

Allerdale Borough Council

Licensing Committee – 20 March 2019

Review of Hackney Carriage & Private Hire Policies

The Reason for the Decision

A number of issues have been identified whilst working with policies which have been implemented over the last two years. It has become apparent that parts of policies require refinement or alteration to ensure that they are more workable and practical. The policies have strengthened the public safety objective when assessing applicants for hackney carriage and private hire drivers' licences, existing drivers and the safety of vehicles.

Summary of options considered

1. Driving Assessment

To consider an extension to the existing timescale required for drivers to pass the practical driving assessment (drivers were required to pass by 15 January 2019) and to impose a penalty for non-compliance:

- a) Allow an extension of time of six months for existing drivers to pass the practical driving assessment, running from the original date of 15 January 2019 with a new due date of 15 July 2019; and
 - b) Give delegated powers to the Senior Licensing and Compliance Officer and Licensing and Compliance Officer in conjunction with Legal Services and the Chair or Vice Chair of the Licensing Committee to allow an extension after 15 July 2019 in individual cases; and
 - c) Impose one of the following penalties for existing drivers who do not pass the driving test by the due date of 15 July 2019, or who have not been allowed an extension by officers:
 - i. Suspension of driver's licence; or
 - ii. Revocation of driver's licence
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or

- d) Allow no extension of time or delegation to extend time, and impose one of the following penalties for existing drivers who have not passed the driving test by the original due date of 15 January 2019:
 - i. Suspension of driver's licence; or
 - ii. Revocation of driver's licence

Exemptions are applicable to passing the driving test if an applicant fulfils criteria contained in paragraph 3.3;

2. Knowledge Test

- a) To impose the penalty of suspension of licence for existing drivers who do not pass the knowledge test by 31 October 2019; or
- b) To impose the penalty of revocation of licence for existing drivers who do not pass the knowledge test by 31 October 2019.

3. Vehicle Age Policy

To amend the wording of paragraph 4 to:

- a) If a vehicle is over four years of age from the first date of registration or reaches four years of age from the first date of registration within the duration of its licence, a vehicle test is required no later than six months following the commencement date of the vehicle licence and no earlier than 28 days before that date ('First Six Month Test Date'). For example, if a vehicle turns four on 29th March, it must be tested by 29th September at the latest but no earlier than 1st September. Following the First Six Month Test Date, subsequent tests must be completed no later than six months following the previous test and no earlier than 28 days before before each subsequent six month test is due to be undertaken.
- b) Remove the failure to comply with

condition to have 6 month test penalty of “immediate revocation or refusal to renew the vehicle licence” and replace with “suspension of vehicle or refusal to renew the vehicle licence” or

- c) Leave the penalty as existing.
- d) Leave the policy as existing.

4. Vehicle Advertising Policy

The addition to the wording of paragraph 5.1 of the policy as follows:

- a) If the advertisement is to raise awareness of a campaign or charitable cause, the fee is waived; or
- b) Leave the policy as existing

Recommendation

As contained in recommendations 1a), 1b), 1c), 2a), 3a), 3b) and 4a) above.

Financial / Resource Implications

- a) Driving assessment - Officers not having delegation to extend time limits or allow suspension/revocation means all drivers appearing before Licensing Panel. This imposes a considerable administrative burden on officers and Councillors;
- b) Knowledge Test – Having no compliance measures leaves no alternative but prosecution which is time consuming, expensive and has resource implications on staff.

Legal / Governance Implications

To ensure that the policies in place to uphold the public safety duty of the Licensing Authority when assessing and determining applications and existing licences remain updated and workable.

Community Safety Implications

To continue to assess the fitness, driving capability, safety and knowledge of individuals and the mechanical safety of vehicles.

Health and Safety and Risk Management Implications

The Licensing Authority needs to have the appropriate penalties for non compliance in place as part of a policy. Not to have this provision

renders the policy unenforceable.

Equality Duty considered / Impact Assessment completed

No

Wards Affected

All

The contribution this decision would make to the Council's priorities

Enhancing our towns – enhancing our taxi licensing requirements would encourage a high quality of taxi service and result in thriving and vibrant towns;

Creating a sustainable business –providing improved services to people and communities .

Is this a Key Decision

No

Portfolio Holder

Councillor J Ellis

Lead Officer

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Report Implications (Please delete where applicable)

Community Safety	Y	Employment (external to the Council)	Y
Financial	Y	Employment (internal)	N
Legal	Y	Partnership	N
Social Inclusion	N	Asset Management	N
Equality Duty	N	Health and Safety	N

Background papers: N/A

1.0 Introduction

- 1.1 Over the last two years there has been a move by the Licensing Authority to review and implement new sets of criteria to assess the suitability of applicants for hackney and private hire driver licences within the borough and to promote the safety of licensed vehicles.
- 1.2 This has largely been successful but policies require continual review to ensure they are working in everyone's best interests and to ensure that the licensing authority is satisfied that public safety is upheld. It is imperative that the Authority only grants and renews licences to applicants and existing drivers who are fit and proper by satisfying criteria such as driving capability,

knowledge and safety, together with ensuring vehicles are maintained to a high standard.

- 1.3 This report therefore aims to address some practical difficulties experienced with the policies by imposing or changing sanctions for non-compliance, requesting extensions of time, inserting delegations where it is felt appropriate and, inserting additional wording to remove ambiguities.

2.0 Background

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) enables local authorities to administer licences for hackney carriage and private hire drivers. The Act provides that a local authority shall not grant a licence unless they are satisfied that the applicant is a “fit and proper” person to hold such a licence. There is no definition of the term “fit and proper” and the Council can apply any tests and checks it deems appropriate to establish this.
- 2.2 Section 57 of the Act grants local authorities the power to require applicants to submit information, stating,

“A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.”

3.0 Driving Assessment

- 3.1 The Licensing Committee approved the procurement of a practical driving assessment to take the place of the assessment which used to be provided by the Driving Vehicle Standards Agency (DVSA). Procurement was concluded with a company selected to provide the assessment from 16 July 2018. This was run as a pilot scheme for 6 months with a review after 3 months. A further procurement exercise followed and the contract was awarded for a year to the same company.
- 3.2 The Licensing Committee had already imposed the following condition on licences:

“ All applicants for the grant of a new hackney carriage or private hire driver’s licence must pass the DVSA taxi assessment. If this is not available they must pass the required assessment to be selected in due course by Allerdale Borough Council within six months of the implementation date of the new assessment. Any licensed drivers appearing before the Licensing Panel with repeated traffic offences may be required to pass the relevant assessment selected”.

3.3 Accordingly, existing drivers who had obtained a licence from September 2016 onwards and new applicants were informed of the requirement to pass the assessment subject to the following exemptions:

- a) Occupation as a Driving instructor;
- b) Occupation as Driving examiner;
- c) Persons holding a driving licence with the following categories entitling them to drive passenger carrying vehicles e.g. buses and coaches:

Category D - Entitlement to drive any bus with more than 8 passenger seats (with a trailer up to 750kg). **(Note this does not include category D1)**

Category D+E - Entitlement to drive D category vehicles with a trailer over 750kg

Both of these category holders must complete a Driver Certificate of Professional Competence. They must hold a Driver Qualification Card which is valid for 5 years and is renewable subject to evidence that 35 hours of approved training courses has been completed. This is managed by the Driving Standards Agency.

D1 - Minibuses - Vehicles with no more than 16 passenger seats in addition to the driver and with a maximum length not exceeding 8 metres with a trailer up to 750kg.

D1+E Minibuses with trailers - Vehicles with no more than 16 passenger seats in addition to the driver and with a maximum length not exceeding 8 metres with a trailer over 750 kg, provided that the MAM of the combination formed does not exceed 12,000kg.

Note: For categories D1 and D1+E each applicant must be considered on an individual basis to ensure they fulfil all the criteria as some drivers will have the category on their DVSA licence as an acquired right and will not have taken the test or continuing driver competency.

3.4 At the conclusion of 6 months on 15 January 2019 the number of existing drivers (151) who had taken and passed the assessment is approximately half. The condition which stated that six months would be allowed for existing drivers to pass the assessment was agreed in September 2016. Since then the number of licensed drivers has significantly increased and it is felt that sufficient time has not been allowed for all drivers to pass the assessment. It is suggested therefore that an extension of 6 months is permitted, which will expire on 15 July 2019.

3.5 When the condition was imposed, the Committee did not impose a sanction for non compliance with the condition. It is recommended that if the assessment is not passed by the due date the licence is suspended. Once the

assessment is passed the suspension can be lifted. If, in the meantime the licence expires, the applicant would have to make a new application and in these circumstances, the assessment would have to be passed as part of the criteria of a new applicant.

- 3.6 There may be circumstances where an existing driver will not be able to pass the assessment by the required date or potentially a short term extension date. Therefore it is requested that Officers of the Licensing Department in conjunction with Legal Services and the Chair/vice Chair of the Licensing Committee are given delegated powers to permit an extension in extenuating circumstances.

4.0 Knowledge Test

- 4.1 The Licensing Committee approved the procurement of an electronic knowledge test for all new applicants and existing drivers. This was duly obtained. All existing drivers have one year from implementation to pass the test which expires on 31 October 2019. Drivers have been informed throughout the process and are now being written to in licence expiry date order to remind them to book the test.

- 4.2 At the time of approving the condition the Licensing Committee did not impose a sanction for non compliance. It is recommended that if the assessment is not passed by the due date the licence is suspended. Once the test is passed the suspension can be lifted. In the meantime if the licence expires, the applicant would have to make a new application and the test would have to be passed as part of the criteria of a new applicant.

5.0 Vehicle Age Policy

- 5.1 The purpose of the vehicle age policy is to ensure that all hackney carriage and private hire vehicles are in exceptional condition and remain safe for the use of the general public. The policy states that only vehicles under the age of four years will be licensed but can continue to be licensed beyond that age providing certain conditions are adhered to.

- 5.2 One such condition relates to the vehicle being tested every six months once it reaches the age of four years. Failure to comply results in the licence being revoked or refusal to renew. This is being actively enforced.

- 5.3 There are two aspects to this part of the policy which are causing difficulties:

- a) The definition of when a vehicle actually needs a six month test. The current wording is ambiguous and to clarify this it is recommended the wording is changed to read as follows:

“If a vehicle is over four years of age from first date of registration or reaches four years of age from the first date of registration within the duration of its licence, a vehicle test is required no later than six months following the commencement date of

the vehicle licence and no earlier than 28 days before that date ('First Six Month Test Date'). For example, if a vehicle turns four on 29th March, it must be tested by 29th September at the latest but no earlier than 1st September. Following the First Six Month Test Date, subsequent tests must be completed no later than six months following the previous test and no earlier than 28 days before before each subsequent six month test is due to be undertaken".

- b) The current penalty is revocation. This could be unreasonable and would result in increased licensing panel appearances particularly if the vehicle is over four years of age. It is suggested that suspension until the vehicle passes the test is more appropriate.

6.0 Vehicle Advertising Policy

6.1 Enquiries have been received regarding advertisements being placed on vehicles which are to raise awareness of charitable campaigns rather than to generate a commercial revenue for the vehicle licence proprietor. That has prompted a review of this policy and consideration to be given to waiving the fee for such advertisements. All other requirements would remain the same. Members are asked to consider waiving the fee if the advertisement is of a non commercial basis and it is to raise awareness of a campaign or charitable cause. Currently to apply for consent for the display of advertisements is £15.

7.0 Recommendations

7.1 To consider the range of options and select the following recommendations to implement:

- a) Allow an extension of time from 15 January 2019 until 15 July 2019 (6 month extension) for existing drivers to pass the practical driving assessment; and
- b) Delegate to the Senior Licensing and Compliance Officer and Licensing and Compliance Officer in conjunction with Legal Services and the Chair or Vice Chair of the Licensing Committee powers to give an extension after 15 July 2019 in individual cases where there are extenuating circumstances; and
- c) Impose the penalty of suspension of licence for existing drivers who do not pass the driving assessment by the due date or who have not been allowed an extension by officers;

7.2 Knowledge Test

- a) To impose the penalty of suspension of licence for existing drivers who do not pass the knowledge test by 31 October 2019;

7.3 Vehicle Age Policy

- a) Remove and replace the wording in paragraph four of the policy with the following:

“If a vehicle is over four years of age from first date of registration or reaches four years of age from the first date of registration within the duration of its licence, a vehicle test is required no later than six months following the commencement date of the vehicle licence and no earlier than 28 days before that date (‘First Six Month Test Date’). For example, if a vehicle turns four on 29th March, it must be tested by 29th September at the latest but no earlier than 1st September. Following the First Six Month Test Date, subsequent tests must be completed no later than six months following the previous test and no earlier than 28 days before before each subsequent six month test is due to be undertaken”.

- b) Remove the failure to comply with condition to have six month test penalty of “immediate revocation or refusal to renew the vehicle licence” and replace with “suspension of vehicle or refusal to renew the vehicle licence”.

7.4 Vehicle Advertising Policy

The addition to the wording of paragraph 5.1 of the policy as follows:

- a) If the advertisement is to raise awareness of a campaign or charitable cause, the fee is waived.

Gillian Collinson
Senior Licensing & Compliance Officer