

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**CABINET**

**24<sup>TH</sup> SEPTEMBER 2019**

**NEW POLICY GUIDANCE ON RELEVANCE OF CONVICTIONS IN DETERMINING THE SUITABILITY OF APPLICANTS AND LICENSEES IN THE HACKNEY AND PRIVATE HIRE TRADES**

**REPORT OF THE DIRECTOR OF PUBLIC HEALTH, PROTECTION AND COMMUNITY SERVICES IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDER, CLLR LEWIS**

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**1. PURPOSE OF THE REPORT**

- 1.1 The purpose of the report is to seek approval of the implementation of the new policy of guidance on relevance of convictions for the determination and suitability of applicants and licence holders in the Hackney Carriage and Private Hire trade.

**2. RECOMMENDATIONS**

It is recommended that the Cabinet:-

- 2.1 Approve the new policy of guidance on relevance of convictions for the determination and suitability of applicants and licence holders in the Hackney Carriage and Private Hire trade, further to the recommendation made by the Licensing Committee held on the 29<sup>th</sup> July 2019. (Appendix 1).
- 2.2 Approve the implementation of the new policy of guidance with effect for all new applications received and existing licences in place on and after 1<sup>st</sup> November 2019.

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The Institute of Licensing (IOL) has published Guidance (April 2018) in response to concerns about the disparity in the criteria used by local authorities across the country to determine the suitability of applicants for hackney carriage and private hire licences. The IOL believes that widespread adoption of this Guidance would effectively

achieve a level of consistency when considering such applications. The Guidance has been produced in partnership with and endorsed by the LGA (and on behalf of the WLGA).

- 3.2 RCT Licensing Authority is a member of the 'All Wales Expert Licensing Panel', who have recommended adoption of the policy by all Wales local authorities.

#### **4. BACKGROUND**

- 4.1 RCTCBC already has a comprehensive Policy of Guidance covering the fitness of applicants and current licence holders (*Hackney Carriage (Taxi) & Private Hire Vehicle (PHV) Licensing Policy of Guidance on Relevance of Convictions*). It is therefore proposed that, where the IOL Guidance suggests a higher standard than the current guidance, the Council will adopt those higher standards. This will ensure that the Authority maintains its current standards whilst adopting the higher threshold changes suggested by the IOL.

- 4.2 This proposed change would not affect the current pre-requirement regarding the need for applicants to undergo the following checks and assessments:

- Enhanced Disclosure and Barring Service (criminal record) Check;
- Medical Standards of Fitness to Drive;
- Local Knowledge Test & Numeracy Assessment;
- BTEC Level 2 for Professional Taxi and Private Hire Drivers

- 4.3 The main changes to the proposed new Policy Guidance relate to:-

- a. Adherence to the IOL published guidance (April 2018) on 'determining the suitability of applicants and licensees in the hackney and private hire trades'.
- b. The removal of specific offences, to include a more generic approach to offence types as advocated by the IOL guidance.
- c. More robust & stringent relevant time periods for consideration following conviction.
- d. The 'bright line' approach in which the licensing authority state 'must' or 'never', though reminding that this is only a policy and not a statutory decision, and can therefore be departed from.
- e. Inclusion of the National Refusal and Revocation Register (NR3), the adoption of which has been advocated by the 'All Wales Licensing Expert Panel', as well as the IOL.

## **5 EQUALITY AND DIVERSITY IMPLICATIONS**

- 5.1 An Equality Impact Assessment (EqIA) screening form has been prepared for the purpose of this report. It has been found that a full EqIA is not required. The report does not impact on any one group more than others, except for in a positive nature towards the safeguarding of members of the travelling public.

## **6. CONSULTATION**

- 6.1 The IOL Guidance was prepared following widespread national consultation with trade organisations and local government representatives. It was published in consultation with the endorsement of the Local Government Association, Lawyers in Local Government, and the National Association of Licensing and Enforcement Officers.
- 6.2 The views of the Licensing Committee were sought on the 29<sup>th</sup> July 2019 and the Committee recommended the adoption of the new Policy of Guidance to Cabinet for approval. The Committee was satisfied that the new Guidance would enhance the current policy in place within RCT and improve protection for the travelling public. During the Committee, Members discussed the Scheme of Delegation that would underpin implementation of the Policy Guidance. It was agreed that the process for determining whether a licence should be revoked would be reviewed and strengthened to ensure the decision of the Chief Officer (in respect of matters set out in the current scheme of delegation) would now include appropriate consultation with the Chair or Vice Chair of Committee.

## **7. FINANCIAL IMPLICATION(S)**

- 7.1 There are no financial implications.

## **8. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED**

- 8.1 Throughout this process the licensing authority has had due consideration of the Local Government (Miscellaneous Provisions) Act 1976, the Town Police clauses Act 1847, as well as the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002.

## **9. LINKS TO THE CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT.**

- 9.1 Due regard has been made to the five ways of working, as contained within the Wellbeing of Future Generations (Wales) Act 2015, when preparing, reviewing, consulting on and publishing this strategy. The authority has **collaborated** with other local authorities and partners when considering this policy for a consistent approach

nationally and locally. The Institute of Licensing (IoL) development of the guidance has **involved** in depth consultation with the trade and stakeholders to inform the policy content. The overriding aim of any licensing authority when carrying out its functions within the taxi trade must be the protection of the public and others who use the facilities and the **prevention** of harm.

## **10. CONCLUSION**

- 10.1 Adoption of the new Policy of Guidance on the relevance of convictions in determination and suitability of applicants for licences in the hackney carriage and private hire vehicle trade will enhance the safeguarding of the travelling public in RCT. Licensing Committee has endorsed the new Policy and if approved would take effect from the 1<sup>st</sup> November 2019 following prior notification to the licenced trade in RCT.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

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**Background Papers**

Licensing Committee - 29<sup>th</sup> July 2019

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