

**North East Derbyshire District Council**

**Council**

**6 March 2017**

<b>Interim Taxi Licensing Policy Amendments</b>
---

**Report of Councillor M Gordon, Portfolio Holder with Responsibility for Environment**

This report is public

**Purpose of the Report**

- To approve for adoption minor amendments to the Council's Statement of Licensing Policy for Hackney Carriage & Private Hire Drivers, Vehicles and Operators.

**1 Report Details**

- 1.1 On 14 December 2016 the Council's Licensing Committee considered the report attached at **Appendix 1**. This report set out various options to make minor changes to the existing taxi policy, together with delegation of powers to officers where appropriate.
- 1.2 The outcome of Licensing Committee's deliberations is set out in the minutes attached at **Appendix 2** at minute number 379.
- 1.3 Council is now asked to approve the following amendments to the Statement of Licensing Policy for Hackney Carriage and Private Hire Drivers, Vehicle and Operators as recommended by Licensing Committee as follows:-
  - (1) Introduce a requirement that Hackney Carriage Vehicle Licences would only be granted on the basis that they would be used to:-
    - (i) Ply for hire within the District of North East Derbyshire; and/or
    - (ii) Carry out prebooked work predominantly within the District of North East Derbyshire;

Any applicant would be expected to demonstrate a bona fide intention to comply with this requirement.
  - (2) Amend the Hackney Carriage Vehicle Licence Conditions to reflect the above restriction.

- (3) Remove from Section 4.2.5 the words 'holders of current PSV and/or HGV licences, where the holder is able to produce proof of current medical examination, will not be required to undergo a further medical examination'.
- (4a) Remove the requirement to meet DVSA Taxi Test Standards;
- (b) Introduce a requirement to meet such driving standard test as the Council sees fit to introduce.
- (c) Grant delegated powers to the Joint Assistant Director – Planning and Environmental Health in consultation with the Chair of Licensing to determine the most appropriate form of testing.
- (5a) Introduce a requirement in respect of HC/PHV drivers' licence for all new applicants and existing licence holders to undertake such safeguarding training as the Council sees fit to introduce and;
- (b) Grant delegated powers to the Joint Assistant Director – Planning and Environmental Health in consultation with the Chair of Licensing to determine the most appropriate training.
- (6a) Replace those sections relating to knowledge test to remove the specific test format and replace with a requirement to undertake such test an applicant's knowledge as the Council deems appropriate from time to time; and
- (b) Grant delegated powers to the Joint Assistant Director – Planning and Environmental Health to determine the format and content of the knowledge test.
- (7) Amend the requirement to provide a Certificate of Good Conduct to those occasions where licensing officers reasonably consider it to be appropriate.

### **3 Consultation and Equality Impact**

- 3.1 The policy changes proposed should have no detrimental effect.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Continuing with the existing policy is the only alternative, albeit if only pending the overall policy review and county-wide standards being developed. However for the reasons given above this is not considered appropriate because the measures to prevent problems are required quickly..

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 None.

## 5.2 Legal Implications including Data Protection

- 5.2.1 Having a policy which is fit for purpose and clearer to Licence Holders and Applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

## 5.3 Human Resources Implications

- 5.3.1 None.

## 6 Recommendations

- 6.1 That the recommendations made by Licensing Committee (as stated in paragraph 1.3 of the report) are approved.

## 7 Decision Information

<b>Is the decision a Key Decision?</b> (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Supporting our communities to be Healthier, Safer, Cleaner and Greener

## 8 Document Information

Appendix No	Title	
1	Licensing Committee Report: Interim Taxi Licensing Policy Amendments	
2	Minutes of Licensing Committee held on 14 December 2016	
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)		
None		
Report Author		Contact Number
Kevin Shillitto - Principal Solicitor		01246 242507

## **North East Derbyshire District Council**

### **Licensing Committee**

**14 December 2016**

#### **Interim Taxi Licensing Policy Amendments**

#### **Report of the Principal Solicitor**

This report is public

#### **Purpose of the Report**

- To review and approve for adoption minor amendments to the Council's Statement of Licensing Policy for Hackney Carriage & Private Hire Drivers, Vehicles and Operators

#### **1 Report Details**

- 1.1 It is three years since the Council introduced the current policy for the licensing of hackney carriages and private hire drivers, vehicles and operators (collectively referred to here as the taxi trade).
- 1.2 The Policy will be subject to a full review in line with county-wide standards which local authorities are working on at present. However, in the meantime there are some areas of the current Policy which are in need of improvement and amendment, in some cases urgently.
- 1.3 This report identifies those priorities for amendment which can be made immediately pending the full review of the Policy. Those priorities are as follows:
- 1.4 Hackney Carriages – Intended Use:

In 2008 the High Court decided that local authorities are able, as a matter of policy, to restrict the issue of hackney carriage vehicle plates to those vehicles only which are intended to be used in the district. This prevents the problem whereby applicants obtain a hackney carriage and then use it (legally) to carry out pre-booked work in other districts. The most recent widespread example of this is Rossendale Council who currently have large numbers of vehicles working across the country. The Council do not currently have an Intended Use policy restricting the issue of hackney licences. As Rossendale introduce their own restrictions early next year officers are concerned that applicants will seek to obtain plates for vehicles which will be used in neighbouring districts (predominantly Sheffield), exploiting this loophole in the law while upsetting the taxi trade and causing concern to those local authorities which are affected.

Introduction of an Intended Use policy by NEDDC would prevent this problem arising.

Accordingly it is proposed that the Council introduce the following restriction to the policy on grant of hackney carriage licences:

*Hackney Carriage vehicle licences will only be granted on the basis that they will be used to:*

- 1) *ply for hire within the district of North East Derbyshire; and/or*
- 2) *carry out pre-booked work predominantly within the district of North East Derbyshire;*

*And any applicant will be expected to demonstrate a bona fide intention to comply with this requirement.*

#### 1.5 Medical Checks for HGV & PSV Drivers on First Application:

Currently the policy states that HGV and PSV licence holders are not required to provide a medical certificate proving their fitness because they would have already provided one to meet the Group 2 medical standards. However they may have gone several years since obtaining their Group 2 licence so the assumption that they are medically fit may be inaccurate. Amending the policy to require all applicants and licence-holders to provide an up-to-date medical certificate as and when required will eliminate this risk. The overall policy on medicals and the intervals at which they are required will remain unchanged.

It is proposed to amend the policy at section 4.2.5 by removing the words:

*“Holders of current PSV and/or HGV licences, where the holder is able to produce proof of current medical examination, will not be required to undergo a further medical examination”.*

#### 1.6 DVSA Testing:

The DVSA are due to withdraw their provision of the taxi driving test, a requirement of the current policy for new HC/PHV drivers, at the end of the year. They have already stopped providing test appointments. Work is ongoing to identify both interim and longer-term replacements to ensure applicants meet the required driving standards. Once the replacement measures are identified it is sensible to move quickly to implement them as soon as possible.

Accordingly, it is proposed that the policy be amended to:

- (a) Remove the requirement to meet DVSA taxi test standards;
- (b) Replace it with a requirement to meet such driving standards test as the Council sees fit to introduce; and
- (c) Leave it to officers using delegated powers to determine the most appropriate form of testing.

### 1.7 Safeguarding Training:

Officers are currently exploring opportunities, in partnership with other Derbyshire authorities if possible, to provide safeguarding training for applicants and licence-holders.

In anticipation of this being put in place a suitable requirement to undertake the training needs to be added to the policy. Implementation of the training itself can be left to officers acting under delegated powers subject to appropriate budget being available.

Members should note the intention at this stage that no cost is borne by the applicants or licence-holders for undertaking such training. If we proposed to add a further financial burden for applicants to meet such a policy change this would require a full consultation delaying the introduction of an important public safety measure.

### 1.8 DBS Checks:

There has recently been a change in practice whereby results of a criminal record check must now be provided to the Council before a licence will be renewed. If the certificate is not provided, irrespective of the reason, the licence will not be renewed.

Having already decided to change the renewal procedure on the grounds of public safety it would be prudent to update the overarching policy to reflect this change.

Members of the Licensing Committee are asked to delegate to officers the power to refuse renewal of licences in such cases, otherwise all such matters must be determined by referral to Licensing Sub-Committee which would be inefficient.

If a licence lapses for this reason it will require a new licence application (rather than a renewal) when the criminal record results become available. This may be considered unfair when it was not the licence-holders fault and officers may exercise discretion over the applicable tests and fees in such cases where the tests and fees would be more onerous than at the time of renewal.

### 1.9 Fee Rebates under Delegated Powers:

One of the consequences of the Deregulation Act was the creation of statutory fixed periods for licences (e.g. 3 years for drivers). There are still some circumstances where this can be shortened, where particular circumstances justify it. There may also be a statutory duty to grant shorter licences to foreign nationals on temporary work permits in line with new immigration rules.

In such cases the authority has to consider whether to remit part of the licence fee chargeable for the licence on the basis the applicant does not benefit from the full licence period. There may also be other rare occasions where it is necessary to consider remittance of fees.

Accordingly it is proposed that the power to remit fees be delegated to the Joint Assistant Director, to allow officers to determine the merit and level of remittance as an administrative function.

#### 1.10 Knowledge Test Amendments:

In light of recent focus on safeguarding, and the introduction of relevant training as discussed above, the possibility of including an element of questions as part of the knowledge test should be considered. It will allow the authority to ensure knowledge of safeguarding practices is tested in the same way as other areas of knowledge.

It is also considered that the current test format (3 sets of 10 questions) is too prescriptive and doesn't allow the authority to react quickly to new developments in the law or in areas of concern such as safeguarding.

It is therefore proposed to amend the Policy sections relating to knowledge tests to remove the prescriptive tests and replace with a simple requirement to undertake such test of an applicant's knowledge as the Council deems appropriate from time to time. This will need to be accompanied by a delegated power to the Joint Assistant Director to determine the composition of tests in future.

#### 1.11 Certificates of Good Conduct:

A problem has been identified in the wording of the existing policy, which requires that a Certificate of Good Conduct be supplied by "overseas applicants" for licences. In practice this doesn't reflect good practice which is to determine whether a Certificate should be provided by those who aren't currently or recently overseas but who have spent significant time living abroad.

It would therefore be sensible to amend the policy to require that a Certificate of Good Conduct should be provided by applicants/licence-holders "where officers deem it reasonably appropriate to do so" so other circumstances can be taken into account.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 The current policy requires updating in order to respond to changes in legislation and licensing practice, and to address areas of improvement identified by officers.
- 2.2 The nature of the amendments are such that they will not have a significant impact on the licence-holders or applicants. If the changes were more substantial they would trigger the need for a full consultation and delay the implementation of those policy changes which are required urgently.

## **3 Consultation and Equality Impact**

- 3.1 The policy changes proposed should have no detrimental effect.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 Continuing with the existing policy is the only alternative, albeit if only pending the overall policy review and county-wide standards being developed. However for the reasons given above this is not considered appropriate because the measures to prevent problems are required quickly..

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 None.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 Having a policy which is fit for purpose and clearer to Licence Holders and Applicants could assist in implementing rules while preventing a legal challenge by way of appeal or judicial review, with associated costs in defending the same.

### **5.3 Human Resources Implications**

- 5.3.1 None.

## **6 Recommendations**

- 6.1 That Licensing Committee approve and recommend to Council for adoption the following amendments to the Statement of Licensing Policy for Hackney Carriage & Private Hire Drivers, Vehicles and Operators:

- 6.1.1 (a) Introduce a requirement that Hackney Carriage vehicle licences will only be granted on the basis that they will be used to:

- 1) ply for hire within the district of North East Derbyshire; and/or
- 2) carry out pre-booked work predominantly within the district of North East Derbyshire;

And any applicant will be expected to demonstrate a bona fide intention to comply with this requirement.

- (b) Amend the Hackney Carriage Vehicle Licence condition to reflect the above restriction.

- 6.1.2 Remove from section 4.2.5 the words:

*“Holders of current PSV and/or HGV licences, where the holder is able to produce proof of current medical examination, will not be required to undergo a further medical examination”.*

- 6.1.3 (a) Remove the requirement to meet DVSA taxi test standards;  
(b) Introduce a requirement to meet such driving standards test as the Council sees fit to introduce; and



- (c) Grant delegated powers to the Joint Assistant Director Planning & Environmental Health in consultation with the Chair of Licensing to determine the most appropriate form of testing.
- 6.1.4 (a) Introduce a requirement in respect of HC/PHV driver's licences for all new applicants and existing licence holders to undertake such safeguarding training as the Council sees fit to introduce; and
- (b) Grant delegated powers to the Joint Assistant Director Planning & Environmental Health in consultation with the Chair of Licensing to determine the most appropriate training.
- 6.1.5 (a) Explicitly require that a DBS check be provided prior to the expiry of a current HC/PHV Driver's Licence and that the licence will not be renewed; and
- (b) Grant delegated powers to the Joint Assistant Director Planning & Environmental Health to refuse renewal in such cases, and to exercise discretion over the applicable tests and fees in related applications.
- 6.1.6 Grant delegated powers to the Joint Assistant Director Planning & Environmental Health to determine in what circumstances to remit HC/PHV licence fees and the level of any such remittance on a case by case basis.
- 6.1.7 (a) Replace those sections relating to knowledge tests to remove the specific test format and replace with a requirement to undertake "such test of an applicant's knowledge as the Council deems appropriate from time to time"; and
- (b) Grant delegated powers to the Joint Assistant Director Planning & Environmental Health to determine the format and content of knowledge tests.
- 6.1.8 Amend the requirement to provide a Certificate of Good Conduct to those occasions where Licensing officers reasonably consider it to be appropriate.

## 7 **Decision Information**

<b>Is the decision a Key Decision?</b> (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Supporting our communities to be Healthier, Safer, Cleaner and Greener

## 8 Document Information

Appendix No	Title
None	
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None.	
Report Author	Contact Number
Kevin Shillitto, Principal Solicitor	01246 242507