

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE – 24 SEPTEMBER 2015

Title:

HACKNEY CARRIAGE AND PRIVATE HIRE POLICY REVIEW

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to enable the Committee to consider proposed changes to the Hackney Carriage/Private Hire Licensing Policy following a review by officers and the Deregulation Act 2015, and to agree it as a basis for consultation.

Waverley's current Hackney Carriage/Private Hire Licensing policy was originally adopted by the Council in July 2010 and was last revised on 16 July 2013. Officers have conducted a further review of a number of conditions which they feel require updating/clarifying, to incorporate changes in legislation and also proposes the introduction of a penalty points system.

How this report relates to the Council's Corporate Priorities:

Taxis play an important part in the overall public transport network in the Borough and contribute to policies on the environment and improving lives.

Financial implications:

The resource implications would be the cost of the consultation on the policy, the possible advertising of any fee changes and following adoption the printing (internal) and posting of approximately 300 updated policy booklets to licensees.

Legal implications:

Policies or guidelines should not be established by the Body (in this case, the Licensing and Regulatory Committee) which regulates or determines a function. The Waverley Hackney Carriage and Private Hire Licensing policy should therefore be determined by Council. Accordingly, this Committee is asked to address the policy issues around such licensing and make recommendations to Council to update Waverley's policy regarding taxi and private hire licensing.

The Council's Hackney Carriage and Private Hire Licensing Policy guides those responsible for licensing and enforcement and applicants/licensees. Policies, and the application of them, can be subject to legal challenge. Application of a policy as a rule and failure to consider individual cases on their own merit could lead to successful legal challenge.

Equality and diversity implications:

The Equality Act 2010 requires the Council to consider the impact of policies on those with protected characteristics.

Introduction

1. On 20 July 2010 the Waverley's Hackney Carriage and Private Hire Licensing Policy was adopted by the Council with the latest amendments adopted in July 2013. Since that time a number of issues have come to the attention of officers, who feel that these conditions need to be reviewed, a penalty points system added and changes made in light of the Deregulation Bill 2015.
2. Once considered by the Licensing and Regulatory Committee the policy, with any amendments, will be sent out for consultation.

Changes to 'taxi' legislation following the Deregulation Act 2015

3. The Deregulation Act 2015 has introduced three changes to taxi legislation which will come into effect on 1 October 2015:
 - Drivers' licences to be granted for 3 years (or for such lesser period as the Council think appropriate in the circumstances of the case);
 - Private Hire Operators' licences to be granted for 5 years (or for such lesser period as the Council think appropriate in the circumstances of the case);
 - Private Hire Operators will be able to sub-contract a booking across council boundaries.

In order to make a 3 year driver's licence available, the Council will need to agree an appropriate interim fee of £150 which is not currently within the fee schedule. It is proposed that when the fees are then calculated for 2016-17, a fee for a 3 year driver's licence will also be included and, if after calculations the proposed fee is less than the interim fee charged, drivers will be eligible to receive a refund of the difference.

Officer Proposed Changes to Hackney Carriage/Private Hire Licensing Policy

4. A copy of the current Hackney Carriage Policy, with proposed amendments marked in colour, is attached at Annexe 1.
5. A number of minor administrative changes and typo corrections have been made, however the main items proposed by officers are:
 - A. **Application Process Time Limit:** Once submitted and accepted as part of the application process for a first licence, a DBS and/or Medical will only remain acceptable for 6 months. If an application has not been completed within a period of 6 months, applicants will be required to start the process again which will include obtaining a new DBS and/or Medical.

- B. **Removal of the LPG condition:** with a revised condition instead to incorporate any changes to the vehicle and not just LPG conversion, namely:-

“Any changes/modifications to the manufacturer’s original construction of the vehicle including modification, adaption, fixtures, fittings, stickers, decals or decorative painting must be applied for and authorised by the Council prior to being carried out.”

- C. **Medical Report:** proposed change to being required every 3 years in line with a 3 year renewal and consider removing the requirement for yearly medicals once drivers reach the age of 60, or alternatively changing the age to 65. For all instances, retain the following condition – ‘ unless a greater frequency is indicated by Waverley’s consultant doctor in which case it will be necessary to have more frequently which in turn may have an effect on the duration of the driving licence issued.’
- D. **DVLA Mandate:** Change the wording of the DVLA mandate as changes to DVLA have abolished the counterpart licence and enabled checking/sharing licences on line.
- E. **Blue Lamp Trust** to be added as a recognised and acceptable certification for the taxi driving assessment as an alternative to the current Driver and Vehicle Standards Agency (DVSA) taxi test. At present Waverley only accepts the DVSA test.

The Blue Lamp Trust has been a major supplier of taxi assessments to local authorities in Hampshire & Surrounding Counties since 2011, offering licensing authorities and taxi drivers a credible alternative to the DVSA taxi test.

They aim to operate a Driver Education and Training facility to reduce the death and injuries on our roads. As a charity, all the proceeds of their assessments (after deduction of costs) are recycled into the “Bobby Scheme” to secure the homes of the elderly and vulnerable.

Their taxi assessment is specially designed for both prospective drivers as part of their application process or to “quality control” established taxi drivers.

- F. Right to remain and work in UK added. Applicants are required to show documentary evidence that they have the right to remain and work in the UK before a licence is granted.
- G. Duration of driving licences and Private Hire Operator licences – re-Deregulation Act.
Changes in Legislation require that from 1 October 2015 Hackney/Private Hire driver licences should be valid for 3 years and Private Hire Operator licences should be valid for 5 years.

- H. Vehicle age policy - To remove the age requirement of a vehicle being under 4 years when it is new to licensing and to remove the 10 year old upper age limit for a vehicle to be licensed.
(A petition from licensed drivers requesting abolition of age policy is attached at Annexe 2)
- I. Vehicle testing – generally at Guildford testing station or other as nominated by Waverley BC.
- J. Private hire exemption from requirement to display plate - add into policy
- K. Advertising on/in vehicles
- L. Convictions – wording re allegations and sexual offences change re Rotherham report
- M. Cost of fees - 3 year and 5 year licence
- N. Knowledge fee to be separate from licence fee – fee should be same as renewal fee with difference for knowledge test.
- O. Penalty Points System – The introduction of a scheme whereby penalty points are issued to drivers by way of a disciplinary procedure. Such schemes are already in operation in a number of boroughs and initial indications from taxi drivers have indicated support for such a scheme.

Attached at Annexe 3 is the Proposed Timetable for the consultation.

Human Rights Implications

- 6. The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights (ECHR). The Council must have regard to the human rights of individuals affected by its decisions. In determining applications for licences and in matters of enforcement, the Council will have regard to Article 1 of the First Protocol of the ECHR (the right to the peaceful enjoyment of one's possessions) (where applicable), Article 6 (the right to a fair hearing), and Article 8 (the right to respect for a person's private and family life, is home and his correspondence).

Conclusion

- 7. The Committee is asked to consider the proposed changes to the Hackney Carriage and Private Hire Licensing Policy and agree it as a basis for public consultation. The Policy is ultimately agreed by the Council as part of the Policy Framework, and the final proposed changes resulting from the consultation will be recommended by the Licensing and Regulatory Committee to the Council with an anticipated implementation date of 1 March 2016.

Recommendation

It is recommended that the Licensing and Regulatory Committee

1. considers the draft Hackney Carriage and Private Hire Licensing Policy at Annexe 1 and agrees it, with or without amendments, as a basis for consultation; and
2. recommends to the Council that an interim fee of £150 be introduced for a 3-year driver's licence.

Background Papers

Waverley Hackney Carriage and Private Hire Licensing Policy.

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