

**COMMITTEE:** REGULATION COMMITTEE

**DATE:** 5<sup>th</sup> NOVEMBER 2008

**SUBJECT:** TO CONSIDER A PROPOSAL FOR CONSULTATION ON THE REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY

**REPORT BY:** HEAD OF ENVIRONMENTAL AND CONSUMER SERVICES AND HEAD OF LEGAL SERVICES

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**IMPLICATIONS:**

LEGAL	✓	COMMUNITY SAFETY	
EQUALITIES		ENVIRONMENT	
FINANCIAL	✓	CONSULTATIONS	✓
STAFFING		OTHER	

**WARDS AFFECTED: ALL**

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**PURPOSE**

1. The purpose of this report is to seek Members' comments on a proposal to carry out a consultation exercise with the local taxi trade, interested stakeholders and Members on a review of current policies, procedures and conditions relating to the licensing of Hackney Carriages and Private hire Vehicles, Drivers and Operators.

**RECOMMENDATION(S)**

2. Members are recommended to:
  - i. Note the proposals and comment as appropriate
  - ii. Comment on any other issue that should be included in the consultation
  - iii. Agree that the next phase of consultation takes place as outlined

## **BACKGROUND**

3. The Council has a duty, pursuant to the powers conferred by the Local Government (Miscellaneous Provisions) Act 1976, as amended, to carry out the licensing functions in respect of Hackney Carriages and Private Hire Vehicles.
4. Luton Borough Council has had a number of different policies, conditions and procedures that have evolved over a number of years, but owing to staffing issues, failed in some areas to keep abreast of national developments in updating these. These staffing issues have now been addressed and last year the opportunity was taken to review all of these in detail and produce a revised document that would encompass a number of new policies, procedures and conditions. This would then reflect best practice as set out by Government and take into account a benchmarking exercise conducted by external consultants as part of the Unmet Demand Survey.

## **REPORT**

5. The Council released an 'issues document' highlighting the proposals being considered between December 2007 and February 2008. Over 2800 drivers and operators were sent the document and we received 335 responses.
6. Whilst we would have liked the response rate to have been higher, information from the Consultation Unit suggests that we received what would be considered a normal response.
7. However, it appears that the original consultation was not considered in the way the Council originally envisaged. Many respondents saw the document as an agreed policy and didn't appreciate the opportunity that was available to comment on and shape future policy.
8. Members also expressed a wish to be more involved in the production of a new consultation document. This report provides Members with details of some of the changes being sought and invites Members comments as to what is consulted on and how it might be achieved.
9. Following Member's input and comments on this report, the Licensing Service would then engage in further consultation with the trade and stakeholders. The results of this consultation would then form the basis of a further report asking Members to consider proposals for new or updated policies that would have key dates and the implications of their introduction.

## **FINANCIAL CONSIDERATIONS**

10. There are matters contained within this report that may have financial implications but at this stage of the consultation process they have not been fully detailed. A further report will be submitted with full implications at the conclusion of the consultation. This has been agreed with Darren Lambert.

## **LEGAL CONSIDERATIONS**

11. There are matters contained within this report that may have legal implications but at this stage of the consultation process they have not been fully detailed. A further report will be submitted with full implications at the conclusion of the consultation.

## **DRIVER'S MEDICAL**

12. In 1987 the Environmental Services Committee agreed that all applicants should submit a medical questionnaire completed by their own GP. Since then, the number that has been submitted through Medical Practitioners other than the applicant's own GP has increased dramatically.
13. This has been seen as the appropriate time to remind applicants of the existing policy that the Service has actually had for a number of years. At the same time we want to take the opportunity to bring the questionnaire into line with best practice as recommended by the DVLA. This will involve each applicant being assessed against the DVLA Group 21 criteria by their **own** GP or another GP at the same practice. We believe that it is important that the GP completing the form has access to the applicant's medical history. The fact that the form has changed is simply to make it easier for the person conducting the test to be reminded of the requirements as against making it any more cumbersome or time consuming. The current two-sided form does not have sufficient detail on it to completely cover the detail found in the medical. The House of Commons Transport Select Committee on Taxis and Private Hire Vehicles recommended in February 1995 that all taxi licence applicants should pass a medical examination before a licence can be granted. The cost of any medical is to be borne by the applicant.
14. It is therefore proposed that all new and renewal applications that require a medical to have this carried out by the applicant's own GP or another GP at the same practice. Where this has been completed by someone else, a letter of explanation will have to be supplied by the applicant and the Licensing Manager will decide whether or not to proceed with the application. Such circumstances have not yet been defined but would in all likelihood need to be exceptional.
15. In reality, this should not be a matter to seek consultation on. The intention in the 'issues' document was to emphasise and reiterate the existing requirement and introduce a new form, intended to assist the person conducting the medical, that follows the guidance in the medical. The new style form can be found in Appendix A.
16. During the original issues document a number of respondents disagreed with the proposal citing an increase in cost as the reason. However, this should not be the case since it is confirming existing policy and, while the form that needs completing for the medical may look daunting, it has been designed to

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<sup>1</sup> <http://dvla.gov.uk/media/pdf/medical/aagv1.pdf>

make it easier for the medical to be completed. Thus, the overall impact of this proposal is effectively neutral as it is emphasising what the current policy is.

17. Members are asked to consider the following as options to consult on:
  - i. Propose that we make no change to the existing arrangement whereby the Group 2 medical is required but using the existing form,
  - ii. Propose that we make no change to the existing arrangement whereby the Group 2 medical is required but using the new version of the form,
  - iii. Propose that we make no change to the existing arrangement whereby the Group 2 medical is required using the new style form and insisting as to who carries out the medical,
  - iv. Comment on the circumstances in which the Licensing Service would accept a medical to be completed by a person other than a GP at the applicant's own practice.
  - v. Suggest an alternative proposal and ask officers to investigate and report back on this.

### **DRIVING STANDARDS TEST**

18. In order to maintain the high standards that the Council expects of its drivers operating within the Borough, a review has taken place of how we assess the suitability of new drivers' ability and knowledge of locations and licensing conditions.
19. The Licensing Service regularly receives complaints from members of the public about the Hackney Carriage and Private Hire trade regarding a driver's ability to find destinations, read A to Z maps and the general standard of driving.
20. We are therefore proposing that a practical driving test is taken in addition to the written test. We have examined our requirements against other Authorities and there appears to be a vast range in the standard of tests required on application. This ranges from no test at all to full written and driving tests and, in some instances, attendance at local colleges for a Hackney Carriage and Private Hire course.
21. The Driving Standards Agency (DSA) is the only agency in Great Britain charged with setting driving standards and delivering the consistently high quality required to ensure safe driving practice. DSA has a wealth of experience in assessing all types of drivers. It is responsible for 1.9 million driving tests taken in Great Britain each year. They also train and monitor the standards of the examiners and set the standard examination syllabus.
22. The DSA have created and use a specific test for Hackney Carriage and Private Hire drivers that accurately reflects modern driving conditions and the level of responsibility these operators have as a form of public transport. In addition a specific wheelchair element of the test is available for those vehicles equipped for wheelchair conveyance.

23. There are a number of proven benefits to the taxi trade by introducing the use of the DSA test as demonstrated in areas where they are used, namely:
- Official certification
  - Credibility with customers – windscreen certificate provided upon pass
  - Increased confidence in Luton licensed drivers
  - Increased protection from undesirable elements of the trade
  - Personal achievement
  - Access to training and development
  - Insurance industry link up which can offer significant savings on premiums
24. There are a number of benefits to the Authority:
- Partnership with DSA
  - Better prepared and safer taxi drivers
  - Quality control and consistency
  - Public reassurance
  - Risk reduction and transference to DSA
  - Release of enforcement resources
25. Nationally Hackney Carriage and Private Hire is the only way of travelling in paid transportation that does not require a further driving test. Members of the public might assume that drivers have gone through this extra test. An internal national study by the DSA showed that of 100 failures when undertaking their driver assessment 66% were due to a serious or dangerous fault. This emphasises the need for robust quality controlled assessment of driving standards.
- Drivers will be expected to pass the DSA Practical Driving Test for Taxi and Private Hire Drivers, prior to submitting their application for a licence, as a one off instance. It is anticipated that initially all new applicants will be expected to have passed. Successful completion of the practical driving test will allow the applicant to book the written test. The DSA will handle all bookings and the local test centres are located at Luton, Stevenage and Aylesbury. Bookings can be made online via their website. Payment for this will be the responsibility of the applicant.
26. We are undecided as to whether there should be a phasing in of all existing and renewals such that by a particular date to be agreed all licensed drivers will have passed the practical and, where appropriate, 'use of wheelchair' test.
27. It may be considered appropriate for Members to consider recommending that where a driver is engaged in providing a service to the council, ie school runs, social services work or any other Council contract, it is made a requirement that such drivers have passed the DSA Practical Driving Test for Taxi and Private Hire Drivers irrespective of whether it is a grant or renewal. This could be phased in and would provide a better service to the Council and the public.
28. A driver may be required to sit the test if they have had cause to be sanctioned by the Taxi and Private Hire Licensing Panel, officers or

commenced driving following a period of disqualification. Drivers with a wheelchair accessible vehicle will be expected to have passed the wheelchair test as this will give confidence to wheelchair users when deciding to use a Hackney Carriage. Details of the test are included in Appendix B.

29. Members are asked to agree one or more of the following options to consult on:
- i. Consider that from a date to be agreed all applicants for the grant of a licence must produce a DSA Taxi and Private Hire pass certificate on submitting an application.
  - ii. Consider that from a date to be agreed all applicants for the grant of a licence and lapsed licences must produce a DSA Taxi and Private Hire pass certificate on submitting an application
  - iii. Consider that from a date to be agreed the Licensing Panel can insist that a driver obtains a pass certificate for the test as part of some form of disciplinary action.
  - iv. Consider making a recommendation that from a date to be agreed any driver engaged on a Council contract has passed the DSA Taxi and Private Hire test.
  - v. Making a further proposal on this matter.

### **KNOWLEDGE TEST**

30. The Council currently requires that new applicants sit and pass a 'knowledge test' based on questions about Luton's geography and how to travel between various roads and landmarks in the area, There are variations to this depending on the type of licence applied for and an Enforcement Officer provides a verbal summary of the conditions of the licence.
31. Whilst the Council is looking to continue offering a 'knowledge test' on a weekly basis, subject to Bank Holidays and staff availability, we are concerned at the number of people who come along plainly unprepared. This leads to a high failure rate and it appears that some who sit the test do no more than hope to pass. An examination of the six weeks prior to 18th August 2008 revealed 31% passed, 54% failed, with 15% not attending. With this in mind we are proposing that each individual is permitted only 4 attempts within a rolling one year period and a minimum of two months elapsing between tests. This will encourage better preparation and will not exclude or penalise those who have spent time learning the geography of the Luton area.
32. Members are asked to consider, in conjunction with the proposal in paragraph 10 (BTEC qualification), how the test might be revised. If Members were to agree with offering the BTEC course, very few revisions are needed to the Knowledge Test since the course would cover these. If Members were inclined not to agree with the BTEC recommendation we would be seeking to update the knowledge test to cover additional aspects

such as a basic understanding of English and Maths, Health and Safety and testing the applicants understanding of the Licence terms and conditions.

33. Members are asked to consider consulting on the option that from a date to be confirmed the written test would consist of:
- Fifteen questions relating to byelaws, conditions and a basic understanding of Maths and English
  - Ten questions on how to get from one destination to another, naming all the roads travelled along,
  - It is also proposed to dispense with offering a verbal test to prospective drivers. We believe that with the introduction of the DSA Driving Test and the questions that test the understanding of our conditions and byelaws there is a reasonable expectation that a written test is appropriate. We would welcome any comments as to whether we should retain the verbal test in exceptional circumstances and suggestions as to what these circumstances should be.

### **ENVIRONMENT AND AGE OF LICENSED VEHICLES**

34. The most polluting vehicles on the road can generally be identified by their age and the vehicle emission standard to which they were built. Prior to 1992 there was very little control of vehicle emissions at the point of manufacture. On 31st December 1992 the first 'Euro 1' emission standard came into force requiring new passenger vehicles to meet specific emission standards at the point of manufacture. The 'Euro' emission standards for passenger vehicles have gradually become more stringent with further limits set in 1997 (Euro II), 2001 (Euro III) and 2006 (Euro IV).
35. The current Hackney Carriage fleet has vehicles ranging from pre 1997 to new cars. It is estimated that 10% of vehicles are pre Euro II and that around 45% meet Euro II, 30% meet Euro III and 15% Euro IV. Euro V will be introduced in 2009 for new registrations.
36. The Government has accepted that Air Quality is one of the five national enforcement priorities as recommended in the Rogers Review.<sup>2</sup>
37. Vehicle emissions are measured in relation to the European Emission Standards irrespective of the type of fuel used. These proposals therefore relate to emission standards so do not specify how these standards may be achieved. This proposal includes reference to maximum ages in relation to emission standards for petrol and diesel fuelled cars. The introduction of maximum vehicle ages will ensure that the fleet is renewed keeping a pace with improvements in vehicle emission standard, yet retaining an 'exceptional category'.

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<sup>2</sup> Rogers Review of Local Authority Regulatory Priorities. March 2007

38. Members may wish to note that the taxi emission strategy for Transport for London is that all taxis must have met the Euro III standard by July 2008. This standard came into effect for all vehicles manufactured after 2001.
39. It is the aspiration of this policy to make all taxis licensed by Luton Borough Council Euro III compliant (or better) by a date to be agreed. This may be achieved by upgrading the existing petrol/diesel engine or by the use of alternative fuels to give the same effect. Drivers in the past have found the use of LPG unsuitable for use in a taxi due to the restriction on luggage space and higher maintenance costs. It may be that in the future advancing technologies will provide other solutions.
40. When considering revisions to vehicle specifications and revising the age limit for vehicles it is important to establish a balance between introducing standards that will raise quality levels but at the same time not presenting such a bar to either existing proprietors or new entrants that the quality objectives cannot be realised in practice or they are simply too difficult, typically on affordability grounds, to comply with. In particular therefore reasonable transitional provisions (grandfather rights) might be considered appropriate to ensure that existing holders of hackney carriage vehicle licenses have time to comply with the higher standards, recognising that among those currently licensed will be some who have recently purchased new vehicles with the hope that they will continue to be renewed each year and whose finances have been geared to that hope. The right balance needs to be struck to achieve the objective of raising the standards across the whole of the fleet within a reasonable time scale without the risk of the fleet size being reduced below that level needed to provide a service because existing proprietors find themselves unable to afford to remain in the trade. Inevitably in any change of regime there may be some who will drop out anyway for these reasons, the task for this process is to strike the balance that it considers is reasonable in order to achieve the objects of the policy.
41. We will liaise closely with the Kingsway Depot as to the feasibility of implementing these changes and the implications associated with them.
42. If, following the consultation, it is likely that achieve this standard in petrol/diesel powered vehicles a phased introduction would be proposed. We will invite proposals as to what the dates should be for the following changes but the potential stages are outlined below.
- Stage 1. As of [date], all vehicles when presented for licensing or a change of existing licensed vehicle must meet at least Euro II standard, (affecting around 10 vehicles)
- Stage 2. As of [date], all vehicles when presented for licensing or a change of existing licensed vehicle must meet at least Euro III standard, (affecting around 57 vehicles)
- Stage 3. After [date], no vehicle will be first licensed if it is over 4 years old
- Stage 4. After [date], no vehicle will be re-licensed if it is over 8 years old (subject to the criteria for exceptional condition).



43. Each vehicle is currently subjected to 2 tests each year, irrespective of its age. An alternative strategy might be to examine this frequency and reduce this to one per year for vehicles up to 2 or 3 years and increase it to three per year for any vehicle over 6 or 7 years.
44. Members are asked to comment on the proposal as appropriate and then agree to consult on the relevant options.

### **PENALTY POINTS**

45. The Council is the licensing authority for hackney carriage and private hire vehicles, drivers and operators. Licences may only be granted if the authority is satisfied that the applicant is a 'fit and proper person' to hold the licence; powers also exist to suspend, revoke or refuse to renew licences where an individual is considered no longer fit and proper to hold a licence. In order to provide a consistent, transparent and cost-effective way of measuring drivers' performance against their licence conditions, the Council proposes an internal penalty points scheme.
46. Drivers will be allocated penalty points following the guidelines in Appendix C. Such a scheme will have the following objectives:
  - to ensure licensed drivers are clearly aware of the circumstances under which their licences may be at risk of revocation or other enforcement action
  - to ensure consistency of approach amongst the Council's licensing officers
  - to deter non compliance
  - to reduce the need for administering formal cautions or pursuing expensive prosecutions for relatively minor offences
  - to provide an evidence trail to justify decisions to revoke drivers' licences.
47. We believe that the introduction of such a system will have no effect on the majority of the Licence holders that we deal with, but for the minority of drivers who take a casual view of the conditions it will provide a transparent and proportionate response to any reported infringements.
48. The foreword to the Regulators' Compliance Code<sup>3</sup> states that '*Our expectation is that as regulators integrate the Code's standards into their regulatory culture and processes, they will become more efficient and effective in their work. They will be able to use their resources in a way that gets the most value out of the effort that they make, whilst delivering better significant benefits to low risk and compliant businesses, and lower compliance costs.*'
49. The points scheme mirrors a large number of the obligations imposed on drivers through the hackney carriage byelaws or the standard licence

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<sup>3</sup> Statutory Code of Practice for Regulators (17/12/07 BERR)

conditions, as well as several generic ones that can indicate the unsuitability of an individual to maintain their licence.

50. The council has power to suspend or revoke, or to refuse to renew, a taxi or private hire vehicle licence under section 61 of the Local Government (Miscellaneous Provisions) Act 1976, if the licence holder has been convicted of certain offences or 'any other reasonable cause'. There is a right of appeal to such a decision of the council to the Magistrates Court if notice is given within 21 days of the decision to suspend, revoke or refuse to renew.
51. There are already a number of other local authorities who use a penalty points scheme in the same way as proposed here. The penalty points scheme set out in Appendix C is the result of reviewing those existing schemes and adopting best practice.

### **Internal Decision-Making Processes**

52. The scheme allows drivers who have been issued with penalty points to have the right of appeal within five working days against that decision to the Licensing Service Manager.
53. It is proposed that this right of appeal should be by way of an informal hearing involving the Licensing Services Manager, the relevant officer who issued the penalty points, and the driver concerned. The Licensing Service Manager will give reasons for the decision, and will have the discretion to:
  - i. Allow the appeal;
  - ii. Dismiss the appeal;
  - iii. Substitute the level of penalty points upwards or downwards;
  - iv. Authorise some other sanction where appropriate, such as written warnings, advice, a formal caution or referral to the Head of Legal Services for prosecution.
54. Drivers who have reached or exceeded fifteen points within a rolling twelve-month period will be considered as to whether or not they should have their licence revoked. This exercise of the Council's discretion currently rests with the Taxi and Private Hire Licensing Panel.
55. It would also be feasible to adapt the scheme to apply to Operators and the Licensing Service proposes to seek views as to how this might work.
56. The existence of a policy provides a rational basis for decision-making when deciding to whether to refuse to grant, refuse to renew or revoke a licence. The application of a proper and current policy reduces the risk of successful legal challenges being made to Council decisions. It provides for a clear audit trail of warnings and advice to drivers should there be an appeal against a decision to revoke or refuse a licence.
57. There was some support for this proposal in the earlier document, although it the majority stated that they were against. Other Authorities that have such a system have reported that it has settled down and runs efficiently and

effectively. The number of appeals against points being awarded was less than anticipated.

58. Members are asked to comment on these proposals and consider whether the levels suggested, i.e. 15 points in 12 months is the correct level. Members may also like to consider suggesting within the consultation document that a trial period might be appropriate to review its effectiveness.

### **BTEC LEVEL 2 AWARD IN TRANSPORTING PASSENGERS BY TAXI AND PRIVATE HIRE**

59. Members are asked to consider the introduction of a vocational training course, Edexcel BTEC Level 2 in Transporting Passengers by Hackney Carriage and Private Hire Vehicle (the BTEC), for existing and new hackney carriage and private hire driver's licence applicants.
60. Luton, along with a number of other local authorities, insist that before they will grant a new hackney carriage or private hire driver's licence the applicant must sit and pass a knowledge test based on the geography of the area in which they propose to work and the law and procedure surrounding their duties as a taxi driver.
61. The chairman of the National Private Hire Association has given his support for the need for driver training to a BTEC level and the Government, through 'GoSkills' (the Sector Skills Council (SSC) for Passenger Transport) is keen to introduce training in the passenger transport sector.
62. Officers from the Licensing Service have held initial talks with Barnfield College to discuss the feasibility of them providing the course. At the time of writing, the cost to be borne by the candidate would be covered by the Learning and Skills Council through a grant system. The College are very keen to provide the course and have suggested some novel ways in its delivery which are detailed later.
63. The course itself covers seven units:
- Customer Service for Passenger Transport
  - Equality and Diversity in Passenger Transport
  - Passenger Transport and Disability Awareness
  - Transporting Passengers Safely
  - Carriage of Luggage and Parcels by Taxi and Private Hire
  - Map Reading and Route Planning
  - Taxi and Private Hire Regulations
64. The candidates would be screened prior to their acceptance onto these courses as to their basic literacy, numeracy and English speaking skills. There would be no cost for the screening assessment. If this initial screening assessment is failed the candidate may then be advised to take an English Speaking for Other Languages course (ESOL). This course would be free of charge

65. The delivery of the course would involve using existing experienced licensed Luton drivers to be trained to become assessors. They would then be used for the delivery of the course elements for which they would be paid through the College. Officers have discussed this approach through informal discussions with some of the more experienced drivers and it seems there would be support for this approach such that the first tranche of candidates would then be used to deliver the course.
66. There may be some objections from the trade who might see this as yet another obstacle in obtaining a driver's licence but Members may feel that a vocational qualification will help improve the professional standards of the trade and bring us into line with other Authorities who are also introducing this qualification. The financial implications for drivers is minimal, because the college fees are paid and the delivery of the modules will be flexible to avoid peak demand times.
67. It is also proposed to involve other agencies in the delivery of some of the units, for instance personal safety, keeping healthy.
68. Similar qualifications have been introduced for publicans and door staff are now generally accepted without question.
69. Since this Report was originally drafted, the Licensing Service has held further discussions with Barnfield College. They have ascertained that there is a high level of support among drivers and operators to warrant the College offering this course. They aim to train a number of experienced locally licensed drivers to deliver elements of the course. The trade in general see this as an opportunity to improve the reputation of the trade in Luton and are keen to progress this. With this in mind, Barnfield College and Go Skills will be making a series of presentation at a local venue on 3<sup>rd</sup> December 2008. The Licensing Service will be supporting this event.

Members are asked to consider this proposal and to include it in the next phase of consultation.

### **DRIVERS DRESS CODE**

70. The purpose of a driver's dress code is to seek a standard of dress that portrays a positive image of the Borough of Luton, to enhance a professional image of drivers licensed by the Licensing Authority and to ensure that public and driver safety is not compromised.

#### **Acceptable Standards of Dress**

##### **Tops**

- Shirts, blouses, T-shirts, or sweat top should cover the shoulders and be capable of being worn inside trousers or shorts.
- Shirts or blouses may be worn with a tie or open necked.  
(Consideration needs to be given to the potential danger of wearing a non clip on neck tie.)

### **Trousers/Shorts/Skirts**

- Trousers may be either full length or shorts
- Shorts shall be tailored
- Trousers/Shorts or Skirts shall be of material of one colour

### **Footwear**

- Footwear for all drivers shall fit around the heel of the foot

### **Unacceptable Standards of Dress**

#### **The following are deemed unacceptable**

Clothing not being kept in a clean condition and free from holes and rips. Words or graphics on any clothing that is of an offensive or suggestive nature or which might offend.

Sportswear (e.g. football / rugby kits, track suits, beach wear etc)

Sandals with no heel straps, flip flops or any other form of footwear not secured around the heel.

Drivers not having either the top or bottom half of their bodies suitably clothed.

Baseball caps.

*The Council will take into account any religious or cultural needs that may influence certain dress requirements.*

71. Members are asked to consider the merits of such a scheme and include it in the next phase of the consultation.
72. Members are asked to consider including in the consultation whether the code, if introduced, should be a condition of the licence and as such, enforceable within the Penalty Points system, or leave it outside the Points system and rely on voluntary compliance.

### **LONG SERVICE AWARDS**

73. Whilst the Council does not employ any driver and hence has no obligation to officially recognise a long service career of a driver, the Council might like to give consideration to establishing a Long Service Award to drivers who have performed their duties diligently and responsibly for the benefit of the people of Luton for a period of, it is suggested, twenty five years. This would reflect the recognition by the Council of the contribution such persons have made to the provision of the Taxi and Private Hire in our area by way of a presentation at a civic pride style ceremony.
74. Whilst details of the scheme are still being developed, we envisage that any nominations will come from the trade itself. The nominated driver would then be assessed against their personal record by the Licensing Service and if appropriate, pass the matter for the Licensing Panel to make the final decision. The criteria used might include: length of service (broken/unbroken), any offences recorded, any current driving offences, warnings and defect notices and any Panel referrals. This is not an exclusive list and there may be other areas considered.

75. In the previous issues document there was support for the scheme, with respondents generally feeling that it was right for the Council to recognise such drivers. A search of the Service's database has been unable to identify the number of drivers who may have completed 25 years service owing to changes in the way that data was collected and stored. We do know that we have 71 PH and 9 HC drivers over the age of 60, which provides some indication as to potential 'candidates'.
76. There would be a small cost of running the scheme and should Members agree to formally consider such a scheme, further details would be provided. Members are asked to comment on the overall concept of the scheme and decide whether the Council should consider pursuing this through the consultation process.

### **DOOR SIGNS**

77. The Council currently requires that the majority of vehicles are fitted with door signs that are magnetically attached to the front doors of the vehicles. Vehicles must also be fitted with a roof sign, a rear licence plate and a windscreen badge. The door signs have been a cause for concern among enforcement officers who believe that this requirement is regularly flouted by a number of drivers. It is a requirement that the signs include reference to the pre-booking element that is essential for private hire vehicles reflecting the insurance status of vehicles.
78. The signs are often missing from vehicles, according to reports from the Service's enforcement officers and it is therefore proposed to make it a requirement that door signs be affixed by adhesive to reduce the opportunity for vehicles to travel without door signs. The reasons given for the lack of door signs includes that they have slipped off when driving at speed, have been stolen or the weather has played a part in their detachment. If a magnetic sign is likely to become detached from the vehicle whilst it is moving, then it is possible that an offence might be committed as it is likely that injury could be caused to someone.
79. There is also the opportunity for a person to take the door sign off an existing vehicle to make his or her own vehicle resemble a private hire vehicle. This could be for a number of reasons, none of which are likely to be altruistic. In such situations the safety of the public should be paramount and it is therefore suggested that door signs should be fixed with adhesive on a permanent basis.
80. There are arguments to this, some of which were aired in the previous issues document, the main ones being:
- *Damage to the vehicle itself as it is singled out as being a private hire and hence attracts vandals.* Clearly other commercial vehicles with signs are also targets to potential thieves as well as the fact that private hire vehicles have a permanent rear plate affixed to them. There is no evidence that vandals specifically target private hire vehicles due to door

signs as against another type of commercial vehicle and the Service believes this argument to be weak.

- *Permanent door signs reduce the value of the car.* Permanent door signs, as we are referring to, are something of a misnomer. The signs themselves can be removed by a hairdryer or similar device. Once removed the sign is rendered useless. The proper removal of the sign does not damage the paintwork and therefore does not cause the value of the car to depreciate. Magnetic door signs could do more damage if grit and dirt are lodged under the sign, scratching the paintwork.
- *I use the car for my own private use and my wife/relative drives it at weekends.* It is the view of the Licensing Service that case law states that a private hire vehicle, once licensed, remains a private hire vehicle at all times, whether it is used as such or not.

81. Members might also like to consider consulting on this and including a proposal to standardise the door signs such that they are only available through LBC and has the necessary wording on, including the operator's details, insurance requirements and pre booking. This might be seen as a longer-term aspiration, but it would assist in having a consistency of signage that would improve the appearance of such vehicles.

## **CONVICTIONS POLICY**

82. Members are requested to consider the following draft policy as the basis for consultation.

### **Best Practice Guidance**

83. In formulating this policy, advice contained in the Taxi And Private Hire Vehicle Licensing Best Practice Guidance issued by the Department for Transport has been taken into account.

### **Status**

84. In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this policy document and the objectives set out below.
85. Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Authority to depart substantially from its policy, clear and compelling reasons will be given for doing so. The purpose of this document is to formulate guidelines which detail the Council's current stance on the relevance of criminal conduct in respect of applications for the grant of new licences, and the renewal of existing Hackney Carriage and Private Hire vehicle driver's, operator's and licences.
86. These guidelines have been produced to assist the Licensing Sub-Committee in their decision-making and to maintain the consistency of the decisions made. They have also been formulated to provide clearer information to current licence holders and potential applicants, with a view to minimising cost and time spent by both the licence holder or applicant and the Council.

87. The aim of the licensing regime to which these guidelines relate is not to punish the applicant twice for an offence (which includes a conviction, caution, fixed penalty or any outcome of a similar nature), but to ensure that public safety is not compromised.
88. The objective of the licensing regime is to ensure that, so far as possible, those licensed to drive hackney carriages and private hire vehicles are suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience, sober, mentally and physically fit, and honest; and that they are persons who would not take advantage of their position to abuse, assault or defraud customers.
89. These guidelines will be taken into account by the Licensing Sub-Committee and Council officers when dealing with new applications as well as renewal applications for an existing private hire/hackney carriage driver's licence, private hire/hackney carriage vehicle licence, and a private hire operators licence, and also, when considering whether to suspend or revoke an existing licence.
90. Each case is to be decided on its own merits.
  - When submitting an application for a licence to drive a Hackney Carriage or Private Hire vehicle you are required to declare any convictions or cautions you have including any that are considered "spent".
  - The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order came in to force on 1st March 2002, and amended the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, in relation to taxi drivers.
  - In 2002 taxi drivers were added to the list of professions required to undergo an enhanced Criminal Records Bureau (CRB) check. This is now required on first application, then on every subsequent application.
  - The information you give will be treated in confidence and will only be taken into account in relation to your application.
  - You should be aware that the Licensing Service is empowered in law to check for the existence and content of any criminal record held in the name of the applicant. Information received from the Criminal Records Bureau (CRB) will be kept in strict confidence while the licensing process takes its course and will be retained for no longer than is necessary.
  - The disclosure of a criminal record or other information may not debar you from gaining a licence unless the authority considers that the conviction(s) or caution(s) render you unsuitable.
  - In making this decision the authority will consider the nature of the offence, how long ago the offence took place, how old you were at the time the offence was committed and any other factors which may be relevant.
  - The guidelines the Council uses to assess the relevance of any offences are included in this pack. They are based on the criteria used by the Metropolitan Police and as set out in Annex D of the Home Office Circular 13.92.



- Any applicant refused a driver's licence on the grounds that he/she is not a "fit and proper" person to hold such a licence has a right of appeal to a Magistrates' Court.
- The Council have the discretion to grant or renew Hackney Carriage or Private Hire Driver's Licences in any case provided that the applicant has held a DVLA Driver's Licence for at least 12 months and holds one at the time of application and the Council considers him/her to be a fit and proper person to hold the type of driver's licence for which he/she is applying.
- Set out below is the detail of the Convictions Policy that the Council is being asked to approve as part of the Hackney Carriage and Private Hire Licensing review

## 1. **NEW GRANT**

The Council expects applicants for a new grant of Hackney Carriage or Private Hire Driver's Licences to have no convictions and to hold a clean DVLA Driver's Licence.

### 1.1 **Council will Normally Grant**

However, the Council will normally grant a licence to an applicant who does not have more than six (6) points attached to their DVLA driving licence. This is conditional on:

- That the offences only relate to Construction and Use, speeding, parking, traffic signals, or mobile phone contraventions and
- The applicant has no criminal or motoring convictions in the last 12 months prior to the date of application.

The Licensing Manager can grant the licence in such circumstances under delegated powers with no requirement that the applicant be interviewed.

### 1.2 **Discretion to Grant**

1.2.1 Discretion may be exercised by the Director of Environment & Regeneration to grant a licence where a total of up to nine (9) penalty points appear on the applicant's DVLA Driving Licence if he considers the applicant is a fit and proper person.

1.2.2 Where the applicant has been disqualified from driving for the misuse of alcohol or drugs, but that convictions occurred five (5) years or more prior to the date of the application **and** he/she has no other unspent convictions, the Director of Environment & Regeneration may grant the licence provided that:

- The applicant has been interviewed, and
- A report from the applicant's medical practitioner is provided stating that the applicant is not alcohol or drugs dependent.

## 2. **RENEWAL**

The Council expects applicants for renewal of Hackney Carriage or Private Hire Driver's Licences to hold clean DVLA Driver's Licences, or to have no new convictions or endorsements than they had when their last Hackney Carriage or Private Hire Driver's Licence was last renewed or first granted.

### 2.1 **Will Normally Renew**

The Council will normally renew a licence when during the period of his/her existing licence the applicant has been convicted of endorsable road traffic offences involving endorsement of no more than six (6) penalty points (not counting any penalty points which were endorsed on the DVLA Driving Licence when the Licence was granted or last renewed, provided that those penalty points do not take the total now endorsed on the DVLA Driving Licence to over nine (9) penalty points) but no other offences.

### 2.2 **Discretion to Renew**

Discretion may be exercised by the Director of Environment & Regeneration to renew a Licence where a total of up to but no more than nine (9) penalty points are endorsed on the applicant's DVLA Driving Licence if he considers that the applicant, following interview, is a fit and proper person. You may have to pass the approved DSA course within 2 months of notification.

## 3. **WILL NORMALLY REFUSE TO GRANT OR RENEW A DRIVER'S LICENCE**

The Council will normally refuse applications from people who have been convicted of:

- Offences involving Drugs (not already referred to), Violence or other Offences Against the Person, Carrying Offensive Weapon, Dishonesty, Indecency, Obscenity or Sexual Offences.
- Other offences for which a sentence of imprisonment was imposed whether such sentence was suspended or not.
- Offences for perverting the course of justice.
- Offences involving Disqualification from Driving save as provided in 1.2.2 above.
- Any other offences under the Traffic Acts as defined at Section 98 of the Road Traffic Offenders Act 1988.
- Any official Caution, Anti Social Behaviour Order (ASBO) fixed penalty notice, bind over,
- Convictions relating to breach of the Council's Licence Conditions.

- *Unless the applicant can show satisfactory evidence of exceptional circumstances why they should be granted a Hackney Carriage or Private Hire Drivers or Operators Licence. However, each application will be dealt with on its own merits.*
4. That applicants for the grant of a licence who are refused, or persons whose licences are revoked or refused upon renewal or where such persons have unsuccessfully appealed such a Council decision, an application for a Hackney Carriage/Private Hire Drivers or Operators Licence will not be considered within 36 months, unless a significant material change or exceptional circumstances can be demonstrated to the Council.
  5. The Convictions Policy outlined in paragraph 3 above will also apply to applications for Private Hire Operators Licences.
91. In addition to the guidelines, the following details of insurance offences will also be considered:
- With a motor vehicle - a serious view will be taken of convictions of driving or being in charge of a vehicle without insurance.
  - An isolated incident in the past will not necessarily debar an applicant provided he has been three (3) years free of conviction, but a strict warning will be given as to the applicants future behaviour.
  - More than one conviction for these offences will raise grave doubts as to an applicant's fitness to hold a Hackney Carriage driver licence or Private Hire driver licence.
  - At least three (3) years should elapse after the restoration of the DVLA driving licence, before an applicant is considered for a hackney carriage driver licence or private hire driver licence.
92. Guidance to holders of a taxi drivers' licence
- A driver found guilty of driving passengers for hire and reward whilst without insurance will have his Hackney Carriage driver licence or Private Hire driver licence revoked immediately and be banned from holding a Hackney Carriage driver licence or Private Hire driver licence with the Council for a minimum of five (5) years.
  - Any applicant with three (3) insurance offences, or more, will not be considered "fit and proper" to hold a Hackney Carriage driver licence or Private Hire driver licence with the Council.

## **GUIDELINES RELATING TO THE RELEVANCE OF CONVICTIONS**

General Policy for applicants other than Operators

These policy guidelines assume:

- That convictions are never spent

- That any sentence of imprisonment, whether suspended or otherwise, has been completed
  - That any period of probation has been completed
  - That any period of disqualification from driving has been completed
  - That the use of the word 'conviction' also relates to the disclosure of a caution, Anti Social Behaviour Order, Fixed Penalty Notice or Bind Over.
- 
- Each case will be decided on its own merits.
  - A person with a current conviction for serious crime need not be permanently barred from obtaining a licence but should be expected to remain free of conviction for three (3) to five (5) years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.

The following examples give you an idea of the actions that might be taken if you have any convictions.

#### No licence granted

- Murder
- Manslaughter
- Causing death by reckless driving
- People on the sexual offences register
- Armed robbery
- Multiple convictions for minor offences

It is a requirement that all applicants applying for the grant of a Private Hire or Hackney Carriage driver's licence must undertake and pass the appropriate Driving Standards Agency test before we will issue a licence.

Convictions for minor traffic offences, such as obstruction, waiting in a restricted street, speeding, etc, should not stop you from applying for a licence. If the number of points on your licence means that you have been disqualified from driving in the past, we may grant a licence when you are allowed to drive again, but only after considering the following matters:

- (a) You must have three years free of endorsements, or endorsable offences, from the date when your disqualification (under Section 35 of the Traffic Offenders Act 1988) ends. You must also complete a Council-approved driver assessment test before we will consider issuing a licence.
- (b) If you have nine or more penalty points, or when you inform the Licensing Service about new penalty points that make the total points nine or more, we will suspend your driving licence until you have completed a Council-approved driver assessment test. We will wait two months before starting any suspension so that you can complete the assessment. If you fail to pass the test within the time this will result in the suspension taking place.

- (c) If you have three endorsements in two years, we will suspend your driving licence and will not re-issue it until you have completed a Council-approved driver assessment test. We will wait two months before starting any suspension so that you can complete the assessment. If you fail to pass the test within the time this will result in the suspension taking place.
- (d) If you are disqualified from driving as a 'totter' the condition in paragraph (a) applies.
- (e) If you have an endorsement for any offence the Council reserves the right to require you to attend an interview.
- (f) If you have an isolated conviction, for example, for reckless driving or driving without due care and attention, we will normally issue a warning about driving carefully in future, and will give guidance about the standard we expect of a Hackney Carriage and Private Hire vehicle driver. If you have had more than one conviction for this type of offence in the last two years, we will probably refuse to grant a licence or renew it, or we may revoke any current licence, and we will not consider another application until one to three years after the conviction. You must complete the Council-approved driver assessment and training course before we will consider granting a licence.

*You should consider our policy relating to the following offences:*

Reckless driving: We may grant a licence three years after conviction. You must complete the Council-approved driver assessment test before we will grant a licence.

Drink driving with motor vehicle: We take a serious view of any conviction of driving or being in charge of a vehicle while under the influence of drink or drugs. However, an isolated incident will not necessarily stop us granting a licence provided a period of 5 years has lapsed since the conviction.

Isolated incident of drunkenness (non driving): We may grant a licence one year after conviction. If you have more than one conviction for drunkenness, we will consider granting a licence three years after conviction. You must pass the Council-approved driver assessment test before we will grant a licence.

Alcoholism: If there is any suggestion that you are an alcoholic, you will have to have a special medical examination at your expense at a centre specified by the Council before we will consider granting a licence. If you are diagnosed as an alcoholic, you must be treated and then wait five years before we may grant a licence.

Driving without insurance: We may grant a licence five years after conviction.

Taking a vehicle without consent: We will consider granting a licence two years after conviction.

Drugs: If you have a conviction for a drug-related offence, you must have at least three years without convictions, or five years after detoxification treatment if you were an addict, before we will consider granting a licence.

Indecency offences: As Hackney Carriage and Private Hire vehicle drivers often carry unaccompanied passengers, if you have a conviction for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences, we will refuse a licence until you have at least five years free of such convictions. If you have more than one conviction of this kind, we will not consider granting a licence.

Violence: As Hackney Carriage and Private Hire vehicle drivers come into close contact with the public, any offences of a violent nature mean that we will only grant licences according to the following timescales.Grievous bodily harm with intent: We may grant a licence five years after conviction.

Grievous bodily harm/wounding: We may grant a licence five years after conviction.

Actual bodily harm: We may grant a licence four years after conviction.

Assault: We may grant a licence two years after conviction.

Aggravated burglary: We may grant a licence five years after conviction.

Burglary: We may grant a licence four years after conviction.

Robbery: We will consider granting a licence five years after conviction.

Dishonesty: We expect hackney carriage and private hire vehicle drivers and operators to be trustworthy. The widespread practice of delivering unaccompanied property shows the trust that people place in drivers. It is relatively easy for a dishonest driver to defraud the public by asking for more than the legal fare. Also, overseas visitors can be confused by foreign currency so an unscrupulous driver could take advantage of them. Therefore, we take a serious view of any conviction involving dishonesty. In general, we will not consider granting a licence until five years after conviction.

Racism/harassment, etc: For any offences relating to racism, harassment and similar offences, we may grant a licence five years after conviction

## **NATIONAL INSPECTION STANDARDS**

93. The Technical Officer Group have recently produced a Best Practice Guide for the inspection of Hackney Carriage and Private Hire vehicles and this is attached as Appendix D. This Guide is intended to detail the additional aspects of a vehicle's inspection beyond that laid down in the 'normal' VOSA MOT standard and to allow local licensing authorities to have a benchmark with regard to vehicle inspections and safety.
94. Members are asked to note the new National Inspection Standard and agree they be included in the consultation document.

## **APPENDICES**

Appendix A: Medical Report (pages 8/23 to 8/39)

Appendix B: Hackney Carriage and Private Hire Assessment Explained (pages 8/40 to 9/41)

Appendix C: Luton Borough Council Penalty Points Scheme (pages 8/42 to 8/43)

Appendix D: National Inspection Standards (pages 9/44 to 9/102) – supplied separately for Members only

## **BACKGROUND PAPERS**

There are no background papers to this report.