

Report to the Environment and Licensing Committee

Subject: Proposed changes to the Hackney Carriage/Private Hire Driver's Licence Conditions and Private Hire Operator's Conditions

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Purpose of the Report

To inform Members of the results and recommendations of the recent Coroner's inquest into the death of a member of the public involved in an accident with a Taxi

To inform Members of proposed changes, taking in to account those recommendations, to the Hackney Carriage/ Private Hire Driver's Licence Conditions and Private Hire Operator's Conditions and to obtain approval to consult on those proposed changes.

To request that Members note the miscellaneous operational changes proposed following the recommendations in the Coroner's report.

1. Background

- 1.1. The Nottinghamshire Coroners Court recently held an inquest into the death of a member of the public involved in a road traffic accident with a taxi driver who was licensed with another Nottinghamshire Authority. Following the conviction of the taxi driver, for dangerous driving, the judge in the case invited the Coroner to re-open the inquest on the grounds of continuing public interest in ensuring that this type of tragedy be avoided in the future. The Coroner made all Nottinghamshire Licensing Authorities 'interested parties' to the inquest, the inquest was attended by officers from the Licensing and Legal Departments.
- 1.2. Prior to the inquest the Coroner suggested areas of the licensing process she would like each Council to consider particularly in relation to driver hours, the fitness of drivers to drive due to health conditions, DBS checks and complaints procedures. Each Authority was invited to submit a statement before attending the hearing detailing their current practices and proposals for changes taking in to consideration the particular circumstances surrounding the fatal accident. In her summing up the Coroner's opinion was that Licensing Authorities have a responsibility to use their best endeavours to ensure that those afforded licences are 'fit and proper persons'.
- 1.3. The Council currently has a rigorous vetting process for applicants applying for taxi licensing including driving test, medical, knowledge test, DBS checks, DVLA checks and safeguarding training. However, in the light of the inquest, officers went through the application process and licence conditions in detail to identify any areas that could be improved to increase the fit and proper tests we carry out in the interests of increasing safety for members of the public. As a result of this exercise Members are asked to consider the following proposals to be sent out to consultation to the trade and the public and to note the miscellaneous operational changes.

2. Proposal 1 – Change to Hackney Carriage and Private Hire Driver Conditions relating to medical circumstances

- 2.1 Medical examinations under the DVLA Group 2 standard adopted by the Council, are currently required on first application and then at age 45, 50, 55, 60 at 65th birthday and then annually after 65. In some cases there is a long period of time between the medical at first application and the licence holder's 45th birthday. It is currently assumed that any change to a licence holder's medical circumstances will be notified to the Council by the licence holder. To make sure that this is the process followed by all licence holders it is proposed to amend the Hackney Carriage and Private Hire Driver's Licence Conditions to add a new condition requiring notification of any change to their medical circumstance. This proposed additional condition is detailed in **Appendix 1** attached. Approval is requested to consult on this change to the Drivers Conditions.

Reason

- 2.2 In the interests of public safety, and in line with the Coroner's report, this condition will ensure that licensed drivers notify us of any change in their medical condition, that could affect the Group 2 standard required, and enable the Council to take appropriate action with regard to the driver's 'fit and proper' status.

3. Proposal 2 – Change to Hackney Carriage and Private Hire Driver Conditions relating to Disclosure and Barring Services (DBS) checks.

- 3.1. Currently all Hackney Carriage and Private Hire Drivers are required to have a DBS check every 3 years. Applicants are also required to complete a declaration, regarding any change to their circumstances, annually either on their renewal application or on an annual declaration where a licence has been granted for a period of more than one year. Licence holders are also required to undertake a DVLA check at each renewal or at the time of declaration.
- 3.2. It is proposed to introduce a condition requiring all Hackney Carriage and Private Hire Drivers to have an annual DBS check in addition to submitting a yearly declaration and DVLA check. The proposed amended condition is attached at **Appendix 1**. Approval is requested to consult on this change to the Drivers Conditions.

Reason

- 3.3 The requirement for an annual DBS check will increase public safety by providing information to the Council on a more regular basis as to licence holders' criminal records allowing the Council to consider the 'fit and proper' status of its licence holders.

4. Proposal 3 – Change to Private Hire Operator Conditions

- 2.3 Following the outcome of the Coroner's report the Private Hire Operator's Licence conditions were examined and it was decided that they required a comprehensive review. In addition to incorporating the Coroner's recommendations it is considered appropriate to update the conditions to ensure that they reflect modern working practices and to remove any that are outdated and unduly restrictive.
- 2.4 In terms of the recommendations of the Coroner's report it is proposed to introduce a condition requiring Private Hire Operators to submit an annual DBS check. Currently they are required to sign a declaration, regarding any change to their circumstances, at every renewal or on an annual declaration where a licence for more than five years has been granted.

- 2.5 The proposed changes are set out in detail at **Appendix 2** and the proposed draft conditions attached at **Appendix 3**. For comparison purposes the current conditions are attached at **Appendix 4**. It is requested that approval be given for the draft conditions to go out for consultation.

Reason

- 4.1. The changes will bring the conditions up to date with regards to record keeping of bookings, drivers and vehicles, ensuring that the conditions remain relevant and that sufficient information is recorded in an appropriate format by the Operator to allow investigation by the Council in to complaints. The Operator will be required to record and retain details of complaints made against the Company and/ or driver, and any disciplinary action taken towards drivers and staff. Recording and making available such information will enable Operators to work more closely with the Council, increasing public safety and improving standards, by addressing and effectively dealing with any complaints made. The removal of outdated conditions will enable the licence holders to operate their businesses more effectively. The requirement for an annual DBS check will increase public safety by providing information to the Council on a more regular basis as to licence holders' criminal records allowing the Council to consider the 'fit and proper' status of its licence holders.

5. Miscellaneous Operational changes – for information

- 2.6 The Coroner acknowledged in her findings that her questions and areas of concern had been addressed and that considerable work had been done by Nottinghamshire Licensing Authorities already. She also noted that it is 'a dynamic process' and that the work was continuing.
- 5.1. As part of the process the Nottingham Authorities Licensing Group (NALG) is considering issuing a Best Practice Guidance and encouraging drivers and operators to adopt it. This best practice guidance booklet will advise them on a variety of subjects relating to safe driving and good conduct including advice on avoiding driving when tired, use of mobile phones in vehicles and how to avoid committing offences under the Act.
- 5.2. Licensing Officers will also be working in partnership with other licensing services in the County and region in relation to enforcement and information sharing.
- 5.4 Changes to application forms regarding information sharing with other agencies will also be introduced.

Reason

- 5.5 The above actions will assist in the protection of the public and safeguard the fit and proper status of licence holders by providing clear information as to their responsibilities to others as licensed drivers and road users. The actions will also encourage partnership working between Authorities in relation to enforcement practices, to ensure the sharing of relevant information between partners and to encourage consistency across the County. It will also ensure that the applicant is aware that in making an application their information may be shared as reasonably necessary in line with the Data Protection Act 1998.

Appendices

Appendix 1 - Proposed amended Hackney Carriage and Private Hire Driver Conditions.

Appendix 2 - Proposed changes Private Hire Operator Conditions.

Appendix 3 - Proposed Private Hire Operator Conditions

Appendix 4 - Current Private Hire Operator Conditions

Recommendations

That Committee:

1. Approve the proposed changes to the Hackney Carriage and Private Drivers Conditions, detailed in the report and shown at Appendix 1, to go out to consultation.
2. Approve the proposed changes to the Private Hire Operators Licence Conditions, detailed in the report and shown at Appendix 2, to go out to consultation.
3. Note the miscellaneous operational changes contained in the report.

It is intended the consultation will be for a period of 4 weeks and the final conditions and operational changes (with any necessary amendments as a result of responses to the consultation) being presented to Committee for adoption.