

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING COMMITTEE – 27 JANUARY 2010**

Title of report	<b>REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS 'FIT &amp; PROPER PERSON' POLICY</b>
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Purpose of report	<p>The report details proposed changes to the Council's Hackney Carriage and Private Hire Fit &amp; Proper Person Policy. It also explains the background to the fit and proper person test and the reasons for the proposed changes.</p>
Strategic aims	<p>Strong and Safer Communities</p>
Implications:	
Financial/Staff	<p>All resources directed to the administration and enforcement of the taxi licensing function must be recovered via taxi licensing and charges. No additional staffing would be required. Legislation allows the recovery of costs through the licence fee.</p>
Link to relevant CAT	<p>Safer CAT</p>
Risk Management	<p>There is adequate staffing resource to administer the proposed knowledge test for private hire drivers. It is anticipated that the proposed changes will not have a negative effect on service delivery.</p> <p>The introduction of the proposed knowledge test will provide another means of ensuring the safety of public using our licensed vehicles.</p> <p>The introduction of a language proficiency assessment will reduce the risk of licensed drivers suffering abuse or assault.</p>

	Any decision to refuse a licence application based on conversational ability will be taken by Committee, thereby reducing the likelihood of claims of discrimination.
Equalities Impact Assessment	Equality impact assessment already undertaken, issues identified actioned.
Human Rights	None
Transformational Government	The Service transformation team are currently working with the Licensing Service.
Comments of Head of Paid Service	The report is satisfactory
Comments of Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Members of the Public, All existing Private Hire and Hackney Carriage Driver Licence holders, Existing Private Hire Operators, Leicestershire Police, Hinckley Age Concern, Leicestershire Age Concern, Local disability groups, Leicestershire County Council, Department For Transport, The Equality and Human Rights Commission, Head of Street Management North West Leicestershire District Council, Town Centre Manager North West Leicestershire District Council
Background papers	DVLA Medical Examination Report. Licensing Law and Practice (Hyde, P & Rohsler, C) Department of Transport Taxi and Private Hire Vehicle Licensing: Best Practice Guidance. DVLA Medical Examination Report form D4. DVLA (2006) 'Fitness to Drive': A Guide for Health Professionals. DVLA. For Medical Practitioners – At a glance Guide to the current Medical Standards of Fitness to Drive – September 2009.
Recommendations	<b>(A) TO EXTEND THE REQUIREMENT TO PASS A KNOWLEDGE TEST TO PRIVATE HIRE APPLICANTS.</b>  <b>(B) TO APPROVE ISSUE 4 OF THE COUNCILS HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER 'FIT AND PROPER PERSON' POLICY, ATTACHED AT APPENDIX 2 WITH AFFECT FROM 28 JANUARY 2010.</b>

	<p><b>(C) TO DELEGATE PROCEDURES AND ADMINISTRATION OF THE FIT AND PROPER PERSON POLICY DETAILED WITHIN PARAGRAPH 6 &amp; 7 TO THE COMMERCIAL SERVICES MANAGER.</b></p> <p><b>(D) TO APPROVE THE IMPLEMENTATION STRATEGY DETAILED AT PARAGRAPH 11.</b></p> <p><b>(E) TO APPROVE FEES IN PRINCIPLE AND DELEGATE IMPLEMENTATION TO THE COMMERCIAL SERVICES MANAGER IN ACCORDANCE WITH COUNCIL'S SCALE OF FEES AND CHARGES.</b></p>
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**1.0 LEGISLATION**

- 1.1 The legislation governing the grant of a Hackney Carriage and Private Hire Drivers' licences imposes a duty on district councils to ensure that the people they license are fit and proper.
- 1.2 Section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act) states:- 'notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence ...'.
- 1.3 Section 51(1)(a) of the 1976 act states:- 'Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence: Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence ...'.
- 1.4 Section 57(1) of the 1976 Act states:- 'A District Council may require any applicant for a licence under the Town Police Clauses Act 1874 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.'

A request for information may include a Licensing Authority requiring applicants to undergo an English proficiency test or a test of the driver's conversational ability.

**2.0 BACKGROUND**

- 2.1 Currently the Council requires applicants for hackney carriage driver's licences to take a knowledge test. This requirement was introduced because hackney carriages can be hired immediately, directly with the driver, at ranks or on the street and therefore drivers require good local topographical knowledge. Hackney Carriage drivers should be able to convey passengers the shortest distance to their destination and be able to do this without consulting a street map. This approach is supported by the Department for Transport's Taxi and Private Hire Vehicle Licensing Best Practice Guidance.

- 2.2 The current hackney carriage knowledge test assesses an applicant's knowledge of the location of various streets in the Coalville and Ashby de la Zouch areas, locations of various high profile establishments in the area such as leisure centres, hospitals etc, and their knowledge of the hackney carriage byelaws, hackney carriage vehicle licence conditions and the fare table.
- 2.3 The authority has 111 hackney carriage drivers of which 50 live at addresses outside the area (45%). During 2008 11 new hackney carriage drivers were licensed of which 8 live outside of the district (73%). Licensing Enforcement Officers have to be satisfied that applicants from out-of-the-area have an adequate knowledge of the local area.
- 2.4 The test currently in use requires revision as a result of changes that have taken place within the town centres and given the high number of licensed drivers who currently live outside of the district. It is recommended that the Commercial Services Manager be authorised to add to and amend the bank of test questions as appropriate.

### **3.0 ASSESSMENT OF 'FIT AND PROPER'**

- 3.1 The information currently required to assess whether a driver/applicant is a 'fit and proper' person to whom a licence should be granted is as follows;
- a check of the applicant's DVLA driving licence record,
  - a test of their medical fitness,
  - an enhanced disclosure from the Criminal Records Bureau,
  - a Driving Standards Agency driving assessment pass certificate,
  - and for hackney carriage drivers, a knowledge test.

In addition to the above the Council can consider any other information in determining if a person is 'fit and proper'. The current Fit and Proper Person policy is attached as Appendix 1.

### **4.0 KNOWLEDGE TEST FOR PRIVATE HIRE DRIVER APPLICANTS**

- 4.1 Currently the Council does not require an applicant for a private hire driver's licence to pass a knowledge test. Councils bordering on North West Leicestershire District already require private hire driver applicants to undertake a knowledge test. This situation has resulted in applicants who have failed tests or who do not wish to take a test, making an application to North West Leicestershire District Council.
- 4.2 Evidence shows that a number of our drivers do not know the legal differences between the hackney carriage and private hire systems as well as the council's own hackney carriage byelaws and private hire conditions. This lack of knowledge is not only detrimental to the quality of service provided by our drivers but could also lead to them breaking the law.
- 4.3 It is proposed to extend the requirement to pass a knowledge test to Private Hire Driver applicants.

## **5.0 CONVERSATIONAL PROFICIENCY**

- 5.1 In reviewing the council's knowledge test the question of assessing an applicant's ability to communicate (conversational proficiency) needs to be addressed. The requirement to be able to communicate verbally in English is considered relevant to the 'fit and proper' test, and therefore is a valid consideration.
- 5.2 Our licensed drivers not only need to understand what their customers are saying but must also be able to make themselves understood.
- 5.3 In extreme circumstances drivers without the ability to communicate verbally with clients in English leave themselves open to danger. There have been numerous, nationwide, examples of drivers with a poor command of English being harmed by drunken passengers. It is easy to imagine the scenario of a passenger turning aggressive after failing to get a suitable response from the driver who through no fault of their own doesn't understand what is being said. In such a situation a good command of the English language and interpersonal skills may assist in diffusing the situation.
- 5.4 A research study was commissioned in 2007 by the Department for Transport's Accessibility and Equalities Unit to identify and explore the nature of personal security problems affecting taxi and private hire vehicle (PHV) drivers and what measures would improve their actual and perceived security. The research found that drivers without a good command of English are thought to be especially vulnerable to abuse and attack because of the potential for misunderstanding triggering confrontation. Asian and other minority ethnic drivers themselves identified the absence of an ability to communicate easily to customers as a factor that can put drivers at greater risk.
- 5.5 The revised Department for Transport – Taxi and Private Hire Vehicle Licensing: Best Practice Guidance due out in 2010 addresses language proficiency. The guidance states that Licensing Authorities may wish to consider whether an applicant would have any problems in communicating with customers because of language difficulties. Training may also be considered for applicants to enable them to reach an appropriate standard of comprehension, literacy and numeracy. A copy of the Draft guidance is attached as Appendix 3.
- 5.6 On occasion, the Licensing team find that the only way to converse with some drivers, when conducting enquiries, is to do it through a friend or another family member. The family member or friend often has the ability to translate English into their first language and back again. This Licensing Authority expresses concern that drivers without a good command of English are especially vulnerable to abuse and attack.
- 5.7 In addition an ability to hold a conversation in English is essential in providing a good customer service standard.
- 5.8 However, the question of language and communication does not extend to the written form. It would be unfair to test an applicant's writing abilities when the only written requirement of a driver is to provide a receipt for a passenger.
- 5.9 It is proposed that conversational proficiency be introduced into the knowledge test by making a section of the test an oral assessment. This will allow Licensing Enforcement Officers to make an assessment of an applicant's conversational proficiency without the

need for a separate English language test. This will also assist those applicants who cannot write in English.

- 5.10 An equality impact assessment has been carried out by the Environmental Health Management Team.

## **6.0 PROPOSED NEW KNOWLEDGE TEST**

- 6.1 The new knowledge test seeks to encourage prospective drivers to have an understanding of the law, Highway Code, the Council's own bye laws, conditions and local area/roads. All of the test questions will be taken from documents available on the Council's web site. An application pack or paper copies of the Council's bye laws and conditions will be available upon request.

- 6.2 Section E of the test will be completed orally. This will give the examiner an opportunity to assess the applicant's conversational proficiency.

- 6.3 The new test includes the following sections:

- a) Writing a receipt.
- b) 5 law questions
- c) 5 questions on the Highway Code and road signs.
- d) 5 questions on the council's own byelaws/conditions (there will be separate questions for hackney carriage and private hire applicants). AND EITHER
- e) 5 questions on routes (For Hackney Carriage Driver's) OR 5 questions on knowledge of key places and main roads (For Private Hire Driver's)  
1 of the 5 questions will test an applicant's ability to read a written address.  
(Section E is an oral assessment)

## **7.0 KNOWLEDGE TEST ADMINISTRATION / ASSESSMENT**

- 7.1 The first task is to write a receipt but if the applicant fails, the rest of the test will be cancelled and the applicant will be deemed to have failed the test.

- 7.2 Having completed the receipt element of the test the applicant will move onto the four knowledge based sections (b, c, d & e at 5.3 above).

- 7.3 The 'knowledge' sections of the test consist of 20 questions. The pass mark for prospective **hackney carriage and private hire drivers** will be a total of 16 achieving a score of at least 4 in each of the 4 sections.

- 7.4 **Private hire applicants** will not be tested on topographical knowledge as they are not legally available for immediate hiring in the same way as a hackney carriage. To hire a private hire vehicle the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. Section E for private hire applicants will test their ability to read a map and their knowledge of key places and main roads.

- 7.5 Should the examiner have concerns over an applicants conversational proficiency (ability to hold a conversation in verbal English) a second examiner will be introduced. The applicant will then be asked a number of conversation questions on a subject area of their

choice. The assessment will last for approximately 5 minutes. In the event that the examiners remain concerned over the applicants conversational proficiency the matter will be referred to Committee. Should the Committee refuse the licence application the applicant will receive details of how to access training to enable their conversational proficiency to reach an acceptable standard. The Certificate in English for Speakers of Other Languages (Entry Level 3) is considered to be an acceptable standard.

- 7.6 Applicants will only be allowed 3 attempts to take and pass the knowledge test. If an applicant fails, 2 weeks must elapse before they can resit the test. If an applicant takes and fails the third knowledge test they will be considered not to be 'fit and proper' and their application will be refused.
- 7.7 The cost of a knowledge test/retest fee will remain at the current level of £35 and will apply to both hackney carriage and private hire applicants. This fee is non refundable. The level of fee will be subject to regular review.

## **8.0 MEDICAL EXAMINATION**

- 8.1 The House of Commons Transport Select Committee on Taxi and Private Hire Vehicles recommended in February 1995 that taxi licence applicants should pass a medical examination before such a licence could be granted.
- 8.2 The Department for Transport draft Taxi and Private Hire Vehicle Licensing: Best Practice Guidance states that it is clearly good practice for medical checks to be made on each driver before the initial grant of a licence. The Best Practice Guidance states that 'There is general recognition that it is appropriate for hackney carriage/private hire drivers to have more stringent medical standards than those applicable to normal car drivers because they carry members of the general public who have expectations of a safe journey; they are on the road for longer than most car drivers; and they may have to assist disabled passengers and handle luggage.'
- 8.3 Given this recognition for the need for a higher standard of medical checks for hackney carriage/private hire drivers than for other car drivers, it is proposed to use the Group 2 medical standards, which the DVLA apply to applicants for licences to drive buses and lorries as a benchmark. If approved the DVLA medical examination report form 'D4' would replace the current Council medical certification form.
- 8.4 For applicants up to 65 years it is proposed to retain the current policy of requiring all applicants for hackney carriage and private hire driver licences to undergo a medical assessment before the initial grant of the licence and every 3 years thereafter. However from age 65 years it is proposed to require licence holders to undergo a group 2 medical assessment annually. This is consistent with best practice stated within the document DVLA. For Medical Practitioners – At a glance Guide to the current Medical Standards of Fitness to Drive – September 2009.

## **9.0 CONSULTATION**

- 9.1 Consultation Process

The consultation period began on 22<sup>nd</sup> September 2009 and ended on 18<sup>th</sup> December 2009. The draft policy and covering letter detailing the changes were made available to

view on the Council website. A letter detailing the proposed changes to the policy and process for submitting comments was sent to all licensed drivers, Private Hire Operators, Leicestershire Police, Hinckley Age Concern, Leicestershire Age Concern, Local disability groups, Leicestershire County Council, Department For Transport, The Equality and Human Rights Commission, Head of Street Management North West Leicestershire District Council, Town Centre Manager North West Leicestershire District Council.

The two largest Private Hire Operators based in Ashby De la Zouch received a site visit from a Licensing Enforcement Officer who explained the proposed changes to the existing policy. The two largest Private Hire Operators in Coalville received a telephone call from a Licensing Enforcement Officer. A meeting took place at the Council Offices with the Operator based at East Midlands Airport.

The equality impact assessment identified persons whose first language is not English as the group most likely affected by the proposed changes to the policy. It is known that both Abbey Cars and A1 Taxi employ a high number of drivers whose first language is not English. For this reason site visits were made to each Operator by a Licensing Enforcement Officer. The proposed changes to the policy were explained to the company and any drivers present. Each company was left with paper copies of the draft policy and stamped, addressed envelopes for the submission of comments.

## 9.2 Consultees Comments

### 9.2.1 The following comments were made by Arrow Private Hire:

Medical examination: "In our experience, the issue of where a medical examination is carried out has been abused. Our thoughts are that only the drivers regular practice doctor should be allowed to carry out the medical as they are the only ones who have historical records of the patient. This will eradicate drivers going to doctors who will charge a small fee for signing a form without having carried out a thorough medical".

Knowledge test: "We believe that a knowledge test must be fully measurable. For two different Licensing Officers to fairly determine if a driver can communicate properly should not be a decision reached on the basis of one officer understanding the driver more than another. Therefore, the test must be measurable so as to protect the council from any litigation from drivers".

### 9.2.2 The following comments were made by the Staff Disability Focus Group:

"I believe that language proficiency as well as some reading ability, along with knowledge of the local area is imperative when dealing with the visually and hearing impaired".

"Point 9.3 of the policy should also include a test to show one is able to read a written address. This could be dealt with in Section E of the test which focuses on their ability to read a map".

## 9.3 Response to Consultee Comments

### 9.3.1 Consideration has been given to removing an applicants ability to choose which medical practitioner carries out their medical examination by insisting that all medical examinations are undertaken by the applicants General Practitioner at their registered Group Practice.



Sections 9 and 10 of the medical examination report form requires an applicant in the presence of the Medical Examiner to (1) consent to the release of medical information relevant to their fitness to drive. This is released by the applicants registered Practice, and (2) declare that the information they have provided is correct and they understand that it is a criminal offence if they make a false declaration to obtain a licence which may lead to prosecution. Given the above information it is proposed to NOT restrict the undertaking of medical examination to the applicants registered General Practitioner.

- 9.3.2 It is acknowledged that an objective test would reduce the likelihood of Council decisions being appealed. Every effort has been made to find an objective test which is appropriate to assess the fitness and propriety of an applicant for a Hackney Carriage or Private Hire Driver Licence. To date all of the tests found include an assessment of an individuals reading ability and sentence mastery, both of which are not considered appropriate. Research will continue to identify an appropriate objective test to measure a hackney carriage/private hire applicants conversational proficiency. It is believed that the measures detailed within paragraph 6.5 will reduce the risk of challenge to an acceptable level.
- 9.3.3 Testing an applicant's ability to read a written address will be incorporated into the knowledge test.

## **10.0 AMENDMENTS TO THE COUNCIL'S 'FIT & PROPER' PERSON POLICY**

- 10.1 If these proposals are accepted they will amend the council's 'fit and proper person' policy document originally approved by the Licensing Committee on 26 November 2008.

A copy of the draft 'Fit and Proper Person' policy for Committee approval is attached at Appendix 2.

- 10.2 The Council's private hire driver's licence conditions will be amended to include details of the knowledge test.

## **11.0 IMPLEMENTATION**

- 11.1 Commencement  
The revised Hackney Carriage and Private Hire Fit & Proper Person Policy will come into force on 28<sup>th</sup> January 2010.
- 11.2 New Applicants  
The requirement to take the new knowledge test will apply to all new applicants for hackney carriage and private hire driver licences received from the commencement date of the new fit and proper person policy.
- 11.3 Existing Licence Holders  
Should a complaint made against a licensed driver be substantiated the matter may be referred to the Hackney Carriage and Private Hire Sub-Committee.

Should a complaint of overcharging be made against an existing licensed Private Hire Driver they may be required to sit the knowledge test.

Should a complaint be received concerning a licence holders conversational proficiency, the licence holder may be required to sit the knowledge test.



# Hackney Carriage & Private Hire Driver 'Fit and Proper' Person Policy Incorporating DSA Driving Assessment

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## 1) INTRODUCTION

The Council is required by law to ensure that any persons it licenses either as hackney carriage or private hire drivers are 'fit and proper'. There is no specific test for this condition but this council currently checks DVLA driving licence records, requires a medical examination, an enhanced disclosure from the CRB, DSA driving assessment and for hackney carriage drivers, a knowledge test.

This policy is the basis on which the Council will decide whether an applicant is a fit and proper person. However, it does not prevent the Council from considering any other information received from whatever source in determining whether to grant or refuse a hackney carriage or private hire driver's licence.

## 2) DEFINITIONS

For the purposes of this policy the following definitions apply:

- a) Council – North West Leicestershire District Council
- b) DSA – Driving Standards Agency
- c) DVLA – Driver & Vehicle Licensing Agency
- d) Driving licence – any driving licence issued by the DVLA
- e) Driver's licence – either a Hackney Carriage or Private Hire driver's licence issued by North West Leicestershire District Council
- f) Driving assessment – DSA private hire / hackney carriage driving assessment
- g) Licensed driver – private hire and hackney carriage drivers currently licensed by North West Leicestershire District Council

## 3) APPLICATION & DOCUMENTATION

Prospective applicants should contact the authority for an application pack. The following documentation is required to be returned for an application to be accepted for processing:-

- a) Relevant completed and signed application form
- b) DVLA driving licence – prospective applicants may be turned away if they have certain traffic convictions
- c) Completed medical examination form.
- d) A completed enhanced CRB application form together with supporting documentation. Prospective applicants with certain criminal convictions may be turned away.
- e) DSA driving assessment pass certificate – Applicants need to contact the DSA direct via their booking line telephone number 0300 200 1122 or web address <http://www.dsa.gov.uk/Taxis.asp>.

#### **4) DSA DRIVING ASSESSMENT & EXISTING DRIVERS**

The council requires a DSA driving assessment to be taken by existing drivers under the following circumstances:-

- a) Any licensed driver whose DVLA driving licence has attracted 6 or more penalty point endorsements over a 3 year period will be required to take a driving assessment. Drivers will be permitted 3 months from the date of the qualifying conviction to successfully complete a driving assessment AND lodge their pass certificate with the licensing section. Should a driver lodge an appeal with the court the 3 months will commence on the date it confirms the conviction. Any new endorsements to the driver's DVLA licence during the appeal period will count towards the current period if the appeal is allowed or the next period if the appeal is dismissed. Licensed drivers will continue to be required to take driving assessments each time they breach the 6 penalty point endorsement level.
- b) All currently licensed drivers will be required to take and pass a driving assessment AND lodge their pass certificate with the licensing section on or before 1 July 2010. As soon as the driving assessment has been passed it will be presumed that the driver's DVLA driving licence is clear of endorsements because the private hire driver's conditions requires the driver to notify the authority, in writing, of any conviction within 7 days of the date of conviction. The driver will only be required to take another DSA driving assessment if he/she accumulates a further 6 or more penalty points.

#### **5) ADMINISTRATION**

- a) Drivers/prospective drivers will be responsible for contacting the DSA direct to arrange a driving assessment. Any financial arrangements will be between the driver and the DSA, the Council will not accept payment on behalf of the DSA.
- b) Any deception or attempted deception of the DSA will be treated as a dishonest act and action will be taken to revoke the driver's licence or refused in the case an application for grant of a licence. The matter may be reported to the police. The DSA have their own security measures aimed at preventing such instances.
- c) Any drivers in category 4b) above will risk having their hackney carriage or private hire driver's licence suspended or revoked if they have not successfully completed a DSA driving assessment AND lodged their pass certificate with the licensing section on and before 1 July 2010. A driver failing to pass the assessment by this date will be deemed as not being a fit and proper person to hold a driver's licence.

- d) Any failure to notify the licensing section of any endorsements is a breach of licence conditions and could result in proceedings aimed at the revocation of a driver's licence.
- e) A private hire driver is required to inform the licensing section, in writing, of any endorsements received within 7 days of the date of the conviction. Officers will check the driver's records and, if a DSA driving assessment is required, will write to the driver informing him/her of the fact. The letter will contain time limits, for the completion of the DSA driving assessment, with which the driver must adhere. The driver must then contact the DSA directly to organise an assessment.
- f) The decision of the DSA driving assessors is final and the Council will not enter into any negotiations, with the DSA, on behalf of the driver.
- g) For drivers governed by the contents of paragraph 4a) above, the number of points on their licence will equal the number of points on their licence that could be considered for 'totting up' purposes by a court of law at the commencement date of this policy (see paragraph 5j) below).
- h) Should any driver in category 4a) above be required to take a third driving assessment, in any 10 year period, they will be automatically brought before a Council committee that will decide whether the driver should remain licensed with this authority.
- i) Any circumstances not covered by this document and requiring a decision will be brought to the attention of the Commercial Services Manager or deputy.
- j) The commencement date of this policy is 1 December 2008.

## **6) A WORKED EXAMPLE**

For those drivers that may find themselves in category 4a) above the following worked example may be of assistance:-

On 1 October 2005 Driver A is convicted of a speeding offence and his/her licence is endorsed with 3 penalty points.

On 1 April 2008 Driver A is convicted of offences after a minor road traffic collision and his/her licence is endorsed with 4 penalty points.

Within 3 years from 1 October 2005 Driver A has accumulated 7 points and has until and including 30 June 2008 to take and pass a DSA driving assessment.

On 20 April 2008 Driver A is convicted of another speeding offence and his/her licence is endorsed with 3 more penalty points.

If the DSA driving assessment was taken and passed and the pass certificate lodged with the licensing section by 30 June 2008 those 7 penalty points can be disregarded with regards to another, future, DSA driving assessment. However, the 3 points collected during the 3 month waiting period do count towards the possibility of another DSA test. If Driver A attracts 3 or more penalty points during the period up to and including 19 April 2011 he/she will have to take another DSA driving assessment. Failure to take and pass the DSA driving assessment by the required date may result in proceedings being taken to revoke their driver's licence.

## **7) MEDICAL EXAMINATION FORM**

7.1 The applicant needs to produce a medical examination form completed and signed by a Doctor. A blank form will be supplied by the authority

## **8) COUNCIL POLICY RELATING TO THE RELEVANCE OF CONVICTIONS**

### **8.1 General Policy**

- a) Each case will be decided on its own merits.
- b) A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are exceptional mitigating circumstances. However, persons with convictions for offences of a sexual or child related nature or other very serious crime will not normally be issued with a licence. The overriding consideration should be the protection of the public and all other matters, including unemployment, shall be secondary to the public safety factor.

### **8.2 Minor Traffic Offences**

- a) Convictions for minor offences eg obstruction, waiting in a restricted street, speeding etc. should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle driver's licence may be granted after its restoration but a warning should be issued as to future conduct.

### **8.3 Major Traffic Offences**

- a) An isolated conviction for driving without due care and attention or dangerous driving etc. (depending on the circumstances of the individual case) should normally merit a warning as to future driving and advice on the standard expected of hackney carriage

and private hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from conviction has elapsed.

An applicant with a conviction for any of the following motoring offences should be refused and no further application should be considered until a period of 3 to 5 years free from conviction has elapsed. A period of 12 months must also have elapsed since the end of any disqualification period:

Using a vehicle uninsured against third party risks,  
Reckless driving,  
Driving whilst disqualified,  
Driving or attempting to drive whilst under the influence of drugs or drink.

#### **8.4 Criminal Convictions**

- a) An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.
- b) As hackney carriage and private hire vehicles drivers often carry unaccompanied passengers, applicants with convictions for offences of a sexual or child related nature or other very serious crime will not normally be issued with a licence.
- c) As hackney carriage and private hire drivers maintain close contact with the public, firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.
- d) Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

#### **9) KNOWLEDGE TESTS**

- a) Only hackney carriage driver's licence applicants are required to take a knowledge test. The knowledge test seeks to examine the applicant's



knowledge of the street places and buildings of the district and their ability to take the quickest route between two places.

## **10) DELEGATION**

- a) The Commercial Services Manager is authorised to make minor amendments to this policy to reflect changes in other Council policies and amendments made by the DVLA to their policies.

### **Document History**

Issue 1	1 December 2008 – 9 December 2008 (Agreed by Licensing Committee on 26 November 2008)
Issue 2	10 December 2008 – 14 March 2009 (Minor amendment to contact details of DSA at paragraph 3e) authorised by Commercial Services Manager)
Issue 3	15 March 2009 – To date (Minor amendment to paragraph 1 (Introduction). Insertion of new second sub-paragraph as authorised by Commercial Services Manager)

**COUNCIL'S VISION**

North West Leicestershire will be a place where people and businesses feel they belong and are proud to call home



# Hackney Carriage & Private Hire Driver 'Fit and Proper' Person Policy

Issue 4 DRAFT

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## **1.0 INTRODUCTION**

The Council is required by law to ensure that any persons it licenses either as hackney carriage or private hire drivers are 'fit and proper'. There is no specific test for this condition but this council currently checks DVLA driving licence records, an enhanced disclosure from the CRB, requires a DSA driving assessment, a medical examination and a knowledge test.

This policy is the basis on which the Council will decide whether an applicant is a fit and proper person. However, it does not prevent the Council from considering any other information received from whatever source in determining whether to grant or refuse a hackney carriage or private hire driver's licence.

Each of the above elements are discussed in more detail within this policy.

## **2.0 DEFINITIONS**

For the purposes of this policy the following definitions apply:

Council – North West Leicestershire District Council

CRB – Criminal Records Bureau

DSA – Driving Standards Agency

DVLA – Driver & Vehicle Licensing Agency

Driving licence – any driving licence issued by the DVLA

Driver's licence – either a Hackney Carriage or Private Hire driver's licence issued by North West Leicestershire District Council

Driving assessment – DSA private hire/hackney carriage driving assessment

Licensed driver – private hire and hackney carriage drivers currently licensed by North West Leicestershire District Council

## **3.0 APPLICATION & DOCUMENTATION**

Prospective applicants should contact the authority for an application pack. The following documentation is required to be returned for an application to be accepted for processing:-

- Relevant completed and signed application form together with fee.
- DVLA driving licence – prospective applicants may be turned away if they have certain traffic convictions.
- Completed medical examination form.
- A completed enhanced CRB application form together with supporting documentation. Prospective applicants with certain criminal convictions may be turned away.
- DSA driving assessment pass certificate – Applicants need to contact the DSA direct via their booking line telephone number 0300 200 1122 or web address <http://www.dsa.gov.uk/Taxis.asp>.

## **4.0 DVLA DRIVING LICENCE RECORD**

4.1 Applicants must submit a standard DVLA car driving licence as evidence of driving proficiency. Any convictions will be considered in accordance with the Council Policy Relating to the Relevance of Convictions. (See paragraph 7.0)

4.2 In addition to being considered to be a fit and proper person to hold a driver's licence all applicants must have been authorised to drive a motor car for at least 12 months.

## **5.0 DSA DRIVING ASSESSMENT**

- 5.1 The Council requires a DSA driving assessment to be taken by existing drivers under the following circumstances:-
- 5.2 Any licensed driver whose DVLA driving licence has attracted 6 or more penalty point endorsements over a 3 year period will be required to take a driving assessment. Drivers will be permitted 3 months from the date of the qualifying conviction to successfully complete a driving assessment AND lodge their pass certificate with the licensing section. Should a driver lodge an appeal with the court the 3 months will commence on the date it confirms the conviction. Any new endorsements to the driver's DVLA licence during the appeal period will count towards the current period if the appeal is allowed or the next period if the appeal is dismissed. Licensed drivers will continue to be required to take driving assessments each time they breach the 6 penalty point endorsement level.
- 5.3 All currently licensed drivers are required to take and pass a driving assessment AND issue their pass certificate with the licensing section on or before 1 July 2010. As soon as the driving assessment has been passed any endorsements shown on the DVLA licence at that date will be disregarded for the purposes of the continuing administration of the Council's policy in relation to the DSA test. The private hire driver's conditions require a driver to notify the authority, in writing, of any conviction within 7 days of the date of conviction. A driver will only be required to undertake another DSA driving assessment if he/she accumulates a further 6 or more penalty points.

### **ADMINISTRATION**

- 5.4 Drivers/prospective drivers will be responsible for contacting the DSA direct to arrange a driving assessment. Any financial arrangements will be between the driver and the DSA, the Council will not accept payment on behalf of the DSA.
- 5.5 Any deception or attempted deception in the course of undertaking the DSA test will result in action to revoke the driver's licence or lead to an application for the grant of a licence being refused. The matter may be reported to the police. The DSA have their own security measures aimed at preventing such instances.
- 5.6 Any drivers in paragraph 5.2 above will risk having their hackney carriage or private hire driver's licence suspended or revoked if they have not successfully completed a DSA driving assessment AND lodged their pass certificate with the licensing section on or before 1 July 2010. A driver failing to pass the assessment by this date will be deemed as not being a fit and proper person to hold a driver's licence.
- 5.7 Any failure to notify the licensing section of any endorsements is a breach of licence conditions and could lead to proceedings resulting in the revocation of a driver's licence.
- 5.8 A private hire driver is required to inform the licensing section, in writing, of any endorsements received within 7 days of the date of the conviction. Officers will check the driver's records and, if a DSA driving assessment is required, will write to the driver informing him/her of the fact. The letter will contain time limits, for the completion of the DSA driving assessment, with which the driver must adhere. The driver must then contact the DSA directly to organise an assessment.
- 5.9 The decision of the DSA driving assessors is final and the Council will not enter into any negotiations, with the DSA, on behalf of the driver.

- 5.10 For drivers governed by the contents of paragraph 5.2 above, the number of points on their licence will equal the number of points on their licence that could be considered for 'totting up' purposes by a court of law at the commencement date of this policy.
- 5.11 Should any driver falling within paragraph 5.2 above be required to take a third driving assessment, in any 10 year period, they will be automatically brought before a Council committee that will decide whether the driver should remain licensed with this authority.
- 5.12 Any circumstances not covered by this document and requiring a decision will be brought to the attention of the Commercial Services Manager or deputy.
- 5.13 The commencement date of this policy (DSA Assessment) was 1 December 2008. From the commencement date all new applications must include a DSA driving assessment pass certificate.

### **A WORKED EXAMPLE**

On 1 October 2005 Driver A is convicted of a speeding offence and his/her licence is endorsed with 3 penalty points.

On 1 April 2008 Driver A is convicted of offences after a minor road traffic collision and his/her licence is endorsed with 4 penalty points.

Within 3 years from 1 October 2005 Driver A has accumulated 7 points and has until and including 30 June 2008 to take and pass a DSA driving assessment.

On 20 April 2008 Driver A is convicted of another speeding offence and his/her licence is endorsed with 3 more penalty points.

If the DSA driving assessment was taken and passed and the pass certificate lodged with the licensing section by 30 June 2008 those 7 penalty points can be disregarded with regards to another, future, DSA driving assessment. However, the 3 points collected during the 3 month waiting period do count towards the possibility of another DSA test. If Driver A attracts 3 or more penalty points during the period up to and including 19 April 2011 he/she will have to take another DSA driving assessment. Failure to take and pass the DSA driving assessment by the required date may result in proceedings being taken to revoke their driver's licence.

## **6.0 CRIMINAL RECORDS BUREAU - ENHANCED DISCLOSURE**

- 6.1 Hackney Carriage and Private Hire Vehicle driving is an exempt occupation under the Rehabilitation of Offenders Act 1974.
- 6.2 The effect of this legislation is that any convictions recorded against an applicant for a driver's licence will be considered when judging whether he/she is a 'fit and proper' person. When completing an application form for a driver's licence all convictions must be declared and failing to disclose convictions will be considered a dishonest act and may result in the application being refused. Legal proceedings may be instigated if it is found that an applicant has given false or deliberately inaccurate information.
- 6.3 A Criminal Records Bureau (CRB) disclosure application form must be submitted with every application for the grant of a Hackney Carriage and Private Hire Driver's Licence. No driver's licence will be granted until a CRB reply has been received.

- 6.4 Drivers will be required to submit a CRB application every 3 years. Drivers who are not in possession of a current, enhanced CRB disclosure will not be licensed to drive hackney carriages or private hire vehicles.
- 6.5 Drivers must submit a CRB application form in good time of their current disclosure expiring. Drivers must recognise that on occasions it may take several months for a reply to be received. Drivers must be aware that if they have no current CRB disclosure they will not be licensed to drive. A late application could result in several weeks of unemployment as a licensed driver. It is the responsibility of the driver to ensure that they submit all applications properly and in good time. Temporary badges will not be issued.
- 6.6 CRB disclosures are not 'portable' and disclosure certificates obtained through other organisations and/or occupations will not be accepted by North West Leicestershire District Council.
- 6.7 Applications for a Private Hire Operators Licence are not subject to an enhanced CRB disclosure. Operators who also are licensed to drive, with this authority, will already have an enhanced CRB disclosure and this disclosure may be used to determine the grant or renewal of an Operator's Licence.
- 6.8 Applicants for a Private Hire Operators Licence who are not licensed to drive with this authority are required only to submit a disclosure certificate issued by Disclosure Scotland.

## **7.0 COUNCIL POLICY RELATING TO THE RELEVANCE OF CONVICTIONS**

**Definition: For the purposes of this policy a conviction is defined as:**

- **A sentence imposed by a Court**
- **A formal caution**
- **A fixed Penalty Notice**

### **General Policy**

- (a) Each case will be decided on its own merits.
- (b) A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are exceptional mitigating circumstances. However, persons with convictions for offences of a sexual or child related nature or other very serious crime will not normally be issued with a licence. The overriding consideration should be the protection of the public and all other matters, including unemployment, shall be secondary to the public safety factor.

### **Minor Traffic Offences**

- (a) Convictions for minor offences e.g. obstruction, waiting in a restricted street, speeding etc. should not prevent a person from proceeding with an application. If sufficient points have been accrued to require a period of disqualification of the applicant's driving licence then a hackney carriage or private hire vehicle driver's licence may be granted after its restoration but a warning should be issued as to future conduct.



## **Major Traffic Offences**

- (a) An isolated conviction for driving without due care and attention or dangerous driving etc. (depending on the circumstances of the individual case) should normally merit a warning as to future driving and advice on the standard expected of hackney carriage and private hire vehicle drivers. More than one conviction for this type of offence within the last two years should merit refusal and no further application should be considered until a period of 1 to 3 years free from conviction has elapsed.

An applicant with a conviction for any of the following motoring offences should be refused and no further application should be considered until a period of 3 to 5 years free from conviction has elapsed. A period of 12 months must also have elapsed since the end of any disqualification period:

Using a vehicle uninsured against third party risks,  
Reckless driving,  
Driving whilst disqualified,  
Driving or attempting to drive whilst under the influence of drugs or drink.

## **Criminal Convictions**

- (a) An applicant with a conviction for a drug related offence should be required to show a period of at least 3 years free of convictions before an application is entertained, or 5 years after detoxification treatment if he/she was an addict.
- (b) As hackney carriage and private hire vehicles drivers often carry unaccompanied passengers, applicants with convictions for offences of a sexual or child related nature or other very serious crime will not normally be issued with a licence.
- (c) As hackney carriage and private hire drivers maintain close contact with the public, firm line should be taken with applicants who have convictions for grievous bodily harm, wounding or assault. At least 3 years free of such convictions should be shown before an application is entertained and even then a strict warning should be administered.
- (d) Hackney carriage and private hire vehicle drivers are expected to be persons of trust. The widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. Moreover, it is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare, etc. For these reasons a serious view should be taken of any conviction involving dishonesty. In general, a period of 3 to 5 years free of conviction should be required before entertaining an application.

## **8.0 MEDICAL EXAMINATION**

- 8.1 This Authority has adopted the DVLA Group 2 medical standard for all licensed drivers.
- 8.2 Applicants are required to find a Doctor who is familiar with the requirements of a Group 2 medical examination. The examining Doctor will complete and sign the appropriate DVLA form. A driver's licence will not be issued until a satisfactory medical form has been received.
- 8.3 Failure by drivers to inform the Council of any changes in their health that affect the Group 2 medical may result in proceedings being taken to revoke or suspend their driver's licence.

- 8.4 All applicants are required to undergo a Group 2 medical prior to the initial grant of a hackney carriage and private hire driver's licence and every 3 years thereafter to age 65 years.
- 8.5 From age 65 years all hackney carriage and private hire drivers are required to undergo a Group 2 medical annually without an upper age limit.

## 9.0 KNOWLEDGE TEST

Following receipt of a completed application pack the applicant will be booked in to undertake a knowledge test.

- 9.1 The requirement to pass a knowledge test applies to both applicants for the hackney carriage and private hire driver's licence.
- 9.2 The Council's knowledge test seeks to test the applicant's knowledge of taxi and private hire law, the Highway Code, the Council's own byelaws and conditions, conversational proficiency and for hackney carriage applicants only, the local area and road network.
- 9.3 An element of the test will be completed orally. Applicants will need to show that they have the ability to hold a conversation in English.
- 9.4 The Commercial Services Manager in consultation with the Licensing Team Leader is authorised to amend the administration of the knowledge test and add to/delete from the bank of questions to reflect local issues.
- 9.5 The administration of the knowledge test will be transparent to all applicants with all relevant documentation published on the Council web site.

## ADMINISTRATION

The knowledge test consists of the following sections:

- (a) Writing a receipt
- (b) 5 law questions
- (c) 5 questions on the Highway Code and road signs
- (d) 5 questions on the Council's own byelaws/conditions (there will be separate questions for hackney carriage and private hire applicants) AND EITHER
- (e) 5 questions on routes (For Hackney Carriage Driver's) OR  
5 questions on knowledge of key places and main roads (For Private Hire Driver's  
(Section E is an oral assessment)

The first task is to write a receipt but if he/she fails, the rest of the test will be cancelled and he/she will be deemed to have failed the test.

Having completed the receipt element of the test the applicant will move onto the four knowledge based sections (b, c, d & e at 5.3 above).

The 'knowledge' sections of the test consist of 20 questions. The pass mark for prospective **hackney carriage and private hire drivers** will be a total of 16 achieving a score of at least 4 in each of the 4 sections.

**Private hire applicants** are not being tested on topographical knowledge as they are not legally available for immediate hiring in the same way as a hackney carriage. To hire a private hire vehicle the would-be passenger has to go through an operator, so the driver will have an opportunity to check the details of a route before starting a journey. Section E for private hire applicants focuses on their ability to read a map and their knowledge of key places and main roads.

Should the examiner have concerns over an applicants conversational proficiency (ability to hold a conversation in English) a second examiner will be introduced. The applicant will then be asked a number of conversational questions on a subject area of their choice. The assessment will last for approximately 5 minutes. In the event that the examiners remain concerned over the applicants conversational proficiency the matter will be referred to Committee. Should the Committee refuse the licence application the applicant will receive details of how to access training to enable their conversational proficiency to reach an acceptable standard. The Certificate in English for Speakers of Other Languages (Entry Level 3) is considered to be an acceptable standard.

Applicants are allowed 3 attempts to take and pass the knowledge test. If an applicant fails, 2 weeks must elapse before they can re-sit the test. If an applicant takes and fails the third knowledge test they will be deemed not to be 'fit and proper' and their application will be refused.

The cost of a knowledge test/retest fee will remain at the current level of £35 and will apply to both hackney carriage and private hire applicants. This fee is non refundable. The level of fee will be subject to regular review.

## 10.0 DELEGATION

10.1 The Commercial Services Manager is authorised to make minor amendments to this policy to reflect changes in other Council policies and amendments made by the DVLA to their policies.

## DOCUMENT HISTORY

Issue Number	Issue Date	Approved by	Nature of Amendment
1	1 <sup>st</sup> December 2008	Licensing Committee 26 November 2008	Introduction of Driving Standards Assessment
2	10 <sup>th</sup> December 2008	Commercial Services Manager	Minor amendment to contact details of DSA at paragraph 3e
3	15 <sup>th</sup> March 2009	Commercial Services Manager	Minor amendment to paragraph 1 (Introduction). Insertion of new second sub-paragraph
4 DRAFT	To be considered by Licensing Committee on January 27 <sup>th</sup> 2010	To be considered by Licensing Committee on January 27 <sup>th</sup> 2010	Proposals: <ul style="list-style-type: none"> <li>- introduce requirement for knowledge test for Private Hire applicants</li> <li>- introduce a language proficiency assessment to the knowledge test</li> <li>- amend the medical assessment requirement</li> <li>- minor amendments to format of document</li> </ul>

## **COUNCIL'S VISION**

North West Leicestershire will be a place where people and businesses feel they belong and are proud to call home

North West Leicestershire District Council,  
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