

CHESHIRE EAST COUNCIL

REPORT TO: Licensing Committee

Date of Meeting: 30th September 2013
Report of: Miss Kim Evans – Licensing Team Leader
Subject/Title: Practical driving assessment for joint driver licence applicants
Portfolio Holder: Cllr Les Gilbert - Communities and Regulatory Services
Portfolio Holder

1.0 Report Summary

- 1.1 To provide Members with information regarding a practical driving assessment for applicants of joint Hackney Carriage and Private Hire driver licenses.

2.0 Recommendation

- 2.1 That Members note the information and determine to:
- i. authorise the Licensing Team Leader to consult with the existing licensed trade and public (via the Council's web-site); or
 - ii. to take no further action

3.0 Reasons for Recommendations

- 3.1 Members have previously requested that a report be presented to provide information on this matter.
- 3.2 In accordance with the Council's Constitution the Licensing Committee has delegated authority to determine such matters.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 None

7.0 Financial Implications (Authorised by the Chief Operating Officer)

- 7.1 If Members authorised consultation to take place, the Licensing Team would write to all existing drivers to seek their views. This will result in a number of letters being sent with an approximate cost of £800.00.
- 7.2 The Strategic Fleet Management Department would conduct the assessments. A single assessment would cost approximately £75.00 and be dealt with on the basis of an internal re-charge. This cost would reduce on a sliding scale depending on the number of assessments carried out on any given day.
- 7.3 The cost of any practical assessment would be taken from the application fee. The Licensing Team is currently overspending in relation to the driver licence budget. It may therefore be necessary for the driver application fee (in relation to grants of licence) to be increased. The Council's fees are normally reviewed in advance of the commencement of the new financial year.
- 7.4 Any deficits can be recovered in future financial years when setting the appropriate fees to ensure the service operates full cost recovery.
- 7.5 Further financial implications are contained in paragraph 10 of this report.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 46 of the Town Police Clauses Act 1847 provides a Local Authority with the power to issue Hackney Carriage driver's licences. Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') provides the same power to issues licences to drive private hire vehicles.
- 8.2 The provisions of section 59 (1) (a) (in relation to hackney carriage drivers licences) and section 51 (1) (a) (in relation to private hire drivers licences) of the 1976 Act state that a council shall not grant a licence 'unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence'.
- 8.3 What constitutes fit and proper is not defined in the Town Police Clauses Act 1847 or the Local Government (Miscellaneous Provisions) Act 1976. Similarly, there is no judicially approved test of fitness and propriety.
- 8.4 Factors relevant to the suitability of an individual to act as a licensed driver were set out in the case of McCool v Rushcliffe Borough Council (1998) (and followed in Leeds City Council v Hussain (2002)) where Lord Bingham stated:

One must, as it seems to me, approach this case bearing in mind the objectives of this licensing regime which is plainly intended, among other things, to ensure so far as possible that those licensed to drive 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, honest, and not persons who would take advantage of their employment to abuse or assault passengers.

8.5 To assist the Licensing Authority in determining whether an applicant is fit and proper a number of processes are conducted, namely:

- Completion of the Council's application form
- Satisfactory enhanced Disclosure and Barring Certificate (formerly CRB)
- Satisfactory driving record
- Medical assessment
- Btec Level 2 Certificate in the introduction to the role of the Professional Taxi and Private Hire Driver (the Btec qualification)

8.6 The Council has also adopted a set of driver conditions, which regulates the conduct of those granted a licence. The conditions, which also set the requirements in relation to the safety of passengers travelling in a vehicle, are attached at appendix 1 for information.

9.0 Risk Management

9.1 Members should note that consultation is to be conducted at a formative stage. Therefore, appropriate weight and consideration must be given to any consultation responses received. This will mitigate the risk of a successful challenge of the final requirements.

10.0 Background

10.1 On the 23rd May 2013 the Licensing Committee resolved to change the current testing arrangements in relation to applicants for joint driver licenses to include the requirement to attain the Btec qualification.

10.2 The Committee further resolved that information setting out how the Licensing Authority might test the practical driving skills of applicants should also be presented.

10.3 When researching the changes to the driver testing regime, Officers were able to establish that a number of Licensing Authorities conduct an assessment of the applicant's driving skills. These can be conducted in-house or by the Driving Standards Agency (DSA) who have developed a specific test for taxi drivers.

10.4 Officer made contact with the local DSA offices at Crewe and Macclesfield and have established that the test is not conducted at these testing stations.

10.5 The Licensing Authority at Cheshire West and Chester Council (CWAC) has established an in-house test conducted by officers of CEC's Strategic Fleet Management Department. Contact has been made with the relevant Officer to establish the requirements of the CWAC test and to establish the suitability of using a similar test.

10.6 Officers of the Strategic Fleet Management Department have been of great help in researching the most suitable testing arrangements and have been

dedicated to ensuring that the suggestions of Licensing Officer are incorporated into the proposal presented in the report. The suggested testing arrangements are set out at appendix 2 together with a suggested assessment form at appendix 3.

10.7 The assessment would be undertaken by the Council's Strategic Fleet Trainer (the lead trainer) who is also responsible for assessing the driving skills of those driving vehicles for the Council. The trainer also holds the following experience/qualifications:

- 35 years experience of transport, including managing the County Council's in-house fleet
- Qualified commercial and industrial assessor for the Road Transport Industry Training Board (RTITB)
- Minibus Driver Awareness Scheme (MIDAS)
- City and Guilds TAQA assessors qualification (includes both NVQ and Btec)
- Member of the Chartered Institute of Transport

10.8 There are a number of structural changes taking place within the Strategic Fleet Management Department, including the building of a training school. These changes will ensure that practical driving assessment requirements, if adopted, will be sustainable.

10.9 As the proposed assessments is to be conducted on an in-house basis this can give the Licensing Authority greater control on the areas to be assessed and provides flexibility if the assessment needs to be extended or amended to take in to consideration future changes.

10.10 The current cost level for the DSA driving test is:

Test type	Weekday	Evening, weekend and bank holiday
Hackney saloon vehicles and private hire saloon vehicles	£79.66	£96
Hackney wheelchair accessible vehicles	£92.94	£112.34
Taxi wheelchair exercise	£26.56	£32.68

It is also the responsibility of candidate to arrange their own test with the DSA, which would be subject to their availability.

10.11 The Strategic Fleet Management Department have confirmed that it would be good practice to conduct a number of assessments in one day in a specific area (eg Crewe, Sandbach, Macclesfield etc). This would have the advantage of the assessment being conducted in the zone the driver has applied to and will reduce the costs that will be incurred. A single assessment would cost approximately £75.00 and be dealt with on the basis of an internal re-charge.

This cost would reduce on a sliding scale depending on the number of assessments carried out on any given day.

- 10.12 The cost of any practical assessment would be taken from the application fee. The Licensing Team is currently overspending in relation to the driver licence budget. It may therefore be necessary for the driver application fee (in relation to grants of licence) to be increased. The Council's fees are normally reviewed in advance of the commencement of the new financial year.
- 10.13 Following appropriate consultation, if Members were minded to make the assessment a requirement, any deficits can be recovered in future financial years. We would not therefore need to delay the implementation of the change until the fees are re-assessed.
- 10.14 The consultation will also include the proposal to use the assessment in relation to existing drivers where concerns are raised about their driving. Members will be aware that the Licensing Team does receive complaints concerning the driving standards of existing drivers. Where Members consider that there is insufficient evidence or information to be satisfied that the licensed driver remains fit and proper, a determination to undergo the assessment may provide Members with additional information on which to base a decision.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report author:

Name: Miss Kim Evans
Designation: Licensing Team Leader
Tel No: 0300 123 5015
Email: kim.evans@cheshireeast.gov.uk