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TRAFFORD COUNCIL

AGENDA PAPERS FOR PUBLIC PROTECTION SUB-COMMITTEE MEETING

Date: Thursday, 18 January 2018

Time: 6.30 pm

Place: Committee Rooms 2 & 3 Trafford Town Hall, Talbot Road, Stretford,
Manchester, M32 0TH

| A G E N D A | PART I | Pages |
|---|---------------|--------------|
| 1. ATTENDANCES | | |
| To note attendances, including Officers and any apologies for absence. | | |
| 2. MINUTES | | |
| To receive and if so determined, to approve as a correct record the Minutes of the meeting held on 4 th December 2017. | | |
| 3. INTRODUCTION OF A KNOWLEDGE TEST AND CHANGES TO THE CURRENT ENGLISH LANGUAGE TEST FOR ALL NEW HACKNEY CARRIAGE/PRIVATE HIRE DRIVER APPLICANTS | | |
| To consider a report of the Head of Regulatory Services. | | |
| 4. URGENT BUSINESS (IF ANY) | | |
| Any other item or items (not likely to disclose “exempt information”) which, by reason of special circumstances (to be specified), the Chairman of the meeting is of the opinion should be considered at this meeting as a matter of urgency. | | |

THERESA GRANT
Chief Executive

Public Protection Sub-Committee - Thursday, 18 January 2018

Membership of the Committee

Councillors M. Cornes (Chairman), J. Holden (Vice-Chairman), Mrs. A. Bruer-Morris, D. Bunting, A. Duffield, M. Freeman, Mrs. D.L. Haddad, D. Jarman and E.W. Stennett

Further Information

For help, advice and information about this meeting please contact:

Natalie Owen, Democratic & Scrutiny Officer

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This agenda was issued on **Tuesday, 9 January 2018** by the Legal and Democratic Services Section, Trafford Council, Trafford Town Hall, Talbot Road, Stretford M32 0TH.

PUBLIC PROTECTION SUB-COMMITTEE

4 DECEMBER 2017

PRESENT

Councillor M. Cornes (in the Chair).

Councillors J. Holden (Vice-Chairman), Mrs. A. Bruer-Morris, D. Bunting, A. Duffield, M. Freeman, Mrs. D.L. Haddad and E.W. Stennett

In attendance

| | |
|-------------|-----------------------------------|
| J. Boyle | - Licensing Team Leader |
| J. Stoddart | - Enforcement Support Officer |
| S. Lenahan | - Solicitor (Litigation) |
| E. Sharples | - Legal Executive (Litigation) |
| R. Worsley | - Democratic and Scrutiny Officer |

Also Present

Councillor B. Brotherton (Substitute for Councillor D. Jarman)

APOLOGIES

An apology for absence was received from Councillor D. Jarman

22. MINUTES

RESOLVED: That the minutes of the Public Protection Sub-Committee meeting held on 19th October 2017 be approved as a correct record and signed by the Chairman.

23. EXCLUSION RESOLUTION (REMAINING ITEMS)

RESOLVED: That the public be excluded from this meeting during consideration of the following items on the agenda because of the likelihood of disclosure of "exempt information" which falls within one or more descriptive category or categories of the Local Government Act 1972, Schedule 12A, as specified.

24. SERIES OF COMPLAINTS REGARDING THE CONDUCT OF A TRAFFORD LICENSED HACKNEY CARRIAGE DRIVER

The Head of Regulatory Services submitted a report requesting Members to consider a series of complaints which had been received by the Licensing Service regarding the same driver.

The driver attended the meeting to enable members to give the matter their full consideration.

Public Protection Sub-Committee
4 December 2017

The driver provided the Sub-Committee with an outline of what he said were the circumstances of the complaints.

The driver and his solicitor also answered questions from Sub-Committee Members.

The Sub-Committee considered three complaints, in relation to the recent complaint; the Sub-Committee noted that you denied the allegation. However, having considered the written evidence, they were of the view that it was more than probable that the incident had occurred as described by the Civil Enforcement Officer.

The Sub-Committee considered the evidence put forward by the Licensing Officers and the responses to questions about the allegations by the driver's solicitor and concluded that the driver was not a fit and proper person to hold a Hackney Carriage driver's licence.

RESOLVED: That Mr. K's Hackney Carriage driver's licence be suspended for one month.

The meeting commenced at 6.00 pm and finished at 7.08 pm

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 18th January 2018
Report of: Head of Regulatory Services

Report Title

Introduction of a Knowledge Test and changes to the current English Language Test for all new Hackney Carriage/Private Hire Driver Applicants

Summary

To seek approval to consult on a proposal to re-introduce a local area knowledge test and a proposal to raise the level of the English language test for all new hackney carriage/private hire driver applicants.

Recommendation(s)

To recommend that the Sub-committee agree that officers consult on the following proposals:

- That all those submitting an application for a private hire/hackney carriage driver's licence on or after the 'Knowledge Test' introduction date be required to pass a local area knowledge test as part of the application process.
- That those submitting an application for a private hire/hackney carriage driver's licence on or after the introduction date are able to meet the language level which has been set for those seeking to apply for naturalisation as a British citizen; or have passed a relevant qualification at an equivalent level.
- That those submitting an application for a private hire or hackney carriage driver's badge on or after the introduction date be granted a dual private hire/hackney carriage driver's licence (on the basis that the test requirements will now be the same)
- That the Director of Growth and Regulatory Services be authorised to determine the introduction date and content of the knowledge test; and the introduction date of the English Language test.

Contact person for access to background papers and further information:

Name: Joanne Boyle
Extension: 4129

1.0 Background

Local Area Knowledge Test

On the 24th September 2015 the Public Protection Sub-Committee resolved to remove the requirement for applicants for a private hire/hackney carriage driver's licence to pass a local area knowledge test and widen the criteria for acceptable proof of competence in English.

A copy of the report which was considered by the Sub-Committee on the 24th September 2015 outlining the background and reasons for the recommendation is attached at Appendix 1.

In October 2015 the Deregulation Act introduced an amendment to the Local Government (Miscellaneous Provisions) Act 1976 which changed the regulation in relation to sub-contracting work outside of the controlled district i.e. local authority area. Previously, operators could only sub-contract bookings within their controlled district. However, the Deregulation Act now allows operators to sub-contract bookings to licensed operators outside of the controlled district.

Historically, prospective drivers submitted applications to the district in which they intended to work. However, recent case judgments, together with the introduction of the Deregulation Act, has resulted in persons applying to their neighbouring authorities for a licence; and increasingly to local authorities some distance from their own authority because it may be cheaper and/or less onerous to apply there.

Since Trafford introduced its policy of no local knowledge test and basic English language test it has received several thousand expressions of interest in acquiring a licence from Trafford. Significant numbers of these are from persons living out of the area. In the absence of a local knowledge test there appears to be a perception with applicants that it is easier to obtain a licence in Trafford than other authorities.

The original recommendation to remove the knowledge test was based on the concept that the development of new technology (sat navs), negated the need for a test. However, the current market conditions and changes to the profile of the taxi trade has led to a large waiting list with a large number of persons on the list living a significant distance outside the area.

It is now felt that re-introducing a local area knowledge test together with a higher English language test will result in a better system for assessing the suitability of applicants to be licensed by Trafford and ultimately a better customer experience.

English Language Test

Adequate communication skills and language proficiency are considered essential for the work of a hackney carriage or private hire vehicle driver. Drivers need to correctly understand and follow directional instructions from a passenger, to effectively handle fare disputes and be able to give and follow instructions in an emergency situation

which may be stressful. It is also vital that licensed drivers understand and adequately communicate when they are the subject of complaint or enforcement interventions.

The Council's current English language requirement is:

- Any UK qualification – Degree, A/O Level, GCSE; or
- A non- UK degree in English; or
- ESOL qualification at Entry 2 from any accredited UK college.

Since the introduction of this requirement the Council has received feedback from members of the public that some drivers are not able to communicate in English to an adequate level. Enforcement officers have also experienced difficulties communicating with drivers when undertaking enforcement action, even where the drivers have previously provided the above qualifications. Investigations with the awarding body for the qualification (ESOL Level 2) have confirmed that the candidates were legitimately passed; the problem is more to do with the fact that this is a very basic level qualification. Officers have reviewed the current requirements and would recommend that the Sub-Committee consider increasing the current basic standard to that expected for those seeking to apply for naturalisation as a British citizen.

The requirement for any test of this type would need to be applied equally to all applicants, including those who may be expected to speak English as a first language by virtue of their country of birth. However, it is proposed to exempt an applicant from the proposed English test requirement if they can demonstrate that they have previously passed a relevant English language qualification at a suitable level.

It is proposed that the following form the basis of an English language test:

- Common European Framework of Reference for Languages (CEFR) – Level B1 (Citizenship test); or
- GCSE, GCE, O level, or A level issued by a recognised examining body in the UK; or
- An NVQ, City and Guilds or similar vocational qualification (level 2 or higher) issued by a recognised examining body in the UK; or
- A degree taught or researched in English; or
- A TOEFL (Test of English as a Foreign Language), IELTS (International English Language Testing System) or ESOL qualification to relevant CEFR level; or
- That delegated authority be granted to nominated officers within the Licensing Team who, in appropriate and limited circumstances, will conduct an individual assessment on an applicant's competence in English when there is a problem supplying proof by one of the above methods.

Dual Private Hire/Hackney Carriage Driver's Licence

It is proposed that if a local area knowledge test is introduced the content will be equivalent to the level previously expected of hackney carriage driver applicants. Therefore, it is proposed that applicants for a private hire or hackney carriage driver

licence will be granted a dual badge. This will allow the applicant to drive both private hire and hackney carriage vehicles and will hopefully address the concerns raised by the hackney carriage trade of a lack of hackney carriage drivers licensed in Trafford.

AGMA Approach

The AGMA Wider Leadership Team, under the auspices of the Greater Manchester Clean Air Action Plan, has agreed to the development of a more co-ordinated approach to taxi and private hire licensing practice and policy across Greater Manchester.

As part of this approach it has been agreed that the GM Licensing Managers group work towards introducing common minimum standards across Greater Manchester in respect of the taxi and private hire regime.

Where authorities find their standards fall short of the agreed minimum standards, each authority will be expected to undertake a process of amending and updating their policies and procedures. The list of common minimum standards has now been agreed and includes a standard that each GM authority has a local area knowledge test and an English and numeracy test. Trafford is currently the only Greater Manchester authority without a knowledge test, which gives further impetus to the need to review the current policy.

Consultation

It is proposed to carry out an eight week public consultation between March and April 2018, to include the general public, the existing private hire/hackney carriage trades and those persons on the current waiting list. The results of the consultation will be reported back to the Sub-Committee at its meeting in May 2018.

Recommendations

That the Sub-committee agree that officers consult on the following proposals:

- That all those submitting an application for a private hire/hackney carriage driver's licence on or after the 'Knowledge Test' introduction date be required to pass a local area knowledge test as part of the application process.
- That those submitting an application for a private hire/hackney carriage driver's licence on or after the introduction date are able to meet the language level which has been set for those seeking to apply for naturalisation as a British citizen; or have passed a relevant English language qualification at a suitable level.
- That those submitting an application for a private hire or hackney carriage driver's badge on or after the introduction date be granted a dual private hire/hackney carriage driver's licence.

That the Sub-Committee also agree:

- That the Director of Growth and Regulatory Services be authorised to determine the introduction date and content of the knowledge test; and the introduction date of the English Language test.

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TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 24th September 2015
Report of: Head of Regulatory Services

Report Title

PROPOSED CHANGES TO THE HACKNEY CARRIAGE/PRIVATE HIRE DRIVER APPLICATION REQUIREMENTS

Summary

The report outlines the outcome of a review of the current taxi driver application procedure following an increase in the number of potential applicants for a licence.

It is proposed to change the current requirements in respect of English language skills; and local area knowledge and training, in order to reduce delays in the application process whilst maintaining driver standards.

Recommendation(s)

It is recommended that the Sub-Committee agrees to:

- extend the range of acceptable qualifications to prove English language skills;
- remove the requirement to pass a local area knowledge test but introduce a condition that all drivers must carry a working satellite navigation system; and
- extend the length and scope of the driver induction course.

Contact person for access to background papers and further information:

Name: Joanne Boyle
Extension: 4129

Iain Veitch
Head of Regulatory Services

1. BACKGROUND

- 1.1 The Council's current hackney carriage/private hire driver licence application procedure consists of five stages:

Stage One – English, numeracy and verbal communication test

- 1.2 In October 2013 the Council introduced a requirement that any person wishing to apply for a hackney carriage/private hire driver's licence must pass an ESOL Entry 2 in English and Numeracy. The requirement applied to all persons irrespective of their educational background or if English was their first language.
- 1.3 The assessments are carried out once a month at the Town Hall by Bolton College. The cost is £40 which is paid in full to the College.
- 1.4 Bolton College are only able to supply an ESOL (English Speakers of Other Languages) assessor once a month. Each session takes fourteen candidates only.
- 1.5 There has been a recent increase in the numbers of people wishing to take the assessment in order to apply for a licence. This is primarily because of the decision by Rossendale Council to review its policy on intended use. The result is that the current waiting time for a place on the assessment is six months.

Stage Two – Application & DBS forms submitted

- 1.6 All applicants are required to submit an application form with supporting documents; a DBS disclosure form and the application fee.

Stage Three – Induction course

- 1.7 All applicants must complete an 'in house' induction course which consists of:

Licensing conditions and legislation framework
Customer Care
Disability Awareness

Stage Four – Knowledge Test

- 1.8 All applicants must pass a knowledge test which is delivered 'in house' and consists of a written test on places of interest, pubs, clubs and restaurants; routes; and private hire driver conditions and hackney carriage byelaws. The current pass rate is 25%.

Stage Five – Medical

- 1.9 All applicants must undergo a Group 1 medical with their own doctor.
- 1.10 Should a candidate pass the knowledge test on the first occasion it would on average take eight months to be granted a driver's licence due to the current waiting times and volume of potential applicants.

2. PROPOSED CHANGES TO THE DRIVER APPLICATION PROCESS

- 2.1 Officers have been asked to propose changes to the current requirements in respect of English language skills; local area knowledge and training, in order to reduce delays in the application process whilst maintaining driver standards.

English Language Skills Assessment

- 2.2 The current system requires that all applicants, irrespective of education or background, must pass an assessment undertaken by the Council's specific provider Bolton College. This requirement is extremely restrictive meaning, for example, a person with a degree in English must currently wait six months to take the assessment before they can apply for a licence. Also, the Council is currently reliant on Bolton College to provide an assessor who is only available once a month which limits the number of candidates who can be assessed at any one time.

Proposal 1

It is proposed to extend the range of acceptable qualifications to prove English language skills as follows:

Any UK qualification - degree, A/O level, GCSE; or
A non-UK degree in English; or
ESOL qualification at Entry 2 from any accredited UK College

Qualification certificate to be produced on application for a hackney carriage/private hire driver's licence

Local Area Knowledge Test

- 2.3 Anecdotal evidence suggests that one of the reasons for the increase in out of area drivers working in Trafford is the lack of available licensed Trafford drivers. The main reason for the lack of Trafford drivers is that few applicants pass the Council's current knowledge test the first time; and many take several attempts to pass resulting in long delays.
- 2.4 Officers have received complaints from both the hackney carriage and private hire trades that the knowledge test is simply a memory test and is out of date.
- 2.5 The Law Commission in its recent review made a series of far reaching recommendations in respect of taxi and private hire services. It recommended that private hire services should not be subject to locally imposed topographical knowledge tests.

'Satellite navigation technology is widely if not universally used. The Law Commission suggests that local topographical knowledge tests for private hire drivers is an unnecessary regulatory requirement and they see no need for licensing authorities to require them.'

- 2.6 It could be argued that the Council's current requirement to pass a local area knowledge test in its current format has had a detrimental effect on the quantity of hackney carriage and private hire drivers in Trafford.
- 2.7 In the light of technological advances, it is suggested that a knowledge test is no longer necessary to determine the 'fit and proper person test' for both hackney carriage and private hire drivers.

Proposal 2

It is proposed to remove the requirement for applicants to pass a local area knowledge test but introduce a condition that all drivers must carry a working satellite navigation system.

Hackney Carriage/Private Hire Induction Course

- 2.8 The Council currently requires that all applicants attend an induction course which focuses on the roles and responsibilities of being a taxi or private hire driver. It is proposed that a greater emphasis be placed on training applicants on customer care and disability awareness; how to work within local authority guidelines and national legislation; and a greater awareness of child sexual exploitation and how to report any concerns.
- 2.9 It is suggested that delivering 'in house' would give the Council greater control over course content, delivery and effectiveness, and post-course reinforcement; and would also allow the Council to tailor the course content to address localised practice, policy, procedures and conditions.

Proposal 3

It is proposed to require all applicants to complete a driver induction course consisting of:

Licensing conditions and legislation framework

Customer care

Wheelchair access and disability awareness

Child sexual exploitation awareness

3. CONSULTATION

- 3.1 At its meeting on the 20th August 2015 the Sub-Committee agreed that officers should undertake a four week consultation with the trade on these proposals. It also agreed that the proposals and the results of the consultation should be reported back to the Sub-Committee for consideration at this evening's meeting.
- 3.2 Officers wrote to all 950 licensed drivers to invite them to take part in the consultation by completing an on-line survey. The last date to complete the survey or submit comments is the 22nd September 2015. A full analysis of the results of the survey will be available at the meeting. An analysis of the survey

results received at the time of writing is attached at Appendix A together with respondent's comments and separate email responses.

4. RECOMMENDATIONS

4.1 The Sub-Committee is invited to consider the report and the responses received following the consultation exercise, and decide whether to:

- extend the range of acceptable qualifications to prove English language skills;
- remove the requirement to pass a local area knowledge test but introduce a condition that all drivers must carry a working satellite navigation system; and
- extend the length and scope of the driver induction course.

4.2 The Sub-Committee is also invited to agree the implementation date for any proposed changes to the application procedure. Officers are currently working on an appropriate effective date which will allow for additional training of staff; and a review of the need for any additional resources in the short-term to deal with a possible increase in demand.

