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TRAFFORD
COUNCIL

AGENDA PAPERS FOR PUBLIC PROTECTION SUB-COMMITTEE MEETING

Date: Thursday, 20 September 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 23 rd August 2018.		
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.		

JIM TAYLOR
Interim Chief Executive

Public Protection Sub-Committee - Thursday, 20 September 2018

Membership of the Committee

Councillors A. Duffield (Chairman), D. Jarman (Vice-Chairman), B. Brotherton, D. Bunting, Mrs. D.L. Haddad, J. Holden, D. Jerrome, S. Thomas and M. Whetton

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 Wednesday, 12 September 2018 by the Legal and Democratic Services Section, Trafford Council, Trafford Town Hall, Talbot Road, Stretford, M32 0TH.

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PUBLIC PROTECTION SUB-COMMITTEE

23 AUGUST 2018

PRESENT

Councillor A. Duffield (in the Chair).

Councillors B. Brotherton, D. Bunting, Mrs. D.L. Haddad, J. Holden, D. Jerrome, S. Thomas and M. Whetton.

In attendance

Graeme Levy	Regulatory Services Manager (Trading Standards & Licensing)
Donna Grey	Enforcement Support Officer
Keiran Hinchcliffe	Senior Licensing Officer
Caroline Myers	Legal Executive
Alexander Murray	Democratic and Scrutiny Officer

APOLOGIES

An apology for absence was received from Councillor D. Jarman

11. MINUTES

RESOLVED: That the minutes of the meeting 19 July 2018 be agreed as an accurate record and signed by the Chairman.

12. 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.

13. DRIVER CONDUCT ON 29TH JANUARY 2018

Mr A. A. M was not in attendance as he was not in the country due to personal reasons so the matter was to be heard in his absence and his solicitor stood in for him. The Chair explained that the case had been deferred from the last meeting whilst additional information was collected and given to the Sub-Committee. The information had now been received and seen by the Sub-Committee. The Solicitor gave Mr A. A. M's response to the updated information. The Sub-Committee then asked a series of questions which Mr A. A. M's solicitor answered in accordance with the instructions that she had received from him.

RESOLVED -

- 1) That the Sub-Committee unanimously agreed to revoke the licence of Mr A. A. M 21 days after the receipt of the letter.

- 2) That the details of the case are to be sent on to surrounding local authorities.

14. INAPPROPRIATE CONDUCT BY PRIVATE HIRE DRIVER

The Regulatory Services Manager presented a report and appendices to the Sub-Committee and requested that members consider a complaint from Greater Manchester Police regarding the conduct of a Trafford Licensed Private Hire Driver. The report covered two separate incidents one when the driver was driving a vehicle for private hire work and another incident when he was driving his personal vehicle.

Once the Regulatory Services Manager had concluded his report the drivers' solicitor gave the drivers account of the incidents in question and answered the Sub-Committee's questions.

RESOLVED: That Mr S. M's Private Hire driver's licence be revoked.

The meeting commenced at 6.30 pm and finished at 8.09 pm

TRAFFORD COUNCIL

Report to: Public Protection Sub-Committee
Date: 20th September 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 invite Members to consider re-introducing a local area taxi 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)

The Sub-Committee to consider whether to agree to the following proposals:

- That all those submitting an application for a private hire/hackney carriage driver's licence on or after the implementation date be required to pass a local area knowledge test as part of the application process and that there be a corresponding increase in the fee to cover associated costs.
- That those submitting an application for a private hire/hackney carriage driver's licence on or after the implementation date must satisfy the Council that they 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.

The following are acceptable as proof of the English language standard:

- Common European Framework of Reference for Languages (CEFR) – Level B1 Speaking & Listening (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, taught in the English language, (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 at a level which provides equivalence to the CEFR level B1 speaking and

listening.

- That delegated authority be granted to a nominated officer in Regulatory Services, in appropriate and limited circumstances which are to be determined by them, to conduct an individual assessment on an applicant's competence in English when there is a problem supplying proof by one of the above methods.
- That the Corporate Director for Place be authorised to approve the content of the knowledge test; and the implementation date of both the knowledge and the English Language tests.

Contact person for access to background papers and further information:

Name: Joanne Boyle

Extension: 4129

Background Papers

Appendix 1 - Report of Public Protection Sub-Committee from 24th September 2015

Relationship to Policy Framework/Corporate Priorities	None
Financial	It is proposed to increase the existing taxi driver application fee as a result of the introduction of a knowledge test and this is in line with the need for the licensing service to be operated on a cost recovery basis. The fee was not decreased after the removal of the knowledge test, however, around that time the taxi induction course was supplemented by new input on CSE which was broadly comparable in terms of capacity. A new fee has not yet been set as this will be dependant on the format of the test and the officer time involved.
Legal Implications:	Hackney carriage and private hire licensing is the function of the Council. The statutory powers are contained within the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976. The Council is required to issue a hackney carriage or private hire driver's licence provided it is satisfied that the applicant is fit and proper to hold such a licence. It is for the Authority to determine the criteria by which it can 'measure' if an applicant is fit and proper to hold a licence.
Equality/Diversity Implications	An equality impact assessment was undertaken to assess if these proposals could result in less favourable treatment of some groups. Analysis does indicate that there is potential for indirect discrimination in relation to the protected characteristics of race. However, it is considered that the policy for requiring an adequate level of spoken English can be objectively justified as the pursuit of a legitimate aim on the grounds that there is a need to ensure that any health and safety risks to users of the service are addressed in relation to the duty the Council owes to the general public in terms of the licensing function.
Sustainability Implications	None
Staffing/E-Government/Asset Management Implications	It is proposed that the administration of the knowledge test will be carried out by existing staff.
Risk Management Implications	None
Public Health Implications	None
Health and Safety Implications	None

1.0 Background

Local Area Knowledge Test

- 1.1 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.
- 1.2 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.
- 1.3 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.
- 1.4 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.
- 1.5 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. 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.
- 1.6 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.
- 1.7 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.

2.0 English Language Test

- 2.1 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.

2.2 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.

2.3 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 Entry 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.

2.4 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.

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

- Common European Framework of Reference for Languages (CEFR) – Level B1 Speaking & Listening (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, taught in English, (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 at a level which provides equivalence to the CEFR level B1 speaking and listening.

3.0 Dual Private Hire/Hackney Carriage Driver's Licence

3.1 It was proposed that applicants for a private hire or hackney carriage driver licence will be granted a dual badge. This would then allow the applicant to drive both private hire and hackney carriage vehicles and would hopefully address the concerns raised by the hackney carriage trade of a lack of hackney carriage drivers licensed in **Page 7** however, it is felt that further work is

required to consider the ramifications of this proposal. Therefore, this proposal will be considered as part of the wider AGMA common minimum standards project detailed below.

4.0 AGMA Approach

- 4.1 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.
- 4.2 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.
- 4.3 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, English and numeracy test and will issue dual hackney carriage and private hire badges. Trafford is currently the only Greater Manchester authority without a knowledge test, which gives further impetus to the need to review the current policy.
- 4.4 Four individual working groups have been formed to finalise the proposals in each of the four key areas – drivers, vehicles, operators and licensing authorities. The plan is for the four working groups to simplify the standards into a list of conditions or pre-application requirements which all authorities can benchmark against and which will make the consultation and governance process more straightforward. Licensing Managers will be meeting again in October to finalise these conditions. It is hoped that the proposals can be adopted by each authority by the end of the financial year but it has been recognised that this will depend on when the consultation can start and so no final date was yet been agreed.

5.0 Consultation

- 5.1 In order to ensure the views of stakeholders were considered the Public Protection Sub-Committee agreed at its meeting on the 18th January 2018 that officers could consult on the proposals.
- 5.2 The Licensing Section carried out a consultation exercise between the 1st May 2018 and the 29th June 2018. An email was sent to hackney carriage trade representatives; private hire operators; all persons on the current driver applicant waiting list; and all councillors. A message was also posted on the Council's Facebook page and via its twitter account.
- 5.3 The Council received a total of 729 responses to the consultation. A breakdown of all the responses will be available at the meeting.

- 5.4 Respondents were presented with the following questions and asked whether they strongly agreed, agreed, didn't know, disagreed or strongly disagreed; the form also allowed respondents to add free text comments to each question:

Q1. Do you agree with the proposal to introduce a local area knowledge test for all new applicants for a private hire/hackney carriage driver's licence?

- 5.5 Overall 49% of respondents either strongly disagreed or disagreed with the proposal. Those who gave justification for their response believed that new technology (satellite navigation systems) makes a knowledge test obsolete; that it was unfair for those already on the current waiting list and they should be exempted from any such requirement; and that the knowledge test was irrelevant because the cross border hiring rules made it possible for vehicles from all over the country to work in Trafford.
- 5.6 In contrast 40% of respondents either strongly agreed or agreed with a local area knowledge test. Those who gave reasons believed that all drivers should have an understanding of the local area and should not have to rely on technology. Others found it frustrating when the driver was not familiar with the area as this often led to the driver taking the fastest route eg. the motorway which can be more expensive rather than the shortest route. Also, not all customers know the postcode of their destination and the street name may be useless if the driver's English is poor. Those with visual impairments stated that it was often hard to give directions and they felt vulnerable when being driven by someone who didn't know where they were going.

Q2. Do you agree that the English language standard should be increased to that expected for those seeking naturalisation as a British Citizen?

- 5.7 There was strong support for this proposal with overall 73% strongly agreeing or agreeing and only 19% opposed to it. Even amongst those currently on the waiting list, of those who responded 68% supported the idea. All residents/customers who responded were in favour stating that they felt good communication was an essential part of being a driver as this could have an impact on passengers, particularly those who were more vulnerable eg. those who were deaf or blind. Of those who did not agree there was a belief that only a basic level of English was needed enough to ask for destination or give change and that the current standards were sufficient.

6.0 Recommendations

- 6.1 The Sub-Committee is asked to consider the report and consultation responses and decide whether to agree to the following proposals:
- 6.1.1 That all those submitting an application for a private hire/hackney carriage driver's licence on or after the implementation date be required to pass a local area knowledge test as part of the application process and that the relevant fee be adjusted to cover costs.
- 6.1.2 That those submitting an application for a private hire/hackney carriage driver's licence on or after the implementation date must satisfy the Council that they 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.

6.1.3 The following are acceptable as proof of the English language standard:

- Common European Framework of Reference for Languages (CEFR) – Level B1 speaking & listening (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, taught in the English language, (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 at a level which provides equivalence to the CEFR level B1 speaking and listening.

6.1.4 That delegated authority be granted to a nominated officer within Regulatory Services who, in appropriate and limited circumstances to be determined by them, 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.

6.1.5 That the Corporate Director for Place be authorised to approve the content of the knowledge test; and the implementation date of both the knowledge and the English Language tests.

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

APPENDIX 1

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.

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- 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.

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'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

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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.

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