

# NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

## LICENSING COMMITTEE – 22 FEBRUARY 2017

Title of report	<b>REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER POLICY</b>
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Purpose of report	To present a draft hackney carriage and private hire driver policy, for approval
Council Priorities	Business & Jobs Homes and communities
Implications:	
Financial/Staff	All staffing costs associated with the preparation, consultation, adoption and enforcement of the Hackney Carriage and Private Hire Driver Fit and Proper Person Policy and Driver Code of Conduct can be met by the existing level of staff.
Link to relevant CAT	Not applicable
Risk Management	No significant risks identified. All proposed conditions relate to the promotion of public, driver or passenger safety.
Equalities Impact Assessment	Not applicable
Human Rights	Any interference with property rights protected by Article 8 and Protocol 1 Article 1 of the Human Rights Act must be legitimate, necessary and proportionate
Transformational Government	None

Comments of Deputy Chief Executive	The report is satisfactory
Comments of Deputy Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	Licensing Committee Existing driver licence holders Existing vehicle licence holders West Leicestershire Clinical Commissioning Group Leicestershire Police Public/Customers National Private Hire Association
Background papers	NWLDC Hackney Carriage and Private Hire Driver Fit & Proper Person Policy – Issue 12 NWLDC Hackney Carriage Byelaws – 2003 NWLDC Private Hire Driver Conditions – 2010 NWLDC Hackney Carriage and Private Hire Driver Code of Conduct - 2010
Recommendations	<ol style="list-style-type: none"> <li><b>1. THAT LICENSING COMMITTEE CONSIDERS AND APPROVES THE DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER POLICY (APPENDIX 3)</b></li> <li><b>2. THAT LICENSING COMMITTEE CONSIDERS AND APPROVES THE DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER CODE OF CONDUCT (APPENDIX 4)</b></li> <li><b>3. THAT AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER POLICY TO REFLECT CHANGES IN LEGISLATION AND CENTRAL GOVERNMENT POLICY IS DELEGATED TO THE ENVIRONMENTAL HEALTH TEAM MANAGER FOLLOWING CONSULTATION WITH THE PORTFOLIO HOLDER</b></li> </ol>

## 1.0 Background

- 1.1 The Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A) provides a local authority with powers in relation to private hire driver licences.
- 1.2 The Town Police Clauses Act 1847 (TPCA) provides a local authority with powers in relation to hackney carriage driver licences.

- Sec 51 LG(MP)A 1976 – licensing of private hire drivers
- Sec 46 TPCA 1847 – licensing of hackney carriage drivers

1.3 Resulting from the court case of Watham v Neath Port Talbot County Borough Council (2002), Council's are not permitted to add conditions to hackney carriage driver's licences. Driver behaviour is regulated by way of byelaws. North West Leicestershire's byelaws were passed on 23 April 2003. Legislation does allow for conditions to be attached to private hire driver's licences.

1.4 In order to be licensed as a driver an applicant must show they are a fit and proper person.

The fit and proper assessment comprises of the following:

- a) Disclosure and Barring Service check (criminal record check)
- b) DVLA driving licence check
- c) Medical examination
- d) Knowledge Test (taxi law, communication skills, local road network)
- e) Practical driving assessment
- f) Disability awareness (during the first 12 months as a licensed driver must attend a training course)

1.5 A drivers behaviour is monitored during the life of the licence. In the event that the licensed driver is no longer considered to be fit and proper sanctions may be imposed. Sanctions available include warnings, suspension and revocation of the licence. Any concerns relating to a drivers fitness to hold a licence are recorded within a report. The report will be considered and a decision made by either an appropriately authorised officer or a Licensing Sub-Committee consisting of three members of the Licensing Committee.

1.6 Currently the Policing and Crime Bill going through Parliament has a clause which, if enacted, would allow the Secretary of State to issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm. Although we cannot predict the content of the guidance it is likely it will contain a requirement for drivers to undergo training on safeguarding and child sexual exploitation.

1.7 The current private hire driver conditions were approved by Licensing Committee in 2010. Any amendment to these conditions must be approved by the Licensing Committee.

1.8 The current fit and proper person policy was approved by Licensing Committee in June 2016 and amended to reflect the introduction of the Immigration Act 2016 in December 2016 by the Environmental Health Team Manager. Any amendment to this policy other than those made to reflect changes in legislation or Government policy must be approved by the Licensing Committee.

1.9 The current hackney carriage byelaws were approved by Council on 7 October 2002 and were confirmed by the Secretary of State and came into force on 23 April 2003.

1.10 The current policy, conditions and byelaws have been reviewed with the following four outcomes in mind.

- 1. Licensed taxi drivers are medically fit to drive;
- 2. The detail and clarity of the Hackney Carriage and Private Hire Convictions and Fitness Policy is enhanced;

3. Licensed drivers hold the necessary knowledge in relation to safeguarding and child sexual exploitation;
4. Licensed drivers demonstrate the correct behaviours incorporating a smart and professional appearance

## 2.0 Consultation

- 2.1 Five proposals were considered by Licensing Committee on 5 October 2016. The detailed proposals considered have been taken from the Licensing Committee report and summarised at Appendix 1. Comments made by Licensing Committee were used to shape the final draft for wider consultation.
- 2.2 A 12 week consultation period commenced on 14 October 2016 and ended on 6 January 2017. The following individuals and groups were consulted:
  - All current private hire and hackney carriage licence holders;
  - Leicestershire police;
  - transport stakeholders – bus, coach providers
  - Licensing Committee
  - West Leicestershire Clinical Commissioning Group (CCG)
  - Public and passengers were also consulted by placing the consultation documents on the Council's web site.
- 2.3 A total of 32 responses were received. Appendix 2 details the consultee comments. In addition the West Leicestershire CCG were asked for feedback relating to the medical related proposal.

## 3.0 Summary of consultee feedback

Responses have been filtered by licence holders and other interested persons

- 3.1 Proposal to amend the medical examination section of the 'fit and proper person' policy by requiring applicants to find a medical practitioner with access to their medical history (notes).

	Licence holder	Other interested persons	Total
Supportive	10	12	22
Not supportive	10	0	10

Feedback from West Leicestershire Clinical Commissioning Group based on responses from 6 GP Practices:

- Half of the respondents offer the DVLA Group 2 medical assessment
- The waiting time for a DVLA Group 2 medical is up to 3-4 weeks
- The typical charge to the customer is £65
- Should a taxi driver choose to go to a GP other than their own the cost for releasing the medical notes would be £50
- The release of the patients medical notes to the examining GP could take up to one month

- 3.2 To amend the relevance of convictions section of the fit and proper person policy by increasing the level of detail within the policy, providing applicants, licence holders, licensing officers and elected members with more clarity.

	Licence holder	Other interested persons	Total
Supportive	15	12	27
Not supportive	5	0	5

- 3.3 To amend the fit and proper person policy by introducing a requirement for applicants / drivers to undergo training in safeguarding children and young adults / child sexual exploitation(CSE). Drivers will learn about how they can identify signs of CSE and how to report any suspicions.

	Licence holder	Other interested persons	Total
Supportive	14	12	26
Not supportive	6	0	6

- 3.4 To amend the driver code of conduct by:

- further defining the dress code, making it clearer to drivers what is acceptable. The dress code would be defined by a list of clothing items that are acceptable and a list of clothing items that do not present a professional image;
- further detailing correct and incorrect driver behaviours;
- adding the procedure for reporting safeguarding concerns.

	Licence holder	Other interested persons	Total
Supportive	10	12	22
Not supportive	10	0	10

- 3.5 To amend the byelaws by adding the following requirement:

- The driver of a hackney carriage shall comply with the NWLDC Code of conduct for hackney carriage and private hire drivers.

All consultees supported the proposal

## 4.0 Proposed changes

### 4.1 Medical examination

Following the concerns raised by some licensed drivers and the feedback received from West Leicestershire Clinical Commissioning Group it is not proposed to require applicants and licence holders to undergo a Group 2 medical assessment by his/her registered GP who has access to their medical records. The most common concerns raised relate to the additional cost and the limited number of practices offering the Group 2 medical examination.

However this approach will be recommended as good practice and applicants advised that if the medical assessment is not completed by someone who has access to their medical history, that could lead to delays in processing the application in the event that the medical examination identifies concerns requiring further investigation. The Licensing Officer may

require further information from the drivers registered GP or the release of the medical (history) notes.

#### 4.2 Relevance of Convictions Policy

The level of detail within the relevance on convictions policy has been increased. This will improve the quality of guidance given to applicants and licence holders and will assist any Licensing Officer or Licensing Sub-Committee with decision making. Any individual who has a conviction and is considering the submission of an application for a driver licence will be able to reference the policy to identify the likelihood of a licence being granted. The revised policy will be used as a reference document for Licensing Officers and Licensing Sub-Committees when making decisions relating to existing licence holders.

#### 4.3 Safeguarding children and young adults / child sexual exploitation training

To introduce a requirement for licence holders to undergo training in safeguarding children and young adults and child sexual exploitation.

All existing licence holder must undergo the training within 12 months of the introduction of this policy. All applicants will be required to undergo the training within 12 months of first being licensed.

The content and delivery of the training course will be managed by NWLDC. Training courses will be offered both during normal working hours and early evening so to minimise any impact on the drivers earning potential. The training will be offered without charge during 2017. After this date the council will consider introducing a charge to cover the costs of running the courses.

#### 4.4 Driver Code of Good Conduct

50% of licence holders that responded to the consultation were in support of the proposal  
100% of other consultees were in support of the proposal.

Currently licence holders are required to 'pay attention to personal hygiene and dress so as to present a professional image to the public'. This requirement was introduced by Licensing Committee on 9 September 2010.

The draft code of good conduct (Appendix 4) has been amended by:

- Introducing guidance relating to the dress code. A list of clothing items not considered acceptable has been added.
- further detailing correct and incorrect driver behaviours;
- adding the procedure for reporting safeguarding concerns.

#### 4.5 Hackney Carriage Byelaws

A requirement for both hackney carriage and private hire drivers to comply with the code of good conduct has been added to the driver policy document at section 12. Consequently no changes have been made to the byelaws.

#### 4.6 Draft Policy, Code of Conduct and Byelaws

A draft hackney carriage and private hire driver policy is attached at Appendix 3

A draft hackney carriage and private hire driver code of good conduct is attached at Appendix 4

A copy of the hackney carriage driver byelaws and private hire driver licence conditions are appended to the driver policy. No changes have been made to the documents.

## **5.0 Future Amendments to Hackney Carriage & Private Hire Driver Policy**

- 5.1 The hackney carriage and private driver policy will require further amendments from time to time to reflect changes to legislation and central government policy and practice. In order to ensure any such changes in legislation and central government policy are effectively reflected in the policy without unnecessary reference to Licensing Committee it is proposed that such amendments are delegated to the Environmental Health Team Manager following consultation with the Portfolio Holder.

## **6.0 Next Steps**

To publish the policy and communicate to current licence holders

1 March – Commencement date of policy