

LICENSING COMMITTEE REPORT

Report Title	Taxi & Private Hire Drivers ACRO Checks
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	21 st June 2016
Policy Document:	Taxi/Private Hire Drivers & Operators Licences
Directorate:	Customers and Communities

1. Purpose

That the Committee consider and determine the report for Association of Criminal Record Checks Office (ACRO) to be given permission to carry out checks on Operators, Taxi / Private Hire Drivers and to amend the relevant policy to make this a condition of obtaining either one or both of the said licences.

The aim of the proposed policy is to provide an added safeguarding facet to the assessment by officers or licensing committee on whether an applicant or holder of a private hire operators, private hire/hackney drivers licence are on a balance of probability a "fit and proper" person.

2. Recommendations

That this policy is adopted with immediate effect.

3. Issues and Choices

3.1 Report Background

- 3.1 At present all operators, private hire/taxi drivers obtain an enhanced Disclosure and Barring Certificate (DBS) upon first application and every 3 years thereafter.
- 3.2 The enhanced DBS certificate includes a search of the police national database and gives details of spent or unspent convictions, cautions, reprimands and final warnings and may also include any other information held on records that is considered relevant for disclosure.

- 3.3 All new drivers who have not resided within the UK for at least 5 years are also currently required, in addition to the DBS to obtain a certificate of good conduct from their last country of residence.
- 3.4 The information that is returned from the above documents is used as part of the criteria for deciding if the applicant is a “fit and proper” person to be licensed as a driver and/or operator.
- 3.5 It has been identified that this process may not identify those individuals who may have convictions from outside of the UK and which may be a significant consideration in deciding the “fit and proper” test.
- 3.6 The following are issues that have been identified.
- The certificate of good conduct is obtained by the applicant and presented to the licensing team, in many instances it is difficult to ascertain if the certificate produced is a genuine document.
 - Applicants from foreign countries who have lived in the UK for more than 5 years upon first application will not be the subject of any additional checks.
 - The DBS application does not include a search of foreign convictions.
 - Foreign nationals living and working in the UK may have a ‘clean’ UK DBS because checks have never been made in their home country.
 - British nationals who have lived abroad may not be the subject of any additional checks from abroad.
- 3.7 The ACRO check is a simple form that can be completed by the licensing staff and submitted to the local police for the relevant check to be conducted.
- 3.8 The ACRO check allows the police to request details of recorded convictions in respect of foreign nationals from both EU and Non EU countries. The process will also search the Interpol and UKBA System to check if subjects are wanted or have offences in other countries.
- 3.8 It will not be necessary to carry out an ACRO check on those who have lived in the UK since birth, unless evidence is received that they have lived abroad. The licensing team will consider relevant documents to identify those who will be the subject of a check.
- 3.9 The flow chart detailed at Appendix A will be used by the licensing team as a general guide to assist in identifying those who will be the subject of the ACRO check.
- 3.10 It is proposed to only carry out one check on every driver, unless intelligence exists that the driver has lived permanently abroad since the last check was undertaken.
- 3.11 If this policy is approved it will need to allow licensing officer delegated powers to depart from the policy where it will not be feasible to carry out ACRO checks.

3.2 Issues

- 3.2.1 The turnaround time for the ACRO check may vary and it is not proposed to unduly delay the issue of licences for existing drivers pending the return of these checks. All new drivers will be subject to ACRO safeguarding checks without undue delay and may / may not be issued with a licence until the ACRO check has been returned.
- 3.2.2 It has been identified that there will be some scenarios where drivers have lived and/or been born overseas and the ACRO check will not be feasible, for example but not limited to:
- A driver born in the UK but lived for a number of years abroad
 - A driver born outside of the UK but who has a UK passport and has lived for the majority of their life in the UK.
 - A driver who has lived in multiple foreign countries
- 3.2.3 The licensing team will initially follow the flowchart in Appendix A. However they may depart from the flowchart and request an ACRO check where intelligence indicates that the applicant has for example held multiple passports and/or has lived in another country for a number of years. The circumstances where an ACRO check is appropriate will be decided upon the individual merits of the information held.

3.3 Choices (Options)

- 3.3.1 Agree to adopt the ACRO check and make it a condition of the taxi/private hire drivers / private hire operator's licence application.
- 3.3.2 Take no action

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 Northampton Borough Council Private Hire Licensing Byelaws Conditions.

4.2 Resources and Risk (Financial)

- 4.2.1 There is currently no application cost for the ACRO check and there will be minimal resource implications for the licensing team as this simple form can be completed at the same time as the DBS certificate. The time taken to complete and submit the ACRO check may be included within any future licence fee calculations.
- 4.2.2 Without checking previous foreign convictions it could leave the public open to a significant degree of risk.
- 4.2.3 All drivers are currently interviewed in person for a DBS check and it is planned to carry out the ACRO check at the same time. Any future changes that remove this interview being carried out in person, may affect the ability for these checks to be carried out.

4.3 Legal

4.3.1 Section 51 Local Government (Miscellaneous Provisions) Act 1976 Licensing of drivers of private hire vehicles.

(1) Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

4.3.2 Section 55 Local Government (Miscellaneous Provisions) Act 1976 Licensing of operators of private hire vehicles.

(1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

(2) every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specify in the licence.

(3) a district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

4.4. Equality

4.4.1 This procedure would apply to any driver of a Hackney or Private Hire vehicle in similar circumstances.

4.5. Consultees (Internal and External)

4.5.1 Legal

4.5.2 Licensing Team/Manager

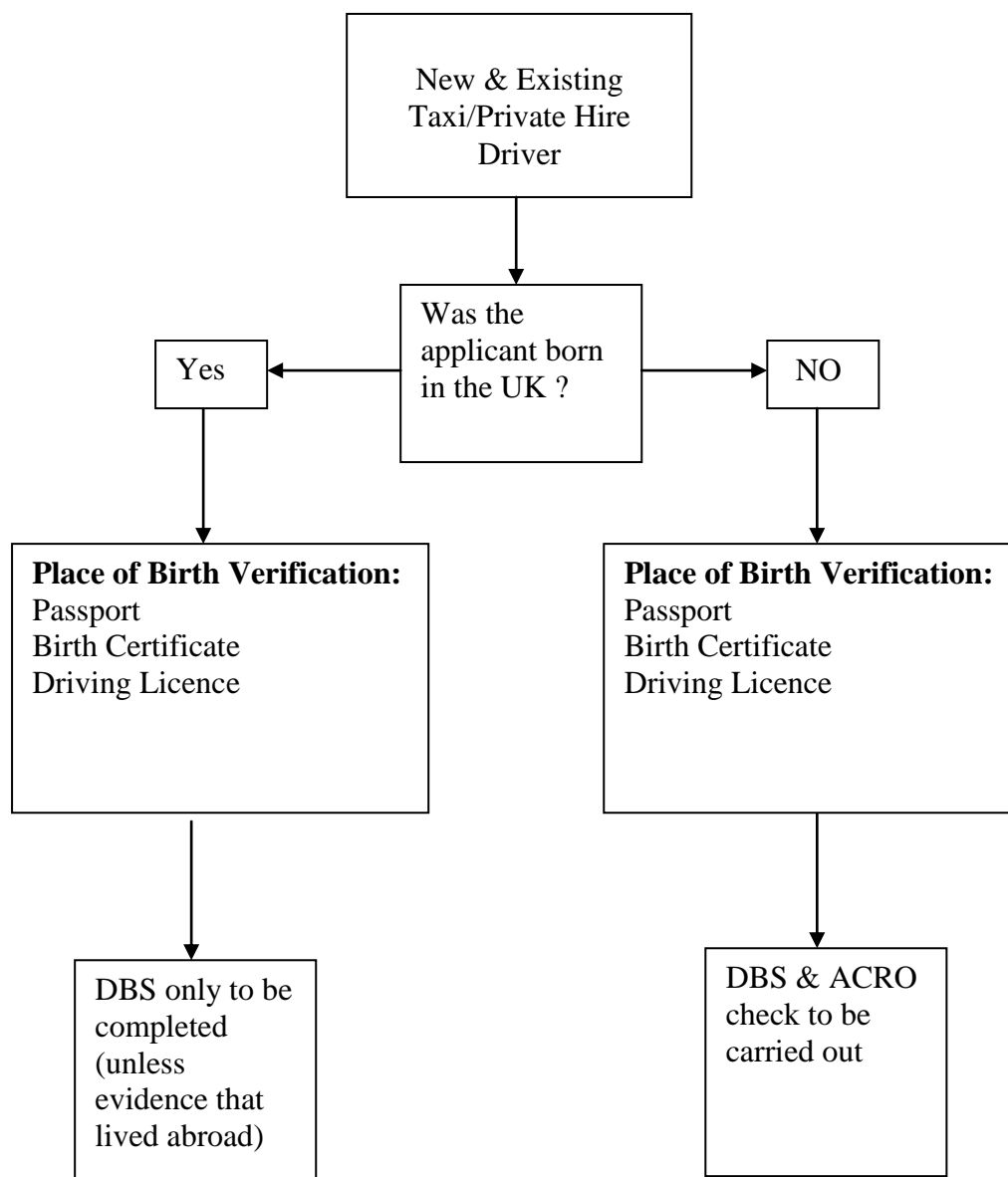
4.6 Legal

4.7. Background Papers

4.6.1. Local Government (Miscellaneous Provisions) Act 1976.

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TAXI & PRIVATE HIRE DRIVER ACRO CHECKS

Licensing Officer delegated powers to depart from the policy where it will not be feasible to carry out ACRO checks.