

PART A

Report to: Licensing Committee
Date of meeting: 20 November 2017
Report of: Head of Community and Environmental Services
Title: Private Hire Operator Conditions

1.0 SUMMARY

- 1.1 Watford Borough Council is responsible for licensing private hire operators and has a general duty to promote equalities. In turn, providers of private hire vehicle services licensed by the council are under a specific duty to provide reasonable adjustment to enable them to assist passengers with disabilities.
- 1.2 Watford Borough Council has a general duty to promote safeguarding of vulnerable adults and children.
- 1.3 To assist in this process of improving safeguarding and to ensure equality of service from all operators, new private hire operator conditions are proposed.
- 1.4 These proposals are supported by the wider work of the Disability Access Project.

2.0 RISKS

2.1	Nature of Risk	Consequence	Suggested Control Measures	Response <i>(Treat, tolerate, terminate, transfer)</i>	Risk Rating (the combination of severity and likelihood)
	Perceived financial burden on operators	Operators do not licence in Watford	Communicate the financial cost of licensing and the benefits of	Tolerate	2

		the new requirements via website/business advice.		
Operators do not keep records in accordance with legislation (DBS checks)	Council is subject to negative publicity for imposing this condition	Burden is on operators to ensure compliance. Provide advice to operators on compliance and benefits	Tolerate	4
Operators discriminate against potential employees as a result of DBS checks	Council is subject to negative publicity for imposing this condition	Burden is on operators to understand legal requirements concerning employment Provide advice to operators on compliance, how the information can be used and the benefits	Tolerate	4
Increased cost in regulating operators as there is a need to check records of training and checks	Failure to monitor compliance if resources not available	Systems in place to enable targeted and simple compliance checks. Automatic request for information, and records can be scanned and sent electronically. Intelligence used to target any further checks.	Tolerate	4

3.0 RECOMMENDATIONS

- 3.1 That the licensing Committee consider the new conditions and approve them for inclusion in the general Private Hire Operator Conditions.

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Report approved by: Alan Gough, Head of Community and Environmental Services

4.0 BACKGROUND TO PRIVATE HIRE OPERATOR CONDITIONS

- 4.1 Under section 55(3) Local Government (Miscellaneous Provisions) Act 1976 the licensing authority is permitted to apply any conditions to the grant of a licence for operating private hire vehicles 'as they may consider reasonably necessary'. Conditions must be lawful and reasonable and they should not duplicate existing legislation.
- 4.2 Conditions vary across the country. The conditions attached to the grant of a licence in Watford were last updated in 2005 (appendix 1).
- 4.3 The current Guidelines for the grant, suspension and revocation of Hackney Carriage Driver, Private Hire Driver and Operator Licences (appendix 2) provide a definition of 'fit and proper' at section 1.6:

"Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"

- 4.4 It is this question the additional conditions contained in this report seeks to address.

5.0 **ACCESS TO SERVICES FOR DISABLED PEOPLE**

- 5.1 The results of the mystery shopping exercise, disability access project and general national safeguarding concerns all indicate that there are improvements needed in training for operators as well as drivers in order that standards are met by all parts of the trade. Operators are usually company owners. They set the standards for their drivers and lead by example.
- 5.2 Disabled people often report difficulties with obtaining a vehicle - and even where a vehicle is made available, there is often a problem with over-charging in order to secure the vehicle (for example, in the case of a wheelchair user) or a long wait for the vehicle (for example, where a passenger has an assistance dog) (Appendix 3).
- 5.3 Although drivers in Watford undergo disability awareness training, operators do not. As the operator is responsible, via the controllers, for accepting a booking, it is recommended that operators should also understand not only the specific requirements placed upon them in terms of carrying passengers but also the broader implications of the Equality Act 2010 in terms of 'offering services'. Customers should not expect to have to 'argue their case' when calling a company. Operators will be expected to train controllers.

6.0 **SAFEGUARDING VULNERABLE PASSENGERS**

- 6.1 Private hire bookings must go via an operator. Drivers cannot accept booking directly. Private hire operators regularly take bookings for vulnerable passengers. This could be through private work or contract work, for example school or hospital contracts.
- 6.2 In the light of the failings in Rotherham, Barnardo's 'Rotherham Practice Review Report, 2013' concluded that CSE training should be extended to various other partner agencies such as hotels, bars and taxis. The term 'taxis' is often used to describe hackney carriage and private hire drivers, vehicles and operators.

6.3 Private Hire Operators are specifically mentioned in section 4 of Louise Casey's report of February 2015 'Report of Inspection of Rotherham Metropolitan Borough Council' (appendix 4).

6.4 It is now established practice among many authorities to train hackney carriage and private hire drivers in spotting and reporting the signs of Child Sexual Exploitation (CSE). All drivers in Watford have undergone general safeguarding training and most have undergone specific training in recognising and reporting the signs of CSE.

6.5 Before a customer meets a driver (who has been trained) it is the operator or controller who will be in a position to make a judgement about whether that person is in need of help. It is also that operator or controller who must be trusted to act professionally and in the best interests of the vulnerable person.

7.0 **PROPOSED CONDITIONS**

7.1 The proposed new conditions (appendix 5) are:

***1.2** The licensee shall ensure any controller or other member of staff likely to be on duty alone shall have full training in order to access and provide details of these bookings immediately if required to do so by an authorised officer or police constable.*

***(16)** The Licensee will provide proof of their attendance at disability awareness training to include specific training on the Equalities Act 2010 and the relevance and impact of this to service providers.*

***(17)** The Licensee to provide proof of their attendance at a recognised course on preventing Child Sexual Exploitation.*

***(18)** The Licensee will ensure that all staff acting and/or employed as controllers or who have contact in any way on a regular basis with members of the public have provided a basic criminal record check from the Disclosure and Barring Service.*

***(19)** The Licensee will ensure that all staff acting and/or employed as controllers or who have contact in any way on a regular basis with members of the public have attended a recognised course on preventing Child Sexual Exploitation and will retain records on site of this training*

(23) The Licensee will ensure that adequate vehicles are available to carry passengers in wheelchairs for no extra charge over any other vehicle type where to charge more would amount to discrimination.

- 7.2 These proposals were subject to consultation between 11th August 2017 and 22nd September 2017. Operators were contacted directly by email with details of the proposed conditions. Operators were reminded on 21st September that the consultation period was closing on the 22nd.
- 7.3 One response to these proposals was received. This response consisted of questions relating to the practical implication of these conditions rather than a specific objection to any proposed condition. The response raised concerns over finding courses, the provision of data under the Data Protection Act 1998 and questioned the need for DBS checks for staff who acted as controllers as they do not have direct contact with the public.
- 7.4 These concerns were responded to and the reasoning behind the proposed conditions explained. Particularly with reference to section 4.3 of this report, the need for DBS checks for controllers is to ensure that customers can be certain of the trustworthiness of all staff working for a particular company. However, it has been determined that licensees are not permitted to retain these records and so the suggested condition 18 was amended following consultation to remove a requirement for the licensee to retain copies of DBS certificates.
- 7.5 Interested parties were asked to comment on the proposed conditions and also to suggest any other conditions or changes as they thought fit. Proposals given verbally included the addition of a condition requiring operators to have a landline contact number available at all times of operation, for all staff members to undergo training in spotting the signs of radicalisation and for all staff including controllers to undergo disability awareness training. Members may wish to consider these options as additions to the conditions listed in 7.1.
- 7.6 A condition for disability awareness training for controllers could read:

The Licensee will provide proof of attendance by all staff acting and/or employed as controllers at disability awareness training to include specific training on the Equalities Act 2010 and the relevance and impact of this to service providers. Records of this training to be retained at the operating office.

A condition for spotting and reporting the signs of radicalisation could read:

The licensee will provide proof of attendance of all staff acting/or employed as controllers at training intended to raise awareness of spotting and reporting the signs of radicalisation. Records of this training to be retained at the operating office.

- 7.7 Any new conditions will not apply retrospectively and will only apply on the grant of a new or renewed licence. It is recommended that any decision take immediate effect from the date of this committee.

8.0 **IMPLICATIONS**

8.1 Financial

- 8.2 The Head of Finance comments that there are no direct financial implications in the report.

8.3 Legal Issues (Monitoring Officer)

- 8.4 The Head of Democracy and Governance comments that the legal implications are contained within the body of the report.

8.5 Equality/Diversity

- 8.6 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
- advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them
- foster good relations between persons who share relevant protected characteristics and persons who do not share them.

Having had regard to the council's obligations under s149, it is considered that the policy changes proposed are on the whole positive. An Equalities Impact Assessment can be found at appendix 6.

Appendices

Appendix 1 – Current private hire operator conditions

Appendix 2 - Guidelines for the grant, suspension and revocation of Hackney Carriage Driver, Private Hire Driver and Operator Licences

Appendix 3 – Watford Mystery Shopper Test Purchase Report

Appendix 4 – Report of Inspection of Rotherham Metropolitan Borough Council, Louise Casey

Appendix 5 – Proposed private hire operator conditions

Appendix 6 – Equality Impact Assessment

Background Papers

None