

Hackney Carriage and Private Hire Licensing

Private Hire and Hackney Carriage Drivers Licenses

1.0 Purpose

1.1 To review the current policy of issuing joint Hackney Carriage and Private Hire Drivers Licenses.

2.0 Background

2.1 The Licensing Sub Committee have a policy which determines that Officers of the Council issue joint licenses that allow the applicant to drive both types of vehicles which ever is their choice.

2.2 This policy was last reviewed in October 2008.

3.0 The Current Position

3.1 The Council issue a joint Hackney Carriage and Private Hire Drivers Licence. A Hackney Carriage Drivers licence is issued under Section 46 of the Town Police Clauses Act 1847 (as amended by the Local Government (Miscellaneous Provisions) Act 1976). A Private Hire Drivers licence is issued under section 51 of the Local Government (Miscellaneous Provisions) Act 1976.

3.2 The Council currently uses the same tests for licenses issued, BTEC Certificate Knowledge Test, Driving Competency and Medical Fitness.

3.3 A Licensed Driver of either a Hackney Carriage or a Private Hire Vehicle must prove to the satisfaction of the Council that they are 'fit and proper' to drive either vehicle.

4.0 The Legal Position

4.1 Hackney Carriage Drivers Licence.

4.1.1 The Town Police Clauses Act 1847 Section 46 States:-

“No person shall act as a driver of any hackney carriage licensed to ply for hire within the prescribed district without first obtaining a licence from the commissioners (City Council) which licence shall be registered by the clerk of commissioners for the same; and every such licence shall be in force until the same is revoked except during the time that the same may be suspended.”

4.1.2 The above was amended slightly by the Local Government (Miscellaneous Provisions) Act 1976 section 59 (Qualifications for drivers of Hackney Carriages) this states ;

“(1) Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage-

(a) Unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence; or

(b) to any person who has not for at least a period of twelve months been authorised to drive a motor car, or is not at the date of application for a drivers licence so authorised.”

4.4 Private Hire Drivers Licence.

4.4.1 The Local Government (Miscellaneous Provisions) Act 1976 Section 51 states:-

“(1) Subject to the provisions of this part of the Act, a District Council shall on the receipt of an application from any person for the grant of a licence to drive private hire vehicles, grant to that person a drivers licence;

Provided that a district council shall not grant a licence -

(a) Unless they are satisfied that the applicant is a fit and proper person to hold a drivers licence; or

(b) to any person who has not for at least a period of twelve months been authorised to drive a motor car, or is not at the date of application for a drivers licence so authorised.

(2) A District Council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.”

4.6 A Licensing Authority may attach conditions to a Private Hire Drivers Licence. The law in relation to Hackney Carriage Drivers was clarified in 2001. No conditions may be attached to a Hackney Carriage Drivers Licence. Conduct is governed through bye-laws.

4.7 When assessing whether a person is ‘fit and proper’ to hold a licence, members can take into account a variety of factors by reference to the evidence placed before it.

4.8 It can take into account :

4.8.1 Medical fitness; Driving skills; Knowledge of the licensed area; Criminal convictions;

4.8.2 Ability to converse and understand the English language both in oral and written form to a level acceptable for the reasonable performance of the duties associated with being a licensed driver;

4.8.3 Applicants demeanour; Applicants appearance and Applicants behaviour before officers and members and on renewal to customers and generally to customers in the service industry sector.

4.9 There is no judicially approved test of fitness and propriety. Certain tests have been developed over the years that have become acceptable to a court. The Licensing Authority must act in a proportionate and reasonable manner when determining an application :-

‘Would you (as a member of the Licensing Committee or other person charged with the ability to grant a Hackney Carriage Drivers Licence) allow your son or daughter, spouse or partner, mother or father, grandson or granddaughter or any other person for whom you care, to get into a vehicle with this person alone ?’

4.10 The tests suggested above were alluded to 'Ositer' in the case of Leeds City Council v Hussain 2002. This case dealt with the issue of licence suspension. The Judge said :-

"...the purpose of the power of suspension is to protect users of licensed vehicles and those who are driven by them and members of the public. Its purpose, therefore, is to prevent licences being given to or used by those who are not suitable people taking into account their driving record, their driving experience, their sobriety, mental and physical fitness, honesty, and that they are people who would not take advantage of their employment to abuse or assault passengers"

4.11 In dealing with applicants Licensing Authorities should have clear policies and when turning down an application give reasons for its decision as an applicant has the opportunity to appeal a decision when such matters will be tested by the court.

5.0 Trade Differences

5.1 Attached at appendix 1 is a spread sheet of Local Authorities and how they administer their respective licenses.

5.2 The main reason for this is the differences between the two trades. These are principally :-

5.2.1 Hackney Carriage Drivers

Private Hire Drivers

- i) Ability to ply for hire. Any person can stop a Licensed Vehicle and request a journey. There is no opportunity to check the most direct route. The knowledge of the area must therefore be of a high standard.
- ii) Wheelchair accessibility. All Hackney Carriages are designed to permit access by persons restricted to wheelchairs. There is a need for specific driver training.
- iii) Customer choice. Hackney Carriages operate through a ranking system. Very limited customer choice.
- iv) Appeal Provisions. An applicant may appeal against the failure to grant both licences which means two fees rather than just the one.
- v) Customer Contact. Persons arriving in the City for the first time by train usually make use of a Hackney Carriage. There is a need for high ambassadorial standards that are set solely by the Licensing Authority.

Pre booked jobs only. Opportunity to consider most direct route.

Limited wheelchair accessibility

Clear customer of choice of operator who allocates a job to a driver. Poor service means a customer has the opportunity to change operator.

As Hackney Carriage Drivers

Customer contact can be affected contractually by the Operator as well as the Licensing Authority.

6.0 Consultation

- 6.1 This matter has been reported for consultation with the trade associations.
- 6.2 Representatives of the trades associations have received a copy of this report and have been invited to attend this meeting and advised that, subject to the consent of the chair, may address the meeting.
- 6.3 All trades have expressed a desire in the past not to change the current way that licenses are issued. They have also expressed an opinion that they see no benefits to change the current systems. They have jointly agreed that they would see a single licence as a disadvantage, as currently all drivers have a full choice as the type of vehicle they wish to drive.
- 6.4 Any written representations received will be made available at the meeting.

7.0 Financial Implications

- 7.1 There are no financial implications to the Council. The Council may recover its costs through fees. The fee's recover for driver's licenses can only be used for the administration of the licence. The fees cannot be used for any enforcement or ancillary work that may be created in this area.

8.0 Options

- 8.1 The Sub Committee consider the report and any representations.
- 8.2 The Sub Committee make recommendations to alter the current policies.
 - 8.2.1 To issue single joint licences.
 - 8.2.2 Issue separate licences. The Sub Committee would have to set a future implementation date to allow for the adjustments to be made to the software and issuing procedures to accommodate the changes needed. This would be around 3 months.
- 8.3 Consider the impact on current tests of applicants in relation to any changes made to the types of licences granted.
- 8.4 The Sub Committee may want to consider the current Law Commission review and if changes to the law are implemented in 2014, to give powers to the Chief Licensing Officer to changed the policy in line with any new legislation.

9.0 Recommendations

- 9.1 The Sub Committee consider this report and any representations made to it.

Stephen Lonnia
Chief Licensing Officer
12th June 2012