

Report to the Environment and Licensing Committee

Subject: Changes to the Statement of Policy and Guidelines for the consideration of applications for Hackney Carriage/Private Hire Drivers and Private Hire Operators

Date: 11th August 2015

Author: Corporate

Director

Purpose

The Licensing Section and Legal Services have reviewed the policy in consultation with the Chair and Vice Chair. Attached at Appendix 1 is the revised document which includes the changes that are being proposed. Members are asked to:

1. approve the proposed Policy prior to it being sent out for consultation. It is intended that the consultation will be for a period of 4 weeks and the final policy (with any necessary changes as a result of responses to the consultation) being presented to Committee on Tuesday 6 October for adoption.
2. Delegate to the Corporate Director decisions about the term of the licence in cases where he currently has delegated authority to grant a licence.

Background

The Policy was last reviewed in October 2013. Since then the Knowledge test has been introduced and this is now reflected in the revised Policy. In addition, the Deregulation Act 2015 provides that, from 1 October 2015, licences for Drivers (both Hackney Carriage and Private Hire) will be for 3 years as standard, and for Operators, 5 years as standard. The Council (as Licensing Authority) may decide to issue these for a lesser period if it is appropriate in the particular circumstances of the applicant. The Policy has been reviewed to reflect this change and to set out guidance for Members and Officers detailing matters which are relevant and should be taken into consideration when determining whether an applicant should be granted a 3 or 5 year licence. Some other, minor, changes have been made to clarify the existing policy.

In relation to delegation – currently the Corporate Director has authority to grant a licence where there are fewer than 9 penalty points. It is proposed that in this case, where the application is for 3 or 5 years, the Corporate Director shall also have delegated authority to decide whether, in the particular circumstances of that applicant, it is appropriate to grant the licence for a lesser period (1 year), applying the criteria set out in the Policy.

Proposals

1. That the Policy attached at Appendix 1 be approved for consultation; a table giving a summary of the main changes is set out below:

Page	Section	Amendment	Reason
------	---------	-----------	--------

3.	10, Knowledge test	The knowledge test was introduced as part of the application process in 2014. This has proved successful and all drivers have now passed this. However, some applicants have had to take the test many times before eventually passing. The policy now provides that if an applicant fails the test 3 times in succession, (s)he may not sit it for 6 months before attempting it again. Also, any previous driver who has had a period of 2 years or more without a Gedling licence is required to re sit the test.	The reason for the test is public safety; any driver who persistently fails has not reached the required standard for safety. The 6 month period before re sitting the test will allow the applicant sufficient time to revise the areas (s)he needs to in order to reach the required standard and will also save the cost of keep taking and failing the test.
4.	11, Practical Driving Test	This test has been in place for some years as part of the application process. The policy in relation to passing now reflects the requirement for the knowledge test (see above), and drivers who have failed 3 times in succession will not be able to re take the test for a period of 6 months.	Public safety, as above.
4.	12, Duration of Licences	All Driver's licences will now be for 3 years, and Operator's Licences for 5 years, unless the applicant asks for a 1 year licence, or the Committee/Corporate Director decides that it is appropriate in the circumstances of the particular applicant, the period should be 1 year.	To bring the Policy in line with the requirements of the Deregulation Act 2015. Please refer also to the amendment below re pages 25-26.
5.	Equalities	This paragraph sets out action the Council will be taking to collate information to use in carrying out its public sector equality duty.	To help the Council comply with the Equality Act 2010
6-10	various	Minor amendments to reflect the change in the period for which licences will be issued (for example, paragraph 2, explaining the consequences of non disclosure at each 12 month point of a 3/5 year licence).	To reflect the changes to the licence periods.
22.	2 nd paragraph after the table	Where there is both a 'no insurance' and plying offence, the decision maker should apply the policy in relation to the more serious offence (i.e. the no insurance which is a major traffic offence). This is not a change to the policy, but is clarification.	For clarification.
25-26	Policy –	This sets out guidance for those making	As with the Policy as a whole,

	duration of licences	decisions on applications for 3 (or 5) year licences. The process is two stage – first, is the applicant fit and proper to hold a licence (driver or operator)? If no, then the application must be refused. If yes, then a second decision must be made – is it appropriate in the circumstances of this particular applicant, that the licence should be granted but for a lesser period? In making this second decision, the matters set out at paragraph 3 (for Drivers) and paragraph 5 (for Operators) should be considered. The presence of any of these will not automatically preclude the grant of a 3/5 year licence, but are matters which, for the safety of the public, may mean that a lesser period is appropriate. Each application will be considered on its own particular merits.	this is guidance which must be applied when making all decisions. This ensures openness and transparency (applicants know how the decision about their licences will be made) and ensures consistency of decision making. The policy may be departed from where there are exceptional circumstances.
26	Conditions for 3 and 5 year licences	There is a current condition on all licenses that convictions/cautions etc, pending or actual, which occur during the term of the licence must be declared to the Council. Members will be aware from those attending Committee that this condition is often not complied with and the Council only becomes aware of any interim events when the applicant completes his renewal application and a DVLA check is carried out. When a 3/5 yr licence is granted the danger is that any such matters will not come to the attention of the Council until renewal at 3/5 years. It is therefore proposed that all 3 and 5 year licences will have to make a declaration to the Council, at the end of each 12 month period, and undergo a DVLA check. This means that even if the licence condition about reporting mid-term is not complied with, the matter will be brought to the attention of the Council at the end of the relevant 12 month period, and the offender brought before Committee.	To ensure that all conviction, cautions, reprimands, warnings and penalty notices (endorseable or fixed) occurring throughout the period of the licence are able to be dealt with in accordance with the Policy and the safety of the public maintained.

2. That where the Corporate Director determines under his current delegation that an applicant is fit and proper to hold a licence, he also has delegated authority to decide on the term of the licence (where the application is for 3 or 5 years).

Financial Implications

A separate report is being presented detailing charges for the new licences.

Appendices

Appendix 1, Amended policy document

Appendix 2, Equality Impact Assessment

Background Papers

None

Recommendations

1. To approve the amendments to the Statement of Policy and Guidelines for the Licensing of Hackney Carriage Drivers, Private Hire Drivers and Private Hire Operators for consultation.
2. To approve, where the Corporate Director determines under his current delegation that an applicant is fit and proper to hold a licence, he also has delegated authority to decide on the term of the licence (where the application is for 3 or 5 years).