

WILTSHIRE COUNCIL

LICENSING COMMITTEE

18th FEBRUARY 2013

GUIDANCE ON FIT AND PROPER PERSONS

Executive Summary

This report informs members of the Licensing Committee of the need for amendments to the Council's policy regarding consideration of criminal records for existing Hackney Carriage drivers, Private Hire drivers and Operators.

Recommendations

It is recommended:-

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

Reason for Proposal

To provide a consistent, transparent 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. At the Licensing Committee meeting on the 30th November 2010, Members approved the current Guidance on the relevance of convictions for Hackney Carriage drivers, Private Hire drivers and Operators.

Background

2. This report details amendments that need to be made to the Council's current 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.
3. 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 operator's licence unless it is satisfied that the applicant is a "fit and proper person".
4. 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.
5. Where licensing officers have delegated powers to grant, refuse, suspend or revoke licences they will utilise the guidelines laid down in the policy when making a decision.
6. It is proposed that the current policy and guidelines detailed in Appendix 1 is amended to include the additional offences as detailed in Appendix 2 attached to this report and are approved by the Licensing Committee.

Environmental Impact

7. There is minimal environmental impact of this proposal.

Equality and Diversity

8. The impact of these proposals is assessed as `medium` against the Council's statutory responsibilities. The adoption of an amended policy and guidelines will ensure a fair and consistent application across the Wiltshire Council area.

Risk Assessment

9. 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

10. 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

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

Conclusion

12. It is recommended: -
 - a) That the proposed amended policy on the relevance of convictions for Hackney Carriage drivers, Private Hire drivers and operators is ratified for adoption by the Licensing Committee.

Background Papers

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

Appendices

Appendix 1. Current Statement of Policy for existing Hackney Carriage and Private Hire Drivers licences.

Appendix 2. Proposed Amendments to Current Statement of Policy for existing Hackney Carriage and Private Hire Drivers licences.