

Report to Environment and Licensing Committee

Subject: Amendments to the Hackney Carriage and Private Hire Drivers Conditions

Amendments to the Private Hire Operator Conditions.

Amendments to the Hackney Carriage Vehicle Licence Conditions.

Amendments to the Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators.

Date: 11 September 2018

Author: Service Manager, Public Protection

Purpose:

To seek approval from members for proposed amendments to:

1. Hackney Carriage and Private Hire Drivers Conditions
2. Private Hire Operator Conditions
3. Hackney Carriage Vehicle Conditions
4. The Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators

To seek approval from members for the proposed amendments to go out to consultation for a 4 week period.

To seek authorisation from members for the Director of Community Health and Wellbeing in consultation with the Chair of the Environment and Licensing Committee to agree the final amendments after taking into account any comments received during the consultation.

To seek members approval to delegate authority to the Director of Community Health and Wellbeing to suspend Hackney Carriage and Private Hire Drivers licences and Private Hire Operators licences if they fail to comply with the 12 month declaration condition

Background

12 month driver licence check

At the meeting held on 6 October 2015 Members resolved to approve changes to the Council's Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators and the Hackney Carriage Driver, Private Hire Driver and Private Hire Operator conditions to reflect to requirement of the Deregulation Act 2015 to issue taxi drivers licence for 3 years and private hire operators for 5 years.

Members resolved that if a driver was granted a licence for 3 years, or an operator a licence for 5 years, then they would be required to submit a declaration at the end of every 12 month period of the licence stating any convictions, penalties, cautions etc they may have and to further inform the Council of any changes to their personal circumstances. The driver would also be subject to a DVLA check and a Disclosure and Barring Services (DBS) check and, if required in their case, would need to submit right to work checks and a medical certificate.

The Hackney Carriage Driver, Private Hire Driver and Private Hire Operator conditions currently state that failure to comply with the declaration condition will result in the matter being referred to the Environment and Licensing Committee.

Currently, as a matter of routine, the licence holder receives a letter 3 months before each declaration is due asking them to make an appointment with Customer Services to submit the declaration and have the DVLA and DBS checks carried out and any other checks required in their particular case. The Licensing Section are experiencing difficulties with some licence holders not contacting the Council following receipt of the reminder letter or who are not making any attempt to make the declaration check meaning a considerable amount of time and resources are having to be allocated to contacting these drivers often unsuccessfully.

Currently the only recourse is for the matter to be referred to the Environment and Licensing Committee. The concern is that while this process is being followed there could be a period of time until the next available Committee date resulting in the potential that the driver could have relevant convictions, which affect the drivers fit and proper status, which may have a negative impact on public safety.

Hackney Carriage Roof Signs

The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) enables Local Authorities to administer licences for Hackney Carriage and Private Hire vehicles and drivers. The Act also provides that a Local Authority may attach to the grant of a licence such conditions as it may consider reasonably necessary such as displaying a roof sign.

There has been a number a vehicle’s that have been observed not displaying roof signs and therefore are in breach of the Hackney Carriage Vehicle licence conditions. The current recourse for this breach was a warning and this has recently been successfully challenged by a licensed vehicle owner due to the ambiguity of the wording of the current condition. Legal advice has been sought and Licensing Officers are seeking to clearly clarify the condition to licensed vehicle owners.

Proposal

12 month driver licence check

In order to provide a more immediate solution to this issue, to assist the Licensing Team with the process and to ensure the Council is fulfilling its public safety duty, it is proposed that authority be delegated to the Director to be able to suspend the licences in certain circumstances.

If a 3 or 5 year licence holder fails to attend any of the 12 month period declaration checks the Director will be able to issue a seven day notice, informing the driver of the intention to suspend the licence until the declaration is submitted and all the checks have been carried out. If the licence holder still fails to attend then notice that the licence has been suspended and that it will begin in 21 days can be given. Once the declaration has been submitted correctly the suspension would be lifted.

Hackney Carriage Roof Signs

It is proposed that all vehicles licensed as a Hackney Carriage will be required to adhere to the new condition relating to roof signs. The amendment to the condition will avoid any ambiguity in relation to the wording of the condition.

Attached at Appendix A, Table 1 is the proposed amendment to the Hackney Carriage and Private Hire Drivers Conditions to address the issue relating to the 12 month declaration, if Members are minded to approve the delegation to the Director.

Attached at Appendix A, Table 2 is the proposed amendment to the Private Hire Operator Conditions to address the issue relating to the 12 month declaration, if

Members are minded to approve the delegation to the Director.

Attached at Appendix A Table 3 is the proposed amendment to the Hackney Carriage Vehicle Conditions to address the issue of ambiguity in the roof sign condition.

Attached at Appendix B is a table of proposed amendments to the Council's Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators to address the issue of 12 month declarations, if Members are minded to approve the delegation to the Director. They also include some clarification regarding the urgency provisions and the Complaints and Review Panel. In addition officers have taken the opportunity to make some miscellaneous changes to the policy that is also detailed in the Appendix B.

Alternative Options

To not make the delegation or amendments to the Hackney Carriage and Private Hire Drivers and Private Hire Operator Conditions, Hackney Carriage Vehicle Conditions or the Council's Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators but this would not address the concerns detailed above.

Financial Implications

There are no financial implications.

Appendices

Appendix A – Table 1 - Proposed amendments to the Hackney Carriage and Private Hire Drivers Conditions.

Table 2 - Proposed amendments to the Private Hire Operator Conditions.

Table 3 – Proposed amendments to the Hackney Carriage Vehicle Conditions

Appendix B - Table of proposed amendments to the Council's Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators

Appendix C – Current Policy

Appendix D – Policy and Procedure for Handling Complaints made against Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators

Background Papers

None identified.

Recommendation(s)

1. To approve, subject to point 3:
 - The proposed amendments to the Hackney Carriage/Private Hire Drivers Licence Conditions as shown at Appendix A Table 1.
 - The proposed amendments to the Private Hire Operators Conditions as shown at Appendix A Table 2.
 - The proposed amendments to the Hackney Carriage Vehicle Conditions as shown at Appendix A Table 3.
 - The proposed amendments to the Council's Statement of Policy and Guidelines for the Licensing of Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators as shown at Appendix B.
2. To approve that the above amendments go out to public consultation for a 4 week period.
3. To authorise Corporate Director, in consultation with the Chair of the Environment and Licensing Committee to consider any responses from the consultation and to refer the matter back to full Committee if they deem it necessary.
4. To authorise Corporate Director, in consultation with the Chair of the Environment and Licensing Committee to agree final amendments after taking into account any responses received during the consultation and subject to the matter being referred back to full Committee the proposed amendments to come into force on 1 November 2018
5. To delegate authority to the Corporate Director to suspend a Hackney Carriage/Private Hire Drivers Licence or a Private Hire Operators Licence, after giving a period of seven days notice of the

intention to suspend to the licence holder, subject to a 21 day appeal period, for any driver or operator failing to complete a declaration at the end of any 12 month period in accordance with their licence conditions.

Reasons for Recommendations

To improve the declaration procedure as outlined in the Policy and to ensure that the Council's public safety responsibilities are fulfilled.