR the volume of data you are processing OR both</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will your project or system have a “social media” dimension?</p> <p><i>Note – will it have an interactive element which allows users to communicate directly with one another?</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will any decisions be automated?</p> <p><i>Note – does your system or process involve circumstances where an individual’s input is “scored” or assessed without intervention/review/checking by a human being? Will there be any “profiling” of data subjects?</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will your project/system involve CCTV or monitoring of an area accessible to the public?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be using the data you collect to match or cross-reference against another existing set of data?</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Will you be using any novel, or technologically advanced systems or processes?</p> <p><i>Note – this could include biometrics, “internet of things” connectivity or anything that is currently not widely utilised</i></p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Appendix B

Equality Impact Assessment - Stage One

What is the proposed decision that you are asking the Executive to make:	Adoption of new criminal convictions policy and guidance document for licence holders and applicants
Summary of relevant legislation:	Local Government (Miscellaneous Provisions) Act 1976, Town Police Clauses Act 1847
Does the proposed decision conflict with any of the Council's key strategy priorities?	No
Name of assessor:	Suzanne McLaughlin
Date of assessment:	11 June 2019

Is this a:		Is this:	
Policy	Yes	New or proposed	No
Strategy	No	Already exists and is being reviewed	Yes
Function	No	Is changing	Yes
Service	No		

1 What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	To adopt a new criminal convictions policy
Objectives:	To ensure the protection of the public via a robust decision making process
Outcomes:	Strong and defensible decisions on licence holder suitability
Benefits:	Ensuring that only suitable persons are granted licences

2 Note which groups may be affected by the proposed decision. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this. (Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)		
Group Affected	What might be the effect?	Information to support this

Age	No impact	
Disability	No impact	
Gender Reassignment	No impact	
Marriage and Civil Partnership	No impact	
Pregnancy and Maternity	No impact	
Race	No impact	
Religion or Belief	No impact	
Sex	No impact	
Sexual Orientation	No impact	
Further Comments relating to the item:		
No further comments		

3 Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	No
Please provide an explanation for your answer: No evident contribution to inequality	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	No
Please provide an explanation for your answer: No evidence the adoption of a revised policy will have an adverse impact.	

4 Identify next steps as appropriate:	
Stage Two required	No
Owner of Stage Two assessment:	
Timescale for Stage Two assessment:	

Name: Suzanne McLaughlin

Date: 11 June 2019