

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

29 November 2016

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters for Recommendation to Council

1 Policy statement - for Tonbridge and Malling Borough Council Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information

1.1 Overview

1.1.1 As an organisation using the Disclosure and Barring Service (DBS) to help assess the suitability of an applicant to hold either a hackney carriage private hire or dual drivers licence, Tonbridge and Malling Borough Council (TMBC) complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and Disclosure information. TMBC also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see it on request.

Background

1.1.2 Licensing Services processes Disclosure and Barring Service (DBS) Enhanced and Standard disclosures for the following applications:

- Hackney Carriage Driving Licences (Enhanced)
- Private Hire Driving Licences (Enhanced)
- Probationary Private Hire Driving Licences (Enhanced)
- Private Hire Operator Licence (Enhanced)
- Personnel Licences (Basic)
- Scrap Metal Dealers (Basic)

1.1.3 Within the Licensing Team we have two named Counter Signatory officers to counter sign DBS forms who are Anthony Garnett and Katie Rigg. This will grow to three when Leann Leeds forms have been processed.

1.1.4 The tracking sheet showing form number, applicants date of birth and Certificate Number when issued by the DBS. This information is securely stored with two levels of security to access the data.

1.1.5 Applications that are subject of Licensing Hearings are kept in a secure lockable filing cabinet while the application is being processed.

1.1.6 A copy of the Policy Statement is shown at **Annex 1**

1.2 Legal Implications

1.2.1 TMBC also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see if on request.

Hackney Carriage Drivers

1.2.2 Under section 61 of the Local Government (Miscellaneous Provisions) Act 1976 a district council may suspend or revoke or refuse to renew the licence of the driver of a hackney carriage or private hire vehicle on any of the following grounds

- (1) that he has since the grant of the licence
 - (a) been convicted of an offence involving dishonesty, indecency or violence; or
 - (b) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 (the Town Police Clauses Act 1847 which applies to hackney carriage drivers only) or of this part of this Act; or
- (2) any other reasonable cause.

Private Hire Drivers

1.2.3 Under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 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.

A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely—

- (a) the name of the person to whom it is granted;
- (b) the date on which and the period for which it is granted; and
- (c) if the licence has a serial number, that number,

and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

1.3 Financial and Value for Money Considerations

- 1.3.1 Failure to comply with the Data Protection Act 1998 may lead to prosecution and fine.

1.4 Risk Assessment

1.5 Equality Impact Assessment

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Recommendations

- 1.6.1 Members are requesting Council to approve the Licensing DBS Policy statement - for Tonbridge and Malling Borough Council in respect to Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

Background papers:

Nil

contact:
Leeann Leeds - 6368
Anthony Garnett – 6151

Adrian Stanfield
Director of Central Services and Monitoring Officer