

Committee: Licensing Committee
Date: 9th June 2010
Title: ISA Registration
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Agenda Item

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Item for
decision

Summary

This report sets out procedures to be adopted by all new and existing Hackney Carriage and Private Hire Drivers when applying for ISA Registration.

Recommendations

Members note the content of this report.

Background Papers

Notes for guidance for all new and existing drivers.

Impact

Communication/Consultation	Consultation has taken place with ULODA, The UTDA and a news item has appeared in the April 2010 edition of Taxi Chat
Community Safety	The aim of the scheme is to prevent people being employed in roles involving children and young persons, vulnerable persons who are barred from such employment.
Equalities	None
Finance	Every driver seeking registration will have to pay the one off fee of £28 plus the £36 for the enhanced CRB check making a total of £64.
Human Rights and Legal Implications	It will be a criminal offence for a barred individual to seek employment in a regulated activity.
Health and Safety	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

1. The Independent Safeguarding Authority was established following the Bichard Enquiry into the circumstances surrounding the murder of the two young females in Soham, Cambridgeshire. It is now enshrined in legislation in accordance with Section 1 Safeguarding Vulnerable Groups Act 2006.
2. The ISA has four statutory duties and they are listed below:-
 - To maintain a list of individuals barred from engaging in regulated activity with children
 - To maintain a list of individuals barred from engaging in regulated activity with vulnerable adults
 - To make well-informed and considered decisions about whether an individual should be included in one or both barred lists; and
 - To reach decisions as to whether to remove an individual from a barred list
3. The term regulated activity is defined as undertaking an activity of a specified nature and this includes roles in teaching, training, care supervision, advice, guidance, instruction, treatment, therapy, or transport that involves contact with children and young persons, and vulnerable adults on a frequent, intensive, or overnight basis. The term "frequent" means once a month or more. The term "intensive" means three or more days in any period of 30 days The term "overnight" means between the hours of 2am and 6am
4. A regulated activity provider must refer details to the ISA if they remove a person from such an activity if they think that the person has engaged in relevant conduct where the harm test has been satisfied or have received a caution or conviction for a relevant offence. In addition a provider must refer to the ISA if that person leaves their employment under circumstances where the regulated activity provider may have referred.
5. The harm test is satisfied if an individuals conduct is likely to affect the following:-
 - May harm a child or vulnerable adult
 - May cause a child or vulnerable adult to be harmed
 - Puts a child or vulnerable adult at risk of harm
 - Attempts to harm a child or vulnerable adult
 - Incites another to harm a child or vulnerable
6. For the purpose of this Act a child is defined as a person under the age of 18years and a vulnerable adult is a person aged 18years and over. Vulnerability is not confined merely to age it does include persons living in residential care accommodation, sheltered accommodation, under supervision of the probation service or detained in lawful custody. The full list of categories is defined in the 2006 Act however the author of this report has given a flavour as to what is encapsulated in the legislation.

7. The process for registering with the ISA will be via a registered body and the Criminal Records Bureau. Application forms have been amended for this process to take place.
8. The fee for registration will be £28 and this is a one off fee. Registration will take place either when a new driver application is received or when a drivers tri-annual CRB check is due making a total of £64
9. Upon registration by an individual then the person will be given a unique reference number which they must quote when applying to renew their CRB check.
10. The government has issued guidance to regulators in order that a smooth introduction can take place with effect from 26th July 2010.
11. All new applicants for a Hackney Carriage or Private Hire Driver's Licence can apply for registration from this date but must apply in any event from 1st November 2010.
12. All existing licensed drivers must register from 1st July 2011 and this can be achieved when their current CRB check expires and is due for renewal.
13. Included in the term regulated activity would be those licensed drivers who are engaged on educational school contracts transporting children to and from such premises or conveying vulnerable adults to and from care homes, medical centres or similar establishments arranged by an approved body.
14. This scheme does not apply to drivers of Hackney Carriage vehicles who are hailed in the street or plying for hire from an approved stand or any licensed vehicle hired independently by an child or vulnerable adult which means that not all licensed drivers are subject to ISA registration.
15. The programme for registration will be rolled out over a 5 year period ending in 24th July 2015.
16. From 1st November 2010 it will be an offence for an employer to permit a new person to engage in a regulated activity who is not registered with the ISA. A person found guilty of this offence triable on indictment is liable to a term of imprisonment not exceeding 5 years, an unlimited fine or both. A person found guilty upon summary conviction is liable to imprisonment not exceeding 6 months or a fine not exceeding £5000 or both. A Magistrates Court may commit the case to the Crown Court for sentencing if they believe their powers are not sufficient.
17. From the 25th July 2015 the offence will apply to all existing members of an employer's workforce.
18. The Independent Safeguarding Authority has no powers of investigation in respect of allegations involving children and young persons or vulnerable adults but merely act as a information gathering organisation working in partnership with the Criminal Records Bureau.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Drivers who fail to register could pose a threat to the safety of children and vulnerable adults.	2 – Most operators are aware of their obligations for registration.	4 – Uttlesford would be regarded as a poor registered body if a licence were to be issued to a person who has been barred by the ISA.	Measures are in place in the Licensing Department to prevent mistakes being made.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.