

NORTHAMPTON BOROUGH COUNCIL

Licensing Committee

Your attendance is requested at a meeting to be held at The Jeffrey Room, St. Giles Square, Northampton, NN1 1DE. on Tuesday, 18 October 2016 at 6:00 pm.

**D Kennedy
Chief Executive**

AGENDA

1. Apologies
2. Minutes
3. Deputations / Public Addresses
4. Declarations of Interest
5. Matters of Urgency which by reason of special circumstances the chair is of the opinion should be considered
6. Taxi Unmet Demand Survey
(Copy herewith)
7. Association of Criminal Record Checks Office Policy
(Copy herewith)
8. Alternative Driver Assessment Procedure for New Private Hire/Hackney Drivers Licence
(Copy herewith)
9. Exclusion of Public and Press

The Chair to Move:

“that the public and press be excluded from the remainder of the meeting on the grounds that there is likely to be disclosure to them of such categories of exempt information as defined by section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12a to such act.”

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

SUPPLEMENTARY AGENDA

Exempted Under Schedule, 12A of L.Govt Act 1972, Para No: -

<TRAILER_SECTION>
A8220

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

NORTHAMPTON BOROUGH COUNCIL

LICENSING COMMITTEE

Tuesday, 13 September 2016

COUNCILLORS PRESENT: Councillors Larratt (Chair) M Hill, Ansell, Choudary and Duffy

OFFICERS: Mebs Kassam (Solicitor) Ian Ellis (Licensing Enforcement Officer) Louise Faulkner (Senior Licensing Officer) Emma Powley (Democratic Services Officer)

1. APOLOGIES

Apologies were received from Councillors Beardsworth, Sargeant, Caswell, Duffy and G Eales.

2. MINUTES

The minutes of the meeting held on the 12th July 2016 were agreed and signed by the Chair.

3. DEPUTATIONS / PUBLIC ADDRESSES

RESOLVED: That under Item 6 and 7 Mr S Wilshire and Mr K Wilshire were granted to leave to address the Committee and under Item 7 Mr Ward was granted to leave to address the Committee.

4. DECLARATIONS OF INTEREST

There were none.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

6. TAXI AND PRIVATE HIRE VEHICLE EMISSIONS POLICY

The Senior Licensing Officer submitted a report to give consideration to consulting with interested parties as to introducing a Private Hire and Taxi Vehicle Emissions Policy to improve the air quality and to reduce the health impact for the residents of Northampton Town. It was explained that on the 8th June 2016, Cabinet approved, for public consultation, a draft Northampton Low Emission Strategy (NLES) including a strategy to improve the emissions for the private hire and taxi vehicles. At this point, the Senior Licensing Officer submitted an amended report to the table at 3.1.10 of the report, which highlighted the higher pollutant emission category of the Euro 5.

Mr S Wilshire addressed the Committee and stated that a number of taxi and private hire drivers had already purchased vehicles due to the relaxation of the age limit of vehicles in Northampton and that the potential move to Low Emission Vehicles could have huge financial implications and costs on taxi drivers. He suggested that some drivers would have to invest up to £65k on a new vehicle and explained that there were no Euro compliant vehicles available to the Hackney Trade and urged the Committee to reject the proposed consultation.

Mr K Wilshire stated that Hackney drivers could face greater financial problems than Private Hire drivers if an Emissions Policy was approved as the cost of Hackney carriages were

significantly higher than Private Hire Vehicles and new ones would need to be purchased. He stated that Hackney drivers were already on their knees and questioned why the Council had allowed for a Bus Station to be built within the Town Centre and yet were potentially penalising drivers of Hackneys and Private Hire Vehicles with a Low Emission Strategy. He stated that to cap the number of Taxis and PHV's would help the trade as it would limit the amount of competition.

The Chair asked officers to draft a report for the Licensing Committee to be held on the 18th October 2016 to recommend a survey be undertaken to explore the possibility to introduce a cap to be carried out in consultation with legal requirements.

Mr Andrew Whittles (Low Emission Strategies Limited) explained to the Committee that it was evidenced that diesel fuel emissions were carcinogenic and that a Government study had reported that 10% of all deaths on Northampton were due to air pollution. It was further noted that research had shown that pollution could contribute to the onset of Alzheimer's and impacted on childhood cognitive development and that there was a real urge to tackle it. He reported that current diesel cars had similar emissions as 10 year old petrol cars and noted that grants would be made available by the Government to assist towards the costs of purchasing new low emission vehicles for taxi and private hire drivers. He confirmed that there were some issues with the Euro 5 vehicles and therefore Petrol Euro 4 Diesel Euro 6 were regarded as being better and already in production. It was reported that once a new vehicle had been purchased, the financial cost of ownership would be significantly reduced in comparison to the current vehicles. Mr Whittles explained that due to the high levels of pollution and emissions in Northampton, there was still potential for County Council to be prosecuted under European Law.

RESOLVED:

That it be agreed to consult on the proposed emissions policy at Appendix A of the report.

7. TAXI AND PRIVATE HIRE VEHICLE AGE POLICY

The Senior Licensing Officer submitted a report, the purpose of which was to give consideration to a Private Hire & Taxi Vehicle Age and Exceptional Standards Policy to improve the standards of older vehicles currently licensed by the authority.

Mr K Wilshire addressed the Committee and reported that at no time had there been an age policy in Northampton and stated that the proposed introduction of the checklists would merely act as a further layer of bureaucracy and unnecessary paperwork.

Mr Ward stated that whilst he had not supported the notion of having an age restriction, he would be in support of a maximum age limit on vehicles.

Mr S Wilshire stated that he was not in favour of an age policy as it would be unfair to the trade to restrict certain vehicles.

RESOLVED:

That it be agreed for a consultation on the proposed age policy at Appendix A of the report.

8. CUMULATIVE IMPACT POLICY

This item was withdrawn.

9. EXCLUSION OF PUBLIC AND PRESS

The Chair moved that the Public and Press be excluded from the remainder of the meeting

on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12A to such Act.

The Motion was Carried.

10. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

The Senior Licensing Officer outlined the circumstances as set out in the report.

The Committee heard the representations made and reached a decision with regard to any further action to be taken/

DECISION:

The Committee decided to grant the Private Hire Driver's License to the individual who was considered to be a fit and proper person.

11. REVIEW OF PRIVATE HIRE DRIVER'S LICENCE

This item was adjourned to the next Licensing Committee to be held on the 18th October 2016.

The meeting concluded at 7.44pm

Appendices
A. 2010 DOFT Guidance



LICENSING COMMITTEE REPORT

Report Title	Capping Hackney Vehicle Licences
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AGENDA STATUS: PUBLIC

Committee Meeting Date: 18th October 2016

Policy Document: Capping Taxi Vehicle Licences

Directorate: Customers & Communities

1. Purpose

1.1 To consider and decide if an Unmet Demand Survey should be undertaken to determine if the current number of licensed hackney carriage vehicles is sufficient / insufficient to service the requirements of Northampton.

2. Recommendations

2.1 That the Licensing Committee agree that the authority should employ the services of a specialist consultant company to undertake a comprehensive unmet demand survey to determine if capping the number of licensed hackney vehicles for Northampton would be reasonable.

3. Issues and Choices

3.1 Report Background

3.1.1 The Hackney trade association have requested at recent meetings that the Local Authority place a restriction on the number of hackney vehicle licences that are issued.. It was agreed by the Chair of the Licensing Committee at a meeting on the 13th September 2016 that Officers would investigate and put forward an agenda item in respect of this issue.

- 3.1.2 Until the introduction of the Transport Act 1985, local authorities had an unrestricted discretion to limit the number of hackney carriages which they could licence. However section 16 of the Transport Act 1985 removed that discretion by amending the wording of section 37 of the 1847 Act so that it excluded reference to “such number of” and “as they think fit”. and inserted instead “the grant of a licence may be refused for the purpose of limiting the number of hackney carriages in respect of which licences are granted, if, but only if, the person authorised to grant licences is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet”
- 3.1.3 Further to Department of Transport Guidance/Circulars issued at that time, on the 29th April 1997 Northampton’s Licensing Sub-Committee resolved to cease to control the numbers of Hackney Carriage Vehicle Licence plates.
- 3.1.4 As no limit on the number of Hackney Carriage Vehicle Licences has since been reintroduced, if a vehicle meets all the required local vehicle conditions, this local authority cannot refuse to grant a hackney vehicle licence
- 3.1.5 Central Governments’ current position is that restrictions should only apply where there is a clear benefit for the consumer, and that Licensing Authorities should publicly justify their reasons for the retention of restrictions and how decisions on numbers have been reached. Demonstration of unmet demand can be undertaken by means of a survey and **must** be carried out by an independent company¹. It is necessary to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court
- 3.1.6 In 2006 the DFT issued Good Practice Guidance to licensing authorities on the Hackney Carriage and Private Hire Vehicle (PHV) industry. This guidance was updated in 2010 and included advice on the measurement of unmet demand. A copy of the latest DFT guidance is attached at Appendix A
- 3.1.7 If the committee agree to this proposal of obtaining an unmet demand survey, it is anticipated that it will take several months before a further report can be presented back to the licensing committee as detailed in the approximate timeline below :-

DATE	ACTION
October/November 2016	contact independent survey companies
November/December 2016	procurement & project scope discussions with company
January/February 2017	survey commences
March/April 2017	survey report Completed for presentation to local authority
May/June 2017	report with recommendations presented to licensing committee

¹ R v Brighton Borough Council, ex p Bunch [1989] COD 558

3.1.8 The timeline can be flexible and it may not be appropriate to carry out a survey during certain times of the year and therefore it is suggested that a period for the survey to be commence is agreed with the taxi trade.

3.2 Issues

3.2.1 The survey may identify that where quantity restrictions are reasonably imposed this may have an impact upon the market competition within the town and the value of the licence plate within the trade.

3.3 Choices (Options)

3.3.1 Agree to the proposal to carry out an unmet demand survey and report the findings of the study with recommendations to the licensing committee next year.

3.3.2 Agree no changes and continue licensing unlimited numbers of hackney carriage vehicle licences.

4. Implications (including financial implications)

4.1 Policy

4.1.1 Local Policy Hackney Vehicle Licence Conditions

4.2 Resources and Risk

4.2.1 The cost to obtain an unmet demand report from a specialist independent survey company will be in the region of £8,000. In accordance with s.70(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976 the funding for carrying out the survey can be lawfully charged to Hackney Vehicle Licence Fees.

4.2.2 An interval of three years is commonly regarded as the maximum reasonable period between surveys and therefore any policy agreed may have an impact upon ongoing resources and fees in the future

4.3 Legal

4.3.1 The current legal provision on limiting the number of hackney carriages is set out in Section 16 of the Transport Act 1985 which amended the Town and Police Clauses Act 1847 This provides that the grant of a hackney carriage licence may be refused, for the purpose of limiting the number of hackney carriages if there is no significant demand for the services of hackney carriages which is unmet.

4.3.2 In the event of a challenge to a decision to refuse a hackney carriage licence, Northampton Borough Council would have to establish that it had been satisfied that there was no significant unmet demand and that its decision to

restrict numbers was reasonable in line with Wednesbury Reasonableness principles. This is established by way of carrying out an unmet demand survey which will explicitly conclude whether a restriction on numbers of hackney carriages is justified and hence reasonable.

4.3.3 By carrying out an unmet demand survey the council would be acting reasonably and within the realms of evidence and would therefore be protected against claims from individuals who may be refused licences. Case law² supports the use of unmet demand surveys to determine quantity controls because it provides evidence that any restriction imposed was reasonable

4.4 Equality

4.4.1 There is no equality issues identified as this policy would apply equally to any proprietor of a Hackney or Private Hire vehicle in similar circumstances.

4.5 Consultees (Internal and External)

4.5.1 Julie Seddon
Legal

4.6 Other Implications

4.6.1 None identified

5. Background Papers

5.1 Town and Police Clauses Act 1847

5.2 Local Government (Miscellaneous Provisions) Act 1976

5.3 Transport Act 1985 s.16

5.4 Department for Transport (DOT Circular 3/85 & 4/87)

5.5 Department for Transport Guidance 2010

5.6 The Office of Fair Trading reported on this in November 2003 - "[The regulation of licensed taxi and PHV services in the UK](http://www.offt.gov.uk/advice_and_resources/publications/reports/competition-policy/oft676)" [OFT676 available at http://www.offt.gov.uk/advice_and_resources/publications/reports/competition-policy/oft676]

Louise Faulkner
Senior Licensing Officer

² R v Brighton Borough Council, ex p Bunch [1989] •, Ghafoor v Wakefield Metropolitan Borough Council[1990] RTR 389, QBD . R v Brighton Borough Council, ex p Bunch [1989] COD 558 • R on the application of Maud v Castle Point Borough Council[2003] RTR 122 CA). Ghafoor v Wakefield Metropolitan Borough Council[1990] RTR 389, QBD. • R v Leeds City Council, ex p Mellor [1993] COD 352 • R (on the application of Johnson) v Reading BC[2004] EWHC 765 Admin Ct.

44. Many councils are concerned that the size of limousines prevents them being tested in conventional MoT garages. If there is not a suitable MoT testing station in the area then it would be possible to test the vehicle at the local VOSA test stations. The local enforcement office may be able to advise (contact details on <http://www.vosa.gov.uk>).

QUANTITY RESTRICTIONS OF TAXI LICENCES OUTSIDE LONDON

45. The present legal provision on quantity restrictions for taxis outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi licence may be refused, for the purpose of limiting the number of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet'.

46. Local licensing authorities will be aware that, in the event of a challenge to a decision to refuse a licence, the local authority concerned would have to establish that it had, reasonably, been satisfied that there was no significant unmet demand.

47. Most local licensing authorities do not impose quantity restrictions; the Department regards that as best practice. Where restrictions are imposed, the Department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It is suggested that the matter should be approached in terms of the interests of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages arise for them as a result of the continuation of controls; and what benefits or disadvantages would result for the public if the controls were removed? Is there evidence that removal of the controls would result in a deterioration in the amount or quality of taxi service provision?

48. In most cases where quantity restrictions are imposed, vehicle licence plates command a premium, often of tens of thousands of pounds. This indicates that there are people who want to enter the taxi market and provide a service to the public, but who are being prevented from doing so by the quantity restrictions. This seems very hard to justify.

49. If a local authority does nonetheless take the view that a quantity restriction can be justified in principle, there remains the question of the level at which it should be set, bearing in mind the need to demonstrate that there is no significant unmet demand. This issue is usually addressed by means of a survey; it will be necessary for the local licensing authority to carry out a survey sufficiently frequently to be able to respond to any challenge to the satisfaction of a court. An interval of three years is commonly regarded as the maximum reasonable period between surveys.

50. As to the conduct of the survey, the Department's letter of 16 June 2004 set out a range of considerations. But key points are:

- **the length of time that would-be customers have to wait at ranks.** However, this alone is an inadequate indicator of demand; also taken into account should be...

- **waiting times for street hailings and for telephone bookings.** But waiting times at ranks or elsewhere do not in themselves satisfactorily resolve the question of unmet demand. It is also desirable to address...
- **latent demand,** for example people who have responded to long waiting times by not even trying to travel by taxi. This can be assessed by surveys of people who do not use taxis, perhaps using stated preference survey techniques.
- **peaked demand.** It is sometimes argued that delays associated only with peaks in demand (such as morning and evening rush hours, or pub closing times) are not 'significant' for the purpose of the Transport Act 1985. The Department does not share that view. Since the peaks in demand are by definition the most popular times for consumers to use taxis, it can be strongly argued that unmet demand at these times should not be ignored. Local authorities might wish to consider when the peaks occur and who is being disadvantaged through restrictions on provision of taxi services.
- **consultation.** As well as statistical surveys, assessment of quantity restrictions should include consultation with all those concerned, including user groups (which should include groups representing people with disabilities, and people such as students or women), the police, hoteliers, operators of pubs and clubs and visitor attractions, and providers of other transport modes (such as train operators, who want taxis available to take passengers to and from stations);
- **publication.** All the evidence gathered in a survey should be published, together with an explanation of what conclusions have been drawn from it and why. If quantity restrictions are to be continued, their benefits to consumers and the reason for the particular level at which the number is set should be set out.
- **financing of surveys.** It is not good practice for surveys to be paid for by the local taxi trade (except through general revenues from licence fees). To do so can call in question the impartiality and objectivity of the survey process.

51. Quite apart from the requirement of the 1985 Act, the Department's letter of 16 June 2004 asked all local licensing authorities that operate quantity restrictions to review their policy and justify it publicly by 31 March 2005 and at least every three years thereafter. The Department also expects the justification for any policy of quantity restrictions to be included in the Local Transport Plan process. A recommended list of questions for local authorities to address when considering quantity controls was attached to the Department's letter. (The questions are listed in Annex A to this Guidance.)

TAXI FARES

52. Local licensing authorities have the power to set taxi fares for journeys within their area, and most do so. (There is no power to set PHV fares.) Fare scales should be designed with a view to practicality. The Department sees it as good practice to review the fare scales at regular intervals, including any graduation of the fare scale by time of day or day of the week. Authorities may wish to consider adopting a simple formula for



LICENSING COMMITTEE REPORT

Report Title	Taxi & Private Hire Drivers ACRO Checks
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	21 st June 2016
Policy Document:	Taxi/Private Hire Drivers & Operators Licences
Directorate:	Customers and Communities

1. Purpose

That the Committee consider and determine the report for Association of Criminal Record Checks Office (ACRO) to be given permission to carry out checks on Operators, Taxi / Private Hire Drivers and to amend the relevant policy to make this a condition of obtaining either one or both of the said licences.

The aim of the proposed policy is to provide an added safeguarding facet to the assessment by officers or licensing committee on whether an applicant or holder of a private hire operators, private hire/hackney drivers licence are on a balance of probability a “fit and proper” person.

2. Recommendations

That this policy is adopted with immediate effect.

3. Issues and Choices

3.1 Report Background

- 3.1 At present all operators, private hire/taxi drivers obtain an enhanced Disclosure and Barring Certificate (DBS) upon first application and every 3 years thereafter.
- 3.2 The enhanced DBS certificate includes a search of the police national database and gives details of spent or unspent convictions, cautions, reprimands and final warnings and may also include any other information held on records that is considered relevant for disclosure.

- 3.3 All new drivers who have not resided within the UK for at least 5 years are also currently required, in addition to the DBS to obtain a certificate of good conduct from their last country of residence.
- 3.4 The information that is returned from the above documents is used as part of the criteria for deciding if the applicant is a “fit and proper” person to be licensed as a driver and/or operator.
- 3.5 It has been identified that this process may not identify those individuals who may have convictions from outside of the UK and which may be a significant consideration in deciding the “fit and proper” test.
- 3.6 The following are issues that have been identified.
- The certificate of good conduct is obtained by the applicant and presented to the licensing team, in many instances it is difficult to ascertain if the certificate produced is a genuine document.
 - Applicants from foreign countries who have lived in the UK for more than 5 years upon first application will not be the subject of any additional checks.
 - The DBS application does not include a search of foreign convictions.
 - Foreign nationals living and working in the UK may have a ‘clean’ UK DBS because checks have never been made in their home country.
 - British nationals who have lived abroad may not be the subject of any additional checks from abroad.
- 3.7 The ACRO check is a simple form that can be completed by the licensing staff and submitted to the local police for the relevant check to be conducted.
- 3.8 The ACRO check allows the police to request details of recorded convictions in respect of foreign nationals from both EU and Non EU countries. The process will also search the Interpol and UKBA System to check if subjects are wanted or have offences in other countries.
- 3.8 It will not be necessary to carry out an ACRO check on those who have lived in the UK since birth, unless evidence is received that they have lived abroad. The licensing team will consider relevant documents to identify those who will be the subject of a check.
- 3.9 The flow chart detailed at Appendix A will be used by the licensing team as a general guide to assist in identifying those who will be the subject of the ACRO check.
- 3.10 It is proposed to only carry out one check on every driver, unless intelligence exists that the driver has lived permanently abroad since the last check was undertaken.
- 3.11 If this policy is approved it will need to allow licensing officer delegated powers to depart from the policy where it will not be feasible to carry out ACRO checks.

3.2 Issues

- 3.2.1 The turnaround time for the ACRO check may vary and it is not proposed to unduly delay the issue of licences for existing drivers pending the return of these checks. All new drivers will be subject to ACRO safeguarding checks without undue delay and may / may not be issued with a licence until the ACRO check has been returned.
- 3.2.2 It has been identified that there will be some scenarios where drivers have lived and/or been born overseas and the ACRO check will not be feasible, for example but not limited to:
- A driver born in the UK but lived for a number of years abroad
 - A driver born outside of the UK but who has a UK passport and has lived for the majority of their life in the UK.
 - A driver who has lived in multiple foreign countries
- 3.2.3 The licensing team will initially follow the flowchart in Appendix A. However they may depart from the flowchart and request an ACRO check where intelligence indicates that the applicant has for example held multiple passports and/or has lived in another country for a number of years. The circumstances where an ACRO check is appropriate will be decided upon the individual merits of the information held.

3.3 Choices (Options)

- 3.3.1 Agree to adopt the ACRO check and make it a condition of the taxi/private hire drivers / private hire operator's licence application.
- 3.3.2 Take no action

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 Northampton Borough Council Private Hire Licensing Byelaws Conditions.

4.2 Resources and Risk (Financial)

- 4.2.1 There is currently no application cost for the ACRO check and there will be minimal resource implications for the licensing team as this simple form can be completed at the same time as the DBS certificate. The time taken to complete and submit the ACRO check may be included within any future licence fee calculations.
- 4.2.2 Without checking previous foreign convictions it could leave the public open to a significant degree of risk.
- 4.2.3 All drivers are currently interviewed in person for a DBS check and it is planned to carry out the ACRO check at the same time. Any future changes that remove this interview being carried out in person, may affect the ability for these checks to be carried out.

4.3 Legal

4.3.1 Section 51 Local Government (Miscellaneous Provisions) Act 1976 Licensing of drivers of private hire vehicles.

(1) Subject to the provisions of this Part of this Act, a district council shall, on the 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—

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

4.3.2 Section 55 Local Government (Miscellaneous Provisions) Act 1976 Licensing of operators of private hire vehicles.

(1) 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 operate private hire vehicles grant to that person an operator'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 an operator's licence.

(2) every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specify in the licence.

(3) a district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

4.4. Equality

4.4.1 This procedure would apply to any driver of a Hackney or Private Hire vehicle in similar circumstances.

4.5. Consultees (Internal and External)

4.5.1 Legal

4.5.2 Licensing Team/Manager

4.6 Legal

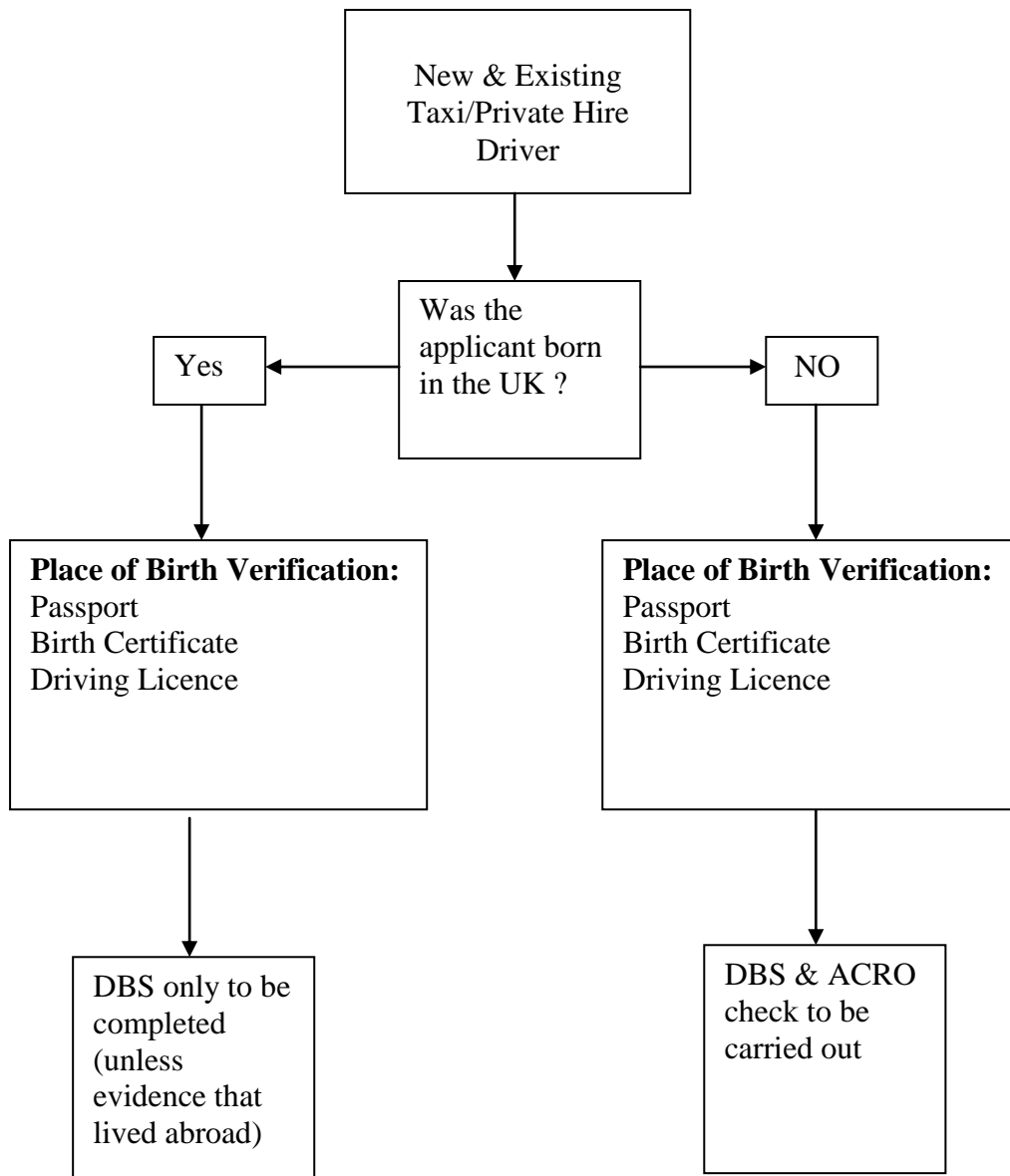
4.7. Background Papers

4.6.1. Local Government (Miscellaneous Provisions) Act 1976.

Report Author: Louise Faulkner

Title: Senior Licensing Officer

TAXI & PRIVATE HIRE DRIVER ACRO CHECKS



Licensing Officer delegated powers to depart from the policy where it will not be feasible to carry out ACRO checks.

Appendices

- A. Licensing Committee report 29 January 2008
- B. DVSA withdrawal of enhanced driver training



LICENSING COMMITTEE REPORT

Report Title	Alternative Driver Assessment Procedure for New Private Hire/Hackney Drivers Licence
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	18 October 2016
Policy Document:	Private Hire Driver / Hackney Carriage - New applications
Directorate:	Customers and Communities

1. Purpose

1.1 To propose and amend the current Council policy regarding the licensing of new Private Hire & Hackney driver's and their requirement to undergo an enhanced driving assessment as provided for by the Driver and Vehicle Standards Agency(DVSA)

2. Recommendations

2.1 That with immediate effect an alternative driver assessment as provided by either of the following:

- (i) Institute of Advanced Motorists (IAM)
- (ii) Driving Instructors Association (DIA)
- (iii) AA Drive Tech (AA)
- (iv) Royal Society for the Prevention of Accidents (ROSPA)
- (v) Blue Lamp Trust (BLT)
- (vi) any other provider considered suitable by the Licensing Department from time to time and accredited by the DVSA to provide driver assessment

be recognised as suitable, for the purposes of assessing the competency of new PHD and HC drivers so as to ensure that driving standards are maintained to a safe and acceptable level

3. Issues and Choices

3.1 Report Background

3.1.1. The Licensing Committee of 29 January 2008 resolved that all new applicants who wanted to become a Private Hire driver/Hackney driver in Northampton should undertake driver training with the Driving Standards Agency (now the Driver & Vehicle Services Agency) as part of the application process (**appendix A**).

3.1.2 The Licensing Department administers all New Driver applications, which at present, stands at approximately 150 per year. Unless exempted by the fact the driver holds a DVLA licence to drive either a passenger carrying vehicle (PCV) or a large goods vehicle (LGV) then all new applicants are required to take an advanced / driver assessment test.

3.1.3 On 2 September 2016 the Licensing Department received notification from the DVSA informing they would no longer provide taxi driver assessments service and this would be effective from 1 January 2017. This announcement by the DVSA was not peculiar to Northampton but would be applicable on a nationwide basis (**appendix B**)

3.1.4 As a result of this notification enquiries have been made to identify alternative sources of driver testing to ensure competency and safety. Many other local authorities are faced with a similar situation as they also subject potential applicants to the same procedure. A number of authorities do not use this practice and have a more relaxed approach (Northamptonshire based local authorities have a mixed approach to this issue) as detailed below:

Northampton Borough Council	Held full licence for 36 months	Must pass DVSA test
South Northants Council	Held full licence for 12 months	Must pass DVSA test
Daventry District Council	Held full licence for 12 months	Must pass DVSA test
Kettering Borough Council	Held full licence for 12 months	No enhanced test requirement
Corby Borough Council	Held full licence for 12 months	No enhanced test requirement
Wellingborough Borough Council	Held full licence for 12 months	Must pass DVSA test
East Northants Council	Held full licence for 12 months	No enhanced test requirement

3.1.5. DVSA are cautious about promoting alternative providers as they are a government agency, but have confirmed there are four road safety charities / driver representative bodies that have advanced driving tests whose content and delivery has been accredited by the Agency. These are:

- Institute of Advanced Motorists - IAM
- Driving Instructors Association - DIA
- AA (Automobile Association) Drive Tech:

- Royal Society for the Prevention of Accidents – ROSPA

A further alternative is a charitable trust, Blue Lamp Trust who have also offered to provide driving assessments although they are not currently accredited by the DVSA.

3.1.6 The Licensing Department regularly receives complaints from other road users about the standard of driving of both Private Hire and Hackney vehicles, some are dealt with informally, more serious allegations are passed to the Police for further action. To discontinue with an advanced / assessment test would be a retrograde step and would not be in the interests in public safety.

3.1.7 Under Section 51 (1) Local Government (Miscellaneous Provisions) Act 1976 a district council shall, on the 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—

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

3.1.8 Section 51 (2) Local Government (Miscellaneous Provisions) Act 1976 allows a district council to attach to the grant of a private hire drivers licence such conditions as they may consider reasonably necessary. The requirement to pass the driver assessment / test who does not hold a Passenger Carrying vehicle or Large Goods Vehicle licence is such a condition to which Section 51(2) LG (MP) Act 1976 refers.

4.1 Choices (Options)

- 4.1.1. To amend the policy with a requirement for an alternative enhanced driver assessment training to be undertaken in place of the existing requirement through the DVSA who will stop providing such assessments from 31st December 2016
- 4.1.2 To amend the policy with no requirement for additional enhanced driver assessment training.

5. Implications (including financial implications)

There are no financial implications as the proposed alternative arrangement is incumbent on the applicant to make payment directly to the provider.

5.1 Policy (Hackney and Private Hire Licensing)

There are new policy implications.

5.2 Resources and Risk

N/A

5.3 Legal

As above

5.4. Resources and Risk

5.4.1 There is no recognised financial risk, the Licensing Team will continue to administer and enforce the issue of Hackney and Private Hire Licenses.

5.6. Consultees (Internal and External)


5.6.1. Legal.

5.7. Background Papers

Local Government (Miscellaneous Provisions) Act 1976
New Driver application conditions

Report Author: Ian Ellis
Licensing Enforcement Officer

Appendix A

Appendices	 NORTHAMPTON BOROUGH COUNCIL	Item No. 8
		Ward: N/A
Name of Group:	LICENSING	
Meeting Date:	29 January 2008	
Directorate:	Chief Executive Legal and Democratic Services	
Corporate Manager:	Francis Fernandes	

Report Title	Applicants for a Hackney/Private Hire Licence.
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1. Recommendations

That with effect from 1 April 2008, applicants for a Hackney/Private Hire drivers licence undergo driver training with the Driving Standards Agency and a comprehensive Induction Course prior to being granted a licence.

2. Summary

At present the Council require all new applicants for a Hackney Carriage or Private Hire driver's licence to be at least 21 years of age. Each applicant is then subject to a driving test and either a written examination Hackney test or, if a Private Hire applicant a local knowledge, district and condition booklet test. This procedure was introduced some years ago, to ensure that licensed drivers, have a reasonable amount of experience of driving in all conditions thereby ensuring a safe, economic and comfortable journey for members of the travelling public.

Recently introduced Age Discrimination legislation makes the age related condition illegal and revising the conditions for all new applicants are proposed to ensure a continued safeguard for the public.

3. Report Background

The requirements of Section 51(1) of the Local Government (Miscellaneous Provisions) Act 1976, as amended by the Driving Licence (Community Driving Licence) Regulations 1996, state that a district council shall not grant a licence to drive a private hire vehicle to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of application so authorised. The Act (as amended) states that a person is authorised to drive a motor car if:

He holds a licence granted under Part III of the Road Traffic Act 1988 (not being a provisional licence) authorising him to drive a motor car, or

He is authorised by virtue of Section 99(A)(1) of that Act to drive a motor car in Great Britain.

Section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 makes the same requirement for Hackney Carriage drivers.

Section 51(2) of the 1976 Act states that District Councils may attach to the grant of a licence such conditions as they may consider necessary.

All new applicants currently undergo a driving test and basic topography knowledge test. These are carried out by the Licensing Enforcement officers and to date have not attracted a separate fee.

The failure rate is very high due to the influx of drivers from those countries newly elected into the European Union and other non-Union countries. This, in spite of holding a full driving licence in their own country for a number of years, it is clear from the number of comments and complaints received that their unfamiliarity with English road systems and signs, and unfamiliarity with driving on the left hand side of the road, may be causing them initial difficulty. Officers therefore feel that revised conditions are necessary in order to offer as safe, economic and comfortable a journey as possible for the fare paying customer.

Officers are also receiving complaints about those drivers for whom English is not their first language and who allegedly have difficulty in understanding customer requests.

To address these concerns it is, therefore, proposed that the following criteria be adopted for all new applicants for Hackney Carriage or Private Hire drivers' licences as from 1 April 2008.

1. All applicants should undergo a Driving Test conducted by the Driving Standards Agency, at their own expense, to assess their competency to drive.
2. All applicants must have held a United Kingdom driving licence for at least 36 months or, if from a country within the EU proof of an equivalent licence from their own country of origin. Driving licences must show the applicant's

current address.

3. Applicants who have been resident in the United Kingdom for less than five years from the date of application are required to provide a Certificate of Good Conduct or equivalent from any country in which they have been resident in the last five years. The Certificate of Good Conduct must be in English and provided at the applicants own expense. This will be in addition to the enhanced Criminal Record Bureau Check.
4. That the present Knowledge Tests be replaced with an Induction Course of an afternoon or four hour duration to include knowledge of the Council Conditions, the Law relating to Hackney and Private Hire vehicles and drivers (with special reference to illegally plying for hire), the Highway Code, disability awareness, and good practice with relation to dealing with the public.
5. This to be followed by a written examination to include all of those subjects covered on the course, and a simple maths, reading and writing test. Research is currently being carried out to find an appropriate, approved basic test.
6. The Hackney Test will require the same level of knowledge as at present and applicants will be advised accordingly.

The course will be incorporated within the duties of the Licensing Department who will be responsible for arranging, running and the content of the course. Guest speakers, experts in their field, have been approached and are willing to address the course. The courses will be arranged conditional on the number of applicants at any one time.

A fee to include all of (4) above is recommended at £350.00.

This will include:

- The cost of officer time. (Team Leader and, both Enforcement Officers).
- Staff responsible for the completion of the Criminal Record Bureau forms, with special reference to the importance of accurate information.
- Guest speakers and their expenses.
- Setting of all relevant tests, invigilation and marking.
- Administration of the course to include all stationary etc.
- Cost of the venue.

It will only be financially viable to run the course when the number of applicants has reached the minimum required. Due to the high number of applicants this would be either monthly or every other month.

Failure to reach the required standard on the Induction Course will attract a retest fee.

3A. Any Relevant Policies

Hackney and Private Hire Licensing.

4. Options and Evaluation of Options

To adopt the recommendations.

5. Resource Implications (including Financial Implications)

Staff costs are ongoing.
The estimated increase in revenue if these proposals are adopted, based on current applicant numbers, will make the Induction Course self-financing.

6. Consultees (Internal and External)

Internal	<ul style="list-style-type: none">• Finance
External	<ul style="list-style-type: none">• Peterborough City Council• Milton Keynes Borough Council• Leicester City Council• Derby City Council• Oxford City Council• Reading Borough Council• Luton Borough Council• Cambridge City Council• Dacorum Borough Council• Watford Borough Council• St Albans City Council• Ipswich Borough Council

7. Compliance Issues

Finance Comments
N/A
Legal Comments
N/A
Crime and Disorder Issues
Under Sec.17 Crime and Disorder Act 1998, we will ensure an increase in safety for the residents of Northampton.
Equality Impact Assessments
N/A
Human Rights Act Implication

N/A

Other compliance issues

None

8. Background Papers

Title	Description	Source
	Research File	Mr G Stokes.

Name	Signature	Date	Ext.
Author	Mr G Stokes. Mr P Bayliss	31.12.07	7098
Corporate Manager	Frances Fernandes		
Director			

Appendix B



**Driver & Vehicle
Standards
Agency**

The Axis
112 Upper Parliament Street
Nottingham
NG1 6LP

T 0115 936 6370

www.gov.uk/dvsa

Chief Executive
Local Authority
DAVENTRY
NN11 4FP

31 August 2016

DVSA Taxi Driver Assessments

DVSA (and previously DSA) have been conducting Taxi Driver Assessments for participating Local Authorities since 1999. Demand has increased over the years, with a throughput in 2015-16 of approximately 23,000 and a forecast of 28,000 for the business year 2017-18.

These assessments now require considerable examiner resource, at a time when the demand for statutory tests is at an all-time high. The Agency is under pressure to reduce car test waiting times and in order to achieve this, we need to prioritise our activities.

Regrettably, a decision has been made to withdraw the provision of Taxi Assessments with effect from 31 December 2016. We understand that this will be a disappointment and inconvenience to those Local Authorities who currently require their taxi drivers to pass the DVSA assessment.

The Agency also recognises the road safety benefits of such an assessment; therefore, we would point out that there are potential providers such as road safety charities and Driving Instructor representative bodies, who may be interested in providing an alternative service. Details of these organisations can be easily obtained by submitting a general internet search.

Yours faithfully

Neil Wilson
Head of Driver and Driver Training Policy

Safety Standards Service

