



## Cabinet 11 February 2014

### Recommendation of the Licensing and Regulatory Committee: 21 January 2014: Guidance Policy on Criminal Convictions (Feb14/27)

#### 1. Summary and reasons for recommendation

1.1 On 21 January 2014 the Licensing and Regulatory Committee considered the following substantive item:

- (1) Review of the Cumulative Impact Policy; and
- (2) Guidance Policy on Criminal Convictions.

#### 2. Recommendation

##### Guidance Policy on Criminal Convictions (Feb14/27)

2.1 It is **RECOMMENDED** that subject to the approval of full Council, the Joint Taxi and Private Hire Vehicle Licensing Criminal Convictions Policy, as contained in Appendix 1 to Report E238, be adopted, subject to the amendment of paragraph 18.1 by the substitution of 'require' for 'expect' in the second line.

#### Contact details

Name

Title

Telephone

E-mail

#### Portfolio holder

Councillor Terry Clements

Portfolio Holder for Planning and  
Regulation

01284 827161

[terry.clements@stedsbc.gov.uk](mailto:terry.clements@stedsbc.gov.uk)

#### Lead officer

Tom Wright

Business Regulation and  
Licensing Manager

01638 719223

[tom.wright@westsuffolk.gov.uk](mailto:tom.wright@westsuffolk.gov.uk)

#### Contact details

Name

Title

Telephone

E-mail

#### Chairman of the Committee

Councillor Frank Warby

01284 704138

[frank.warby@stedsbc.gov.uk](mailto:frank.warby@stedsbc.gov.uk)

### **3. Corporate priorities**

3.1 The recommendation meets the following, as contained within the Corporate Plan:

- (a) Priority 1: *'Working together for strong, healthy and diverse communities'*; and
- (b) Priority 3: *'Working together for an efficient Council'*.

### **4. Key issues**

4.1 The Council's statutory obligation under the Local Government (Miscellaneous Provisions) Act 1976 to ensure that a Hackney Carriage and/or Private Hire Driver or Operator Licence is only granted to or held by someone who is considered to be a 'fit and proper' person. Report E238 acknowledges that there is a balance to be struck, as the Council must provide reasonable protection for the travelling public without establishing unwarranted barriers to those wishing to take up employment in the Hackney Carriage and Private Hire trade.

4.2 Consideration of criminal convictions is the biggest area of concern for officers. It is therefore vital that clear and up to date guidance exists to encourage consistency and provide information to applicants and existing licence holders on the approach that the Council is likely to take in respect of any convictions or cautions they may have.

4.3 The Department for Transport Best Practice Guidance on Taxi and Private Hire Vehicle Licensing published in March 2010 recognises that:

*'...In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence...'*

4.4 Local Government Regulation (LGR), the coordinating body for Local Authority Regulatory Services (part of the Local Government Association), in consultation with local councils, Department for Transport (DfT), Institute of Licensing (IoL), National Association of Licensing Enforcement Officers (NALEO) and Transport for London (TfL) have produced a guidance policy regarding criminal convictions. This has been localised and a proposed draft is attached at Appendix 1 to Report E238.

4.5 Different types of offences have been broken down and listed, and the relevant period that a person should be free from conviction of a particular crime specified. Officers consider that this document provides a comprehensive and detailed set of guidance criteria to assist both in determining applications and taking further enforcement action during the life of a licence.

4.6 The proposed policy is guidance only and Officers/Members may wish to depart from any suggested conditions based on the specific details of each applicant.

- 4.7 Forest Heath District Council and St Edmundsbury Borough Council remain two separate and distinct licensing authorities, however for the purposes of efficiency and consistency the proposed policy guidance on convictions is intended to be a joint policy to coincide with a common approach and framework to handling applications and other licensing matters.
- 4.8 Forest Heath District Council's Licensing Committee has recommended approval of the policy subject to a minor textual amendment, the substitution of 'require' for 'expect' in the second line of paragraph 18.1. The regulations cited in paragraph 4.4 above also require updating, which can be made under officer delegated authority.

## **5. Other options considered**

- 5.1 See Report E238.

## **6. Community impact**

- 6.1 See Report E238.

## **7. Consultation**

- 7.1 See Report E238.

## **8. Financial and resource implications** (*including asset management implications*)

- 8.1 See Report E238.

## **9. Risk/opportunity assessment** (*potential hazards or opportunities affecting corporate, service or project objectives*)

- 9.1 See Report E238.

## **10. Legal and policy implications**

- 10.1 See Report E238.

## **11. Wards affected**

- 11.1 All Wards.

## **12. Background papers**

- 12.1 See Report E238.

## **13. Documents attached**

- 13.1 None.