
Licensing and Regulatory Committee

5th March 2010

Report of the Director of Neighbourhood Services

Suitability Criteria for New Hackney Carriage and Private Hire Drivers.

Summary

1. Over the years various policies relating to the licensing of hackney carriage and private hire drivers have been approved by Members. Operationally, officers have adopted various work practices to apply the policies. This report seeks to consolidate those policies and procedures and to obtain members' approval to update and amend where necessary.

Background

2. Legislation requires that a local authority should not grant a licence to any person to drive a licensed hackney carriage or private hire vehicle unless it is satisfied that the person is fit and proper to hold such a licence. The applicant must also have held a driving licence for at least 12 months.
3. In determining whether an applicant is fit and proper, licensing authorities apply certain criteria. In York, taxi licensing officers examine:-
 - the applicants eligibility to work
 - relevant criminal convictions
 - medical fitness
 - topographical and licensing knowledge
 - references
 - driving ability (members have recently included a requirement for applicants to undertake the Driving Standards Agency private hire and hackney carriage assessment from 1st April 2010)
4. Eligibility to Work in the UK – Applicants are required to produce either a UK birth certificate, a valid passport and/or a work permit. In cases where there is any doubt, reference is made to the Home Office Immigration Service.
5. Relevant Criminal Convictions – All applicants are subject to an enhanced level Criminal Records Bureau (CRB) Disclosure. Since 2002 hackney carriage and private hire drivers have been included in the list of occupations that are exempt from the requirements of the Rehabilitation of Offenders Act. This means that previous convictions are never considered spent when assessing

an applicant's suitability to become a licensed driver. However, only relevant offences must be considered.

6. To assist officers in this assessment members have previously approved guidance on this issue. The guidelines are attached at Annex 1. As these guidelines are included in the new applicants' information packs, it is proposed that they be updated to provide more information. It is also proposed that offences relating to discrimination be added to the list. Proposed new guidelines are attached at Annex 2.
7. The CRB check does not report on offences committed outside the UK. Where applicants have spent some time outside this country officers use other means, as appropriate, to obtain the necessary assurances. These might include the issue of a Certificate of Good Conduct from a foreign embassy or a signed declaration of good behaviour from the applicant.
8. Having regard to the length of the application process, it has been officers' practice to require the CRB Disclosure to be dated within six months of the date of issue of the licence.
9. Medical Fitness – In accordance with the Driver and Vehicle Licensing Authorities (DVLA) and guidance in the Department for Transport's Best Practice Guidance on Taxi and Private Hire Licensing, applicants are required to reach Group 2 medical standards.
10. It is current practice to require each applicant to visit their own GP practice to be assessed against this standard and produce a certificate to the Licensing Authority. Certificates must be dated within six months preceding the issue of the licence. This is in line with the procedure adopted by the DVLA with regard to HGV and PSV driver licensing.

Any queries raised on the certificate are referred to the council's medical advisers.

11. Topographical and Licensing Knowledge – All applicants must be able to demonstrate knowledge of the city and of the legislation covering their trade as a licensed driver. This is assessed by means of a written test which contains multi-choice questions on licensing law, local traffic regulations, e.g. foot-street restrictions, and the highway code. It also requires applicants to describe routes to and from various locations in the city.
12. It is proposed to remove the highway code questions from the test as these are covered in the Driving Standards Agency test that will be introduced from 1st April this year.
13. At a recent internal appeal the issue was raised as to whether private hire drivers needed the same level of local knowledge as a hackney driver as they only took pre-booked work and were under the direction of an operator. This issue is also raised in the Best Practice guidance. As a result of this, officers conducted a survey of all private hire operators. All operators were asked

whether the topographical element of the knowledge test for private hire drivers should be removed or retained. All respondents stated that it should be retained.

14. Members are asked to confirm that the knowledge test should include topographical questions for private hire drivers as well as hackney carriage drivers. It should be noted that drivers frequently transfer between the two sectors of the trade.
15. Applicants currently pay £15 for each test they sit. They may take as many attempts as necessary to secure success subject to the licensing manager reviewing each case on an individual basis. The review involves the officer contacting the applicant after six attempts to assess where the applicant is struggling and offering advice on how they can achieve success. If he considers that the applicant will not achieve the required standard he may decide to refuse the application on the grounds that the applicant is not a fit and proper person.
16. This approach is resource intensive and the decision to refuse is at the subject to the judgment of the licensing manager. That said, this intervention is much appreciated by most applicants that are struggling and assists them achieve success. Discussion with other authorities indicates that most will allow an applicant to take as many tests as they wish in order to pass.
17. Officers believe our existing approach strikes the right balance as any applicants who are refused may appeal, at no cost, to members of the environment appeals panel.
18. References – It is current practice to require an applicant to supply two references as part of their application. One being from their last employer and the other a personal reference. Along with the reference the referee is asked to confirm the identity of the applicant from a submitted photograph.
19. It is now proposed that this requirement be deleted as it no longer provides any value in the licensing process.
20. The introduction of the enhanced CRB Disclosure contains a thorough check on the individual's identity negating the need for a referee to perform that task. Comments made by referees on an individual's character and suitability have never formed any useful function in determining his/her suitability.
21. The continued inclusion of this requirement adds to the bureaucracy of the process for no practical value adding to the burden of both applicant and officers.
22. Driving Ability – It has been a recent decision of members (4th September 2009) that all new drivers must have passed the driving standards assessment for taxi drivers as provided by the Driving Standards Agency before being licensed.

23. Proposed new requirement for Disability Equality Training – In developing the taxi accreditation scheme, a web based disability equality training package is being produced specifically for taxi drivers (DET level 1 [taxi]). It is based on the council's generic disability equality training course available to all staff. This will provide no cost training and an assessment which can be taken in the user's own time. It provides background statistics and information, considers relevant legal implications of disability legislation and seeks solutions to practical scenarios. Members will note from another report on this agenda that it is proposed this training be considered the minimum for the drivers of all wheelchair accessible hackney carriage and private hire vehicles whether currently licensed or future new applicants.
24. Officers are also proposing that all new applicants, whether they are to drive an accessible vehicle or not, should successfully complete this training package. It is envisaged that the training package will be available from 1st April 2010.
25. Members are requested to approve the requirement for all applicants to successfully complete the DET level 1 (taxi) training package as a condition of the granting of a private hire or hackney carriage driver's licence.

Consultation

26. Members of three Hackney Carriage Associations and the Private Hire Association were consulted on the proposal to introduce disability equality training for new applicants at liaison meetings on 26th January 2010. At those meetings all representatives were fully in support of the proposal for new applicants but requested that the training package also be made accessible to existing drivers.

Options

27. Option 1 – Approve the criteria and procedures for the assessment of the suitability of licensed hackney carriage and private hire drivers as listed in paragraphs 4 to 25 with the deletion of the requirement to provide references and the addition of the requirement for new applicants to complete DET level 1 (taxi) training prior to being licensed.

Option 2 – Amend the criteria and/or procedures listed above for the assessment of the suitability of licensed hackney carriage and private hire drivers.

Analysis

28. Taxi and private hire drivers perform a very important role in the City. They provide door to door transport for many vulnerable people, they support the night time economy providing the only form of public transport available late at night, they are often the first contact a visitor has when arriving in the city and provide a key link in the public transport network. It is essential for the safety of

passengers and the reputation of the City that drivers have the necessary skills and integrity.

29. The purpose of hackney carriage and private hire licensing is to protect the public and it is the responsibility of the licensing authority to take reasonable steps to ensure that those who enter the trade are “fit and proper” to hold a licence.

Corporate Strategy

30. Ensuring the integrity of licensed hackney carriage and private hire drivers will contribute to the council’s Safer City objective whilst a greater awareness of the needs of disabled people will help make York an Inclusive City.

Implications

31. **Financial:** There are no financial implications for the council in relation to this report.

Human Resources (HR): None.

Equalities: Option 1 supports the council in meeting the duty it has under the DDA to promote equality of opportunity for disabled people and also help the council to meet its own Fairness and Inclusion objectives working with partners.

Legal: It is a statutory duty for licensing authorities to satisfy themselves that a person is “fit and proper” to hold a hackney carriage or private hire driver’s licence. Legal services consider the proposals set out in this report are reasonable and proportionate to enable the council to discharge this duty.

Crime and Disorder: None.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

32. In coming to any decision on this matter the council can minimise risk by ensuring it takes all factors into consideration in coming to its decision. The decision should be reasonable in the light of the information available.

Recommendations

33. Members are recommended to:

Approve Option 1 to amend the criteria and licensing procedures in line with those set out in paragraphs 4 to 25 of this report in relation to the licensing of hackney carriage and private hire drivers.

Reason: To ensure that all drivers licensed by this licensing authority are fit and proper to hold a hackney carriage or private hire driver's licence.

Author:
Richard Haswell
Head of Licensing

Chief Officer Responsible for the report:
Andy Hudson
**Assistant Director of Neighbourhoods and
Community Safety**

**Neighbourhoods and
Community Safety**

Report Approved

Date 16th Feb 2010

Tel No. 01904 551515

Specialist Implications Officers:

Legal – Martin Blythe
Tel No. 01904 551044

Equalities – Evie Chandler
Tel No. 01904 551704

Wards Affected:

For further information please contact the author of the report.

Background Papers:

None

Annexes:

Annex 1 – Existing guidelines for assessing applicants' suitability with criminal convictions.

Annex 2 – Proposed guidelines for assessing applicants' suitability with criminal convictions.