

# REGULATORY SERVICES COMMITTEE

21 MARCH 2018

## PART I DELEGATED

### 6. HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER / OPERATOR PREREQUISITES (DCES)

#### 1. Summary

1.1 Three Rivers District Council are responsible for licensing Private Hire Drivers, vehicles and operators under the Local Government (Miscellaneous Provisions) Act 1976. The Council is also responsible for licensing Hackney Carriages and their drivers under the Town Police Clauses Act 1847.

1.2 At the Regulatory Services Committee on 6 December 2017, Members resolved to consult upon additions of the 'Prerequisites to become a Hackney Carriage and Private Hire Drivers and / or Private Hire Operator'. As such the proposal has been out to consultation and this report seeks to authorise an amendment to the Hackney Carriage and Private Hire Drivers / Private Hire Operator Prerequisites.

1.3 The Local Government (Miscellaneous Provisions) Act 1976 sets out that before a licence may be granted for a driver of either a Private Hire vehicle or Hackney Carriage, the Council must be satisfied that the applicant is 'fit and proper' to hold the licence.

1.4 A consultation with stakeholders took place asking for any comments on the proposal of additional training for new applicants and current drivers renewing their licences on child sexual exploitation and disability awareness with new applicants also requiring practical driving assessments. Drivers of wheelchair accessible vehicles would need to undertake a wheelchair assessment. The consultation further went on to propose that new and renewing Private Hire Operators undertake training on child sexual exploitation and disability awareness.

1.5 A total of 15 responses were received from stakeholders including local Councillors, Parish Councils and the trade. (See Appendix A)

1.6 Officers have looked at the types of training available and their associated costs.

#### 2. Details

2.1 S.51 of the Local Government (Miscellaneous Provisions) Act 1976 states "*that a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's 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 driver's licence; or*

*(b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised"*

2.2 S.55 of the Local Government (Miscellaneous Provisions) Act 1976 states "*a district council shall, on receipt of an application from any person for the grant to*

*that person of a licence to operate private hire vehicles grant to that person an operator's licence:*

*Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence."*

2.3 S.59 the Local Government (Miscellaneous Provisions) Act 1976 states:

*"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 driver's licence; or*

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

2.4 There is no legal definition of 'fit and proper' under the Local Government (Miscellaneous Provisions Act) 1976. The current requirements by Three Rivers regarding an applicant in Private Hire or Hackney Carriage driver are:

- The applicant is over 21;
- The applicant has held a UK or EU licence for at least 12 months and has at least two years' driving experience;
- An applicant completes an Enhanced Disclosure from the Disclosure and Barring Service and meets the Three Rivers District Council Hackney carriage and private hire driver and private hire operator suitability policy;
- meets the DVLA Group 2 Medical Standard;
- Passes a knowledge test.

2.5 This report considers the addition of child sexual exploitation training and disability awareness training for all driver applicants who are new or renewing their licences for Hackney Carriage / Private Hire. A practical assessment test was also proposed for all new driver applications with wheelchair assessments for drivers of wheelchair-accessible vehicles.

2.6 This report also looks at the addition of child sexual exploitation training and disability awareness training for all new and renewing Private Hire Operator applicants.

2.7 Each type of training comprises different elements with different costs involved. They are likely to be given by different training providers.

## **2.8 Consultation Process**

2.9 A consultation process to consider these future training requirements has taken place. A total of 15 responses were received. These responses came from Ward Councilors, Parish Councils, the trade and local authority departments.

2.10 The responses to the consultation are available at Appendix A attached to this report.

2.11 The majority of comments were positive and in support of the additional training requirements.

2.12 The concerns raised were over the cost of the training, who was paying for the training, whether other local authorities require their drivers and operators to undertake these requirements, whether the practical assessment for new drivers was necessary and why no English Language Test is required.

- 2.13 In response, the cost of additional training for new and renewal applicants will be kept to a minimum. In respect of who will be paying for the training, this will come direct from the applicant, with the cost either included in the license fee or as a separate payment. If however funding can be found from other sources then this would be used.
- 2.14 Many of our neighbouring authorities already have all the additional training needs in place, specifically Watford BC, Hertsmere BC and St Albans DC. In Hertfordshire this is also required by East Herts DC while Welwyn Hatfield BC have a child sexual exploitation training requirement and Stevenage BC requires a practical driving test.
- 2.15 With regard to an English language test, it is a possibility that this could form part of the Knowledge Test requirement. Dacorum Borough Council, for example, requires their applicants who cannot provide evidence that they have passed a relevant English-language qualification at a suitable level, which was assessed by a recognised and accredited qualification awarding body, to take an additional speaking and listening assessment. The cost of this external assessment is £26.50 although bulk discounts may be available.
- 2.15 A number of other comments received during the consultation process concerned the current requirements, for example accepting EU driving licenses and driving experience. The requirement to accept an EU driving license is set within law and as such is out of scope to the licensing authority.
- 2.16 An operator also requested that 'school run' drivers should be exempt from undertaking the geographical element of the existing knowledge test. Whilst this could be achievable, it would require a Condition to the license and a modification of the driver badge limiting the drivers solely to school run use.

### **3. Options/Reasons for Recommendation**

- 3.1 The options available to the Committee are:
1. To agree to the addition of the following training for all new or renewing driver applicants for Hackney Carriage / Private Hire licences :
    - Child Sexual Exploitation training
    - Disability Awareness training
    - Wheelchair assessments for drivers of wheelchair accessible vehicles Practical assessment tests for new driver applications.
  2. To agree to the addition of the following training for all new or renewing driver applicants for Private Hire Operator licences :
    - Child Sexual Exploitation training
    - Disability Awareness training
  3. Using e-learning modules for Child Sexual Exploitation Training and Disability Awareness Training is not recommended as we are unable to provide suitable IT facilities and as such we do not know who has completed the e-learning course.
  4. To agree to the addition of certain parts of the training requirements.
  5. To leave the prerequisites as they are at present if they do not feel that this type of additional training is required.

### **3.2 Child Sexual Exploitation training**

3.3 A request has been received from the Head of Community Partnerships and Three Rivers District Council Safeguarding Lead, that all new applicants receive training on Child Sexual Exploitation.

3.4 Currently drivers receive a driver handbook produced by Hertfordshire Constabulary as part of Operation Halo and the “Say something if you see it” campaign but there is no requirement that this handbook is read by the driver.

3.5 It is considered that actual training will ensure the information is passed to all drivers. There are a number of ways in which this training can be provided; this can be classroom-based or delivered through an e-learning programme.

3.6 Under the Policing and Crime Act 2017, the Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm. While they have yet to provide guidance, it is very likely that each driver would require training on Child Sexual Exploitation.

3.7 Protecting all passengers lies at the heart of taxi and Private Hire Vehicle licensing systems. However, recent cases have shown that licensing authorities must ensure that their licensing regimes effectively protect some of their most vulnerable residents, including children at risk of sexual exploitation.

3.8 Sadly, both licensed premises and licensed vehicles have been used as opportunities to sexually exploit children, as recent high-profile cases have underlined. The Government commissioned Dame Louise Casey CBE to investigate reports into the governance of Rotherham Council following widespread allegations of child sexual exploitation. Her subsequent review contained two chapters on the role that licensing could and should have played in preventing some of this exploitation.

The full report and documents relating to the Rotherham investigation can be found at:

<https://www.gov.uk/government/collections/inspection-into-the-governance-of-rotherham-council>

3.9 It is important to recognise that this is a subject that needs to be sensitively handled to avoid drivers feeling that they are being treated as potential criminals. However, the sensitivity around the subject must not mean that the issue is not discussed or that training is not provided.

There are two particular points licensing authorities should be aware of:

The first is that we know that many victims of exploitation are too traumatised for investigations to proceed to court, meaning that issues do not always show up through disclosure. This makes additional soft intelligence from all other sources critical to licensing deliberations.

The second is that taxi and PHV drivers can be a valuable source of intelligence about exploitation if they know what to look for. For this reason, many councils now make child sexual exploitation training a mandatory part of the licensing application process, which the Local Government Association supports.

3.10 Having looked into the different types of training, whilst there are a number of courses available on child sexual exploitation, there are very few providers that tailor this specifically to drivers and operators.

- 3.11 Should the amendments be granted, the cost from the providers sourced for an e-learning module available from *Barnardo's* is £15 + VAT per person. For suppliers to provide a training session the cost would vary depending on the number of participants at any one time. This training came at a cost of between £500 - £750 + VAT per session. This is totalling between £18 - £35 + VAT per person.
- 3.12 The cost of this training can either be paid directly to the training provider or be included in the cost of the initial licence fee.
- 3.13 If the route taken is e-learning then our knowledge test would be modified to include questions on Child Sexual Exploitation to ensure understanding by the applicant.
- 3.14 Disability Awareness training**
- 3.15 As part of its report and the Draft Bill on Taxi and Private Hire (published on 23 May 2014) the Law Commission said: "We will continue to recommend that all drivers should undergo **disability awareness training.**"
- 3.16 Although this Bill has not yet been passed it would again be best practice for the authority to implement a training requirement for new and renewing drivers and operators.
- 3.17 As Members are aware, the Disability Discrimination Act, was replaced by the Equality Act 2010 yet many Private Hire Vehicle (PHV) and Taxi Operators do not fully understand the implications this has for them as service providers and employers. Similarly, not every PHV and Taxi Driver understands their obligations, not only for themselves but for disabled people and their families.
- 3.18 For this reason it is felt that Private Hire and Hackney Carriage drivers should have a basic understanding of the following:
- What is disability?
  - The different types of disability
  - Legislation regarding customers and disability discrimination
  - Legislation regarding employees and disability discrimination
  - Practical advice on how to meet the needs of disabled people whether they are customers or colleagues.
- 3.19 There are again different ways in which this could be taught, either through classroom-based training or e-learning.
- 3.20 Having looked into the different types of training, while there are a number of courses available on disability awareness there are very few providers which are tailored specific to Hackney Carriage / Private Hire Drivers and Private Hire Operators.
- 3.21 From the providers sourced there is an e-learning module available at a cost £25 + VAT per person. Having specifically looking at this for Hackney Carriage / Private Hire Drivers and Private Hire Operators there are only a few courses available which are classroom-based. The available courses would have an approximate fee of £35.
- 3.22 Costs would depend on the avenue taken and whether child sexual exploitation training and disability awareness training could be provided by the same provider.
- 3.23 The cost of this training can either be paid directly to the training provider or be included in the cost of the initial licence fee.

- 3.24 If the route taken is via an e-learning module then our Knowledge Test can be modified to include questions on disability awareness to ensure understanding by the applicant.
- 3.25 Private Hire and Hackney Carriage driving assessments**
- 3.26 The Driver and Vehicle Standards Agency (DVSA) had devised an assessment for driving ability specifically for Private Hire and Hackney Carriage drivers.
- 3.27 The previous test, which took about one hour, included a driving test. Drivers were asked to carry out a series of driving manoeuvres. At the end of the test the examiner asked a series of questions from the Highway Code on road signs.
- 3.28 While the DVSA have discontinued facilitating this test, there are a number of providers that can carry out an assessment to DVSA standards. These providers include companies / charities and driving associations such as the AA, the *Blue Lamp Trust*, *Diamond* and *Greenpenny* to name a few.
- 3.29 Many of these providers can also provide Enhanced Assessment for drivers of wheelchair accessible vehicles which include the following:
- that their eyesight meets the legal requirements;
  - a safe standard of driving;
  - manoeuvres where they will be asked to turn their vehicle around to face the opposite direction;
  - driving with and without being given turn-by-turn instructions;
  - a stop at the side of the road as if a passenger is getting in or out their knowledge on related questions, such as what to do if a passenger leaves property in their vehicle; (this may need to be made clearer)
  - their knowledge on questions from the Highway Code and identifying traffic signs and road markings;
  - an emergency stop (they may be asked to carry this out).
- 3.30 Where an Enhanced Assessment is required the driver will also be assessed on their ability to:
- safely load and unload a wheelchair in their vehicle;
  - use the wheelchair brakes to secure and release it;
  - fasten the seatbelts or safety harness;
  - secure any wheel belts or clamps fitted to the vehicle.
- 3.31 The assessment is designed to match the assessment that is has been phased out by the DVSA therefore ensuring that local authorities maintain the consistency with the DVSA assessment. A certificate will be provided on completion of the assessment which will provide the local authority with the confirmation needed to meet their current requirements.
- 3.32 The costs of these tests are approximately £80 per person including VAT for the Private Hire and Hackney Carriage Standard assessment test and £100 per person for the Enhanced Assessment. The wheelchair assessment is also available separately for approximately £30 per person. Many of our neighbouring authorities either already have implemented the practical test and wheelchair assessment or are currently adding the tests to their requirements.
- 3.33 This training will be provided by an external provider as listed in item 3.28. The cost of this assessment will be met by the applicant who will pay the provider directly.

#### **4. Policy/Budget Reference and Implications**

4.1 The recommendations in this report are within the Council's agreed budgets but require a modification to criteria for drivers in assessing whether an applicant is fit and proper to hold a licence.

#### **5. Financial Implications**

5.1 The applicant would be required to pay for the additional requirements direct to the service providers.

5.2 There may be a small cost in administering the training for child sexual exploitation and disability awareness. This cost could be recovered through the licence fee.

5.3 The addition of more requirements may unfortunately discourage applicants from applying for a licence even though this is not the intention of adding them. Any loss of income due to reduction in demand is unquantifiable at this stage and will be monitored and reported through budget monitoring as required.

#### **6 Legal Implications**

6.1 There is no legal definition to determine whether an applicant is 'fit and proper' to hold a licence. It is for the Council to determine its requirements as detailed in the Three Rivers District Council Hackney carriage and private hire driver and private hire operator suitability policy.

6.2 If the cost of training is included in the licence fee, then there is a risk to potentially challenge the fee. Any fee set must be justified to the cost of the training.

#### **7 Equal Opportunities Implications**

##### **7.1 Relevance Test**

Has a relevance test been completed for Equality Impact?	No
Did the relevance test conclude a full impact assessment was required?	No

##### **7.2 Impact Assessment**

There is no detrimental impact likely towards any protected group from amending the pre-requisites for hackney carriage or private hire drivers and / or private hire operator licences. Any consultation with the public will seek to collect relevant demographic data in order to assess the different views of relevant protected groups if any.

#### **8. Staffing Implications**

8.1 The addition of these prerequisites would make the determination of a licence longer to assure compliance with the appropriate training. There may be some additional administration but this would be covered within current staffing levels.

#### **9. Environmental Implications, Public Health implications, Customer Services Centre Implications**

9.1 None specific.

**10. Community Safety Implications**

- 10.1 This policy seeks to improve community safety as it sets out how the Council will determine applications for Private Hire and Hackney Carriage applicants.
- 10.2 The policy will help to ensure we protect the health and wellbeing of the most vulnerable people in our community.

**11. Communications and Website Implications**

- 11.1 If the recommendation is approved, the Three Rivers District Council website would require amendment. There are no other Communications and Website Implications.

**12. Risk Management and Health & Safety Implications**

- 12.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council’s duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

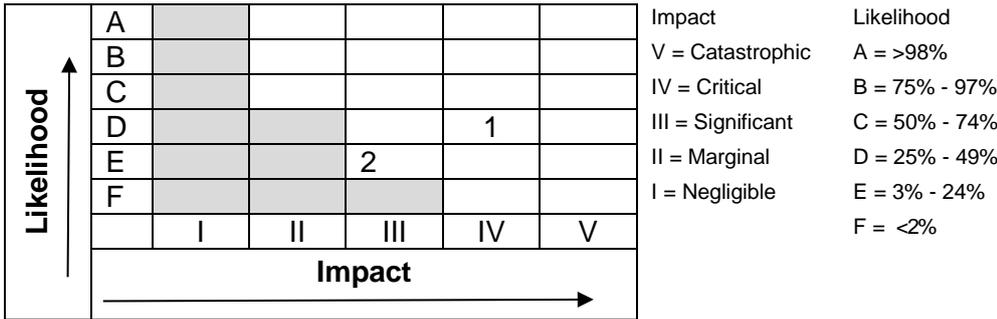
- 12.2 The following table gives the risks if the recommendation(s) are agreed, together with a scored assessment of their impact and likelihood:

Description of Risk		Impact	Likelihood
1			

- 12.3 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk		Impact	Likelihood
1	Risk of being compared to Rotherham Council if the CSE element is rejected as this would now be classed as best practice	IV	D
2	A weak criteria for drivers would not match the Council’s duty of care to the public	III	E

- 12.4 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



- 12.5 In the officers’ opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are

therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

### **13. Recommendation**

13.1 That members of the Committee agree that:

- 1) Additional training for Child Sexual Exploitation, Disability Awareness and a Practical Driving Assessment (including a Wheelchair Assessment for Drivers of Wheelchair Accessible Vehicles) are added as a prerequisite in applying for a Hackney Carriage / Private Hire Driver licence.
- 2) Additional training for Child Sexual Exploitation and Disability Awareness are added as a prerequisite in renewing a Hackney Carriage / Private Hire Driver licence.
- 3) A Hackney Carriage / Private Hire Driver of a Wheelchair Accessible Vehicle undertake a Wheelchair Assessment before renewing their licence.
- 4) Child Sexual Exploitation and Disability Awareness training are added a prerequisite for applying for or renewing a Private Hire Operator Licence.
- 5) If these prerequisites are not passed then the applicant has failed to make a complete application and so would not be considered fit and proper to hold such a licence.
- 6) That the Head of Regulatory Services be authorised to decide on the appropriate training / assessment providers.
- 7) The Head of Regulatory Services is approved to make amendments to the Knowledge Test.

Report prepared by: ***Brad Wheeler, Licensing Officer***  
**Data Quality**

Data sources:

None

### **Background Papers**

#### **APPENDICES / ATTACHMENTS**

**APPENDIX A: Consultation responses.**

**APPENDIX B: Current criteria for driver's document.**