

This matter is being dealt with by:

Kathryn Magnay  
01900 702635



29 January 2018

Dear Councillor

I enclose for information a report entitled:

5. Review of Application Criteria for Hackney Carriage and Private Hire

To be considered at Licensing Committee on Monday 5 February 2018.

Yours faithfully



Chief Executive



Allerdale - a great place  
to live, work and visit

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Allerdale Borough Council

Licensing Committee – 5 February 2018

## Review of Application Criteria for Hackney Carriage & Private Hire

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### **The Reason for the Decision**

The implementation of additional criteria to strengthen the public safety objective to establish whether applicants for hackney carriage and private hire drivers' licences are fit and proper by:

1. commencing the procurement of a new driving assessment including the launch of pilot scheme for a trial period of 6 months;
2. considering whether to commence a consultation with the trade and other parties determined as relevant regarding the introduction of a knowledge test;
3. implementing an intended use policy; and
4. scoping out the work and cost associated with conducting an unmet demand survey to establish whether the number of hackney carriage vehicle licences issued should be limited.

### **Summary of options considered**

#### 1. Driving Assessment

To commence the procurement of a new driving assessment immediately with an initial pilot period of six months for the following:

- a) All applicants for the grant of a new hackney carriage or private hire drivers licence to be passed prior to grant of licence; and
- b) All licence holders obtaining a licence since the suspension of the DVSA taxi assessment as per the minutes of the meeting of 29 September 2016 i.e. "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.

Exemptions applicable to both a) and b) above if applicant fulfils criteria contained in paragraph 3.4; or

c) Do not implement a new assessment.

## 2. Knowledge Test

a) To approve a consultation to seek views on the introduction of a knowledge test with the hackney and private hire trade and other relevant parties the Committee feel appropriate; or

b) Take no further action regarding the introduction of a knowledge test.

## 3. Intended Use Policy

a) To implement an intended use policy; or

b) Take no further action implementing an intended use policy.

## 4. Unmet demand survey

a) To scope out the work required and costs associated with undertaking an unmet demand survey; or

b) Take no further action regarding unmet demand survey

## Recommendation

1. To commence the procurement of a new driving assessment immediately with an initial pilot period of six months for the following:
  - a) All applicants for the grant of a new hackney carriage or private hire drivers licence to be passed prior to grant of licence; and
  - b) All licence holders obtaining a licence since the suspension of the DVSA taxi assessment as per the minutes of the meeting of 29 September 2016 i.e. "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.

Exemptions applicable to both a) and b) above if applicant fulfils criteria contained in paragraph 3.4; and

2. To approve a consultation to seek views on the introduction of a knowledge test with the hackney and private hire trade and other relevant parties the Committee feel appropriate; and
3. To implement an intended use policy; and
4. To scope out the work required and costs associated with undertaking an unmet demand survey.

**Financial / Resource Implications**

a) Implementing additional assessments as part of the application process will increase financial burdens for applicants and current licence holders;

b) Introducing a knowledge test will have increased resource implications on staff in Governance to prepare, facilitate and administer the test; and

**Legal / Governance Implications**

To ensure that sufficient criteria is in place to uphold the public safety duty of the Licensing Authority when assessing and determining that applicants for licences are fit and proper to hold a licence and that existing drivers remain so.

**Community Safety Implications**

To continue to assess the fitness, driving capability, safety and knowledge of applicants and licence holders.

**Health and Safety and Risk Management Implications**

Not to have provision for assessments in place may have consequences if the applicant is not a fit and proper person to hold a hackney carriage or private hire drivers' licence.

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|  |  |
|--|--|
| <b>Equality Duty considered / Impact Assessment completed</b>                | No   |
| <b>Wards Affected</b>  | All  |
| <b>The contribution this decision would make to the Council's priorities</b> | Enhancing our towns – enhancing our taxi licensing requirements would encourage a high quality of taxi service and result in thriving and vibrant towns;<br><br>Creating a sustainable business –providing improved services to people and communities . |
| <b>Is this a Key Decision</b>  | No   |
| <b>Portfolio Holder</b>  | Councillor J Ellis   |
| <b>Lead Officer</b>  | Gillian Collinson<br>Senior Licensing and Compliance Officer<br>0303 123 1702<br><a href="mailto:gillian.collinson@allderale.gov.uk">gillian.collinson@allderale.gov.uk</a>  |

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### Report Implications

|                  |   |                                      |   |
|------------------|---|--------------------------------------|---|
| 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: Appendix 1 – Drivers Specification, Appendix 2 - Knowledge Sample Test, Appendix 3 – Knowledge Test Consultation and Appendix 4 – Intended Use Policy.

#### 1.0 Introduction

- 1.1 This report aims to inform members of recent concerns over the general suitability of applicants for taxi driver licences within the borough.
- 1.2 This authority has recently experienced an increase in the number of applications for hackney carriage and private hire licences being submitted. Among that increased number of applications are applications which have been submitted by persons whose fitness to hold a taxi drivers licence is questionable due to a lack of local knowledge, poor communication skills and concerns over their suitability.

- 1.3 Accordingly, the licensing authority has reviewed the criteria to assess whether applicants are fit and proper to hold a licence. It is necessary to continually review the criteria to ensure that, before granting a licence, the licensing authority is satisfied that public safety is upheld and licences are only granted to applicants who can satisfy specific criteria such as driving ability, local knowledge, safety and confirmation that they are fit and proper persons to hold such a licence.
- 1.4 This report therefore recommends the introduction of additional criteria within the application process to include a drivers assessment, an intended use policy as well as the commencement of consultation to seek views on the introduction of a knowledge test and scoping out the work and cost associated with conducting an unmet demand survey to establish whether the number of hackney carriage vehicle licences issued should be limited.

## **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.”
- 2.3 Recently, both officers and Members have become aware of an increase in the number of applications for drivers licences. A proportion of these have been from outside the area and occasionally from different regions, with little evidence to suggest any intention to work in this area. It is unclear why there has been an increase in applicants for drivers’ licences to the Council because a licence issued in Allerdale only has limited use outside the administrative area. However, officers speculate it is due to perhaps a more rigorous and expensive application process at other authorities. The compound effect is an excessive demand for licences in Allerdale. Officers are aware that, without reviewing the assessment criteria associated with applications for drivers’ licenses, the result could be a disproportionate number of drivers applying for licences in Allerdale.
- 2.4 It is important that taxi drivers provide a safe and professional level of service to the public. As part of that, drivers licensed by the Council should be able to

exhibit satisfactory driving ability, a sound knowledge of highway safety, the local area, their licence requirements and other important issues.

- 2.5 In addition, the licensing authority is required to ensure that levels of customer care, disability awareness and communication skills amongst drivers are satisfactory.
- 2.6 These factors all go to demonstrate that a person is a fit and proper person to hold a driver's licence. It is felt by officers that the proposals put forward in this report would be a good way to ensure standards in the trade remain high and to ensure fit and proper drivers operate in the borough in line with the statutory test.

### **3.0 Driving Assessment**

- 3.1 The Licensing Committee were informed at a meeting on 29 September 2016 that the Driving Vehicle Standards Agency (DVSA) were withdrawing the provision of taxi assessments which was a requirement that all applicants for a hackney carriage or private hire driver's licence must pass prior to being granted a licence. This was introduced as a measure to assess the capability of applicants and as part of the criteria to ensure a person is a fit and proper person to hold a licence..

- 3.2 As a result, the Committee removed the condition of application and replaced it with:

“ 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”.

Accordingly, all existing drivers and new applicants are aware that they will be required to carry out the test.

- 3.3 The Licensing Authority is now seeking to replace the DVSA assessment. A pilot scheme is suggested in the first instance, to assist with the procurement for a permanent service. The specification required is attached (appendix 1). It is proposed that it will be advertised on the the Chest in accordance with the Council's procurement process to ensure that the Council achieves value for money when selecting a supplier. The pilot scheme will run for six months, with a review after three months. On review, should it be necessary to do so, a full procurement process will be commenced. The intention of the timing of this review is to provide a seamless service following the pilot scheme whilst allowing sufficient time to assess the success of the scheme.
- 3.4 The previous condition contained the following exemptions from undertaking the assessment based on occupation and licences and training already

obtained. It is proposed that these exemptions continue under the new assessment:

- 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.**

#### **4.0 Knowledge Test**

- 4.1 As legislation and cases evolve, it is becoming imperative that licence holders can demonstrate a knowledge and understanding of criteria including safeguarding, the highway code, knowledge of the local area and landmarks within the borough of Allerdale and its surrounding area, basic numeracy, disability discrimination, equality, diversity, other legislation and an understanding of their own responsibilities and licence conditions, byelaws and taxi legislation.
- 4.2 At present in Allerdale there is no way of establishing whether taxi drivers have this requisite knowledge. A number of other licensing authorities have introduced a knowledge test in order to resolve this.

- 4.3 Officers have conducted research which reveals that a number of products and suppliers are available on the market. Additionally, officers have considered whether a test could be developed in-house by preparing a bank of multiple choice questions from which a selection is made.
- 4.4 It is not yet confirmed how exactly the test would be administered and facilitated but the initial proposal is for a paper-based set of questions to be answered under exam conditions. A sample document with a series of potential questions is attached (appendix 2). The tests will be varied, to ensure that applicants cannot share information about the content of the test.
- 4.5 The proposal would be to require all new applicants to pass the knowledge test prior to being granted a licence and for all existing drivers to undertake the knowledge test within 12 months of its implementation.
- 4.6 In order to ensure the views of the hackney and private hire trade and other relevant parties and agencies are considered, it is proposed to carry out a consultation exercise regarding the introduction of a knowledge test. A copy of the proposed draft consultation is attached (appendix 3).

## **5.0 Intended Use Policy**

- 5.1 The purpose of the Hackney Carriage Intended Use Policy ('the Policy') is to set out how the Council will deal with the licensing and renewal of hackney carriage vehicle licences and other related matters following the effects of the High Court Judgement – Newcastle City Council v Berwick upon Tweed [2008] EWHC 2369 (Admin) ('the Judgment').
- 5.2 It is difficult to monitor hackney carriages licensed by Allerdale Borough Council being driven in other areas of the country. The aim of the Policy is to provide local control over hackney carriages and their drivers, for the protection of the travelling public.
- 5.3 The High Court judgment in the Judgment has provided some guidance as to an approach to be taken by a licensing authority when considering an application made to it for a hackney carriage licence by someone who does not intend to ply for hire in the area of the authority, but only applies to be granted such a licence in order to take advantage (elsewhere) of the statutory exemption from the requirements of private hire vehicle licensing.
- 5.4 The following principles appear to be established by the Judgment in that case and will inform the approach of the Council when it receives an application for a hackney carriage licence, when having asked the question required by the high court judgment "do you intend to use this vehicle for pre-booked work outside this district?" and given the answer "yes":
  - a) The aim of the legislation is to provide a local control over hackney carriages and their drivers, for the protection of the public. This implies that in general, the licensing system should operate in such a way that

the authority licensing hackney carriages is the authority for the area in which those vehicles are principally used.

- b) A licensing authority is obliged to have regard to whether an applicant for a licence intends that the hackney carriage if licensed will be used to ply for hire within the area of that authority. It would be a lawful exercise of the authority's discretion to refuse to grant a licence to an applicant who does not so intend to do so.
- c) A licensing authority is also obliged to have regard to whether an applicant for a licence intends that the hackney carriage will be used (either entirely or predominantly) for private hire remotely from the area of that authority. It would be a lawful exercise of the authority's discretion to refuse to grant a licence to an applicant who does so intend.
- d) It is generally desirable therefore that a licensing authority should only licence hackney carriages which it is intended will ply for hire within the area of that authority and should refuse licences to hackney carriages that do not intend to ply for hire, to a quantifiable extent, in the area.
- e) While it is not unlawful to grant a licence to a proprietor who intends that the hackney carriage shall only be used remotely from the area of the licensing authority, it is not practical nor desirable for an authority to do so. It follows that it is only in wholly exceptional circumstances that a licence is likely to be granted where the proprietor intends that the hackney carriage shall only be used remotely from the area of the licensing authority.
- f) The discretion whether to grant or refuse remains with the licensing authority. It should not be exercised to frustrate the intention of the legislation, namely that the licensing authority ought to be the authority for the area in which the vehicle is generally used. However, there may be proprietors who wish to use their vehicles in a number of different authorities' areas and in that case there should be flexibility in the exercising of the discretion.

5.5 In light of the above, the Council proposes that the policy should be introduced, along with the expectation that all applicants will complete an intended use declaration. The policy and declaration are appended to this report at appendix 4.

## **6.0 Unmet Demand Survey and Research**

- 6.1 Due to the large number of vehicle applications being received, the Licensing Authority may wish to explore further the powers available to them to restrict the number of hackney carriage vehicle licences that can be issued.
- 6.2 Section 16 of the Transport Act 1985 allows the grant of a taxi licence to be refused for the purpose of limiting the number of licensed taxis if, but only if, the licensing authority is satisfied that there is no significant demand for the services of hackney carriages which is unmet. If there is an appeal it will be for the council to convince the court that they had reasonable grounds for being so satisfied. It is for the council to examine the evidence of unmet demand. This is usually done by carrying out statistical surveys, consultation with user groups, police, hoteliers, operators of pubs and clubs, visitor attractions and providers of other transport eg train operators who require taxis to take passengers to and from stations.
- 6.3 Best practice guidance states that if a restriction is implemented this must be reviewed at least every three years and that any costs should not be borne by the trade.
- 6.4 The Licensing Authority is seeking approval from Members to start a scoping exercise to identify the work required to evidence if there is unmet demand, risks and benefits, the costs associated with it and the work and costs ongoing. Information already received suggests that this exercise could cost in the region of £15 - £20,000.

## **7.0 Recommendations**

- 7.1 To commence the procurement of a new driving assessment immediately with an initial pilot period of six months for the following:
- a) All applicants for the grant of a new hackney carriage or private hire drivers licence to be passed prior to grant of licence; and
  - b) All licence holders obtaining a licence since the suspension of the DVSA taxi assessment as per the minutes of the meeting of 29 September 2016 i.e. "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.

Exemptions applicable to both a) and b) above if applicant fulfils criteria contained in paragraph 3.4; and

- 7.2 To approve a consultation to seek views on the introduction of a knowledge test with the hackney and private hire trade and other relevant parties the Committee feel appropriate; and

- 7.3 To implement an intended use policy; and
- 7.4 To scope out the work required and costs associated with undertaking an unmet demand survey.

**Gillian Collinson**  
**Senior Licensing & Compliance Officer**

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## Specification

### 1. Background

- 1.1 Allerdale Borough Council ('the Council') licence all hackney carriages that ply for hire in the Allerdale boundaries and private hire vehicles whose booking office is in Allerdale.
- 1.2 As part of this process, the Council previously had a driving assessment in place via the DVSA. The DVSA test was discontinued and a decision was made that a replacement provider should be identified.
- 1.3 The Council require that all drivers undergo driver assessment training as per Guidance for Driving Examiners carrying out Driving Test (DT1), a copy of which is appended.
- 1.4 The Council will not be responsible for any costs incurred for these tests. All costs are to be charged directly to the individual drivers.
- 1.5 Since the discontinuation of the DVSA test, all drivers and new applicants have been advised that on appointment of a new driving test provider, they must sit the relevant driving assessment within six months of that appointment.
- 1.6 The Council intend to implement a pilot scheme in the first instance, as part of the procurement. This pilot scheme will run for six months. After three months, there will be a review of the pilot scheme, to ascertain whether the service provided is appropriate to the Council's requirements. It will also allow the Council to determine whether, in the provision of a permanent service, the value will exceed the relevant threshold and therefore require a full procurement.
- 1.7 The pilot scheme will commence on DATE and will be for six months.

### 2. Requirements

- 2.1 There are currently approximately 235 hackney carriage drivers and NUMBER private hire drivers who must complete the driving assessment within six months of implementation. There are approximately 300 pending applications who may also need to undertake the test if they proceed.
- 2.2 We require the following tests along with the potential for retesting if required:
  - Category type Z – test type 13 – Private Hire
  - Category type Z1 – Test type 14 – Hackney Carriage (drive and wheelchair assessment)
  - Category type Z2 – Test type 14 – Wheelchair Assessment.
- 2.3 The selected companies will need:

- 2.3.1 To carry out tests as per DVLA standards agency requirements within form DT1, chapter 4 which can be found at <https://www.gov.uk/guidance/guidance-for-driving-examiners-carrying-out-driving-tests-dt1/04-the-taxi-test> and complete form DL25.
- 2.3.2 The capacity to book tests and effectively communicate these details to the drivers.
- 2.3.3 To be able to provide the driver and Allerdale Borough Council with a copy of any test pass certificates or failure notifications.
- 2.3.4 To charge drivers directly for all tests.
- 2.3.5 To be accredited and regulated by the DVSA.

### 3. Proposed Timetable

- 3.1 The Request for Quotation will be published for seven days, ending on [DATE to be confirmed].
- 3.2 The pilot scheme will be reviewed after three months. This will be to ascertain whether the arrangements are appropriate and whether the test fulfils the requirements of the Council. At this stage, the Council will ascertain whether a full procurement is required to proceed with a permanent service.

### 4. Quotation Evaluation Criteria

The order will be awarded on the basis of the most economically advantageous to the Council based on the evaluation criteria of **40%** Price and **60%** Quality.

**Allerdale Borough Council**  
**Hackney Carriage Driver Licence**  
**Knowledge Test**

**Information Sheet**



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From XXX, every existing taxi driver and new applicant will be expected to undertake and successfully complete a knowledge test to assist in satisfying the council that they are a 'fit and proper person'. The purpose of this is to ensure they have an understanding of their role and their responsibilities to the travelling public.

The test is divided into 5 sections; the Highway Code, Basic Numeracy, Safeguarding of Passengers, Allerdale Borough Council's Conditions of Licence and Local Knowledge. A sample test can be found within this document to show the nature of the questions which will be asked.

Each test will last 45 minutes and contain 25 questions (the sample paper only contains 15 for representative purposes); the pass mark is 80% and failure will result in the application being considered for refusal. Applicants will be given two opportunities to re-take the knowledge test within 7 days following being notified that they have failed; failure of the third test will lead to refusal of the application. Failure to attend the test without sufficient notice or reason and any test deemed to be void as a result of a breach of the Instructions to Candidates will automatically forgo their right to re-take the test.

The test will be held under exam conditions and cost £XX which will cover the Council's cost in hosting the adjudicated exam session. Applicants who need to re-take the test will be charged a further fee of £XX per test.

Applicants will be expected to have knowledge of the Highway Code and the Council's policies for Hackney Carriage and Private Hire Drivers and Vehicles.

Any applicants who require assistance with reading, writing or any other requirement which may negate their ability to be tested must detail this prior to booking the test so arrangements can be made to assist that individual.

Sample Paper

**Allerdale Borough Council**  
**Hackney Carriage Driver Licence**  
**Knowledge Test**



Name:

Address:

Application Reference:

Date:

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**INSTRUCTIONS TO CANDIDATES - PLEASE READ THIS PAGE CAREFULLY**

You will be given 45 minutes to complete this test; you will be allotted 5 minutes prior to the beginning of the test to complete your personal details at the top of this page

- Do not complete any part of this paper until you are told to do so.
- Do not open the question paper until you are told to do so.
- The test consists of 15 questions divided into 5 sections the Highway Code, Basic Numeracy, Safeguarding of Passengers, Allerdale Borough Council's Conditions of Licence and Local Knowledge. Each question is worth one mark.
- In order to pass the test you will be expected to achieve 80% from the total marks available.
- The question paper must be completed in black ink; all answers must be clear and legible. Where the answer is not deemed to be clear, it will be marked as incorrect. Any mistakes must be clearly crossed out.
- The exam will be held under strict exam conditions; therefore the use of mobile phones, calculators or any personal digital device will lead to your paper being marked as void. Talking or any form of communication with others during the test is also prohibited and will result in your paper being marked as void.

Each question is multiple choice and the answer box must be marked clearly with a tick ✓ and any correction made by crossing out the incorrect answer✘.

**PLEASE WAIT TO BE TOLD YOU MAY BEGIN BEFORE TURNING THIS PAGE.**



**Highway Code**

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Question 1

This sign means :



- A) You are approaching a pedestrian crossing
- B) You are entering a Pedestrianised zone
- C) You are entering a zone where pedestrian access is prohibited

Question 2

This sign means:



- A) No Stopping in any circumstances
- B) Loading Only
- C) No Vehicular Access

Question 3

This sign denotes a:



- A) Football Ground
- B) Sport/Leisure Centre
- C) Tourist Information Point

**Allerdale Borough Council**  
**Hackney Carriage Driver Licence**  
**Knowledge Test**



**Basic Numeracy**

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Question 4

If the fare for a journey is £5.90, how much change would be given if the customer pays with a £20 note?

- A) £13.10
- B) £14.10
- C) £15.10
- D) £4.10

Question 5

A driver makes 12 journeys every day. At this rate how many journeys would be made in 5 days?

- A) 58
- B) 60
- C) 62
- D) 64

Question 6

If a customer gives you a £10.00 note and you gave them £3.85, what was the price of the journey?

- A) £5.15
- B) £6.25
- C) £5.25
- D) £6.15



**Safeguarding of Passengers**

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Question 7

A young person/child enters your vehicle and appears to be upset, they express that they are fearful of going to the journey destination, what should you:

- A) Do nothing, only act when the young person/child asks you to  A
- B) On dropping off the child/young person call the Police on 101 or 999 if you consider this situation to be an emergency  B
- C) Refuse to take them to the requested destination  C

Question 8

Which of the below is NOT considered to be appropriate behaviour (select only one answer):

- A) Keeping records of any incident or situation, including a description of what happened and what action was taken to resolve the matter  A
- B) Requesting contact details of passengers for your records  B
- C) Checking at the point of booking if there are any vulnerability issues to allow you to prepare for the journey in the right way  C

Question 9

Which of the following IS considered to be appropriate behaviour (select only one answer):

- A) As soon as the passenger enters the vehicle engage the central locking without notice  A
- B) Insist that a lone passenger sits in the front passenger seat  B
- C) Only follow a passenger into their house when they authorise you to do so  C

**Allerdale Borough Council**  
**Hackney Carriage Driver Licence**  
**Knowledge Test**



**Conditions of Licence**

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Question 10

Once a vehicle is over 5 years of age:

- A) It can no longer be used as a Hackney Carriage/Private Hire vehicle
- B) It cannot exceed an annual mileage of 10,000 miles
- C) It must be tested on a bi-annual basis

Question 11

A current table of fare and charges must be:

- A) Displayed and visible at all times
- B) Produced on requested by the customer
- C) Provided at the end of the journey

Question 12

Every taxi must have the following safety equipment:

- A) A fire extinguisher and CCTV
- B) CCTV and first aid kit
- C) First aid kit and fire extinguisher

**Allerdale Borough Council**  
**Hackney Carriage Driver Licence**  
**Knowledge Test**



**Local Knowledge**

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Question 13

If you were asked by a customer to be taken to the Lake District Coast Aquarium, which town would they expect to be dropped off?

- A) Maryport
- B) Workington
- C) Allonby
- D) Silloth

Question 14

As an estimate, how many miles would you be expected to drive between Workington and Keswick?

- A) Less than 10
- B) 20
- C) 30

Question 15

Which road runs from Lillyhall, through Harrington, Workington, Flimby, Maryport, Crosby Villa, Prospect, Aspatria and Wigton, adjoining another single lane carriage way at Thursby?

- A) A66
- B) A595
- C) B5302
- D) A596

**End of Test**



## Licensing Consultation

### Hackney Carriage and Private Hire Driver Licence Knowledge Tests

**Start date:** [ ] **Closing Date:** [ ]

The Council periodically undertakes reviews of its policies and wishes to actively encourage feedback to ensure the safety of the travelling public of Allerdale and nearby areas.

The aims of all licensing consultations are:

- to ensure that no unnecessary or unreasonable burdens are placed on licence holders; and
- All procedures and policies, once reviewed, are transparent, reasonable, fair, and as easy as possible for licence holders and service users to understand and accept.

On this occasion the Council wants to know your views on the introduction of a driver knowledge test for hackney carriage drivers and private hire drivers.

All responses received will be submitted to the Licensing Committee to assist them in making an informed decision on the future policy relating to hackney carriage and private hire knowledge tests in Allerdale. The future policy will affect not only the relevant businesses within Allerdale but also the general public and other service users within Allerdale.

If you wish to comment on this particular consultation please complete as appropriate. If your comments require further space please add the question number(s) to the supplementary sheet and return the whole completed questionnaire before the closing date of [ ] either by:

- email to [licensing@allerdale.gov.uk](mailto:licensing@allerdale.gov.uk) OR;
- in person to any of Allerdale Borough Council's offices OR;
- by post to:

**Licensing Consultation Responses**  
**Allerdale Borough Council**  
**Allerdale House**  
**Workington**  
**Cumbria**  
**CA14 3YJ**

**PLEASE MARK ONE ANSWER FOR EACH QUESTION, SELECTING THE MOST APPROPRIATE OPTION FOR YOU**

|          |  |  |                               |
|----------|--|--|-------------------------------|
| <b>1</b> | <b>Select the main capacity in which you are responding?</b> |  |                               |
|          | Hackney Carriage Driver                                      |  | Hackney Carriage Owner        |
|          | Hackney Carriage Owner/<br>Driver                            |  | Private Hire Driver           |
|          | Private Hire Owner   |  | Private Hire Owner/Driver     |
|          | Allerdale Resident   |  | Service user within Allerdale |
|          | Other <i>(please specify)</i>                                |  |                               |

|          |   |  |  |
|----------|---|--|--|
| <b>2</b> | <b>Should a knowledge test be introduced for hackney carriage and private hire drivers?</b> |  |  |
|          | Yes   |  |  |
|          | No  |  |  |

|          |  |  |  |
|----------|--|--|--|
| <b>3</b> | <b>Please state briefly the reasons for your answer:</b>   |  |  |
|          | <p><i>(e.g. you may consider that the knowledge test would help customers get better service because drivers know the area better; that applicants have to study and so value a licence more when they finally obtain one; or that it would help to weed out applicants who would not conduct themselves in a professional manner.</i></p> <p><i>Alternatively, you may feel that the test would prevent enough drivers being licensed to effectively service the customer demand; that the test does not guarantee that drivers can navigate the area; or that modern satellite navigation technology make the knowledge test unnecessary.)</i></p> |  |  |

**Thank you for taking the time to complete this survey. Any resultant report will include details of responses to this consultation.**

**Additional Comments:**

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## Intended Use Policy

### 1. Introduction

1.1 Any representation as to the law in relation to the licensing and regulation of private hire vehicles and hackney carriages contained within this policy document is intended to assist in understanding the policy and its application and represents the Council's understanding of the law as it stands at the time when the policy was adopted. It is not intended that it should be relied upon for any other purpose and. In particular, it should not be relied upon as giving any indication as to how any other prosecuting/regulatory authority may act or interpret the legislation and the case law.

1.2 At Allerdale Borough Council ('the Council'), the Licensing Committee is authorised to discharge the functions of licensing.

1.3 For many years, the Council has chosen to licence Hackney Carriage Vehicles within Allerdale without imposing restriction on numbers.

1.4 The Council had no control over whether these Hackney Carriage Vehicles work within the Borough of Allerdale. There has been an increase in the numbers of applicants applying for Hackney Carriage Licences who intend to work as Private Hire Drivers in other authorities.

1.5 The Council has a duty to carry out the licensing functions relating to Hackney Carriage Drivers and Vehicles as set out within legislation, which includes:

- The Local Government (Miscellaneous Provisions) Act 1976
- The Town Police Clauses Act 1847
- The Transport Act 1985

1.6 Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 states that "a district council may require any applicant for a licence under the Act of 1847 or under this Part of the 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".

1.7 The purpose of the Hackney Carriage Intended Use Policy is to set out how the Council will deal with the licensing and renewal of hackney carriage vehicle licences and other related matters following the effects of the High Court judgement – Newcastle City Council v Berwick upon Tweed [2008] EWHC 2369 (Admin) ('the Judgement').

1.8 It is difficult to monitor Hackney Carriages licensed by Allerdale being driven in other areas of the country.

1.9 The aim of the Hackney Carriage Intended Use Policy is to provide local control over Hackney Carriages and their drivers, for the protection of the travelling public.

1.10 For clarification, a Hackney Carriage is what most people refer to as a 'taxi'. Its main features are that:

- it carries passengers in return for payment
- it may advertise itself to be for hire and be hailed in a street in a borough that it is licensed
- it may be hired from a taxi rank within the borough in which it is licensed

1.11 Within Allerdale, a Hackney Carriage Vehicle can be distinguished as it will have a taxi sign on the roof of the vehicle, self-adhesive door signs and front and rear vehicle plates. A hackney carriage licensed within Allerdale may only ply for hire within the area of the relevant licensing authority. That is, the authority to which the application was made for its licence, and which granted the licence. It can be distinguished from a Private Hire Vehicle which also carries passengers for reward, but must be pre-booked with a Private Hire Operator and cannot be hailed in the street or hired from a rank.

1.12 Once a vehicle has been licensed as a hackney carriage, it is a hackney carriage for the duration of that licence, wherever it is currently located, and can therefore be used for pre-booked purposes in any district in England and Wales. It is not an offence for a licensed private hire operator to take bookings for, and then dispatch a hackney carriage licensed by a district which is different from that which licenses the operator.

1.13 Putting a condition on an operator's licence attempting to prevent that operator from using hackney carriages licensed by a different district from that which licenses the operator will be of no effect, as a hackney carriage has an inherent legal right to be used for pre-booked work outside its district.

1.14 The High Court judgement in the Judgement has provided some guidance as to an approach to be taken by a licensing authority when considering an application made to it for a hackney carriage licence by someone who does not intend to ply for hire in the area of the authority, but only applies to be granted such a licence in order to take advantage (elsewhere) of the statutory exemption from the requirements of private hire vehicle licensing.

1.15 The following principles appear to be established by the judgement in that case and will inform the approach of the Council when it receives an application for a hackney carriage licence, when having asked the question required by the high court judgement "do you intend to use this vehicle for pre-booked work outside this district?" and given the answer "yes":

- a) The aim of the legislation is to provide a local control over hackney carriages and their drivers, for the protection of the public. This implies that in general, the licensing system should operate in such a way that the authority licensing hackney carriages is the authority for the area in which those vehicles are principally used.
- b) A licensing authority is obliged to have regard to whether an applicant for a licence intends that the hackney carriage if licensed will be used to ply for hire within the area of that authority. It would be a lawful exercise of the authority's discretion to refuse to grant a licence to an applicant who does not so intend to do so.

- c) A licensing authority is also obliged to have regard to whether an applicant for a licence intends that the hackney carriage will be used (either entirely or predominantly) for private hire remotely from the area of that authority. It would be a lawful exercise of the authority's discretion to refuse to grant a licence to an applicant who does so intend.
- d) It is generally desirable therefore that a licensing authority should only licence hackney carriages which it is intended will ply for hire within the area of that authority and should refuse licences to hackney carriages that do not intend to ply for hire, to a quantifiable extent, in the area.
- e) While it is not unlawful to grant a licence to a proprietor who intends that the hackney carriage shall only be used remotely from the area of the licensing authority, it is not practical nor desirable for an authority to do so. It follows that it is only in wholly exceptional circumstances that a licence is likely to be granted where the proprietor intends that the hackney carriage shall only be used remotely from the area of the licensing authority.
- f) The discretion whether to grant or refuse remains with the licensing authority. It should not be exercised to frustrate the intention of the legislation, namely that the licensing authority ought to be the authority for the area in which the vehicle is generally used. However, there may be proprietors who wish to use their vehicles in a number of different authorities' areas and in that case there should be flexibility in the exercising of the discretion.

1.16 In light of the above, the Council proposes the Hackney Carriage Intended Use Policy to be made up of the following sections:

- a. Applications for the grant of a new Hackney Carriage Licence
- b. Applications for the renewal of a Hackney Carriage Licence
- c. Transfer of Ownership
- d. Change of Vehicle

1.17 For avoidance of doubt, the policy will only apply to those areas where the Council, when carrying out their licensing function, is able to exercise discretion. In all other instances, the requirements of the individual relevant statutory provisions will be applied.

## 2. Declaration

2.1 All applicants will be expected to complete an intended use declaration as part of the application process. The declaration will be as follows (or will be drafted in such a way as to have similar effect and meaning:

### **DECLARATION FOR THE INTENDED USE OF HACKNEY CARRIAGES**

I have been advised that, in carrying out its functions under section 37 of the Town Police Clauses Act 1847 and section 57(1) of the Local Government (Miscellaneous Provisions) Act 1976, the Council expects applicants for Hackney Carriage vehicle licences to demonstrate a bona fide intention to ply for hire within the administrative area of Allerdale Borough Council.

I hereby declare that it is my intention that the vehicle licensed by me will be used entirely and/or predominantly in the Borough of Allerdale and I understand that should this not be the case either at the date hereof or at any time thereafter, the Council may suspend, revoke or refuse to renew the licence under section 60(1)(c) Local Government (Miscellaneous Provisions) Act 1976.

Name \_\_\_\_\_

Vehicle Registration \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_

### 3. The Policy

#### 3.1 **Applications for the grant of a new Hackney Carriage Licence**

3.1.1 The Council believes it has a duty to:

- balance the human rights of both applicants and the public with the need to protect public safety through a system of local control.
- balance the rights of individuals to seek licences and employment whether in Allerdale or otherwise.

3.1.2 The existing legislative provisions relating to the licensing of private hire vehicles, drivers and operators (Local Government (Miscellaneous Provisions) Act 1976) do not permit a licensing authority to restrict the number of licences that may be granted. It is therefore possible for an applicant seeking a licence who intends to use a vehicle for private hire remotely from the area of the relevant hackney carriage licensing authority area to seek a licence from the relevant licensing authority.

3.1.3 The Council will determine each application on its merits, but the Council will place public safety above all considerations.

3.1.4 The Council when considering new applications for hackney carriage proprietors' licences, more commonly referred to as hackney carriage vehicle licences, will determine those applications in accordance with the above principles and the overall conclusions contained within the High Court Judgement of Newcastle City Council v Berwick upon Tweed ('the Judgement'). In summary:

- i. Applicants for new licences will be expected to demonstrate to the satisfaction of the Council a bona fide intention that the vehicle is to be used to ply for hire to a material extent within the Borough of Allerdale under the terms of the licence for which the application is being made.
- ii. There will be a presumption that applicants who do not intend that the vehicle is to be used to a material extent to ply for hire within the Borough of Allerdale will not be granted a hackney carriage licence authorising them to do so.

- iii. Even if the applicant intends to ply for hire to a material extent within the Borough of Allerdale, there will be a presumption that applicants who intend that the hackney carriage is to be used predominantly remotely from the area of the Council will not be granted a hackney carriage licence.
- iv. Every application will be decided on its merits and the above presumptions may be rebutted in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that a licence can be granted without frustrating the purposes of the legislation and/or compromising public safety.
- v. In all cases, when considering applications for hackney carriage proprietors' licences, the Council will place public safety above all other considerations.
- vi. In relation to licences granted after the adoption of the intended use policy, any information as to the use of the vehicle remotely, including information from other councils, will be considered by the Council in determining whether to exercise powers to suspend or revoke a licence and whether or not to renew a licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976.

#### **4. Applications for the Renewal of a new Hackney Carriage Licence**

4.1 There will inevitably be a large number of licensees who have been granted licences prior to the Judgement and who now earn their livings or have built up businesses in reliance on those licences. The Council recognises that there is potential that those licensees may not have their licenses renewed, if the basis on which their licences were originally granted to them were to be changed so as to disentitle them to renewal. Notwithstanding, the Council believes it has a duty to:

- Balance the human rights of both applicants and the public with the need to protect public safety through a system of local control.
- Balance the rights of individuals to seek licences and employment whether in Allerdale or otherwise.

4.2 The existing legislative provisions relating to the licensing of private hire vehicles, drivers and operators (Local Government (Miscellaneous Provisions) Act 1976) do not permit a licensing authority to restrict the number of licences that may be granted. It is therefore possible for an applicant seeking a licence who intends to use a vehicle for private hire remotely from the area of the relevant hackney carriage licensing authority to seek a licence from the relevant licensing authority.

4.3 The High Court was not directly concerned with the position on the renewal of a licence already granted but it inevitably follows that the applicant's intentions as to the use of the vehicle are also relevant to applications to renew.

4.4 The Council recognises that there may be applications for renewal in which it may be appropriate to consider exceptional circumstances when it may not be right, or

consistent with an existing licensee's legitimate expectations, to determine the application by reference to criteria that are wholly different from those pertaining at the time of the first application and grant.

- 4.5 The Council will determine each application on its merits, but the Council will place public safety above all other considerations.
- 4.6 The Council recognises that, in the short term, it may be necessary to take account of the financial impact on an applicant of a refusal to renew. There may be cases in which an applicant has acted to his or her detriment (particularly financially) in reliance on the grant of a licence prior to the introduction of this policy. In such cases, the Council will allow an opportunity for an applicant to provide evidence before a final decision is taken. It will be for the applicant to show genuine hardship/unfairness and to satisfy the Council that a licence can be granted without frustrating the purposes of the legislation and/or compromising public safety.
- i. Section 43 of the Town Police Clauses Act 1847 provides that a hackney carriage licence shall only be in force for one year. Section 60 of the Local Government (Miscellaneous Provisions) Act 1847 introduces the concept of "renewal" and gives the Council the power to renew a licence on both specific grounds and for any other cause.
  - ii. Applicants seeking to renew a licence will be expected to demonstrate to the satisfaction of the Council a bona fide intention that the vehicle is to be used to ply for hire to a material extent within the Borough of Allerdale under the terms of the licence for which the application is made.
  - iii. There will be a presumption that applicants who do not intend that the vehicle is to be used to a material extent to ply for hire within the Borough of Allerdale will not be granted a hackney carriage licence authorising them to do so.
  - iv. Even if the applicant intends to ply for hire to a material extent within the Borough of Allerdale, there will be a presumption that applicants who intend that the hackney carriage is to be used predominantly remotely from the area of the Council will not be granted a hackney carriage licence.
  - v. Every application will be decided on its merits and the above presumptions may be rebutted in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that a licence can be granted without frustrating the purposes of the legislation and/or compromising public safety.
  - vi. In all cases when considering applications for hackney carriage proprietors' licences, the Council will place public safety above all other considerations.
  - vii. In relation to licences granted after the adoption of the intended use policy, any information as to the use of the vehicle remotely, including information from other councils, will be considered by the Council in determining whether to exercise powers to suspend or revoke a licence and whether or not to

renew a licence under section 60 of the Local Government (Miscellaneous Provisions) Act 1976.

#### *4.7 Notification of the 'transfer' of hackney carriage licences*

No statutory provision is made for the transfer of hackney carriage licences. What are commonly regarded as transfers of licences however, regularly take place – as when a proprietor replaces a licensed vehicle, or when the 'ownership' of a licensed vehicle changes, and the new owner wishes to continue to operate the vehicle as a hackney carriage under the terms of the existing licence. In the latter situation, section 49 of the Local Government (Miscellaneous Provisions) Act 1976 requires that the proprietor of the licensed vehicle who 'transfers' his interest to another must, within 14 days of the transfer, give written notice to the Council of the name and address of the transferee of the hackney carriage. The Council has no power to refuse to register the new proprietor: see *R v Weymouth Borough Council, ex p Teletax (Weymouth) Ltd* [1947] KB 583.

### **5. Transfer of ownership**

5.1 The Weymouth decision requires the Council to register the name of the new proprietor of the vehicle. It seems to the Council also to open up an obvious route to circumvent the recent decision of the High Court, unless precautionary steps are taken. This policy is intended to put the Council in a position to respond responsibly to the transfer of an Allerdale hackney carriage into the name of someone who operates outside the Borough or (more importantly) remotely from it.

5.2 The Council has a duty to balance the human rights of both applicants and the public with the need to protect public safety through a system of local control.

- i. The transferee of a licensed hackney carriage will be requested to inform the Council whether he or she has a bona fide intention to use the vehicle to ply for hire within the Borough of Allerdale and also whether he or she intends to use the hackney carriage exclusively or predominantly remotely from the area. There is an obligation under section 73 of the Local Government (Miscellaneous Provisions) Act 1976 to give an authorised officer information which may reasonably be required by him for the purpose of carrying out his functions under the legislation.
- ii. Where there is a failure to provide the requested information, the Council will give consideration to exercising its powers of suspension of the licence under section 60 of LG(MP)A 1976 until such information is forthcoming.
- iii. Transferees will be expected to have a bona fide intention that the vehicle is to be used to ply for hire to a material extent within the Borough of Allerdale under the terms of the licence in respect of the vehicle being transferred.
- iv. Where a transferee does not intend that the vehicle is to be used to a material extent to ply for hire within the Borough of Allerdale, there will be a presumption (either at renewal or earlier) that the suspension or revocation of the licence under section 60 of the 1976 act will follow.

- v. Even if the transferee intends to ply for hire to a material extent within the Borough of Allerdale, where transferees intend that the hackney carriage is to be used predominantly remotely from the area of the Council, there will be a presumption (either at renewal or earlier) that the suspension or revocation of the licence under section 60 of the 1976 Act will follow.
- vi. Every case will be decided on its merits and the above presumptions may be rebutted in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that a licence can be granted without frustrating the purposes of the legislation and/or compromising public safety.
- vii. In all cases, when considering reviews of hackney carriage proprietors' licences, the Council will place public safety above all other considerations.

## **6. Change of vehicle**

6.1 It is assumed that if the proprietor has a legal entitlement to hold a licence that unless there has been a change in his intentions with regard to plying for hire within the Borough of Allerdale, there should be no reason why he should not be granted a licence for a replacement vehicle.

6.2 An applicant who obtained his first licence on the expressed intention of plying for hire within the Borough of Allerdale and who on application to replace that vehicle with another discloses that he no longer so intends, effectively engages the presumption against grant that is mentioned in the earlier policies. That presumption however, admits of exceptions in the usual way; and the fundamental principle that each applications will be determined on its merits will apply.

- i. Applicants seeking the grant of a hackney carriage licence for a vehicle intended to replace another licensed vehicle will be asked to inform the Council of any material change to the intended use of the replacement vehicle from that which was expressed to the Council (if any was) when application was made for the licence which is to be replaced.
- ii. There will be a presumption that applicants who do not intend that the replacement vehicle is to be used to a material extent to ply for hire within the Borough of Allerdale will not be granted a hackney carriage licence authorising them to do so.
- iii. Even if the applicant intends to ply for hire to a material extent within the Borough of Allerdale there will be a presumption that applicants who intend that the replacement vehicle is to be used predominantly remotely from the area of the Council will not be granted a hackney carriage licence.
- iv. Every application will be decided on its merits and the above presumptions may be rebutted in exceptional circumstances. Whilst it is neither possible nor prudent to draw up a list of what might amount to exceptional circumstances, an applicant who claims that exceptional circumstances exist will be expected to be able to satisfy the Council that a licence can be granted

without frustrating the purposes of the legislation and/or compromising public safety.

- v. In all cases, when considering applications for hackney carriage proprietors' licences, the Council will place public safety above all other considerations.

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