**REGULATORY SERVICES COMMITTEE - 14TH JUNE 2017**

**PART I DELEGATED**

**5. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER AND PRIVATE HIRE OPERATOR SUITABILITY POLICY**

(DCES)

**1.** **Summary**

1.1 Three Rivers District Council are responsible for licensing Private Hire Drivers, vehicles and operators under the Local Government (Miscellaneous Provisions) Act 1976. The Council is also responsible for licensing Hackney Carriages and their drivers under the Town Police Clauses Act 1847. The attached policy document sets out a proposed amended Council Policy to be considered in determining these types of application.

1.2 In summary, the Policy adopts a tiered approach. For an applicant with a criminal record, offending history, penalty points or similar relevant matters, the Policy requires a passage of time between that matter and the date of application.

1.3 This Policy has been reviewed against the background of learning from the investigation into child sexual abuse arising in Rotherham and Oxford. In these areas, Licensing Committees came under intense scrutiny and attracted much criticism.

1.4 The Rotherham report states “Inspectors have found that Rotherham has not taken, and does not take, sufficient steps to ensure only fit and proper persons are permitted to hold a taxi licence. As a result, it cannot provide assurances that the public, including vulnerable people, are safe. The inspection uncovered serious weaknesses and concerns.” (p103, Report of Inspection into Rotherham Council)

**2.** **Details**

2.1 S.51 of the Local Government (Miscellaneous Provisions) Act 1976 states *“that 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”*

2.2 S.55 of the Local Government (Miscellaneous Provisions) Act 1976 states “*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.”*

S.59 the Local Government (Miscellaneous Provisions) Act 1976 states “*Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—*

*(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*.**”**

2.3 The existing policy document, titled Statement of Policy about relevant convictions or other information in determining refusals for hackney carriage or private hire drivers’ licences, was adopted in 2009. The previous policy has been in place for a number of years and this policy reviews and replaces this as part of the Regulatory Service Committee’s work programme. This policy has been based upon the well-publicised Rotherham Council document following their review and inspection of licensing.

2.4 The amended policy sets out clear information on how Three Rivers District Council view convictions and behaviour when determining whether an applicant is ‘Fit and Proper’.

2.5 The most serious offences will normally bar the person from ever becoming a licensed driver (murder, manslaughter, terrorism, offences involving children, young persons or vulnerable adults, most sex offences, traffic offences involving the loss of life or matters of similar gravity).

2.6 The next level of seriousness requires a passage of 10 years before applications will normally be granted (ABH Affray, Assault with intent to resist arrest Assault on Police, Arson, Burglary with intent, any ‘hate’ crime, Grievous bodily harm, Robbery and Wounding with intent to cause GBH, or matters of similar gravity).

2.7 The next level of seriousness requires a passage of 5 years before applications will normally be granted (Benefit Fraud, Burglary, Criminal Damage, Common Assault, Forgery, Fraud, Handling Stolen Goods Harassment, Major Traffic Offences, or matters of similar gravity).

2.8 The amended document provides a comprehensive and clear policy for use by applicants/operators in their application for a licence and for use by licensing staff in the determination of any application. The consultation period has been considered appropriate as it is felt that it is not too long nor too short.

**3.** **Options/Reasons for Recommendation**

3.1 Following discussion at Committee and any suggested amendments there are 4 options:

Option 1 – Authorise Officers to consult on the draft Hackney Carriage and Private Hire Driver and Private Hire Operator Suitability Policy and agree with the timeframe for the consultation period of 8 weeks.

Option 2 – Authorise Officers to consult on the draft Hackney Carriage and Private Hire Driver and Private Hire Operator Suitability Policy and agree an alternative timeframe for the consultation period.

Option 3 – Authorise Officers to consult on an alternative draft Hackney Carriage and Private Hire Driver and Private Hire Operator Suitability Policy and agree a timeframe for the consultation period;.

Option 4 – Determine that a review of the current policy in this format is not required.

**4.** **Policy/Budget Reference and Implications**

4.1 The recommendations in this report are within the Council’s agreed budgets but require a modification to Committee policy.

**5.** **Financial Implications**

5.1None Specific.

5.2 This policy will be subject to a stakeholder and public consultation, with appropriate amendment prior to commencement. If the recommendation is approved there will be a small cost for consultation of the policy.

5.3 Refusals are open to appeal.  There may be financial implications to defend these matters. Any future variances will be reported through budget monitoring.

**6.** **Legal Implications**

6.1 This policy explains how the Council will view convictions and behaviour in assessing whether an applicant is ‘fit and proper’ and therefore determining S.51 and / or S.55 of the Local Government (Miscellaneous Provisions) Act 1976.

6.2 This policy has been based upon the well-publicised Rotherham Council document following their review and inspection of licensing.

6.3 Refusals are open to appeal. There may be legal implications to defend these matters.

**7.** **Equal Opportunities Implications**

7.1 ***Relevance Test***

|  |  |
| --- | --- |
| Has a relevance test been completed for Equality Impact?  ***There is no change to the Equality Impact since the original policy*** | No |
| Did the relevance test conclude a full impact assessment was required? | No |

7.2 ***Impact Assessment***

There is no detrimental impact likely towards any protected group from amending the statement of policy about relevant convictions or other information in determining refusals for hackney carriage or private hire drivers and / or private hire operator licences. Any consultation with the public will seek to collect relevant demographic data in order to assess the different views of relevant protected groups if any.

**8.** **Staffing Implications**

8.1 There are no staffing implications as this would replace the current policy.

**9.** **Environmental Implications, Public Health implications**

9.1 None specific.

**10.** **Community Safety Implications**

10.1 This policy seeks to improve community safety as it sets out how the council will determine applications for Private Hire and Hackney Carriage applicants.

10.2 The policy will help to ensure we protect the health and wellbeing of the most vulnerable people in our community.

**11. Customer Services Centre Implications**

11.1 If approved for consultation this policy may increase the number of calls from applicants and residents during the consultation process.

**12.** **Communications and** **Website Implications**

12.1 If the recommendation is approved, this policy will need to be consulted upon. It is recommended that this consultation is advertised on the Three Rivers District Council Website. There are no other Communications and Website Implications.

**13.** **Risk Management and Health & Safety Implications**

13.1 The Council has agreed its risk management strategy which can be found on the website at http://www.threerivers.gov.uk. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

13.2 The following table gives the risks if the recommendation(s) are agreed, together with a scored assessment of their impact and likelihood:

|  |  |  |  |
| --- | --- | --- | --- |
| Description of Risk | | Impact | Likelihood |
| 1 | Risk of Appeal to Magistrates Court | I | E |

13.3 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

|  |  |  |  |
| --- | --- | --- | --- |
| Description of Risk | | Impact | Likelihood |
| 1 | Risk of being compared to Rotherham Council | IV | F |
| 2 | A weak policy would not match the council’s duty of care to the public | III | E |

13.4 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Likelihood** | A |  |  |  |  |  | Impact | Likelihood |
| B |  |  |  |  |  | V = Catastrophic | A = >98% |
| C |  |  |  |  |  | IV = Critical | B = 75% - 97% |
| D |  |  |  |  |  | III = Significant | C = 50% - 74% |
| E |  |  | 1 |  |  | II = Marginal | D = 25% - 49% |
| F |  |  |  | 1 |  | I = Negligible | E = 3% - 24% |
|  | I | II | III | IV | V |  | F = <2% |
| **Impact** | | | | | |  |  |

13.5 In the officers’ opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

**14.** **Recommendation**

14.1 That Members of the Committee agree Option 1 – Authorise officers to consult on the Hackney Carriage and Private Hire Driver and Private Hire Operator Suitability Policy and agree with the timeframe for the consultation period of 8 weeks.

14.2 That following consultation regard is had to any comments received and the decision to amend the policy is delegated to the DCES in consultation with the Chairman of the Regulatory Services Committee and Group Spokespersons.

Report prepared by: ***Brad Wheeler, Licensing Officer***

**Data Quality**

**Data sources:**

None

**Background Papers**

None

**APPENDICES / ATTACHMENTS**

**Appendix A:** Draft Hackney Carriage and Private Hire Driver and Private Hire Operator Suitability Policy.

**Appendix B:** Current statement of policy about relevant convictions or other information in determining refusals for hackney carriage or private hire drivers’ licences.