

Allerdale Borough Council

Licensing Committee – 5 February 2018

Review of Application Criteria for Hackney Carriage & Private Hire

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.

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	Gillian Collinson Senior Licensing and Compliance Officer 0303 123 1702 gillian.collinson@allderdale.gov.uk

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:
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 - 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.

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- 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
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