

WILTSHIRE COUNCIL

LICENCING COMMITTEE

30 NOVEMBER 2010

GUIDANCE ON FIT AND PROPER PERSONS

Executive Summary

This report informs members of the Licensing Committee of the need for a robust policy regarding consideration of criminal records for new and existing Hackney Carriage drivers, Private Hire drivers and Operators.

Recommendations

It is recommended:-

That the Licensing Committee notes and approves the proposed policy on the relevance of convictions for Hackney Carriage drivers, Private Hire drivers and Operators.

Reason for Proposal

To provide a consistent and legally robust Policy.

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Purpose of Report

1. At the Licensing Committee meeting on the 26 May 2010, Members approved a new set of conditions for Hackney Carriage (taxi), Private Hire drivers, operators and vehicles. As part of the new harmonised regime a consistent policy on considering drivers convictions is required.

Background

2. Wiltshire Council approved a scheme of delegated powers at its meeting on 1 December 2009. It was agreed that powers to grant licences for Hackney Carriages drivers, Private Hire drivers and operators were delegated to officers.
3. This report details a new policy to consider an applicant's criminal record and the relevance of that record when determining if that person is a "fit and proper" person to hold a Hackney Carriage driver, Private Hire driver or operator licence.
4. Currently the four licensing zones of Wiltshire Council: - North, South, East and West are operating with the former district council policies for considering the relevance of convictions for Hackney Carriage drivers, Private Hire drivers and operators.
5. Wiltshire Council has a statutory duty under the Town Police Clauses Act 1847, the Transport Act 1985 and the Local Government (Miscellaneous Provisions) Act 1976 to licence Hackney Carriage drivers, Private Hire drivers and operators. Under this legislation the council shall not grant a Hackney Carriage driver, Private Hire driver or operators licence unless it is satisfied that the applicant is a "fit and proper person".
6. In order to achieve consistency and avoid the risk of successful legal challenge, Local Authorities need to have a clear policy for the consideration of criminal records.
7. Where licensing officers have delegated powers to grant licences they will utilise the guidelines laid down in the policy when making a decision to grant a licence.
8. It is proposed that the policy and guidelines detailed in Appendices 1 and 2 attached to this report are approved by the Licensing Committee.
9. It is further recommended that the Licensing Sub-Committee form the Appeals Panel to hear applications from drivers who have accrued enough penalty points under the Wiltshire Council scheme to have their licence suspended or revoked.

Environmental Impact

10. There is minimal environmental impact of this proposal.

Equality and Diversity

11. The impact of these proposals is assessed as `medium` against the Councils statutory responsibilities. The adoption of a harmonised policy and guidelines will ensure a fair and consistent application across the Wiltshire Council area.

Risk Assessment

12. If the Council operates without a ratified, robust and consistent policy, it could be open to successful legal challenge over its decision making and so impact on the council's reputation.

Financial Implications

13. Significant legal costs could be involved if the council were faced with a successful legal challenge, this would include compensation for loss of trade and goodwill amongst other costs.

Legal Implications

14. Ratification of the amended, harmonised policy will reduce the risk of legal challenge to the licensing process.

Conclusion

15. It is recommended: -
 - a) That the proposed policy on the relevance of convictions for Hackney Carriage drivers, Private Hire drivers and operators is ratified for adoption by the Licensing Committee.
 - b) That the Licensing Sub-Committee form the panel to hear appeals against the issuing of penalty points under the Wiltshire Council scheme where a driver is facing suspension or revocation.

Background Papers

Local Government Regulation Taxi and PHV Licensing `Criminal Convictions` Policy - September 2010

Appendices

- Appendix 1 Statement of Policy, relevance of conviction for new applicants.
- Appendix 2. Statement of Policy for existing Hackney Carriage and Private Hire Drivers licences.