

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 13 February 2024
Responsible Officer(s):	Andrew Durrant, Executive Director of Place Services & Amanda Gregory, Assistant Director of Housing & Public Protection
Wards affected:	All

REPORT SUMMARY

The Licensing Panel of 16 October 2023 agreed in principle to amend RBWM policies 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. Panel also agreed that this should be consulted on with licenced drivers, operators, all interested parties and residents to determine how this was best achieved, and that final recommendations to introduce the six-monthly DBS checks be brought to this Licensing Panel meeting for final implementation.

This report sets out the results of the consultation and makes recommendations about the introduction of six-monthly DBS checks on RBWM licenced hackney carriage and private hire drivers

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Licensing Panel notes the report and:

- i) **Agrees to amend RBWM policies such that all RBWM licenced hackney carriage and private hire drivers enable the Licensing team to check their DBS for new information every six months with effect from 01 April 2024**
- ii) **That this is achieved as set out in Table 1, below,**
- iii) **That the charges for this are paid for by the individual drivers, and**
- iv) **That penalty points be introduced for failure to comply with these requirements**

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

Options

Table 1: Options arising from this report

Option	Comments
i) Agrees to amend RBWM policies such that all RBWM licenced hackney carriage and private hire drivers enable the Licensing team to check their DBS for new information every six months with effect from 01 April 2024	This would ensure that RBWM is able to comply with the Statutory Taxi & Private Hire Vehicle Standards

Option	Comments
<p>ii) That this is achieved by the drivers</p> <p>a) registering and paying for enhanced DBS on-line via an agreed third party company,</p> <p>b) registering and paying for the Disclosure and Barring Service (DBS) Update Service, and renewing this annually, and</p> <p>c) authorising access by RBWM licensing officers to perform a status check of their DBS at any time during the duration of their licence using the “DBS Update Service Status Checks” facility provided by the third party company, and meeting the cost of this facility through their drivers’ licence from 01/04/2025</p> <p>iii) That penalty points be introduced for failure to comply with these requirements</p> <p>This is the recommended option</p>	<p>This would by far be the most efficient and effective way of implementing six monthly DBS checks</p> <p>The overall costs to the drivers will reduce for drivers who renew their licence annually and be almost cost neutral for those who renew three yearly. Costs will be substantially lower compared with having to provide a DBS every six months</p>
<p>RBWM Licensing uses the DBS’s Multiple Status Check Facility to conduct six monthly checks</p> <p>RBWM Licensing pays for the “DBS Update Service Status Checks” facility provided by the on-line DBS company</p>	<p>This would 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 and then checked six monthly</p> <p>This is not currently budgeted for</p>
<p>Drivers use the paper based DBS system to provide a new DBS every six months</p>	<p>This would be costly and time consuming for the drivers.</p> <p>RBWM no longer supports the paper based DBS system it is now an on-line system</p>
<p>Do Nothing</p>	<p>There is a risk that if six monthly DBS checks are not carried out;</p> <p>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</p>

Option	Comments
	<p>legal action, as well as reducing levels of public safety, and</p> <p>ii) RBWM would not be complying with the requirements of a government standard, which could result in reputational damage</p>

- 2.1 The Licensing Panel of 16 October 2023 agreed 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.
- 2.2 Panel also agreed that this should be consulted on with licenced drivers, operators all interested parties and residents to determine how this was best achieved, and that final recommendations to introduce the six-monthly DBS checks be brought to this Licensing Panel for final implementation.
- 2.3 The consultation has been completed and the full results are Appendix B to this report. There were 320 responses and a summary is set out in Table 2, below.

Table 2: Consultation Summary

Consultation Question	Responses
Q1 Are you a RBWM licenced hackney carriage or private hire driver?	<ul style="list-style-type: none"> • Yes 73 • No 247
Q14 Do you know of any compelling reasons why RBWM Licensing should not introduce six monthly checks on the DBS records (formerly known as the Criminal Records Office) of all RBWM licenced hackney carriage and private hire drivers?	<ul style="list-style-type: none"> • Yes 58 (18.1%) • No 262 (81.9%)
Q15 Please give a reason for your answer	See Appendix B
Q16 Which option do you think should be chosen to carry out the six monthly checks; <ul style="list-style-type: none"> • RBWM Licensing uses the DBS’s Multiple Status Check Facility to conduct six monthly checks • Use is made of a “DBS Update Service Status Checks” facility 	<p>128 (40.0%)</p> <p>192 (60.0%)</p>

provided by the third party DBS company	
Q17 Who do you think this should be paid for by?	
<ul style="list-style-type: none"> • RBWM Licensing 	60 (31.4%)
<ul style="list-style-type: none"> • Licenced hackney carriage and private hire drivers 	131 (68.6%)

- 2.4 Members of the Licensing Panel will recall from the meeting of 16 October 2023 that the introduction of six monthly DBS checks by licensing authorities is a requirement of the Department of Transport's (DoT) Statutory Taxi & Private Hire Vehicle Standards, published in July 2020.
- 2.5 Members will further recall that the DoT expects the provisions of this standard to be implemented unless there is a compelling local reason not to.
- 2.6 The results of the consultation show that a very large majority of respondents, 81.9%, said they know of no compelling reasons why RBWM should not implement the six monthly checks.
- 2.7 Of the remaining 18.1%, the reasons they give for not agreeing that the six monthly checks should be implemented are mostly because of the costs and extra bureaucracy that they believe it will cause. All of their comments are included in Appendix B.
- 2.8 There are no RBWM operational or policy reasons why RBWM should not implement the six monthly checks.
- 2.9 The majority of respondents, 60%, said that the six monthly checks should be achieved by means of the "DBS Update Service Status Checks" facility provided by the third party company that provides the DBS service, and 68.6% said that the cost of this (£6 + VAT per driver per year) should be borne by the individual drivers.
- 2.10 Until the recent move to an on-line system, RBWM licenced drivers used a paper based system to obtain a DBS certificate. The cost of this was £44. If the driver was required to provide this on a six monthly basis the cost would be £88 per year.
- 2.11 Under the new on-line system, the DBS process is facilitated by a third party company and the initial cost is a one off £59, then £13 per year for the Disclosure and Barring Service (DBS) Update Service which allows:
- applicants to keep their DBS certificates up to date, and
 - employers and licensing authorities access to the records to check a DBS certificate

- 2.12 The method of carrying out the six monthly checks then needs to be determined. As set out in Table 1, above, this can either be done by
- A “DBS Update Service Status Checks” facility provided by the on-line DBS company, or
 - RBWM Licensing uses the DBS’s Multiple Status Check Facility to conduct six monthly checks
- 2.13 Making use of the “DBS Update Service Status Checks” facility provided by the third party company is the preferred option as it would by far be the most efficient and effective way of implementing six monthly DBS checks.
- 2.14 The cost of this “DBS Update Service Status Checks” facility £6 + VAT per driver per year. If it is agreed that this facility should be used, a decision is needed as to who should pay for this, either the individual drivers or RBWM Licensing.
- 2.15 The recommendation in Table 1 is that this is paid for by the individual drivers. This would mean that the DBS costs to an individual driver would be;
- an initial £59 to sign up to the on-line DBS service via the third party company
 - £13 per year (including the first year) for the Disclosure and Barring Service (DBS) Update Service, and
 - £6 + VAT (£7.20) per year for the “DBS Update Service Status Checks” facility provided by the third party company
- (NOTE – the £6 + VAT (£7.20) per driver per year will be waived by the third party company for the first year. It will then be recharged to RBWM. The intention is to recover this by increasing the hackney carriage and private hire drivers’ licence charges by £7.20 from 01/04/2025)
- 2.16 This means that in the first year drivers will pay £72 (£59 + £13), and then in all subsequent years they will pay £20.20 (£13 + £7.20), subject to future inflationary price increases. This will be a considerable saving compared with having to provide a DBS (£59) every six months. It is cheaper or almost cost neutral compared to the previous paper-based DBS system, depending on whether the driver renews annually or every three years.
- 2.17 All drivers will benefit from the reduction in paperwork and the efficiencies brought by the automated system, particularly when renewing their licence. In effect, once they have signed up to the on-line services there is no more that they will have to do in respect of their DBS during the lifetime of their hackney carriage or private hire driver licence other than renew and pay for (£13) the Disclosure and Barring Service (DBS) Update Service annually.
- 2.18 It will take some time for drivers to understand and get used to this new system and some leeway will be given for initial and innocent non-compliance. However there needs to be consequences for drivers who do not comply after advice and assistance is given, so it is proposed that penalty points be introduced for non-compliance, as set out in Appendix C.

- 2.19 The wording for the changes to the RBWM Hackney Carriage Driver and Vehicle Policy & Conditions and the RBWM Private Hire Driver and Vehicle Policy & Conditions is set out in Appendix C.
- 2.20 Members of the Licensing Panel are asked to agree the recommendation set out at the start of this report.

3. KEY IMPLICATIONS

- 3.1 In agreeing to introduce 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 There are no financial implications for RBWM if the recommendations are agreed

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 and the use of penalty points (by virtue of sections 51 and 52 of the Local Government (Miscellaneous Provisions) Act 1976).

6. RISK MANAGEMENT

- 6.1 The risks are set out in Table 3

Table 3: Impact of risk and mitigation

Threat or risk	Impact with no mitigations	Likelihood of risk occurring	Mitigations currently in place	Mitigations proposed	Impact of risk	Likelihood of risk occurring
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	in place or if all mitigations fail	with no mitigations in place.			once all mitigations in place and working	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	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

7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equality Impact Assessment is available as Appendix A.
- 7.2 Climate change/sustainability. This report will have no effect in respect of climate change and sustainability.
- 7.3 Data Protection/GDPR. This report has no data protection / GDPR implications for RBWM.

8. CONSULTATION

- 8.1 A consultation has been completed and the results are set out in a report which is Appendix B to this report.

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	Licensing Panel agrees the report recommendations
01/04/2024	Policy changes come into force

10. APPENDICES

10.1 This report is supported by three appendices:

- Appendix A – Equality Impact Assessment
- Appendix B – Consultation Report
- Appendix C – Changes to Policies

11. BACKGROUND DOCUMENTS

11.1 There are no background documents:

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	22/01/2024	
Elaine Browne	Deputy Director of Law & Governance & Monitoring Officer	22/01/2024	29/01/2024
<i>Deputies:</i>			
Andrew Vallance	Deputy Director of Finance & Deputy S151 Officer	22/01/2024	05/02/2024
Jane Cryer	Principal Lawyer & Deputy Monitoring Officer	22/01/2024	
<i>Mandatory:</i>		<i>Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>	
N/A			
<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	22/01/2024	
<i>Mandatory:</i>		<i>Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>	
Ellen McManus-Fry	Equalities & Engagement Officer	22/01/2024	23/01/2024
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			

Andrew Durrant	Executive Director of Place	19/01/2024	
<i>Assistant Directors (where relevant)</i>			
Amanda Gregory	Assistant Director of Housing and Public Protection	19/01/2024	01/02/224
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Public Protection (Cllr Werner)	Yes 19/01/2024
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REPORT HISTORY

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

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