

LICENSING AND REGULATION COMMITTEE

6 OCTOBER 2009

REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES -  
POLICIES AND PROCEDURES

REPORT OF HEAD OF LEGAL SERVICES

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RECENT REFERENCES:

LR 265 - APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE  
DRIVER LICENCES - POLICIES AND PROCEDURES – 5 FEBRUARY 2008

LR 205 - APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE  
DRIVER LICENCES - POLICIES AND PROCEDURES – 12 DECEMBER 2006

EXECUTIVE SUMMARY:

This report is to review the policies and procedures to be applied in determining applications for hackney carriage and private hire driver licences.

The additional policies and procedures are recommended to raise the standard of drivers licensed by Winchester City Council.

RECOMMENDATIONS:

- 1 That the Committee resolve to adopt the additional policies and procedures for applications for Hackney Carriage and Private Hire Driver Licences as set out in Appendix 1.

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### REVIEW OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES - POLICIES AND PROCEDURES

#### REPORT OF HEAD OF LEGAL SERVICES

#### DETAIL:

##### 1 Introduction

- 1.1 This Council is responsible for the issue of licences to drive Hackney Carriages and Private Hire Vehicles within the Winchester City Council District.
- 1.2 In order to obtain a licence to drive such vehicles, the applicant must be a “fit and proper person.” There is no definition of this phrase. However, a number of checks are carried out by licensing officers in order to test the applicant’s suitability to drive vehicles for hire or reward.
- 1.3 Members resolved to adopt “Applications for Hackney Carriage and Private Hire Driver Licences – Policies and Procedures” in 12 December 2006. Amendments to the document were agreed on 5 February 2008 (LR 205 and 265 refer).
- 1.4 “Applications for Hackney Carriage and Private Hire Driver Licences – Policies and Procedures” has been reviewed as set out in Appendix 1 of this report to include additional policies and procedures, some of which are currently in practice by licensing officers. The changes cover driving licence validation checks, and knowledge tests.
- 1.5 There is no requirement at this time to amend the document “Hackney Carriage and Private Hire Driver’s Licences - Policy on Criminal Convictions”.

##### 2 Revised procedures – Driving Licence Validation

- 2.1 In line with most other Local Authorities in Hampshire, the Licensing Team has introduced driving licence validation checks through the DVLA. Although applicants are required to produce a driving licence, some authorities have experienced situations where the copy produced does not disclose all endorsements, or in some cases the licence has not been validly issued by the DVLA. The purpose of carrying out a validation check with the DVLA is to ensure that the licence which is produced by the applicant is accurate and up to date, and is a genuine licence which has been properly issued.

- 2.2 The driving licence validation is carried out through the DVLA using a mandate signed by the applicant and a licensing officer. All new applicants, and all current drivers when due for a Criminal Records Bureau (CRB) check, are required to sign this mandate (carried out every three years).
- 2.3 Refusal to sign the mandate will result in refusal to grant or renew a hackney carriage and/or private hire driver's licence. Discrepancies between the licence produced with the application, and the DVLA record disclosed by the validation check, may also result in a refusal.
- 3 Revised procedures – Knowledge tests
- 3.1 At present, the number of knowledge tests which an applicant can take is not limited. It is recommended that a maximum number should be set due to the increased number of applicants and to continue to ensure a high standard of drivers.
- 3.2 The recommendation would be; if an applicant fails the private hire and/or hackney carriage written knowledge test three times, the applicant shall wait for a period of no less than 6 months from the date of the third test before taking another test. This would also apply to oral knowledge tests.
- 3.3 The reviewed policies and procedures take into account observations from Members at the 12 December 2006 Licensing and Regulation Committee regarding the option of a practical knowledge test. In response to these comments the Licensing and Registration Manager added that a practical knowledge test would be too time-consuming and could not be implemented at that time.
- 3.4 In the last 12 months or so, licensing officers have carried out trial practical knowledge tests. This test has shown that although practical knowledge tests are time-consuming, the result of these tests confirmed a need for this to be implemented for each new applicant.
- 3.5 Due to the high volume of applications to drive a hackney carriage and/or private hire vehicle, a condition should be added to the policy and procedures that if an applicant has not fulfilled all of the criteria set out in Appendix 1 within 12 months of submitting their application, the application shall be refused. In such cases, the application fee or a proportion of it shall be retained to cover administration costs.

#### OTHER CONSIDERATIONS:

#### 4 SUSTAINABLE COMMUNITY STRATEGY (RELEVANCE TO):

- 4.1 This report covers issues which affect the principles of “safer and more inclusive communities” and “safeguarding our high quality environment for the future.”

## 5 RESOURCE IMPLICATIONS:

- 5.1 The licence fees charged include an element for enforcement costs. These proposals constitute increased enforcement of the licensing process, and the DVLA charges and officer time which these proposals would incur can therefore be met from existing budgets.

## 6 Risk Management

- 6.1 The proposals in this report seek to reduce the risk of a driver who has endorsements being granted a licence. The existing knowledge tests ensure that drivers have a good working knowledge of the district, and the changes mean that the application process is fairer and quicker for those applicants who can meet the Council's standards.

## BACKGROUND DOCUMENTS:

None

## APPENDICES:

- Appendix 1 Applications for Hackney Carriage and Private Hire Driver Licences – Policies and Procedures (revised September 2009).



## APPLICATIONS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCES- POLICIES AND PROCEDURES

### 1. Ability to Communicate in English

Licence holders will need to be able to deal with passengers and must therefore be able to understand and converse in English to an adequate standard for this purpose. This will be assessed by means of the written knowledge test and interview with a licensing officer.

### 2. Driving Licence

Applicants must have held a full driving licence for at least 12 months, granted by a country which belongs to the European Union or is within the European Economic Area (Iceland, Liechtenstein, and Norway are not in the EU, but are members of the EEA). An applicant from any country outside of these will have to pass a U.K. driving test and hold a full driving licence for at least 12 months before re-applying.

All new applicants, and all current drivers when due for a Criminal Records Bureau (CRB) check, shall be required to sign a mandate to allow an authorised officer to request information contained on their driving licence. Refusal to sign this mandate will result in refusal to grant or renew a hackney carriage and/or private hire driver's licence.

### 3. Entitlement to Work in UK

The Council co-operates with the Home Office by scanning any documents required to accompany the application and forwarding these to the Home Office to ensure that applicants are entitled to work as a hackney carriage/private hire driver in the UK.

### 4. Assessing Applicants' Fitness and Propriety

All applicants must supply details of two referees from whom references may be obtained by the Council. Referees cannot be a member of the applicant's family or connected with the taxi trade. At least one reference must be from a previous employer.

Applicants who were not born in the U.K. and/or have not lived in the U.K. for 10 years must supply a certificate of good conduct from their embassy or home country.

### 5. Criminal Records Bureau Check

All applicants must complete and submit with their application a Criminal Records Bureau application form. This form will be submitted by the countersignature for the Council and submitted to the Bureau. Any convictions disclosed will be taken into account in deciding whether or not to grant the application in accordance with the Policy on Criminal Convictions.

Notwithstanding the Council's requirements for a Criminal Records Bureau check, applicants **MUST** disclose full details of their criminal convictions (including any "spent" convictions under the Rehabilitation of Offenders Act 1974), on the application form. An applicant's failure to disclose convictions which are subsequently disclosed under the Criminal Records Bureau check will be taken into account when considering their application. Failure to notify a conviction on an application form is also a criminal offence.

## 6. Driving Standards

In addition to possessing a driving licence issued by a relevant country, all applicants are required to undertake the Driving Standards Agency Taxi Assessment Test and produce a pass certificate. The Licensing Sub-Committee and the Head of Legal Services have discretion to require any licensed hackney carriage or private hire driver to undergo and pass a Taxi Assessment Test where he is satisfied that the driver's standards of driving or general conduct are such that such an assessment is desirable.

### Exemptions

Contract drivers licensed for Schools and Disabled Contracts, where the contracting authority carries out its own assessment of driving standards required.

## 7. Knowledge Test.

All applicants will be required to take and pass the Private Hire and Hackney Carriage Knowledge Tests. Tests will be conducted by the Council on a regular basis, usually once a month.

Private Hire Knowledge Tests are used to examine an applicant's knowledge of streets, public houses, hotels and other important locations within the Winchester Town area (i.e the six Town Wards together with Olivers Battery, Kings Worthy and Harestock).

Hackney Carriage Knowledge Tests are used to examine an applicant's knowledge of the whole of the Winchester City Council area which runs from Sutton Scotney to the north, Portsdown Hill to the south, Hursley to the west and West Meon to the east.

The pass mark for both tests is 80%. Applicants who achieve between 75% and 79% may undertake a further oral test with the Licensing and Registration Manager, comprising 10 questions. Applicants who are able to answer 8 questions or more will be treated as having passed the Knowledge Test. Applicants who fail the oral test may retake the oral test on up to two further occasions. Applicants who fail three successive oral tests will be required to wait ~~one year~~ 6 months from the date of the third test before re-sitting the written exam.

If an applicant fails the private hire and/or hackney carriage written knowledge test three times, the applicant shall wait a period of no less than 6 months from the date of the third test before taking another test.

### Exceptions

- (a) Drivers from outside and not operating within this area are not required to take a private hire knowledge test, but it will be necessary if they transfer to a Winchester operator.
- (b) Drivers licensed for Schools and Disabled passengers only, shall be exempt from the requirement to undergo a knowledge test.

## 8. Practical Knowledge Test

All new applicants who have passed the D.S.A Taxi Assessment Test and knowledge test, prior to being issued a licence, must arrange with a licensing officer to have a practical knowledge test. This test will be required for the applicant to show a licensing officer that they have a good knowledge of the area whilst driving their vehicle. Should the applicant show a poor knowledge of the area, they must spend a reasonable amount of time driving around Winchester and surrounding areas, and then make a further appointment to show their increased knowledge.

Discretion will remain with the licensing officer as to what a 'good knowledge of the area' shall be; this will be decided on each applicant.

### Exceptions

- (a) Drivers from outside and not operating within this area are not required to take a private hire knowledge test, but it will be necessary if they transfer to a Winchester operator.
- (b) Drivers licensed for Schools and Disabled passengers only, shall be exempt from the requirement to undergo a knowledge test.

## 9. Medical Fitness

All applicants shall undergo a medical examination with regard to their fitness to carry fare paying passengers and shall provide a medical assessment form completed by the examining doctor. Such examination is to be carried out on initial application and every fifth year thereafter until the age of 63 years and 65 years, and every year thereafter.

The Licensing Sub-Committee and the Head of Legal Services have discretion to require any licensed hackney carriage or private hire driver to undergo a medical examination where he is satisfied that a condition has arisen which may affect the person's physical fitness to hold a licence.

The Drivers Medical Group of the Driver and Vehicle Licensing Agency recommends that that the Group 2 medical standards applied by DVLA should also be applied by local authorities to taxi drivers. This places a higher standard of medical fitness than that of a normal driver.

In particular, a new applicant's standard of acuity of vision, using corrective lenses if necessary, will be considered unsatisfactory if it is below 6/9 in the better eye or 6/12 in the other eye. Also, the uncorrected acuity in each eye must be at least 3/60.

Complete loss of vision in one eye or corrected acuity of less than 3/60 in one eye shall bar the applicant from holding a hackney carriage or private hire driver licence.

### Exceptions

Persons who have held a hackney carriage or private hire driver licence prior to 5 February 2008 must have a visual acuity of at least 6/12 in one eye and 6/36 in the other.

Persons who have held a hackney carriage or private hire driver licence prior to 1 January 1991, AND the authority was aware of the loss of sight in one eye before that date.

**Note:** If an applicant has not fulfilled all of the above criteria within 12 months of submitting their application to drive a hackney carriage and/or private hire vehicle, the application shall be refused. In such cases, the application fee or a proportion of it shall be retained to cover administration costs.

## Hackney Carriage and Private Hire Driver's Licences - Policy on Criminal Convictions.

### GENERAL

1. This Policy applies to the following:-
  - a. Applications for a Hackney Carriage or Private Hire Driver's Licence;
  - b. Revocation of an existing Hackney Carriage or Private Hire Driver's Licence;
  - c. Suspension of an existing Hackney Carriage or Private Hire Driver's Licence.
2. Each case will be decided on its own merits.
3. A person with a conviction for a serious crime will not normally be permanently barred from obtaining a licence but **should** be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before the application is entertained. However, persons with convictions of a sexual or child related nature or other very serious crime will not normally be issued with a licence.
4. The Council will exercise discretion where an offence is isolated and there are mitigating circumstances. However, the overriding consideration in all cases will be the protection of the public.
5. The Head of Legal Services, acting through the Licensing and Registration Manager, has delegated authority to issue Driver's Licences. In any case where he considers it appropriate to do so, he may refer the application to the Licensing Sub Committee for it to determine whether or not an application for a licence should be granted or, where a licence has already been granted, whether that licence should be suspended or revoked.
6. The Council accepts that where an applicant or licence holder has been found guilty of a criminal offence, the Court will have imposed what it considers to be an appropriate penalty for that offence. Accordingly, in considering convictions for such offences, the Sub-Committee dealing with a case should not 're-try' any offence for which the applicant or licence holder has pleaded guilty or been found guilty by a court of law. However, it should take into account the type and nature of the offence, and the penalty handed down for the offence, and should bear in mind the fact that the paramount consideration is the protection of the public.
7. For the same reason, offences will not be disregarded simply on the basis that the offender has served his or her sentence, and has therefore paid the appropriate penalty for his or her crime. In considering whether to grant an application for a licence, or to suspend or revoke an existing licence, the Sub-Committee will not decide a penalty to impose, but whether or not the public will be adequately protected.
8. The Council considers that in determining applications for licences, or deciding whether to revoke or suspend licences, the Sub-Committee proceedings will constitute "proceedings before a judicial authority" within the meaning of Section 4(6) of the Rehabilitation of Offenders Act 1974, and therefore, where the Sub-Committee hearing a case considers that justice cannot be done except by admitting evidence relating to spent convictions, such evidence may be admitted in accordance with Section 7 of that Act. Given the need to protect the public, it is likely that in the case of spent convictions involving serious offences. (e.g. death by dangerous driving, drugs, violence, sexual offences or offences of an habitual nature), evidence of such convictions will be admitted.



## **SPECIFIC EXAMPLES OF OFFENCES**

### **Minor Motoring Offences**

9. Isolated convictions for minor traffic offences e.g. obstruction, waiting in a restricted street, speeding, etc should not prevent a person from proceeding with an application. Any new applicant must have held a full drivers licence for a period of 12 months without any period of suspension during those 12 months. Licence Holders convicted of such offences during the period of licence may be warned as to future conduct, and informed that any disqualification may lead to revocation of any hackney carriage or private hire licence issued by the Council

### **Major Traffic Offences**

10. An isolated conviction for reckless or dangerous driving or driving without due care and attention etc will normally merit at least a warning as to future driving and advice on the standards expected of hackney carriage and private hire drivers. In addition, an existing licence holder will normally be required to take (or retake) a Driving Standards Agency Taxi Assessment Test. More serious convictions and those with more than one conviction for these type of offences within 2 years will merit revocation of any existing licence, or a refusal of the application in the case of new applicants, and no further application will then be considered until a period of at least three years from the time the conviction has elapsed.

### **Drunkenness**

- (i) With a motor vehicle

11. A serious view will be taken of convictions of driving or being in charge of a vehicle under the influence of drink. An isolated incident in the past will not necessarily debar an applicant. At least three years should elapse after the restoration of the DVLA driving licence before an applicant is considered for a hackney carriage or private hire licence but strict warnings will be given as to future behaviour. More than one conviction for these offences will raise grave doubts as to an applicant's fitness to hold a hackney carriage or private hire driver's licence. If the applicant is found to be an alcoholic a minimum period of five years should elapse after treatment is completed before a licence application is considered.
12. A driver found guilty of driving passengers for hire and reward under the influence of drink will have his/her hackney carriage or private hire drivers licence revoked immediately and be banned from holding a hackney carriage or private hire drivers licence with the Council for a minimum of five years.

- (ii) Not in a motor vehicle.

13. An isolated conviction for drunkenness need not debar an applicant from being granted a licence, nor will it automatically be a ground for revoking or suspending an existing licence. However, a number of convictions for drunkenness could indicate a medical problem necessitating a critical examination.

### **Insurance Offences**

14. 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 at least three years free of conviction have elapsed since the offence, but strict warning will be given as to future behaviour. More than one conviction will raise grave doubts as to the applicant's fitness to hold a hackney or private hire licence. At least three years should elapse after the restoration of the DVLA driving licence before an applicant is considered for hackney carriage or private hire licence.

15. A driver found guilty of driving passengers for hire and reward whilst without insurance will have his/her driving licence revoked immediately and be banned from holding a hackney carriage or private hire driving licence with the Council for five years.
16. Any applicant with three insurance offences or more will not be considered fit and proper to hold a hackney carriage or private hire licence with the Council.

### Drugs

17. An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of convictions before any application is entertained, or a minimum of five years after detoxification treatment, if applicant was an addict.

### Violence

18. As hackney carriage and private hire drivers maintain close contact with the public, a firm line will be taken with applicants who have convictions for grievous bodily harm, wounding or assault. A minimum of three years free of convictions should be shown before an application is entertained and even then a strict warning will be administered. An existing licence holder could expect his/her licence to be suspended or revoked if convicted of these offences.

### Indecency

19. As hackney carriage and private hire drivers often carry unaccompanied passengers, applicants with convictions for indecent exposure, indecent assault, importuning, or any or the more serious sexual offences, will not normally be granted a licence until they can show a substantial period (at least 5 years) free of such offences. A strict warning of future conduct would always be given if a licence is granted.

### Dishonesty

20. Licence holders are expected to be persons of trust. The widespread practice of deliveries for companies, taking children to school, and families on holiday, shows the trust which is placed in such drivers. It is easy for dishonest drivers to defraud foreign visitors when giving change, or other customers by taking them by other than the shortest route. Lost property can be kept by unscrupulous drivers. For these reasons a serious view will be taken of any convictions involving dishonesty. In general, a period of at least three years free of conviction will be required before entertaining an application for a hackney carriage or private hire drivers licence by the Council. Any existing driver convicted of dishonesty may expect any licence held to be suspended or revoked and a possible ban on holding a hackney carriage or private hire driver's licence for a minimum period of three years.

### Scanners

21. Anyone convicted for an offence involving the unlawful use of a radio scanner will be banned from holding any licence for a minimum of a five year period.

It is an offence for any person knowingly or recklessly to make a false statement or to omit any material particular in giving information required by the application for a licence, punishable by up to seven years imprisonment upon conviction. However with regard to questions concerning previous convictions the applicants attention is drawn to the provisions of section 4(2) of the Rehabilitation of Offenders Act 1974 which, in summary provides that any such question shall be treated as not relating to spent convictions as defined in that Act or to any circumstances ancillary to spent convictions and answer thereto may be framed accordingly. However notice is also brought to Section 4 (2), and 6 and 7 of that same Act that the Local Authority may admit evidence of spent convictions which relate to determining whether an applicant is suitable to hold a licence.