

CHESHIRE EAST COUNCIL

Licensing Committee

Date of Meeting:	11 th January 2016
Report of:	Miss Kim Evans – Licensing Team Leader
Subject/Title:	Changes to the Joint Hackney Carriage and Private Hire Driver Knowledge Test
Portfolio Holder:	Cllr Les Gilbert – Communities

1.0 Report Summary

- 1.1 To seek Members' approval for changes to the testing requirements of applicants for joint Hackney Carriage and Private Hire Driver Licenses.

2.0 Recommendation

- 2.1 That Members consider any consultation responses received and resolve to
- i. make no changes to the knowledge test, **OR**
 - ii. change the Hackney Carriage/Private Hire driver knowledge test:
 - a. to include 15 multiple choice questions on the Highway Code with the pass mark at 11 correct answers
 - b. that the fee for knowledge tests is set at £40.00
 - c. that these changes will apply to all applications received on or after 1st February 2016.

3.0 Reasons for Recommendations

- 3.1 The Licensing Committee has delegated authority to determine such matters in accordance with the Council's Constitution.

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

- 7.1 Currently the fee for the knowledge test is included within the license fee. If the knowledge test is failed and the license is not issued, the council must refund the license fee (excluding the DBS fee) meaning that the council does not recoup the fees of administering the test.
- 7.2 If option 2.1 ii is implemented, the council would be able to recover the administrative costs for the knowledge test in the event of the license not being granted. If the knowledge test is passed first time, the overall income to the council will remain unchanged.

8.0 Legal Implications

- 8.1 Section 46 of the Town Police Clauses Act 1847 provides local authorities the power to issue Hackney Carriage driver's licences. Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act') provides the authority to issue 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 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
 - Satisfactory driving record
 - Medical assessment
 - Knowledge test
- 8.5 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles, and operators. The fees must be set for these licences on the basis that it only recovers costs which it is entitled statutorily to recover. Where no licence is granted the fee for the grant of licence must be refunded or not levied.
- 8.6 In respect of drivers' licences the Act states that the Council may charge, 'such a fee as it considers reasonable with a view to recovering the costs of issue and administration associated with the grant of Hackney Carriage and Private Hire drivers' licences'.

- 8.7 In *Darlington v Kaye* [2004] EWHC 2836 (Admin) it was held that the requirement by the local authority that the respondent pass a Driving Standards Agency taxi test before it would consider renewing his hackney carriage licence was not a condition attached to the grant of the licence but a request for information. It was reasonably necessary for the Local Authority to request such information in order to assess whether the respondent was a fit and proper person for a licence. This same view could be taken with a local knowledge test.

9.0 Risk Management

- 9.1 Thorough consideration of all the information prior to making a decision will reduce any risk of a successful challenge.

10.0 Background

- 10.1 On the 16th November 2015 Members gave authorisation for the Licensing Team to consult on changing the knowledge test in relation to Hackney Carriage/Private Hire drivers.
- 10.2 These changes were:
1. The inclusion of 15 multiple choice questions based on the Highway Code with a pass mark of 11
 2. To set the test fee at £40.00
- 10.3 A four week consultation ending on the 4th January 2016 was conducted and any consultation responses will be circulated to Members prior to the meeting on the 11th January 2016.
- 10.4 If having considered the consultation responses the Committee does resolve to change the knowledge test, the Licensing Team will update the Council's guidance notes for applicants. The Team will also ensure that the Council's website is updated accordingly.

11.0 Access to Information

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

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