



LR.25 14/15
Licensing and Regulatory Committee
December 09 2014

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Subject: Changes to Policy for Taxi Drivers

Report by:	Mark Sturgess Chief Operating Officer
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Purpose / Summary:	To inform the Members of the Licensing and Regulatory Committee of detailed proposals to amend policy which will affect the taxi driver application process

RECOMMENDATION(S):

1) That Members consider implementing a change of policy in relation to the taxi/private hire driver application process, the effect of which means that:

- a) all new taxi/private hire driver applications will be required to submit a Low Risk Driving Assessment from the Lincolnshire Road Safety Partnership as part of their application**
- b) any existing taxi/private hire driver currently licensed by WLDC who has accrued 9 points on their driving licence be required to take part in the Taxi Driver Information Programme and provide the relevant certificate to officers accordingly in order to determine their application**

OR

2) That Members choose to do nothing and therefore leave the application

process unchanged

- 3) Should Members agree to either 1a, 1b, or both of the above, then they make recommendation to Prosperous Communities Committee to adopt the revised process and change of policy at either 1a, 1b, or both, following a six week consultation exercise with the taxi/private hire trade. (please note any adverse comments from the trade to be dealt with by the licensing manager in consultation with the Chairman and Vice Chairman of the Licensing and Regulatory before making a recommendation).

IMPLICATIONS

Legal: See section 6 below which highlights the risk of legal challenge.

Financial : FIN/100/15 None as a result of this report

Staffing : None as a result of this report

Equality and Diversity including Human Rights :

This matter has been considered and a EIA is attached as Appendix 1

Risk Assessment: See section 6 below.

Climate Related Risks and Opportunities : N/A

Title and Location of any Background Papers used in the preparation of this report:

Local Government (Miscellaneous Provisions) Act 1976

Town Police Clauses Act 1847

The above documents are held within Licensing Section

Call in and Urgency:

Is the decision one which Rule 14 of the Scrutiny Procedure Rules apply?

Yes No

Key Decision:

Yes No

Executive Summary

What is the issue?

At the last Licensing and Regulatory committee meeting held in September 2014 a brief presentation was made by Russell Morgan of the Lincolnshire Road Safety Partnership to the committee members and officers present in relation to taxi driver training.

The request for taxi driving training to be discussed was made to both the Chair of the Licensing and Regulatory Committee and to the Licensing Manager also and came from Councillor Kinch originally.

As a result of the brief presentation made by Mr Morgan it was agreed that both the Chair and Vice-Chair of the Licensing and Regulatory committee and Cllr Day and the Licensing Manager attend the Lincolnshire Road Safety Partnership training centre at North Kyme, in order to get a better understanding of what the training involves.

Additionally, the Licensing Manager was tasked to look at what evidence there is to justify the need to implement training for taxi/private hire drivers, from both City of Lincoln Council and from Lincolnshire Road Safety Partnership.

1. Introduction

1.1 West Lindsey District Council as licensing authority is responsible for licensing all drivers, operators and vehicles used to provide taxi services within the District. There is currently in place “Guidance for Members General Policy”, adopted in 2008 which provides advice for Members and applicants in relation to taxi and private hire drivers with any convictions an applicant may have, amongst other things.

1.2 The guidance mentioned above was reviewed and amended and became effective in September 2013 whereby a knowledge test was made part of the initial application process for drivers and additionally a specific “out of area” section was inserted to offer guidance handed down from the High Court in relation to how this authority will deal with applications for Proprietors Licence who intend to operate outside of the WLDC administrative area.

2. The Current Issue

2.1 As noted in the executive summary the Licensing Manager as well as the Chair of the Licensing and Regulatory Committee were requested to bring the matter of taxi driver training to the attention of the Members of the committee. As a result of the request made by Cllr Kinch, Russell Morgan from the Lincolnshire Road Safety Partnership was invited to come along to the meeting held in September 2014 to make an informal presentation to the Members of the committee and to answer any questions that they may have of the proposed scheme. At the end of this process the Licensing Manager was requested to;

a) look at what evidence there is to justify the need to implement training for taxi/private hire drivers, from both City of Lincoln Council and from Lincolnshire Road Safety Partnership and

b) the licensing manager along with the Chair, Vice Chair and Cllr Day attend the Lincolnshire Road Safety Partnership training centre at North Kyme in order to get a better understanding of what the proposed training involves. (Due to the timings of processing this report and the attendance date at North Kyme, the licensing manager will give a verbal update at the committee meeting, as for various reasons the Members could not make the proposed date of the training).

2.2 In order for WLDC officers and Members to be in a position to grant licence applications, the Local Government (MP) Act 1976 at s.59(1)(a) states that: a *district council shall not grant a licence to drive a hackney carriage unless they are satisfied that the applicant is a fit and proper person.*

2.3 The “fit and proper person” test can be measured in many different ways and varies from one authority to another on the level of checks made on applicants.

Here at WLDC we only accept an Enhanced DBS disclosure certificate which is the highest level of background criminality checks that is available for us to ask for. We also only accept a Group 2 medical examination (which must be carried out by the applicants GP or someone who has access to the applicant’s medical history e.g. a consultant) which is the same level that other professional drivers are checked at e.g. HGV and Coach drivers. We also check driving licences/records for penalty points imposed etc.

2.4 The one area that we do not check is the applicant's ability and competency to drive. The only criteria within the legislation is that *the applicant must have been authorised to drive a motor car for at least 12 months before the date of the application, not the date of grant.*

2.5 Therefore this does highlight a potential problem area in this ever changing world in which we all live and work. We can be faced with an applicant that has held a licence for the required 12 month period, but is very young and inexperienced. Conversely, at times we receive applications from older applicants who may have driven for many years but have picked up bad habits over this time. The main difference between licensed drivers and any other member of the public is the licensed driver is carrying fare paying members of the public who we have deemed to be "fit and proper" and therefore granted a licence, which now begs the question, *are we doing all that we reasonably can to ensure that WLDC licensed drivers are as safe as possible to carry the fare paying public?*

3. So what is being proposed?

3.1 As noted at 2.4 above, we currently have no check on the competency of the applicant's standard of driving.

3.2 Therefore Members are being asked to consider implementing a change of policy in relation to the taxi/private hire driver application process, the effect of which means that:

- a) all new taxi/private hire driver applications will be required to submit a Low Risk Driving Assessment from the Lincolnshire Road Safety Partnership as part of their application
- b) any existing taxi/private hire driver currently licensed by WLDC who has accrued 9 points on their driving licence be required to take part in the Taxi Driver Information Programme and provide the relevant certificate to officers accordingly in order to determine their application
- c) or alternatively, Members choose to do nothing and therefore leave the application process unchanged

Note: Members can opt for 1 (a) **or** 1 (b) **or both** together, alternatively they may choose (c)

4. Points to consider regarding change of Policy

4.1 It is fair to say that the fare paying public would expect the decision makers (either officers or Members) to do all that they really can in terms of protecting the public, *which is the paramount aim of the taxi licensing regime.* Information contained within paragraph 2 would suggest that this is questionable and that there is an area of satisfying the "fit and proper" test that could be improved upon if Members were willing to change the application process.

4.2 It is clear that WLDC does not employ the taxi drivers, however because we grant them a licence, effectively we are stating that they are “fit and proper” to carry out their role of carrying members of the public for hire or reward. Therefore we have a duty of care to the public.

4.3 Failing to do all that we reasonably can by putting in place a scheme to train our applicants, could leave the authority open to the risk of a civil case being brought against the authority, should a licensed driver become involved in a serious or fatal accident. At the very least it would be easy to see how WLDC reputation could be damaged, by failing to address an area of weakness within its application procedure when this has been brought to their attention.

4.4 As well as changing the process for new applicants the proposed scheme could be helpful to officers and Members when licensed drivers have incurred numerous points being imposed on their DVLA licence. In these circumstances the licensee is subsequently brought before Members of the Sub-Committee for them to consider if they can remain a licensed driver?

4.5 With this type of scenario the Sub-Committee have realistically only two options to choose from. This is either:

- a) impose a strict warning and allow the licensee to continue driving
- b) revoke the licence with a condition that the licensee cannot re-apply until a given amount of time has passed.

4.6 If the option at 3.2(b) were to be approved it would allow a licensee who has fallen short of the expected driving standard the opportunity of improving on their shortfall in driving and offer a course of remedial action which will improve the situation and allow the driver to continue this employment. This would be beneficial to both the licensee and in the interests of protecting the public. Each case would have to be considered on its own merits, as this option would not be a suitable course of action in every case.

4.7 Explanation of the term risk relating to drivers

Based on DfT research 20% of the driving population are considered high risk and are known to be frequent and intentional violators.

65% of the driving population are considered to be medium risk and are known to be occasional violators, mainly caused by momentary lapse of concentration

15% of the driving population are considered low risk and are considered unlikely to commit traffic violations. The proposed scheme to be considered means that we would only accept a LOW RISK driver assessment when dealing with applications in order to protect the public.

5. Consultation

5.1 To date, no consultation has taken place with regards the proposed taxi driver training options. This is due to the fact that at the September 2014 Licensing and Regulatory meeting, the view on whether to proceed with this aspect was uncertain. Clearly, Members had strong views, for and against the proposals; therefore further information was requested as contained in this report in order for members to make an informed decision.

5.2 Should Members resolve to adopt the change of policy at 1a or 1b then officers suggest a six week consultation exercise be undertaken with the taxi/private hire trade in order to understand any concerns.

5.3 If as part of the proposed consultation we receive adverse comments from the trade, it is requested that these be dealt with by the licensing manager in conjunction with the Chair and Vice-Chair of Licensing and Regulatory committee, before formal recommendation be made to Prosperous Communities committee for adoption.

6. Risks

6.1 As noted within paragraph 4 above, there are risks with **not** implementing a taxi driver training scheme when it has been highlighted that this leaves the authority open to legal proceedings being brought against the authority, should a drivers ability be brought into question as a result of an investigation after any serious or fatal accident, along with council reputation. It is not uncommon for a taxi driver to cover 50,000 miles per annum as part of their taxi duties, which is far in excess of other general road users and therefore increasing the risk of being involved in an accident.

6.2 Conversely, there is no evidence available from either the Lincolnshire Road Safety Partnership or from City of Lincoln Council (as requested), to support the implementation of this scheme, which suggests that taxi drivers are any better or worse than any other road users. Taking that point into account, it is possible that the authority could be subject to a legal challenge via a Judicial Review should they resolve to implement a scheme without evidence to support it, where the view could be taken that this approach whilst well meaning, could be deemed to be disproportionate.

6.3 Failing to consult with the taxi/private hire trade about any changes to policy will leave the authority open to legal challenge.

6.4 Should the Council resolve to impose a taxi driver training scheme the full cost of this is currently £120.00 and will be borne by the applicant.

7. Conclusion

7.1 In conclusion to this matter Members need to decide what course of action to take with regards to amending the application process, or not, as the case may be. Members should take into account all the information contained within this report and any verbal updates made by officers/Members at the meeting. Whatever decision is made by Members, it will need to be reasonable, proportionate and justified.

8. Appendices

Appendix 1 – Equality Impact Assessment

APPENDIX 1 - EQUALITY IMPACT ASSESSMENT

Name, brief description and objectives of policy, procedure, function?	Amend the taxi application procedure to address potential public safety issues. The changes will affect <u>all new driver applications</u> and any existing ones who incur 9 points on their licence. The effect of the amendment to policy is to ensure that WLDC is doing all that it reasonably can to protect the fare paying public by only licensing applicants who are “fit and proper”.
Have you consulted on the policy, Procedure, function and, if so, what were the outcomes?	No
What barriers may these individuals or groups face, and how can you promote equality (where possible)?	
Gender	There is no evidence that this policy would impact on people in any way because of this characteristic.
Age	There is no evidence that this policy would impact on people in any way because of this characteristic.
Disability	There is no evidence that this policy would impact on people in any way because of this characteristic.
Race	There is no evidence that this policy would impact on people in any way because of this characteristic.
Religion or Belief	There is no evidence that this policy would impact on people in any way because of this characteristic.
Sexual Orientation	There is no evidence that this policy would impact on people in any way because of this characteristic.
Gender Reassignment	There is no evidence that this policy would impact on people in any way because of this characteristic.
Pregnancy, Maternity and Paternity	There is no evidence that this policy would impact on people in any way because of this characteristic.
Marriage and Civil Partnership	There is no evidence that this policy would impact on people in any way because of this characteristic.
Rural Isolation	There is no evidence that this policy would impact on people in any way because of this characteristic.
Socio-economic factors	WLDC charges a set fee for taxi licences based on full cost recovery. The costs of the extra training will be borne by the applicant and is an additional £120.00 on top of the licence fee.
Other (e.g. those with dependants/caring responsibilities, asylum seeker and refugee communities, children in the care system, etc)	There is no evidence that this policy would impact on people in any way because of this characteristic.

<p>Is there any evidence or research that demonstrates why some individuals or groups are, or are not, affected</p>	<p>There is no evidence or research available. The WLDC taxi licensing policy is based on nationally applicable legislation. It covers <u>all applicants</u> who all must meet a set of standards and criteria intended to ensure that they are 'fit and proper' persons.</p>
<p>If there is a potential adverse impact, please state why and whether this is justifiable</p>	<p>It is possible that there may be a slight adverse impact relating to the socio-economic aspect as there will be an extra cost incurred of £120.00 which will be borne by applicants. This is justifiable in terms of <u>effectively managing public safety.</u></p>
<p>Outcome of EIA</p>	<p>No major change needed <input checked="" type="checkbox"/> Adjust the policy/proposal <input type="checkbox"/> Adverse impact but continue <input type="checkbox"/> Stop and remove the policy/proposal <input type="checkbox"/></p>
<p>How will you monitor your policy, procedure, function to ensure there is no adverse effect on the protected characteristics (e.g. gender, age, etc) in the future?</p>	<p>We will monitor the number of applications received and how many fail to meet the criteria of being unable to provide a LOW RISK certificate from the LRSP. Any applications who cannot meet the criteria will be checked to ensure that the reason is not for any of the protected strands e.g. race, religion, gender, age etc. Each application will be judged on its own merits.</p>