

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

LICENSING COMMITTEE – WEDNESDAY, 5 OCTOBER 2016

Title of report	REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER POLICY AND CONDITIONS
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Purpose of report	To outline proposed amendments to hackney carriage and private hire driver policy, conditions and byelaws, for consultation
Council priorities	Business & Jobs Homes and communities
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>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.</p> <p>Not applicable</p> <p>No significant risks identified. The Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance has been fully considered in drafting the proposed licence conditions. All proposed conditions relate to the promotion of public, driver or passenger safety.</p> <p>Not applicable</p> <p>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</p> <p>None</p>
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	Existing driver licence holders Existing vehicle licence holders
Background papers	NWLDC Hackney Carriage and Private Hire Driver Fit & Proper Person Policy – Issue 10 (2016) Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guide 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"> 1. THAT LICENSING COMMITTEE CONSIDERS AND MAKES COMMENT ON PROPOSED CHANGES TO THE HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER FIT AND PROPER PERSON POLICY PRIOR TO WIDER CONSULTATION (PROPOSALS 1, 2 AND 3) 2. THAT LICENSING COMMITTEE CONSIDERS AND MAKES COMMENT ON THE DRAFT HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER CODE OF CONDUCT PRIOR TO WIDER CONSULTATION (PROPOSAL 4) 3. THAT LICENSING COMMITTEE CONSIDERS AND MAKES COMMENT ON THE PROPOSED CHANGE TO THE HACKNEY CARRIAGE BYELAWS PRIOR TO CONSIDERATION BY COUNCIL (PROPOSAL 5) 4. THAT AMENDMENTS TO THE HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER CODE OF CONDUCT TO REFLECT CHANGES IN LEGISLATION AND CENTRAL GOVERNMENT POLICY IS DELEGATED TO THE ENVIRONMENTAL HEALTH TEAM MANAGER FOLLOWING CONSULTATION WITH THE PORTFOLIO HOLDER

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 and Police Clauses Act 1947 (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 1947 – licensing of hackney carriage drivers
- 1.3 Resulting from the court case of *Wathan 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 that 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 licensing law and conversational proficiency)
- e) Driving Standards Agency driving test
- f) Disability awareness (during the first 12 months as a licensed driver must attend a training course)

Upon satisfactorily completing the above assessment an applicant will be licensed.

- 1.5 A driver's 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.
- 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 would contain a requirement for drivers to undergo training on safeguarding and child sexual exploitation, (CSE).
- 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. 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. Any amendment to these byelaws must be approved by Council and confirmed by the

Secretary of State. Any recommendation for amendment will be made to Council by Licensing Committee.

2.0 OUTCOMES

2.1 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

2.2 Appendices

Appendix 1 – Current Relevance of the Convictions Policy
Appendix 2 – Proposed Relevance of the Convictions Policy
Appendix 3 – Draft Driver Code of Conduct – tracked changes
Appendix 4 - NWLDC Hackney Carriage Byelaws – 2003

3.0 SUMMARY OF PROPOSED AMENDMENTS

The following documents provide the governance relating to drivers:

Hackney Carriage and Private Hire Driver Fit and Proper Person Policy;
Hackney Carriage and Private Hire Driver Code of Conduct;
Hackney Carriage Byelaws;
Private Hire Driver Conditions.

The following is a list of the significant changes. Each of the proposed changes have been listed under one of the 4 objectives of the review:

3.1 Outcome 1 – Licensed drivers are medically fit to drive

Current situation

NWLDC has adopted the DVLA Group 2 medical standard for all licensed drivers. 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 examination form.

It is common for a medical practitioner to assess the medical fitness of an applicant without any knowledge of their medical history.

Proposal 1

It is proposed to amend the medical examination section of the 'fit and proper person' policy by requiring the medical examination to be carried out by the applicants own medical practitioner or a medical practitioner with access to the applicant's medical history (notes).

3.2 Outcome 2 – The detail and clarity of the relevance of convictions section of the Hackney Carriage and Private Hire Fit and Proper Person Policy is enhanced

Current situation

The current guidance relating to the relevance of convictions is lacking detail in some areas. The additional information provided within the draft policy will assist both applicants, licence holders, licensing officers and elected members.

Proposal 2

To amend the relevance of the 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.

The draft relevance of the convictions section of the fit and proper person policy differs significantly from the current policy. The current and proposed relevance of the convictions policy are attached as Appendix 1 and 2 respectively. Those significant changes include:

- The introduction of four policy aims;
- The term 'fit and proper person' is further explained;
- The introduction of guidance covering outstanding charges or summonses and non-conviction information;
- The definition of 'conviction' has been widened to include warnings, reprimands, anti-social behaviour notices and injunctions;

Whilst the Council may consider that a person with a conviction for an offence may not need to be automatically barred from obtaining a licence, it is however to be expected that the applicant would be required to remain free of conviction for an appropriate period. The draft policy provides a more detailed list of types of offences and amends the time periods to be free of conviction.

The type of offences are listed as:

- Serious offences involving violence;
- Possession of a weapon;
- Sexual and indecency offences;
- Dishonesty;
- Alcohol and drugs;
- Driving offence involving the loss of life;
- Driving offences involving alcohol and/or drugs;
- Major traffic offences;
- Minor traffic offences;
- Totting up disqualifications;
- Insurance offences; and
- Offences committed whilst on duty as a licensed driver.

A list of offences are provided under each of the offence types (above)

3.3 Outcome 3 - Licensed drivers hold the necessary knowledge in relation to safeguarding and child sexual exploitation (CSE)

Current situation

The link between taxis and CSE has been well publicised in recent years, including the Rotherham case and more recently in Lancashire. Currently, having a knowledge of safeguarding and CSE is not a requirement.

Proposal 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 / CSE Drivers will learn about how they can identify signs of CSE and how to report any suspicions.

The proposed training will be delivered in one half day session and will include the following topics:

- What is Child Sexual Exploitation (CSE)
- What do we know about CSE
- How could this affect you as a taxi driver?
- How are young people targeted (This will include a short video clip on the grooming process)
- The impact of exploitation on children and young people
- What can you do to help and what help is available for you?
- Local Incident Response process (including contact details)

All new applicants will be required to undergo the training within 12 months of being licensed. Existing drivers must undergo the training within 12 months of the introduction of this policy. The training courses will be free to attend until 31 December 2017. After this date there will be a charge to cover the costs of running the courses.

- 3.4 Outcome 4 - Licensed drivers demonstrate the correct behaviours incorporating a smart and professional appearance

Current situation

On 9 September 2010 Licensing Committee introduced a code of conduct for licensed drivers. The code includes a requirement for drivers to 'pay attention to personal hygiene and dress so as to present a professional image to the public'. The private hire driver licence conditions require a driver to comply with the code of conduct.

The current hackney carriage byelaws do not require a driver to comply with the code of conduct, meaning the dress code cannot be enforced in relation to hackney carriage drivers.

Proposal 4

To amend the driver code of conduct (Appendix 3) 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.

Proposal 5

To amend the byelaws (Appendix 4) 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.

4.0 CONSULTATION PROCESS

4.1 Comments made by Licensing Committee on 5 October 2016 will be used to shape the final draft for wider consultation.

4.2 A 12 week consultation period will commence on 14 October 2016 and end on 6 January 2017. The following individuals and groups will be consulted:

All current private hire and hackney carriage licence holders;
Leicestershire County Council;
local interest groups, including hospitals and tourist attractions;
Leicestershire Police;
transport stakeholders – bus, coach providers
Licensing Committee

4.3 Consumers and passengers will also be consulted by placing the consultation documents on the Council's web site.

5.0 FUTURE AMENDMENTS TO DRIVER CODE OF CONDUCT

5.1 The driver code of conduct will require further amendment from time to time to reflect changes to legislation and central government policy and practice. In order to ensure that 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 Manage following consultation with the Portfolio Holder

6.0 NEXT STEPS

Policy and conditions

6 October	Devise final draft for wider consultation (considering comments made by Licensing Committee)
14 October	Consultation process to commence
6 January	Consultation process to end
22 February 2017	Report and draft policy and conditions to Licensing Committee for approval

Byelaws

6 October	Devise final draft for wider consultation (considering comments made by Licensing Committee)
14 October	Consultation process to commence
6 January	Consultation process to end
23 February 2017	Report and draft byelaw to Council for approval
March 2017	Submit byelaw to Secretary of State for confirmation