



General Licensing and Registration Committee

Date Thursday 12 January 2017
Time 10.00 am
Venue Committee Room 2, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Declarations of Interest (if any)
3. The Minutes of the Special Meeting held on 14 November 2016 (Pages 3 - 4)
4. Hackney Carriage and Private Hire Driver Assessments (Pages 5 - 22)
5. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham
4 January 2017

To: **The Members of the General Licensing and Registration Committee**

Councillor C Carr (Chairman)
Councillor J Maitland (Vice-Chair)

Councillors A Batey, D Bell, J Bell, J Blakey, D Boyes, P Crathorne, I Geldard, B Glass, B Graham, O Gunn, C Hampson, J Hart, D Hicks, A Hopgood, K Hopper, I Jewell, B Kellett, J Lee, T Nearney, L Marshall, P May, D Stoker, A Surtees and A Willis

Contact: Jill Errington

Tel: 03000 269703

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DURHAM COUNTY COUNCIL

At a Meeting of **General Licensing and Registration Committee** held in Council Chamber, County Hall, Durham on **Monday 14 November 2016 at 2.00 pm**

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors J Maitland (Vice-Chair), A Batey, D Boyes, B Glass, B Graham, C Hampson, D Hicks, I Jewell, B Kellett, T Nearney, L Marshall, P May and A Willis

Also Present:

O Cleugh – Consumer Protection Manager
S Buston – Solicitor (Litigation)

1 Apologies for Absence

Apologies for absence were received from Councillors J Blakey, O Gunn, J Hart, A Hopgood, K Hopper, J Lee and D Stoker.

2 Declarations of Interest

There were no declarations of interest.

3 The Minutes of the Meeting held on 14 January 2016 and 14 March 2016

The Minutes of the meetings held on 14 January and 14 March 2016 were agreed as a correct record and were signed by the Chairman.

4 Review of the Council's Statement of Gambling Policy

The Committee considered a report of the Head of Environment, Health and Consumer Protection which requested the Committee to consider a Statement of Principles (Gambling Policy) for 2016-2019 (for copy see file of Minutes).

The Consumer Protection Manager reported that the Council was responsible for issuing premises licences in accordance with the Gambling Act 2005, and the Council was required to prepare and publish a statement of principles every three years.

In February 2015 the Gambling Commission's Licence Conditions and Codes of Practice were revised and formalised the need for operators to consider local risks. The Government also recently introduced changes to the legislation to increase the stake and prizes for certain gaming machines. These new provisions had been

incorporated into the Policy and Appendix 4 of the report highlighted the proposed revisions.

The report gave details of the consultation exercise carried out and the response received was included in Appendix 3.

Councillor Glass referred to fixed odds betting terminals and the potential harm of excessive use on families. The Member asked if the Licensing Authority could liaise more closely with the Police and Social Services to protect families. The Consumer Protection Manager advised that at present data which demonstrated the harm caused by these machines was not available. The Licensing Authority already worked closely with other partners but it needed to capture data in relation to the causes of harm in the first instance. He hoped that this was an issue that the Government would seek to address as part of its review into gaming machines, together with cumulative impact.

Councillor Boyes asked how the Licensing Authority would ensure that operators completed risk assessments. The Committee was informed that existing operators in the County were responsible and compliant, and the Licensing Authority would work with premises to ensure that the new requirement was satisfied. A routine Inspection Programme would help to avoid the need for enforcement action.

Resolved:

That the proposed revised Statement of Principles under the Gambling Act 2005 as set out in Appendix 5 in the report be agreed and recommended to Council for adoption.

**General Licensing and Registration
Committee**

12 January 2016



**Hackney Carriage and Private Hire Driver
Assessments**

**Report of Joanne Waller, Head of Environment, Health and Consumer
Protection**

**Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Local Partnerships**

Purpose of the Report

- 1 For Members on the General Licensing and Registration Committee to consider the information provided by the Driver and Vehicle Standards Agency (DVSA) in the letter attached as Appendix 2.
- 2 To recommend to Council proposals for the revision of the council's Hackney Carriage and Private Hire Licensing Policy in connection with the existing requirement for new applicants to pass the DVSA hackney carriage and private hire (taxi) driver assessment with a view to adoption by Council of a revised policy.

Background

- 3 It has been the policy of DCC that new applicants for hackney carriage and private hire driver licences should have passed the DVSA (formerly DSA) taxi driver assessment test prior to the issue of a DCC licence.
- 4 The standard DVSA taxi driver assessment takes about 40 minutes to complete. It includes an eyesight test on number plate recognition together with a practical assessment including:
 - a manoeuvre where drivers are asked to turn their vehicle to face the opposite direction.
 - around 10 minutes of driving without being given turn-by-turn directions by the examiner.
 - stops at the side of the road as if a passenger is getting in or out.
 - related questions, e.g. what to do if a passenger leaves property in your vehicle.
 - questions from the Highway Code and identifying traffic signs and road markings.
 - they might also be asked to do an emergency stop.

- 5 In order to pass the assessment the driver is allowed to make 9 faults or fewer. They will fail if they accrue more than 9 faults or make a serious or dangerous fault.
- 6 In a letter dated 31st August 2016 (see Appendix 2) the DVSA announced that a decision has been made to withdraw the provision of taxi driver assessments with effect from 31st December 2016.
- 7 The wording of the DCC taxi policy requirement for new applicants to undergo a taxi driver assessment is precise and unambiguous in its meaning. The policy (Appendix 1: Drivers, page 21, Eligibility) states:

'The Council will, in considering whether an applicant is a fit and proper person to hold a driver licence require the applicant to meet the criteria set out below...

b) Driver and Vehicle Standards Agency Test

The applicant will be required to provide evidence that they have passed the Driver and Vehicle Standards Agency Hackney Carriage and Private Hire Assessment Test.'

- 8 As Council adopted a policy that was very specific in its wording in relation to this matter that it would be inappropriate and potentially open to challenge should we deviate from what is written by e.g. requiring applicants to take a different test provided by a different provider until and unless an alternative policy requirement is adopted by full Council.
- 9 It has been found that all of the available driver assessment appointments offered by the DVSA in our region between now and December 2016 have been taken and no more assessments can be booked.
- 10 As a result of the DVSA's decision, the unavailability of assessment slots and the wording of the current DCC taxi policy, the application of this particular licensing requirement was temporarily suspended. This suspension was authorised and agreed following consultation with the portfolio holder and Members serving as Chair and Vice Chairs of the Licensing and general registration Committee.
- 11 The suspension of this requirement does undermine the level of protection previously afforded to the public through the administration of the taxi policy. It will allow some new applicants to receive a taxi driving licence without having been assessed in accordance with testing DVSA requirements.

Proposals and future actions

- 12 It would not be acceptable to withhold the issue of a taxi driver's licence on the basis that the council requires applicants to pass a test that does not exist or that cannot be accessed. To mitigate against any risks we will advise all new applicants that as soon as possible suitable testing arrangements will be brought back (subject to agreement by Members) and as a requirement of the renewal of their licences, such drivers will be required to pass an alternative assessment. They will also be encouraged to pass an existing alternative assessment before or soon after receiving their licences in the interim period. Such requirements may be written in to any future policy.

- 13 The DVSA recognise the road safety benefits of the assessment and point out other potential providers of similar assessment tests exist who may be interested in providing an alternative service.
- 14 Research has identified a number of potential and existing providers of similar services.
- 15 The proposal is to maintain the existing requirement for new applicants to demonstrate 'taxi driver competency' via an assessment test prior to licensing but to alter the wording to allow for other suitable driver assessment tests to be taken, provided by alternative accredited bodies and organisations. This change should avoid the need to further revisions of the policy on this subject should other assessment providers discontinue the provision of driver assessment testing.
- 16 In the absence of a single recognised taxi driver assessment provided by a national government agency, the Council will maintain a list of assessment schemes, advanced driving qualifications and providers which it considers suitable for licensing application purposes; and that all applicants for new hackney carriage and private hire driver's licences be required to have undertaken one of these assessments or hold one of these qualifications prior to being considered for a first licence.
- 17 It is recommended that the maintenance of such a list, including addition and removal of qualifications, be delegated to the Licensing Manager. This will allow for faster maintenance of the list if suitable new assessments, providers or qualifying criteria are identified or if concerns arise around assessments and providers previously listed, as opposed to repeatedly bringing reports to the Committee.
- 18 The DVSA test be used as a benchmark for assessing alternative courses and providers. Courses will only be approved if they include content of a similar level of ability and difficulty of the DVSA taxi driver assessment.
- 19 The following revision is proposed as an alternative to the existing paragraph in Appendix 1 Drivers; 1 Eligibility b) on page 21 of the policy:
 - b) The applicant will be required to provide evidence that they have passed a suitable and satisfactory driver assessment test designed to assess the driving competency of hackney carriage and private hire drivers. Driving assessment tests and providers shall be subject to Council vetting and approval.
- 20 The suitability and satisfactory nature of taxi driver assessment tests and of assessment providers shall be determined by the Council in accordance with current guidance issued by DCC. Approval of assessment providers shall also be subject to current guidance issued by DCC. See Appendix 3 Suitability Criteria for Taxi Driver Assessment and Tests.
- 21 We carried out a short (28 day) consultation with members of the DCC Taxi Working Group who represent the taxi trade licensed by this Council. The consultation correspondence and results of the trade representative consultation are provided in Appendix 4.

- 22 It was agreed that following consultation we would report this matter to the Licensing and General Registration Committee with a view to making recommendations to Full Council at the earliest opportunity

Conclusion

- 23 The DVSA are discontinuing their taxi driver assessments which DCC requires new taxi driver applicants to pass. Alternative assessments and providers do exist.
- 24 Alternative arrangements need to be made in order to maintain a level of road safety protection and to future-proof the policy requirement.
- 25 We have undertaken consultation on the proposed revisions to the taxi policy.

Recommendations and reasons

- 26 It is recommended that the proposals concerning the revision of the taxi policy in connection with taxi driver assessments are supported by the Licensing and General Registration Committee and are recommended to Council for adoption. This will enable the currently suspended requirement for the taxi driving assessment testing of applicants to be reinstated for the benefit of public safety.

Background papers

Hackney Carriage and Private Hire Licensing Policy

Contact: Owen Cleugh Tel: 03000 260925

Appendix 1: Implications

Finance - There are no County Council related financial implications from the recommended options other than from the cost of the advertisement in the local newspaper.

Staffing - There are no human resources implications from the recommended options.

Risk - The temporary suspension of the existing assessment requirement does undermine the level of protection previously afforded to the public. It will allow some new applicants to receive a taxi driving licence without having been assessed in accordance with testing DVSA requirements. This risk can be mitigated to some degree by requiring such drivers to pass an agreed test upon renewal

Equality and Diversity / Public Sector Equality Duty - There are no equality and diversity implications from the recommended options.

Accommodation - None

Crime and Disorder - There are no crime and disorder implications from the recommended options.

Human Rights - There are no Human Rights implications from the recommended options.

Consultation - Consultation will take place with members of the DCC Taxi Working Group who represent the taxi trade licensed by this Council. We would also liaise and consult with Members of the Licensing and General Registration Committee, DVSA and partner organisations including Durham Constabulary and local road safety organisations. It is possible that this may generate responses from trade associations, individual trade members and from the media.

Procurement - There are no procurement implications from the recommended options.

Disability Issues - There are no DDA implications from the recommended options.

Legal Implications – the imposition of alternative assessments by providers other than the DVSA without any revision of current taxi policy may lead to legal challenge

Appendix 2 Letter from DVSA



**Driver & Vehicle
Standards
Agency**

02 SEP 2016

APPENDIX 2

The Axis
112 Upper Parliament Street
Nottingham
NG1 6LP

T 0115 936 6370

www.gov.uk/dvsa

Chief Executive
Local Authority
DURHAM
DH1 9HZ

31 August 2016

DVSA Taxi Driver Assessments

DVSA (and previously DSA) have been conducting Taxi Driver Assessments for participating Local Authorities since 1999. Demand has increased over the years, with a throughput in 2015-16 of approximately 23,000 and a forecast of 28,000 for the business year 2017-18.

These assessments now require considerable examiner resource, at a time when the demand for statutory tests is at an all-time high. The Agency is under pressure to reduce car test waiting times and in order to achieve this, we need to prioritise our activities.

Regrettably, a decision has been made to withdraw the provision of Taxi Assessments with effect from 31 December 2016. We understand that this will be a disappointment and inconvenience to those Local Authorities who currently require their taxi drivers to pass the DVSA assessment.

The Agency also recognises the road safety benefits of such an assessment; therefore, we would point out that there are potential providers such as road safety charities and Driving Instructor representative bodies, who may be interested in providing an alternative service. Details of these organisations can be easily obtained by submitting a general internet search.

Yours faithfully

Neil Wilson
Head of Driver and Driver Training Policy

Appendix 3 Suitability Criteria for Taxi Driver Assessment and Tests

A. Minimum Hackney Carriage and Private Hire Driver Assessment Test Requirements

General

- The assessment shall take at least 40 minutes to complete
- Applicants shall be required to present their driving licence to the examiner before the test

An Eye sight test

There shall be an eye-sight test involving the candidate reading a number plate at a distance (In accordance with current car driving test requirements):

- 20 meters for vehicles with a new style number plate
- 20.5 meters for vehicles with an old-style number plate

Note: applicants must wear glasses or contact lenses during the whole test if they need them to read the number plate. Drivers shall not be permitted to take the driving part of the assessment if they fail the eyesight test.

A Practical assessment

The practical assessment shall include:

- a. Manoeuvres involving the applicant turning and parking the vehicle e.g. to face the opposite direction
- b. Driving a route under the direction of the examiner and also driving for a set period without the applicant being given turn-by-turn directions by the examiner
- c. Stops at the side of the road to simulate a passenger getting in and out of the vehicle
- d. Related questions such as what to do if the passenger leaves items of property in the vehicle
- e. Questions taken from the highway code (<https://www.gov.uk/guidance/the-highway-code>) and identifying traffic signs and road markings
- f. Applicants shall also be asked to perform an emergency stop

The assessment shall be passed if the applicant makes up to 9 faults. Applicants shall fail if they make more than 9 faults or if they make a serious or dangerous fault during the assessment.

When the assessment is passed the applicant will be provided with:

- A pass certificate
- A copy of the assessment
- A de-brief from the examiner

Vehicle requirements

The vehicle shall meet the same requirements as for a car driving test

(<https://www.gov.uk/driving-test/using-your-own-car>) except that it can't have L-plates. A hire care shall be allowed to be used to take the test.

B. Suitability Criteria for Providers of Hackney Carriage and Private Hire Driver Assessments

To maintain the level of assessment set by the DVSA persons who carry out hackney carriage and private hire driver assessments shall meet one of the following minimum criteria:

1. Be a fully qualified driving examiner who has successfully completed the recruitment process and training requirements of the UK Driver Vehicle Licensing Authority (<https://www.gov.uk/government/publications/become-a-driving-examiner/become-a-driving-examiner>); or
2. Be DVSA approved driving instructor registered with the DVSA (for lorries, busses and or fleet assessment purposes)

Appendix 4 Consultation correspondence and results of the trade representative consultation

2nd November 2016

Dear Taxi Working Group Member,

Re: Proposals for the amendment of DCC Hackney Carriage and Private Hire Licensing Policy (taxi policy)

It is the policy of DCC that all new applicants for hackney carriage and private hire driver licences should have passed the DVSA (formerly DSA) taxi driver assessment test prior to the issue of a DCC licence. Earlier this year the DVSA announced that a decision has been made to withdraw the provision of taxi driver assessments with effect from 31st December 2016. In addition, all of the available driver assessment appointments offered by the DVSA in our region between October and December 2016 had been filled and no more driver assessments can be booked. We therefore need to amend the taxi policy to enable consistency, continuity and to maintain existing adopted standards.

The current DCC taxi policy requirement for new applicants to undergo a taxi driver assessment (Appendix 1: Drivers, page 21, Eligibility) states:

'The Council will, in considering whether an applicant is a fit and proper person to hold a driver licence require the applicant to meet the criteria set out below...'

b) Driver and Vehicle Standards Agency Test

The applicant will be required to provide evidence that they have passed the Driver and Vehicle Standards Agency Hackney Carriage and Private Hire Assessment Test.'

The wording is clear and precise but as a result it restricts assessments to the one provided by the DVSA. It would not be appropriate for the licensing authority to deviate from what is written by e.g. requiring applicants to take a different test provided by a different provider until and unless an alternative policy requirement is adopted by Council.

As a result of the DVSA's decision, the unavailability of assessment slots and the wording of the current DCC taxi policy, the application of this particular licensing requirement was temporarily suspended. This suspension was authorised and agreed following consultation with the portfolio holder and Members serving as Chair and Vice Chairs of the Licensing and general registration Committee.

Environment, Health & Consumer Protection

Licensing, PO Box 617, Durham, DH1 9HZ
Main Telephone 03000 261016

It would not be acceptable to withhold the issue of a taxi driver's licence on the basis that the council requires applicants to pass a test that does not exist or that cannot be accessed. To mitigate against any risks we will advise all new applicants that as soon as possible suitable testing arrangements will be brought back (subject to agreement by Members) and as a requirement of the renewal of their licences, such drivers will be required to pass an alternative assessment. They will also be encouraged to pass an existing alternative assessment before or soon after receiving their licences in the interim period. Such requirements may be written in to any future policy.

The proposal is to maintain the existing requirement for new applicants to demonstrate 'taxi driver competency' via an assessment test prior to licensing but to alter the wording to allow for other suitable driver assessment tests to be taken, provided by alternative accredited bodies and organisations. This change should avoid the need to further revisions of the policy on this subject should other assessment providers discontinue the provision of driver assessment testing.

In the absence of a single recognised taxi driver assessment provided by a national government agency, the Council will maintain a list of assessment schemes, advanced driving qualifications and providers which it considers suitable for licensing application purposes; and that all applicants for new hackney carriage and private hire driver's licences be required to have undertaken one of these assessments or hold one of these qualifications prior to being considered for a first licence.

It is further proposed that the DVSA test will be used as a benchmark for assessing alternative courses and providers. Courses will only be approved if they include content of a similar level of ability and difficulty of the DVSA taxi driver assessment.

The following revision is proposed as an alternative to the existing paragraph in Appendix 1 Drivers; 1 Eligibility b) on page 21 of the policy:

b) The applicant will be required to provide evidence that they have passed a suitable driver assessment test designed to assess the driving competency of hackney carriage and private hire drivers. Driving assessment tests and providers shall be subject to Council vetting and approval.

The suitability of alternative taxi driver assessments tests and of assessment providers shall be determined by the Council in accordance with guidance/information to be issued by DCC. Approval of assessment providers shall also be subject to such guidance/information.

Proposals for guidance:

Suitability Criteria for Taxi Driver Assessment and Tests

A. Minimum Hackney Carriage and Private Hire Driver Assessment Test Requirements

General

- The assessment shall take at least 40 minutes to complete
- Applicants shall be required to present their driving licence to the examiner before the test

An Eye sight test

There shall be an eye-sight test involving the candidate reading a number plate at a distance (In accordance with current car driving test requirements):

- 20 meters for vehicles with a new style number plate
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Note: applicants must wear glasses or contact lenses during the whole test if they need them to read the number plate. Drivers shall not be permitted to take the driving part of the assessment if they fail the eyesight test.

A Practical assessment

The practical assessment shall include:

- a) Manoeuvres involving the applicant turning and parking the vehicle e.g. to face the opposite direction
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- c) Stops at the side of the road to simulate a passenger getting in and out of the vehicle
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- e) Questions taken from the highway code (<https://www.gov.uk/guidance/the-highway-code>) and identifying traffic signs and road markings
- f) Applicants shall also be asked to perform an emergency stop

The assessment shall be passed if the applicant makes up to 9 faults. Applicants shall fail if they make more than 9 faults or if they make a serious or dangerous fault during the assessment.

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The vehicle shall meet the same requirements as for a car driving test (<https://www.gov.uk/driving-test/using-your-own-car>) except that it can't have L-plates. A hire care shall be allowed to be used to take the test.

B. Suitability Criteria for Providers of Hackney Carriage and Private Hire Driver Assessments

To maintain the level of assessment set by the DVSA persons who carry out hackney carriage and private hire driver assessments shall meet one of the following minimum criteria:

1. Be a fully qualified driving examiner who has successfully completed the recruitment process and training requirements of the UK Driver Vehicle Licensing Authority (<https://www.gov.uk/government/publications/become-a-driving-examiner/become-a-driving-examiner>); or

2. Be DVSA approved driving instructor registered with the DVSA (level/grade to be agreed)

In relation to the above, I am writing to you to ask for your opinions in relation to the proposals set out in this letter. Following consultation we would report this matter to the General Licensing and Registration Committee with a view to making recommendations to Full Council at the earliest opportunity.

If you wish to comment on any aspect of this proposal, please write to:

Joanne Waller (Head of Service)
Adult and Health Services
Environment, Health and Consumer Protection
PO Box 617
Durham
DH1 9HZ

Yours sincerely,

Craig Rudman
Licensing Manager

From: Craig Rudman
Sent: 09 November 2016 13:08
To:
Subject: FW: DVSA Equivalent

Dear ,

Thank you for your email, the content of which has been noted.

As you will be aware, we are currently consulting on the proposal to revise the current policy to allow for the changes brought about by the DVSA in connection with driver assessments. The Council is aware of the work undertaken by the Fire and Rescue Service.

I am unable to comment in relation to the acceptability or otherwise of your suggestions but I will add your correspondence to any other letters/emails we receive from trade reps in response to the 28 consultation exercise. All responses will be included in the report that will go before Members who will make a decision on this matter.

Best regards

Craig

Craig Rudman
Licensing Manager
Adult and Health Services

T: 03000 260090
E: craig.rudman@durham.gov.uk

Web www.durham.gov.uk
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From: Neighbourhood Services Licensing
Sent: 08 November 2016 09:05
To: Craig Rudman
Subject: FW: DVSA Equivelant

Hi Craig,

has been on the phone this morning asking for this e-mail to be forwarded to you and saying that he forgot to add that he thinks that a dvd could be shown to drivers by the fire brigade showing them the potential consequences of RTC's.

Thanks,
Laura

Laura Cloney
Licensing Enforcement Team Leader

Adult and Health Services

T: 03000 260088

E: Laura.Cloney@durham.gov.uk

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From:

Sent: 08 November 2016 08:36

To: Neighbourhood Services Licensing

Subject: DVSA Equivelant

To All concerned, As you may or not be aware Durham and Darlington fire and rescue, have their own driving instructors. These instructors are trained to a very high standard and i believe would be ideal for the purpose of examiner , replacing the DVSA test . As you are all aware the council tax payers of county Durham are responsible for financing the fire and rescue service and as such would appreciate any extra revenue toward maintaining this service.

I would ask if it were possible to have talks with DCFR Service to see if this could be an option. The New applicant would be responsible for the cost and feel sure other benefits would be gained ie. KNOWLEDGE RTCS ECT.

KEEP THINGS IN HOUSE AND IMPROVE OUR SERVICES AND COSTS.

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