

TAXI LICENSING INVESTIGATION - FOLLOW-UP REPORT

(Follow-up in respect of Final report issued in November 2014)

Action Category	Agreed Actions Implemented	Agreed Actions Not Implemented	Total Agreed Actions
Essential	7	0	7
Important	9	1 **	0
Standard	7	0	7

** See Action 8

MANAGEMENT ACTION PLAN

The Agreed Actions are categorised on the following basis:

Likelihood	H	S	I	E	Essential -	Action is imperative to ensure that the objectives for the area under review are met.
	M	S	I	E	Important -	Requires action to avoid exposure to significant risks in achieving objectives for the area under review.
	L	S	I		Standard -	Action recommended to enhance control or improve operational efficiency.
		L	M	H	Impact	

Ref	Findings	Implication	Recommendation	Manager Responsible, Target Date	Follow Up Status and Comments 10/02/2015
1	RSC Panels The significance of some information provided to RSCs is not fully appreciated by all RSC councillors. e.g. length of sentences, other information provided by the police which has not resulted in convictions, unsolicited concerns raised by police over individuals who are licensed drivers.	Too much weight placed on applicant testament and personal reference with lack of regard for other supporting information	Essential Training to be provided to RSC councillors which includes the significance of different information sources and the reliance that should be placed on these and the legal duty to balance private and public safety issues. Consider disallowing personal	ISDLDS Service Director Public Realm (SDPR) 28 Feb 2015	Complete: Training for RSC Councillors has been completed by a leading training provider. Complete: The Regulatory Committee (10/12/14) considered the issue of a Councillor providing a reference and referred to the Constitution

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	Several panel members considered that a reference from another councillor (regardless of whether the reference was given as a friend or a councillor holds more weight than if delivered by someone else		references from councillors		Commission as follows: "The Constitution Commission are recommended not to amend the Constitution to prevent a Cllr providing a reference for an applicant as representing members of the public is a basic element of their role." At the meeting on 22/07/2015 It was agreed that as the detail of any references would be captured in the notes of the meetings, to prevent references, or require them to be in writing was unnecessary.
2	Officer responsibility/authority Adult Social Care (ASC) staff use the same IPTU contracts that are used for home to school transport. Drivers and passenger assistants engaged in home to school transport activities require DBS badges but these are not required when driving for ASC; any of the contractor companies drivers can work on the ASC taxis.	Unsuitable drivers /escorts may be transporting vulnerable adults	Essential Only those drivers and passenger assistants with a DBS badge to work on any of the Council contracts. This to be specified in any future contracts.	Service Director ASC & Health Partnerships & Assistant Director Audit & Risk Management (ADAARM) and SDMPT 30 Nov 2014	Complete: ASC contracts now require that drivers hold the same "School Badge" as the home to school contracts. Compliance spot checks are undertaken by IPTU to ensure that the actual drivers on a journey are badge holders.
3	Taxi Licensing records The spreadsheet used by TLS to monitor and record DBS checks was incorrect. DBS certificates are not always retained on file after the licensing decision has been made.	Not known which taxi drivers have convictions. Drivers may be used for inappropriate roles, e.g. for transportation of vulnerable people. Reputational damage.	Essential APP will be used to record DBS "Trace". APP will have a report facility to enable management to determine number and details of drivers with DBS "Trace".	SDPR 30 Nov 2014	Complete: APP Flare has been customised to include tick boxes for either DBS 'Trace' or 'No Trace' and reports can be run to identify these as appropriate.

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4	<p>DBS applications/disclosures</p> <p>The TLP and licensing conditions make clear that drivers are required to inform the Council of convictions, cautions, court cases and official police warnings. However, of the 55 cases put before the RSC since May 2011, 11 involved drivers who had not notified the Council.</p> <p>There is currently no system in place to notify the council of these issues.</p>	<p>Unawareness of recent convictions since last DBS check.</p> <p>Risk to the public</p>	<p>Essential</p> <p>MKC has already determined to require all drivers to undertake new DBS checks as this is the only way to be sure they have informed us. Those who have not done so should be subject to the new points totting up approach.</p> <p>Consider use of 'Continuous Registration' for DBS Disclosures. Drivers apply for registered DBS status costing £13 pa which enables the Council to perform ad hoc checks to determine whether there have been any changes to the DBS since issue. There is only a short window between receiving the DBS and applying for registered status so drivers would need to agree to this when the next DBS check is done.</p>	<p>SDPR 28 Feb 2015</p> <p>SDPR (SP)</p>	<p>Complete:</p> <p>All drivers underwent a DBS check and were considered under the revised TL Policy.</p> <p>Complete:</p> <p>The requirement for continuous registration has been considered and at present is being offered to drivers as an option for their convenience. Ongoing consideration of the suitability of this approach is required.</p>
5	<p>RSC Panels</p> <p>Meetings are not formally minuted and any notes taken are not retained, so the RoD is the only record available.</p> <p>RoDs are not retained in a central location.</p>	<p>Lack of clarity and potential lack of accountability in relation to decisions taken by the RSC</p> <p>Inappropriate decision may be made</p>	<p>Essential</p> <p>Consider taking full minutes.</p> <p>Ensure there is a single comprehensive system of retaining records of RSC decisions</p> <p>Determine whether all, part or no RSC records are public</p>	<p>Service Director Legal and Democratic Services (SDLDS) (Committee Services and Scrutiny Manager (CSSM)) 30 Nov 2015</p>	<p>Complete:</p> <p>Meetings are now routinely minuted and held appropriately in a structured manner.</p> <p>Two sets of minutes are prepared; one set is a public document and one exempt.</p> <p>A record of the votes of individual councillors is not routinely undertaken, but can be if</p>

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	<p>There was uncertainty as to whether RSC RoDs are public documents.</p> <p>RoD's record the decision but not how individual councillors have voted</p>		<p>documents /and if so the extent to which they are should be clarified and publish (or not) accordingly.</p> <p>Consider recording how individual councillors have voted.</p> <p>Consider whether RSC meetings are public meetings unless there are compelling reasons to the contrary.</p>		<p>requested at any particular meeting.</p> <p>RSC meetings are not fully public meetings but members of the public are specifically invited to attend.</p>
6	<p>Other</p> <p>Records of licensing materials (plates and badges) are incomplete and are not correlated to income records.</p> <p>The taxi licensing process does not ensure strict segregation of duties with all licences processed so it is possible for one person to issue a licence without recourse to any other officers.</p>	<p>A 'fake licence' for any period of time represents a potentially serious & unacceptable risk to any members of the public who might be vulnerable.</p> <p>Loss of income.</p>	<p>Essential</p> <p>1) APP will be updated to allow the plate serial number to be included</p> <p>2) the spreadsheet that records the vehicle plates issued in serial number will also record the reason for any gaps;</p> <p>3) Clear explanation to be recorded on APP when vehicle plates/drivers badges are provided free of charge.</p> <p>4) At least 2 officers must be involved in the process for issuing licences.</p>	<p>(1) ISDM (ASTL)</p> <p>(2, 3, 4, 4, 5) SDPR (SP)</p> <p>28 Feb 2015</p>	<p>Complete:</p> <p>Licence Serial Numbers are being recorded on the Driver's record on APP Flare and periodic checks on stock records undertaken.</p> <p>Licences and plates are only issued after having been approved by a Taxi Licensing Officer, preparation is undertaken by another officer so there is segregation of duties and this is evidenced on APP Flare. A check of all licences issued in September 2015 demonstrated that this was working effectively.</p>
7	<p>Other</p> <p>Surrounding authorities have their own taxi licensing policies with differing requirements to MKC</p>	<p>Drivers who would not be licensed under MKC's Policy able to work in Milton</p>	<p>Essential</p> <p>Improve liaison and co-ordination with neighbouring authorities.</p>	<p>SDPR (SP) 28 Feb 2015</p>	<p>Complete:</p> <p>Several meetings with surrounding authorities have been held. South Northants District Council are open to closer working</p>

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		Keynes.	Consider attempts to achieve parity in licensing requirements.		arrangements and these are to be developed. Will look to harmonise standards wherever possible and maybe provide vehicle inspections and enforcement work for SNDC Further meetings with SNDC and other surrounding authorities are ongoing.
8	<p>Taxi Licensing records</p> <p>IPTU and Taxi Licensing duplicate work, information and data recording systems, e.g.</p> <ul style="list-style-type: none"> • databases • paper files • interviews of applicants <p>Data quality issues were identified on all systems</p> <p>Required standards are not always consistent</p> <p>Not all relevant information is shared.</p>	Inaccurate records. Duplication of work.	<p>Important</p> <p>TLS and IPTU to use a single central single record</p> <p>Consider additional functionality for the new APP Flare software using the online form submission module</p>	<p>Service Delivery Manager Property & Transport (SDMPT) <i>(IPTU Manager)</i></p> <p>SDPR (SP) 28 Feb 2014</p>	<p>Original action amended - In Progress</p> <p>APP Flare is now being used fully by Taxi Licensing to record all key information as well as retaining scanned documentation in support of licences eg application, ID, DBS certificate etc.</p> <p>However, further reviews have shown that IPTU's business needs cannot be met by APP Flare. Their existing software Routewise is fit for purpose and projects are ongoing to improve the extent to which it is used and the data it holds.</p> <p>An exercise to data-match related records between APP Flare and Routewise was attempted once in February 2015, which was not particularly successful, however an effective ongoing process has not been implemented as yet.</p> <p>A unique identifier (eg DVLA licence no) for each driver is required in both APP Flare and Routewise to facilitate effective and regular data-matching exercises moving forward.</p> <p>Therefore co-ordinated efforts between TL & IPTU are required to ensure accurate DVLA licence numbers exist in all relevant records within both systems.</p>

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9	Taxi Licensing records It was not possible to identify all drivers who had a trace on the DBS and then categorise these by concern/ conviction type	Inaccurate information which could undermine public safety	Important Following the DBS checks on all drivers. Record on APP whether there is a trace or not for each driver and if so state the category of the conviction/charge/alleged offence. APP to be the sole system for recording DBS and trace information and then cease use of a spreadsheet. Ensure all information relating to convictions is brought forward to the current file when archiving.	SDPR (SP) and SDMPT (IPTU Manager) 28 Feb 2015	Complete All drivers now have an indicator on APP Flare about their latest DBS check and whether it showed 'Trace' or 'No Trace' DBS Certificates are now scanned and retained on the Licence Holders APP Flare record.
10	Taxi Licensing records 23 of the sample of 100 drivers requested to bring in their DBS disclosure failed to do so	System records may record drivers with a conviction as having a clear DBS	Important The 23 drivers who failed to provide their DBS disclosure when requested to be in the first tranche of the full DBS rechecks.	SDPR 28 Feb 2015	Complete: See action 4
11	RSC Panels The Policy does not explicitly prohibit a Driving Licence being granted to any individuals other than those currently on the Sex Offenders Register. It uses the terms unlikely and exceptional when considering certain categories of offences.	The view of what is 'exceptional' is open to the judgment of individuals Similar instances as identified could be repeated in future	Important Consider whether the Policy should outline a blanket prohibition in relation to some convictions	SDLDS and SDPR (SP) <u>Not Agreed</u> <i>The existing Policy is considered sufficient to deal with all eventualities to safeguard the public.</i>	Not Agreed: This action was not agreed at final report stage; however, implementation of other actions should address this risk. RSC Cllrs have received training on their roles & responsibilities, the TLP has been strengthened and only borderline cases are now submitted to the RSC.

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12	<p>RSC Panels A decision cannot be recalled once it has been acted upon. As RSC decisions are acted upon on the night there is no period of reflection to enable concerns to be raised.</p> <p>There is no clear process by which officers can raise their concerns over councillor decisions.</p> <p>There was a degree of wariness in raising issues which might be seen to be going against councillors</p>	<p>Inappropriate decisions made</p> <p>Senior staff not aware of potential risks</p>	<p>Important Consider possible categorisation of decisions on the night as verbal notice and the sending of the decision as the formal decision, providing an opportunity for call in.</p> <p>Promote a process (including the Whistleblowing policy) whereby officers should be encouraged to raise concerns over decisions which they consider to be unsound or open to challenge.</p> <p>Reinforce that 'there is no retribution for doing the right thing'.</p>	<p>SDLDS (CSSM) and SDPR (SP) 28 Feb 2015</p>	<p>Complete: The Regulatory Committee (10/12/2014) minutes recorded the following:</p> <p>i). That it be noted that there was no provision within the relevant legislation to allow a 'cooling off' period after a decision had been taken by a Sub-Committee, and that any review of a decision would necessarily involve the applicant.</p> <p>(ii). That it be noted that if those Councillors sitting on a Sub-Committee had received the appropriate training decisions taken should be sound and based on all the evidence presented with appropriate weight given to various elements of that evidence.</p> <p>(iii). That it be noted that Legal Service Officers had been made aware of the need to raise concerns they may have in respect of decisions being made at sub-committees with Councillors.</p> <p>(iv). That it be noted that it had been communicated to Officers of the Council that it was expected that in the event that they held concerns in respect of decisions and actions taken by either individual Councillors or Committees or Sub-Committees they should consider taking action under the 'Whistle Blowing' policy</p> <p>(v). That it was noted that the Constitution at paragraph 23.3 of Council Procedure rules refers to Substitutes to Committees or Sub-Committees only being permitted where they have received the relevant training, the Constitution, however, remained silent on substantive members of a Committee or Sub-</p>

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					<p>Committee having a requirement to have received the relevant training.</p> <p>(vi). That it be recommended that the Constitution Commission consider recommending to Council that the Constitution be amended to include a requirement for Councillors of all Committees or Sub-Committees to have received the relevant training before they were eligible to sit and make decisions on those committees.</p> <p>Update:</p> <p>The Constitution Commission has agreed an 'Appointments to Regulatory Sub-Committees – Convention' – see Appendix A</p>
13	<p>RSC Panels</p> <p>Three of the panel members interviewed said they did not always have time to read the papers prior to a hearing. Officers presentations are based on the legitimate assumption that councillors have read the information packs supplied in the agenda.</p>	Inappropriate decisions made	<p>Important</p> <p>Consider increasing delegation to officers thereby reducing the number being referred to RSCs</p> <p>Chair to confirm, at the start of every meeting that councillors have read and understood the papers. If not officers to provide a full presentation.</p>	<p>SDLDS (CSSM) and Councillors</p> <p>SDPR (SP) 30 Nov 2014</p>	<p>Complete:</p> <p>The introduction of the Taxi Licensing policy will result in fewer cases being referred to the RSC thereby reducing their workload.</p> <p>The Regulatory Committee (10/12/2014) minutes recorded the following:</p> <p>(i) That it be noted that the Chair would seek to establish that all Members of a Sub-Committee were fully conversant with the papers and in the event that was not the case would either adjourn the meeting to for a short period allow the papers to be read or adjourn to a later date, whichever is the most suitable in the circumstances</p> <p>(ii) That the chair be recommended to consider adjourning a meeting rather than allow late substitute who would not have had</p>

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					adequate time to prepare and read the papers.
14	Officer responsibility/authority There has previously been an assumption by officers that although they have the delegated power to grant licences where they are no issues of concern, they did not have the authority to refuse them. No clear guidance on the delegated authority could be found although the new policy states that the officer has delegated authority for all cases unless referred	Officers acts outside of delegated authority Unnecessary referrals to RSC	Important Clearer guidance to be provided on the cases which would normally be determined by officer decision to either grant or refuse. Use of Policy guidance to reduce the number of referrals to RSC	SDPR (SP and EO) 30 Nov 2014	Complete: The introduction of the penalty points system together with the new Taxi Licensing Policy gives Officers a clear guide as to what actions to take when determining whether to issue a license. Any contentious cases are formally reported to the Regulatory Compliance Manager (Head of Service) who determines whether to refer to the RSC.
15	Officer responsibility/authority Following custom and practice, an officer granted a hackney carriage licence to an applicant who already had a PH licence following a RSC decision that he was 'fit and proper person' despite having convictions for serious crimes. (There is no distinction between the criteria for a fit and proper person between HC and PH applicants)	Lack of clarity as to whether a 'decision' is being made or a process followed	Important The Policy to make it clear whether the criteria for 'fit and proper' are the same for HC and PH drivers, and whether once either a PH or HC licence has been granted, providing there have been no changes to the DBS the granting of the alternative licence is an automatic process.	SDPR (SP) 30 Nov 2014	Complete: The 'Fit and Proper' determination is subject to the same tests for both HC & PH. If there is ever an element of doubt officers have been advised to engage with Legal Services for an opinion.
16	Officer responsibility/authority RSC terms of reference make clear that officers cannot make recommendations. This has at times been interpreted as officers having no right or role in influencing decisions. In some cases there has	Fully informed decisions not made	Important Consider enabling EOs and LOs to make recommendations to the RSC or to at least give their professional opinion on the suitability of an applicant to	SDLDS (CSSM) and SDPR (SP) 30 Nov 2014	Complete: The report from officers to RSC, outlines what the TL Policy states on the matter/s referred and also gives an officer recommendation for the RSC to consider together with the representations of the licence holder or applicant.

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	been sole reliance on 'facts' with little or no consideration of the implications highlighted by officers in their presentations which does not make best use of their professional expertise and judgement.		help inform the decision.		
17	DBS applications/disclosures Changing legislation and practice has resulted in no fully comprehensive record of the convictions of applicant drivers. The new TLP (TLP) states ' <i>Any information relating to criminal background will be kept only for as long as it is necessary for assessment purposes.</i> ' The latest DBS disclosure guidance allows for copies to be retained with the permission of the applicant (a requirement of the application process).	Inability to evidence that drivers / applicants are Fit & Proper' once the assessment process is complete and the copy destroyed.	Standard Amend the TLP to retain current DBS certificates for both active drivers and for a defined time period for unsuccessful applicants and expired drivers. Consider whether the purpose should be extended so that the record can be kept for as long as the subject is a taxi driver (remove from body – put in action).	Service Director Public Realm Service Group (SDPR) <i>(Senior Practitioner (SP))</i> 28 Feb 2015	Complete: TLP para 6.6.5 'The Council may retain DBS and other relevant information on licence holders and applicants until seven years after a licence has expired or an application refused.' DBS's are now being scanned and held on each licence on APP Flare, the applicant provides their permission for the Council to hold this data as part of the application process.
18	DBS applications/disclosures Potential national vulnerability as Embassy checks are only required if an applicant has been resident in the UK for < 5 years (the DBS application form requires 5 years residency history). So any applicants resident for > 5 years but with a serious criminal past outside of the UK may not be identified. Full confidence of the criminal history of applicants is only possible	Lack of awareness of criminal history. Inequality between applicants	Standard This is a national issue. Consider requesting embassy checks for those who have resided > 5 years but less than 20 years in the UK. Consider including a field in APP to be able to extract records not supported by a full history	SDPR & ICT Service Delivery Manager (ISDM) <i>(Application Support Team Leader (ASTL))</i> 28 Feb 2015	Complete: TLP para 6.6.3 requires an embassy check where a person applying for a DBS has not lived in the UK continuously for 20 years. Audit testing has shown that this is now being applied as appropriate.

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	for those who have resided in the UK for their whole life.				
19	<p>TLP</p> <p>At 1.17.4 “A current vehicle excise duty disc (tax disc) correctly displayed in the windscreen”, This requirement became obsolete in Oct 14 due to changes in legislation.</p> <p>At 4.2.6 Refers to a Taxi Forum / Panel consisting of representatives of private operators, private hire drivers, vehicle proprietors, Hackney carriage drivers and customer groups but it does not outline the purpose or role they will play.</p>	<p>Obsolete Requirement – Policy incorrect</p> <p>Lack of clarity within the policy could lead to misunderstandings</p>	<p>Standard</p> <p>Revise TLP to remove this requirement</p> <p>Revise TLP to explain role / responsibilities of Taxi Forum.</p>	<p>SDPR (SP) 28 Feb 2015</p>	<p>Complete:</p> <p>TLP was amended to remove the requirement to display a Taxi Disc. The Taxi Forum is now operational.</p>
20	<p>RSC Panels</p> <p>In 2 of the 5 cases reviewed where a councillor provided a reference the panel political balance was 2:1 (in favour of the same political party as the referee)</p> <p>There was a lack of clarity over whether 2 or 3 councillors are currently required for the RSC to be quorate.</p>	<p>Political balance of cross party panel undermined.</p> <p>Very small committees may be unduly influenced by stronger personalities.</p>	<p>Standard</p> <p>Consider increasing the number of councillors required for a quorum on RSCs and clearly specify it.</p> <p>Consider disallowing verbal references</p>	<p>SDLDS 28 Feb 2015</p>	<p>Complete:</p> <p>The Regulatory Committee (10/12/2014) minutes recorded the following:</p> <p>That it be noted that the Regulatory Sub-Committee, being a Committee of the Council, was required by virtue of the Local Government and Housing Act 1989 to be convened on the basis of a political balance and this would therefore determine the size, quorum and membership of the Sub-Committee, and was therefore not a matter for the Constitution Commission.</p> <p>Update:</p> <p>The Constitution Commission has agreed an ‘Appointments to Regulatory Sub-</p>

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					Committees – Convention’ – see Appendix A
21	Other Where complaints are received from passengers there is often no independent way of determining whether there are any grounds to the complaint.	Unfounded complaints adversely impact drivers/ harm reputation No action taken for legitimate complaints.	Standard Review the scale and nature of passenger complaints to determine whether there is value in encouraging or enforcing the installation of secure CCTV in taxis	SDPR (SP) 28 Feb 2015	Complete: Further consideration determined that mandating the introduction of CCTV will not sufficiently address these issues as it is not legal to record sound. CCTV is still encouraged as long as it complies with TL Policy.
22	Follow up to Jan 2013 Internal Audit Although a safety operation has identified issues that result in points in accordance with the new policy these have not yet been applied to the licences.	Licences do not reflect points incurred	Standard Issue Penalty Point Notices and apply the points to licences during the safety operations	SDPR (SP) 30 Nov 2014	Complete: Audit testing confirmed that Enforcement operations were taking place and where any points were applied to a driver, their APP Flare record was updated as appropriate. One instance was identified where a driver had accumulated 17 points but had not been referred to RSC for their consideration. Procedures have now been improved to ensure this does not happen again.
23	Follow up to Jan 2013 Internal Audit Lists of PH and HC drivers and HC vehicles has been provided on the internet, but there is no list of PH vehicles and no information detailing offences, penalty points and photos	Public do not have full details about drivers/vehicles	Standard Consider publication of this information on the website	SDPR (SP) and SDLDS	Complete: The Chair of the Regulatory Committee approved the publishing of a basic list of licensed drivers and this is online.

APPOINTMENTS TO REGULATORY SUB-COMMITTEES – CONVENTION

1. Democratic Services staff will contact by email all trained members of the Regulatory Committee to seek volunteers to form a Sub-Committee.
2. Five members will be selected on a 'first come first served' basis to achieve a political balance. Where less than five 'volunteers' are forthcoming Democratic Services staff will aim to achieve a quorum from those councillors provided that it meets the required political balance.
3. Where a member of the Committee has previously considered an application or review in respect of a particular individual, that same member of the Committee will not be selected to sit on any sub-committee conducting any further reviews of the Licence, unless no other members of the committee are available.

Notes:

- (a) A Sub-Committee is made up of 5 members with a quorum of 3.
- (b) All requests for membership of a sub-committee are made with a proviso that councillors are not eligible to sit where the applicant is a resident of his / her Ward, is known to the councillor, or the councillor has a disclosable pecuniary interest.