

Report Title:	DBS Checks on RBWM Licenced Drivers
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Werner, Cabinet Member for Public Protection
Meeting and Date:	Licensing Panel 16 October 2023
Responsible Officer(s):	Andrew Durrant, Executive Director of Place Services & Amanda Gregory, Assistant Director of Housing, Environmental Health & Trading Standards
Wards affected:	All

REPORT SUMMARY

All new RBWM licenced hackney carriage and private hire drivers are required to provide an enhanced DBS before they can be considered for a licence.

Checks on existing drivers' DBSs are automatically carried out every three years although other checks are carried out as and when necessary.

Based on government requirements, this report seeks changes to this process so that existing drivers' DBSs are checked every six months.

This will tie in with a move away from a paper based DBS application process to an on line process which RBWM is currently undergoing.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Licensing Panel notes the report and:

- i) **Agrees in principle that the current RBWM Hackney Carriage Driver and Vehicle Policy & Conditions and the RBWM Private Hire Driver and Vehicle Policy & Conditions be amended to require that all RBWM licenced hackney carriage and private hire drivers enable the Licensing team to check their DBS for new information every six months,**
- ii) **Agrees that this should be consulted on with licenced drivers, operators and all interested parties to determine how this is best achieved, and**
- iii) **Agrees that final recommendations to introduce the six monthly DBS checks are brought to the next Licensing Panel on 13 February 2024 for final implementation.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option 1	Comments
<p>The RBWM Hackney Carriage Driver and Vehicle Policy & Conditions and the RBWM Private Hire Driver and Vehicle Policy & Conditions be amended to require that all RBWM licenced hackney carriage and private hire drivers enable the Licensing team to check their DBS for new information every six months, by either;</p> <ul style="list-style-type: none"> i) producing a new DBS certificate every six months, or ii) signing up to a DBS update system which allows access by RBWM Licensing officers <p>This is the recommended option</p>	<p>This would ensure compliance with a statutory standard which RBWM has an obligation to comply with.</p>
<p>Do Nothing</p>	<p>There is a risk that if six monthly DBS checks are not carried out;</p> <ul style="list-style-type: none"> i) a RBWM licenced driver could commit or be convicted of a serious offence which may not be made known to RBWM Licensing for a longer period of time which could result in the driver continuing as a licenced driver, leading to reputational damage and possible legal action, as well as reducing levels of public safety, and ii) RBWM would not be complying with the requirements of a government standard, which could result in reputational damage

- 2.1 In 2018 a report on hackney carriage (taxi) and private hire vehicle (PHV) licensing, commissioned by the Department of Transport, was published. It was called "Taxi and Private Hire Vehicle Licensing - Steps towards a safer and more robust system".
- 2.2 One of the recommendations in this report was that the government should legislate for national minimum standards for taxi and PHV driver and operator licensing. The aim was to ensure that no licensing authority could be considered as easier than any other to obtain a taxi or PHV drivers' or operators' licence, and so ensure higher standards of public safety.
- 2.3 The Policing and Crime Act 2017 enables the issuing of statutory guidance to protect children and vulnerable adults, and by extension all passengers, when using taxi and PHV services. Under this legislation, the Department of Transport issued the Statutory Taxi & Private Hire Vehicle Standards in July 2020.

- 2.4 The Standard states (at paragraph 1.3);
“There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to**” (*DoT report emphasis*).
- 2.5 The Licensing Panel of 13 October 2020 agreed to adopt the majority of the Standard’s provisions and the relevant RBWM policies were amended accordingly.
- 2.6 The Standard stated that officers should review existing licences to ensure that drivers met the requirements of the new Standard, saying (paragraph 3,14);
“If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence”.
- 2.7 That review has now been completed. It now remains for RBWM to adopt the requirement set out in paragraph 6.2 of the Standard;
“All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.”
- 2.8 This puts the onus on the drivers to enable the licensing authority to check DBSs for new information every six months, and the onus on the licensing authority to carry out those checks.
- 2.9 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 2.10 A six monthly DBS check on licenced drivers is a more stringent level of scrutiny than has existed up to now. However this is in line with the Standard’s overall objective of raising standards of public safety by ensuring that any changes in a DBS will come to the attention of licensing authorities more quickly than is the case at present.
- 2.11 As has been stated, the Standard puts the onus on the drivers to allow access to a new DBS every six months. If this was done using the current process the drivers would have to apply for a paper DBS certificate every six months, costing £44 each time, or £88 per year.
- 2.12 However, RBWM is currently moving away from a paper based DBS application process to an on-line process. RBWM Licensing propose using a

third party company to do this. This would mean the driver dealing directly with that third party company to obtain their DBS, the cost of which would be a one off payment of £59.

- 2.13 If drivers then subscribe to the DBS's Update Service, costing £13 per year, this would both allow them to keep their DBS certificates up to date and allow RBWM Licensing to check a DBS certificate at any time.
- 2.14 This will mean that in the first year drivers would pay more than at present (£72 as against £44 currently), but in subsequent years would only have to pay £13 per year, so this is a real saving for the drivers over time.
- 2.15 The process by which RBWM Licensing then conducts the six monthly check on each driver's DBS will then need to be established. There are various ways of doing this as set out Table 2.

Table 2 – Options for Six Monthly DBS Checks

Action	Person Required to Complete the Action	Cost/Other Implications
1. RBWM Licensing uses the DBS's Multiple Status Check Facility to conduct six monthly checks	RBWM Licensing	<p>This assumes that all drivers have subscribed to the DBS Update Service, that being the case there is no action required of the drivers</p> <p>This will be a significant administrative burden for RBWM Licensing, particularly at the start, as there are approximately 1000 licenced drivers whose details would need to be inputted</p> <p>Further research can be conducted to establish exactly what this would entail and the burden imposed</p>
<p>2. Use is made of the "DBS Update Service Status Checks" facility provided by the third party company referred to in paragraph 2.12</p> <p>The cost of this is £6 + VAT per driver, per year, which would have</p>	Individual drivers OR RBWM Licencing	This would provide checks on every RBWM drivers' DBS as frequently as every two weeks. It would be the most effective and efficient way of complying with the Standard

<p>to be paid by either the individual drivers or by RBWM Licensing</p>		<p>If this were to be paid by the drivers, £6 + VAT per year, is not a large sum and would be more than offset by the reduced DBS costs set out in paragraph 2.13.</p> <p>If this were to be paid by RBWM Licensing it would be up to £6000 per year, which would be outside current budget provision</p>
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- 2.16 These options can be researched further and consulted on before a final decision is made.
- 2.17 Members are now asked to agree in principle that the current RBWM Hackney Carriage Driver and Vehicle Policy & Conditions and the RBWM Private Hire Driver and Vehicle Policy & Conditions be amended, as recommended in Table 1, with the additional wording set out in Appendix B.
- 2.18 Members are further asked to agree that these proposed changes are consulted on with licenced drivers, operators and all interested parties before the exact process is decided and can be formally adopted.
- 2.19 Final recommendations to introduce the six monthly DBS checks will be brought to the next Licensing Panel on 13 February 2024 for decision and implementation.

3. KEY IMPLICATIONS

- 3.1 In agreeing in principle to six monthly checks of RBWM licenced drivers, the Licensing Panel will ensure that RBWM is complying with the requirements of a statutory government standard aimed at providing consistency across the country in the approach taken to licensing hackney carriage and private hire drivers.
- 3.2 This in turn will help to provide higher standards of public safety by ensuring that criminal activity committed by licenced drivers is spotted as soon as possible. This will mean that appropriate action can be taken against such drivers, and the reputation of the vast majority of law abiding licence holders is protected.

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 None at this time

5. LEGAL IMPLICATIONS

- 5.1 Licensing authorities must ensure that all licenced drivers are “fit and proper” to hold either a private hire driver licence or a hackney carriage driver licence, by virtue of sections 51 and 59 respectively of the Local Government (Miscellaneous Provisions) Act 1976.
- 5.2 The six monthly DBS checks proposed in this Report are an element of the fit and proper test and were set out in a government standard issued under the Policing and Crime Act 2017.
- 5.3 A licensing authority may attach to the grant of a driver’s licence such conditions as they may consider reasonably necessary. This would include a requirement to enable the Licensing team to check a driver’s DBS for new information every six months (by virtue of sections 51 and 52 of the Local Government (Miscellaneous Provisions) Act 1976).

6. RISK MANAGEMENT

- 6.1 The risks identified are set out in Table 3

Table 3: Impact of risk and mitigation

Threat or risk	Impact with no mitigations in place or if all mitigations fail	Likelihood of risk occurring with no mitigations in place.	Mitigations currently in place	Mitigations proposed	Impact of risk once all mitigations in place and working	Likelihood of risk occurring with all mitigations in place.
There is a risk that if six monthly DBS checks are not carried out; i) a RBWM licenced driver could commit or be convicted of a serious offence which may not be made known to RBWM Licensing for a longer period of time, resulting in the driver continuing as a licenced driver, reputational damage, possible legal action and a reduction in levels of public safety, and and	i) Extreme	i) Low	i) DBS checks are carried out every three years More frequent checks are carried out when alleged offences are reported by the police, or when felt necessary by officers	i) More frequent DBS checks could be made but they would be random, burdensome, and would defeat the object of the proposals in this Report	i) Major	i) Medium

ii) RBWM would not be complying with the requirements of a government standard	ii) Moderate	ii) Low	ii) There would be no mitigation in place	ii) None	ii) Low	ii) Low
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7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equality Impact Assessment is available as Appendix A.
- 7.2 Climate change/sustainability. This report has no climate change / sustainability implications.
- 7.3 Data Protection/GDPR. This report has no data protection / GDPR implications as there will be no changes to existing procedures in this respect.

8. CONSULTATION

- 8.1 Recommendation (ii) of this report is that the proposals herein are consulted on before they are formally adopted.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 The full implementation stages are set out in table 4

Table 4: Implementation timetable

Date	Details
13/02/2024	This is the date of the next Licensing Panel at which the results of the consultation can be presented and a final decision made on the Recommendation (i) of this Report.

10. APPENDICES

- 10.1 This report is supported by 2 appendices:
- Appendix A – Equality Impact Assessment
 - Appendix B – Proposed Changes to RBWM Policies

11. BACKGROUND DOCUMENTS

- 11.1 This report is supported by 3 background documents:

- Statutory Taxi & Private Hire Vehicle Standards can be found at <https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-standards>
- Current RBWM hackney carriage driver and vehicle policy can be found at https://www.rbwm.gov.uk/sites/default/files/2023-07/licensing_hackney_driver_vehicle_policy_conditions.pdf
- Current RBWM private hire driver and vehicle policy can be found at https://www.rbwm.gov.uk/sites/default/files/2023-07/licensing_private_hire_driver_vehicle_conditions.pdf

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory:</i>		<i>Statutory Officer (or deputy)</i>	
Elizabeth Griffiths	Executive Director of Resources & S151 Officer	21/09/23	
Elaine Browne	Deputy Director of Law & Governance & Monitoring Officer	21/09/23	22/09/23
<i>Deputies:</i>			
Andrew Vallance	Deputy Director of Finance & Deputy S151 Officer		
Jane Cryer	Principal Lawyer & Deputy Monitoring Officer		
<i>Mandatory:</i>		<i>Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>	
Lyn Hitchinson	Procurement Manager	21/09/23	04/10/23
<i>Mandatory:</i>		<i>Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>	
Samantha Wootton	Data Protection Officer	21/09/23	
<i>Mandatory:</i>		<i>Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>	
Ellen McManus-Fry	Equalities & Engagement Officer	21/09/23	21/09/23
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Andrew Durrant	Executive Director of Place	21/09/23	
<i>Assistant Directors (where relevant)</i>			
Amanda Gregory	Assistant Director of Housing, EH and TS (<i>not in post at time of writing</i>)		

<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cllr Werner, Cabinet Member for Public Protection	Yes 21/09/23
	Cllr Brar, Chair of the Licensing Panel	Yes 21/09/23

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Licensing Panel decision	No	No

Report Author: Greg Nelson, Trading Standards & Licensing Manager, 07970 446 526

Appendix A

Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

www.rbwm.gov.uk



1. Background Information

Title of policy/strategy/plan:	DBS Checks on RBWM Licenced Drivers
Service area:	Housing, Environmental Health & Trading Standards
Directorate:	Place

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

The proposal is to introduce six monthly DBS checks for all RBWM licenced hackney carriage and private hire, drivers. This will be a more stringent than the current three yearly checks

It will be delivered by RBWM Licensing

This is a new proposal

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you have considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

The proposal will have a direct effect on RBWM licenced hackney carriage and private hire drivers

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

Who will be affected by this proposal? For example, users of a particular service, residents of a geographical area, staff
The proposal will have a direct effect on RBWM licenced hackney carriage and private hire drivers as they will need to change the means whereby they provide DBS information to RBWM More widely, all users of RBWM licenced hackney carriages and private hire vehicles will benefit from more stringent DBS checks on drivers, which should provide higher levels of public safety
Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) disproportionately represented? For example, compared to the general population do a higher proportion have disabilities?
The protected characteristic race will be disproportionately represented by this proposal as a very high percentage of RBWM licenced hackney carriage and private hire drivers are from ethnic minorities
What engagement/consultation has been undertaken or planned? <ul style="list-style-type: none">• How has/will equality considerations be taken into account?• Where known, what were the outcomes of this engagement?
One of the recommendations of this proposal is a consultation with all affected parties, specifically including RBWM licenced hackney carriage and private hire drivers
What sources of data and evidence have been used in this assessment? Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.
The main source of information is the records held by RBWM Licensing which shows the high number of drivers affected being from ethnic minorities

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age		<p>All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks</p> <p>This will be particularly beneficial for more vulnerable individuals such as people with disabilities / lone female passengers / younger or more elderly passengers</p>	Not Applicable
Disability		<p>All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks</p> <p>This will be particularly beneficial for more vulnerable individuals such as people with disabilities / lone female passengers / younger or more elderly passengers</p>	Not Applicable

Sex		<p>All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks</p> <p>This will be particularly beneficial for more vulnerable individuals such as people with disabilities / lone female passengers / younger or more elderly passengers</p>	Not Applicable
Race, ethnicity and religion	An increase in the frequency of DBS checks on RBWM licenced drivers is likely to have a disproportionate impact on drivers who are from ethnic minorities, and from a particular religion, because a high proportion of licenced drivers are from ethnic minorities and particular religions.	All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks	<p>There may be a perception that this group is being targeted because of their race or religion</p> <p>This should be addressed in the consultation and engagement process</p>
Sexual orientation and gender reassignment		All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks	Not Applicable
Pregnancy and maternity		All users of RBWM Hackney Carriages will benefit from increased safety and	Not Applicable

		security that will come from the more rigorous system of DBS checks	
Marriage and civil partnership		All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks	Not Applicable
Armed forces community		All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks	Not Applicable
Socio-economic considerations e.g. low income, poverty		All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks	Not Applicable
Children in care/Care leavers		All users of RBWM Hackney Carriages will benefit from increased safety and security that will come from the more rigorous system of DBS checks	Not Applicable

5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it?

For example, adjustments needed to accommodate the needs of a particular group

There will be a consultation and engagement process before the proposals are implemented. This will allow explanations to be given that this is a national initiative, not just one in RBWM, that is based in a statutory standard issued by the government, and reassurances can be given that the proposals will apply to persons of all ethnicities, races and religions

Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this?

- For planned future actions, provide the name of the responsible individual and the target date for implementation.

This should not be the case

How will the equality impacts identified here be monitored and reviewed in the future?

See guidance document for examples of appropriate stages to review an EQIA.

This results of the engagement and consultation will be incorporated into the final proposals which will come before the Licensing Panel in February 2024.

6. Sign Off

Completed by: Greg Nelson	Date: 18/08/2023
Approved by: Ellen McManus-Fry	Date: 21/09/2023

If this version of the EQIA has been reviewed and/or updated:

Reviewed by:	Date:
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Appendix B – Proposed Changes to RBWM Policies

1) In the RBWM Hackney Carriage Driver & Vehicle Policy and Conditions

3. FIT AND PROPER

Insert new paragraph 3.15;

From 13 February 2024, all existing licenced drivers must enable the Licensing team to check their DBS for new information every six months, by either;

- i) producing a new DBS certificate every six months, or
- ii) signing up to a DBS update system which allows access by RBWM Licensing officers

2) In the RBWM Private Hire Driver & Vehicle Policy & Conditions

Insert new paragraph 0;

From 13 February 2024, all existing licenced drivers must enable the Licensing team to check their DBS for new information every six months, by either;

- i) producing a new DBS certificate every six months, or
- ii) signing up to a DBS update system which allows access by RBWM Licensing officers