

Taunton Deane Borough Council

Licensing Committee – 4 March 2015

Licensing Regime for Hackney Carriage/Private Hire Drivers and Private Hire Operators

Report of the Licensing Manager

(This matter is the responsibility of Executive Councillor James Hunt)

1. Executive Summary

Members are asked to consider the licensing requirements for Hackney Carriage/Private Hire Drivers and Private Hire Operators within Taunton Deane and the recommendations set out at section 11 of the report with regard to the removal of the one year drivers licence, the instigation of a three year Private Hire Operators licence and the requirement to pass a medical before a drivers licence is granted.

2. Background

Hackney Carriage/Private Hire Vehicles Drivers and Private Hire Operators Licence Period

- 2.1 The Council currently grants drivers licences for either 1 or 3 years and operator licences for 1 year only. The granting of 1 year licences appears to have been the case from before CRB/DBS checks were introduced, with 3 year licences being brought in to match the period of relevance for the CRB check in 2003.
- 2.2 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 allows for the granting of drivers' licences for hackney carriages and private hire vehicles for a period of three years or such a lesser period as the council may specify.
- 2.3 Similarly, section 55 permits the granting of a private hire operator's licence for a period of up to 5 years again at the discretion of the Council.

Disclosure and Barring Service Checks

- 2.4 Criminal Records Bureau (CRB) checks (now replaced by Disclosure and Barring Service (DBS) checks) were introduced in 2002 and are relevant for a period of 3 years. Taxi driving is a notifiable occupation, this means that it is a profession which carries special trust or responsibility, in which the public interest in the disclosure of conviction and other information by the police generally outweighs the normal duty of confidentiality owed to

the individual. Consequently the Police will inform the Local Authority if a driver licensed by them is charged or convicted of a criminal offence.

Knowledge & Suitability Interview

- 2.5** The knowledge and suitability interview is the final stage in the consideration of the fit and proper test applied to all those seeking a drivers licence from the Council. It is a chance for the officer to meet the applicant face to face and establish, amongst other things, their knowledge of current policy and legislation. The officer will also assess the demeanour, comprehension and motivation of the applicant before answering the overarching question " Would you allow your son daughter, mother, spouse or other person you care about get into this vehicle with this person alone?".

Driving Standards Test

- 2.6** At present the Council has no requirement for a driver's driving ability to be judged before a licence is issued. A separate report on this matter is before the Committee for consideration at this meeting.

Medicals

- 2.7** Under the Council's current taxi licensing policy a requirement of the fit and proper person criteria is that drivers and applicants obtain a medical certificate at those ages suggested within the Medical Commission for the Prevention of Accidents publication "Medical Aspects of Fitness to Drive" which mirror the requirements of Group 2 licence holders. Those ages are 45, 50, 55 and 60. After reaching 60 years of age a driver must provide a medical certificate every year.

3. Report

Hackney Carriage and Private Hire Vehicles Drivers Licence

- 3.1** The fact that the legislation limits the period for which a licence remains valid places an obligation on the Council to reconfirm the applicant's suitability before a further licence is granted. It is the opinion of officers that the present system of merely requiring a DBS check, driving licence validation and confirmation of details is insufficient to ensure that applicants are fit and proper to be licensed.
- 3.1** It is the view of officers that upon application for renewal the suitability of a driver should be re-examined in full to ensure that they remain fit and proper to be licensed.
- 3.2** This will of course place an additional burden upon the Council and the trade if the system of granting only one year licences is continued. Members are therefore being asked to consider the removal of yearly licences for drivers and operators and their replacement with 3 year licences.

- 3.3** Further supporting reasons for the policy change are set out in the following paragraphs.
- 3.2** Given that the Council will be made aware of any offences for which a driver has been charged or convicted through the notifiable occupation process and condition 17 on the drivers licence requires that the Council be notified by the driver within 72 hours of being charged or convicted of an offence, it is the opinion of officers that the requirement to renew annually is unnecessary in respect of that part of the fit and proper test.
- 3.4** By holding a knowledge & suitability interview at the time of each renewal officers will be able to ensure drivers have kept up to date with any legislation, policy or procedural changes, they will be able to discuss in detail any incidents that may have been recorded against the driver and be confident that no further similar incidents will occur and most importantly the Council can demonstrate complete compliance with the legislation and be entirely confident that the person licensed is indeed fit and proper.
- 3.5** The removal of the need to re-apply every year would reduce the administrative and financial burdens on drivers and in the case of new drivers would ensure that their DBS renewal date would match their licence renewal date, again reducing the administrative burden on both the drivers and the licensing team.
- 3.6** Should a driver find that he no longer wishes to continue within the profession during the period of his licence, the fee construction method currently being used by the Council allows for an accurate refund of the portion of the fee allocated to administration for the period remaining on their licence.
- 3.7** The instigation of a full re-testing of drivers will ensure that the current high standards within the profession are maintained.

Medicals

- 3.8** The paramount consideration when granting a licence is public safety and the current arrangements set out above with regard to medicals reflect the minimum standards that should be place to ensure drivers are medically fit to drive. Officers feel that this minimum standard is at odds with the overarching aim of public safety and the Council should be seeking a much firmer guarantee of the applicants medical fitness before issuing a licence allowing the driver to transport members of the public.

4. Finance Comments

If the removal of one year licensing is approved and the charging rate did not change there would be a reduction in income received by the department over a 5 year rolling period. This may be partly mitigated by a reduction in administration time required by the licensing department. It would therefore be necessary to re-evaluate the costs in order to correctly reflect the appropriate charging rate. This is in line with the Council's

commitment to set an appropriate level of charge proportionate to the costs for these licences.

5. Legal Comments

All the options set out in this report would meet the requirements of the Local Government (Miscellaneous Provisions) Act 1972.

6. Links to Corporate Aims

Although there are no direct links to the corporate aims the provision of an effective licensing regime benefits local businesses and the public alike in full accordance with the Council's Corporate Strategy.

7. Environmental and Community Safety Implications

The removal of the ability for applicants to apply for a one year licence may result in less opportunity for officers to interact with / oversee drivers during the term of their licence.

8. Equalities Impact

No adverse equality impact identified.

9. Risk Management

The risks highlighted at paragraph 7 above will, in the opinion of officers, be mitigated by the more detailed checks being undertaken at grant and renewal alongside an increased inspection regime.

10. Partnership Implications (if any)

None

11. Recommendations

- 11.1** That Members approve the removal of one year licences for Hackney Carriage and Private Hire Vehicles Drivers Licences and Private Hire Operators Licences.
- 11.2** That Members approve the instigation of 3 year licences for Private Hire Operators.
- 11.3** That Members approve the requirement for all drivers seeking a renewal of a drivers licence be required to pass a knowledge and suitability interview prior to the granting of a licence.
- 11.4** That Members resolve to require all applicants for the grant or renewal of a hackney carriage and private hire vehicles drivers licence drivers licence obtain a suitable medical certificate before a licence is granted.

Contact: Ian Carter
01823 356343

i.carter@tauntondeane.gov.uk

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Licensing Regime for Hackney Carriage/Private Hire Drivers

Report of the Licensing Officer

(This matter is the responsibility of Executive Councillor James Hunt)

1. Executive Summary

Members are asked to consider the licensing requirements for Hackney Carriage/Private Hire Drivers within Taunton Deane and the recommendations set out at section 11 of the report with regard to the requirement to pass a practical driving assessment before a drivers licence is granted or renewed.

2. Background

Fit and Proper Person Test

- 2.1 The Council currently grants joint licences to drive Hackney Carriages and Private Hire vehicles.
- 2.2 The primary aim of carrying out this function is ensuring public safety.
- 2.3 Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council shall not grant a licence to drive private hire vehicles unless they are satisfied that the applicant is a fit and proper person. Section 59 of the same Act requires that district councils make the same consideration when deciding whether to grant a licence to act as the driver of a hackney carriage.
- 2.4 The term 'fit and proper' is not further defined in the legislation, nor are there any statutory requirements or tests that a local authority must apply, other than that the applicant must have held a DVLA issued driving licence for a period of not less than a year, prior to making an application.
- 2.5 The Council's current system for checking the fitness and propriety involves a medical examination certificate, the results of a Disclosure and Barring Service application (DBS – formerly CRB), validation of the applicant's DVLA driving licence and the completion of a 'knowledge and suitability interview'.

- 2.6** Although, as above, the applicant's DVLA driving licence is validated, which includes consideration of any endorsements or convictions that may have been accrued, they do not have their driving ability assessed.
- 2.7** The Licensing Team occasionally receives complaints from members of the public and members of the taxi and private hire trade itself, regarding licensed drivers displaying poor or dangerous driving. This, coupled with the deaths of members of the public as a result of traffic accidents involving hackney carriage drivers licensed by the Council, has highlighted a shortfall in the Council's fit and proper person test. It is the opinion of officers that the introduction of a practical driving assessment would enable greater protection of the public.

Taxi Forum

- 2.8** Anyone who holds a licence under hackney carriage and private hire legislation is invited to participate in the Taxi Forum, which has included a monthly meeting chaired by Cllr Miss Kelly Durdan, as chairman of the Licensing Committee. Those that attend the forum have sought the introduction of additional application requirements to improve the standards of drivers licensed.

3. Report

DVSA Taxi Test

- 3.1** The Driver and Vehicle Standards Agency (DVSA), formerly Driving Standards Agency (DSA) has devised a 'Taxi test'; a practical driving assessment which local authorities may use to enhance their fit and proper person test.
- 3.2** The test is conducted by qualified driving examiners and involves being able to follow directions, perform certain manoeuvres such as a three point turn and safe stop at the side of the road to enable a passenger to exit the vehicle. It also involves an eyesight test and having to answer questions on the Highway Code and good practice e.g. what to do with lost property. The test currently costs £79.66 for a test on a weekday or £96 at weekends. This fee is separate to fees levied by the Council in respect of making an application.
- 3.3** Officers are of the opinion that introducing the DVSA Taxi Test (or equivalent) to the fit and proper person test would further promote public safety and remind applicants and existing drivers of their responsibility in ensuring that their passengers have a safe, comfortable and enjoyable journey. Members are therefore asked to consider the introduction of the DVSA Taxi Test or equivalent as a requirement of an application for the grant or renewal of a Hackney Carriage/Private Hire Vehicle Drivers Licence.

Somerset Road Safety

- 3.4** Somerset Road Safety (SRS) is a Somerset County Council partnership that works with Avon and Somerset Constabulary, Devon & Somerset Fire & Rescue Service, NHS Trusts and the Highways Agency, together with

- driving and safety organisations such as RoSPA, IAM, Driving Standards Agency and the Driving Instructors Association. Its aim is to drive down casualty rates, create safer communities and improve the quality of life for all residents and visitors to Somerset.
- 3.5** SRS have designed a practical driving assessment, the 'Taxi Assessment Test', to mirror the DVSA taxi test. SRS have provided a summary of the service they can provide, which is attached at **Appendix 1**. The test is only carried out by driving examiners that have attained the top two grades of professional accreditation; Approved Driving Instructors (ADI) Standards.
- 3.6** Mendip District Council, South Somerset District Council and West Somerset Council all require that each person who applies for a driver licence must have first completed the DVSA test. Mendip and South Somerset also accept the SRS test as an alternative and officers would support the council taking an identical stance, further reasons for which are set out below.
- 3.7** Through working at West Somerset Council as part of the JMASS project, officers are aware that applicants can encounter delays between the booking of and carrying out of the DVSA test. In order to reduce delay, applicants have on some occasions travelled to test centres in other counties. SRS propose to start and finish all tests for Taunton Deane applicants at Deane House in Taunton. SRS also have greater capacity than the DVSA for the booking of tests and re-tests, where the applicant may have failed. This will help reduce the period of time between an applicant gathering together all of the application pre-requisites and determination of the application.
- 3.8** Were members to approve the requirement for all applicants and drivers to have completed the DVSA taxi test, or equivalent, it would reduce the financial burden on independent operators and drivers who may in future look to work across the Mendip, South Somerset and West Somerset Districts, since they would be able to present proof of having already completed the test upon making an application to this or any of the other aforementioned local authorities.
- 3.9** At £45, the SRS test is significantly cheaper than the DVSA test. By enabling the SRS Taxi Test to be used as an alternative to the DVSA, it would help to reduce the financial burden that would be placed upon applicants and existing drivers.
- 3.10** A Taxi Forum was held on the 11th of November 2014, and representatives of the trade were asked if they would support the introduction of a practical driving assessment. Those in attendance generally supported the introduction of an assessment as a requirement upon application and for existing drivers, providing there be an exemption for existing drivers that have already completed the assessment or equivalent training.

4. Finance Comments

4.1 None.

5. Legal Comments

5.1 All the options set out in this report would meet the requirements of the Local Government (Miscellaneous Provisions) Act 1972.

6. Links to Corporate Aims

6.1 Although there are no direct links to the corporate aims the provision of an effective licensing regime benefits local businesses and the public alike in full accordance with the Council's Corporate Strategy.

7. Environmental and Community Safety Implications

7.1 The introduction of a practical driving assessment for persons wishing to provide taxi and/or private hire services will act as an additional safeguard in the Council's process of determining whether such persons should be granted a licence, which would support the Council's aim of ensuring the safety of the travelling public.

8. Equalities Impact

8.1 No adverse equality impact identified.

9. Risk Management

9.1 No risk identified.

10. Partnership Implications (if any)

10.1 None.

11. Recommendations

11.1 That Members approve one of the two options set out below, having considered the impact upon the trade and the obligations on the Council to protect the safety of the public using licensed Hackney Carriages or Private Hire Vehicles.

Option 1

11.2 That members resolve to require all applicants for the grant of a hackney carriage and private hire vehicles drivers licence to provide proof that they have passed the DVSA Taxi Test or SRS Taxi Test.

Option 2

11.3 That members resolve to require all applicants for the grant or renewal of a hackney carriage and private hire vehicles drivers licence to provide proof that they have passed the DVSA Taxi Test or SRS Taxi Test. This is the officers' preferred option.

Contact: John Rendell
01823 356343
j.rendell@tauntondeane.gov.uk



Taxi Assessment Test

The test has been designed to be the equivalent of the DVSA Private Hire & Hackney Carriage Assessment Test.

Start and finish point

The test will start and finish at The Deane House, Belvedere Road, Taunton TA1 1HE and you are advised to arrive at least five minutes before the appointed time.

Documents you must bring

You must bring both parts of your driving licence – the photo card and the paper counterpart. The test will not be conducted unless you will bring both parts.

You must bring your signed driving licence and a valid passport if you have an old-style paper licence.

The test cannot be conducted unless you bring both parts of the licence with you.

Vehicle requirements

Your vehicle must be roadworthy and have a MOT certificate if required, as well as current tax and insurance.

Before the test

The test will take approximately one hour. Before the start you will have to read a number plate from a distance of 20.5 metres.

- A medical check will have to be completed beforehand

Included in the test will be the following:

- A manoeuvre where you will be asked to turn your vehicle to face the opposite direction
- An emergency stop
- A pull away on a hill
- A pull away on the flat
- A pull away from behind a parked car
- Around 10 minutes of driving without being given directions by the assessor
- Two cabology questions
- Three Highway Code questions
- Five questions on road signs and markings
- You will be expected to demonstrate good control of the vehicle and excellent observational skills throughout the test

Wheelchair exercise (optional)

If vehicle is fitted with special equipment to allow access for wheelchairs and people with additional needs the following tasks will need to be undertaken:

- Put wheelchair ramps in place securely and safely
- Load and unload the wheelchair safely
- Safely and correctly install the wheelchair in vehicle, backing chair to fold down seats and secure the wheelchair and its brakes
- Secure seatbelt/safety harness as well as clamps or belts if fitted in vehicle

Passing the test

In order to pass the test you are not allowed to make any serious or dangerous faults and have a maximum of eight minor faults.

Please note:

If you do not give 48 hours notice to cancel your test or if you arrive more than five minutes late, or fail to bring the correct documents, you will be charged but your test will be cancelled.

To book:

To book the test please contact *ADI name and tel number*

The test will be taken in the examiner's own vehicle and it is advisable to have a one hour pre-test assessment drive at a cost of £30. This assessment is not compulsory, but it may highlight any 'bad habits' that you have developed prior to the official test.

Pre-test assessment drive £30 (not compulsory)

The test is £45

All payments direct to *name of ADI*

