

Committee: Licensing & Environmental Health

Agenda Item

Date: 16 October 2013

4

Title: DBS CHECKS

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Item for decision

Summary

1. This report is to inform members of changes which have recently been introduced concerning Criminal Records Checks and to seek members' approval to a change of approach with regard to monitoring previous convictions.

Recommendations

2. That the council accepts DBS checks obtained by or on behalf of other authorities provided that the same are dated no more than one month before the application is received and no more than two months before the grant of the licence.
3. That in other cases the council continues to accept DRB checks carried out by or on behalf of other authorities which are not more than 18 months old at the date of the application for a licence provided the same is supported by a statutory declaration to the effect that since the date of such check no matters have occurred which would be disclosed on a fresh check.
4. That the practice of renewing licences for existing licence holders when a DBS check is due but not available provided that the applicant makes a statutory declaration to the effect that the DBS check requisitioned will not reveal any matters not disclosed by the previous check should be continued.

Financial Implications

5. None.

Background Papers

6. None.

Impact

- 7.

Communication/Consultation	None.
Community Safety	None.

Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	None.

Situation

8. The Criminal Records Bureau (CRB) has been replaced by the Disclosure & Barring Service (DBS). The DBS operates in a slightly different way to the CRB.
9. Under the old system the council would request a search of criminal records and intelligence in respect of applicants for drivers' licences. The result of such check was sent to the council with a copy being sent to the driver.
10. DBS do not provide copies of checks to the council. The DBS report is sent to the driver and it is for the driver to produce this to the authority.
11. In some circumstances, drivers are required to have a DBS check for purposes other than the application to the council for a driver's licence. For example, drivers working on an Essex County Council's schools' contract will require a DBS check for that purpose as well as for the council.
12. It is important to ensure that a DBS check is current when a licence is granted. However, as there is no longer any facility for the DBS result to be sent directly to the council there would appear to be no reason why a current DBS check carried out on behalf of another authority should not be acceptable. Provided that the checks are enhanced DBS disclosures and are dated not more than one month before the application for the licence is made and it is not more than 2 months old the date the licence is issued it is considered unlikely that any matters which may have occurred would have been noted on the DBS check in any event. This would have the advantage for drivers of speeding up the application process and reducing expense.
13. When a driver makes an application for a licence who has not been previously licensed by this authority, the policy has been that a CRB check would be acceptable providing that it was not more than 18 months old and that the applicant made a statutory declaration to the effect that a fresh check would not reveal any additional matters. Making a false declaration is an offence of perjury and I have delegated power to revoke a licence should a false declaration be made. The form of statutory declaration used makes this quite clear to the drivers. Subject to the proposed amendment above there is no

reason why this practice should not continue. Since the policy was introduced no licences have been revoked as a result of a false declaration.

14. Similarly, were there for any reason a fresh check is not available upon a driver already licensed by the council, the policy has been to renew the licence upon production of a statutory declaration that no new matters will be revealed by a new DBS check. This enables drivers to continue to drive notwithstanding that a DBS check is not available and again since this policy was introduced no licences have been revoked because of a false declaration.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
Unsuitable persons are licensed to drive	1, it is highly unlikely that any notifiable matters would escape detection.	3, licensing unsuitable drivers may put the public at risk.	If the proposals are adopted none are necessary.

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.