

**Report of the Assistant
Director (Regulatory Services)
to the General Licensing
Regulatory Board
15th September 2010**

**PROPOSED AMENDMENTS TO THE POLICY GUIDANCE TO ASSIST WITH
THE ASSESSMENT OF 'FIT AND PROPER PERSON' WHEN CONSIDERING
APPLICATIONS FOR PRIVATE HIRE AND HACKNEY CARRIAGE LICENCES**

1. Purpose of the Report

- 1.1 To consider minor amendments to the current Policy Guidance to assist with the assessment of 'fit and proper person' with regard to all Private Hire and Hackney Carriage Driver licences for drivers of licensed vehicles and Private Hire Operators (Fitness Policy) to ensure that a more robust, open, transparent and fair policy is operated by the Council.

2. Recommendation

- 2.1 It is recommended that Members approve the additional requirements set out in Appendix 1 to the Fitness Policy with immediate effect.

3. Background

- 3.1 In January 2009 the General Regulatory Licensing Board approved revised guidelines to assist Officers and Members with assessing whether or not a licence holder/applicant for a licence is 'fit and proper' to hold a licence under the provisions of the Local Government (Miscellaneous Provisions) Act 1976.

- 3.2 The Local Government (Miscellaneous Provisions) Act 1976 places a duty on the Local Authority, under the following sections, not to grant a licence to a person unless they are satisfied that they are 'fit and proper' to hold such a licence:

- Section 51 - Private Hire Drivers;
- Section 55 - Private Hire Operators;
- Section 59 - Hackney Carriage Drivers

- 3.3 It has now become apparent that there are two areas where the current policy requires further clarification:

- (a) *Persons convicted of multiple offences of differing types e.g. theft, violence, drugs etc are not covered by the existing policy as it only takes account of multiple offences of similar types.*

(b) *No criteria have been set for new applicants in relation to the expiration date of medical forms and certificates of good character, these timescales are in place for existing drivers. Also, issues around the number of theory tests that are being completed by new applicants prior to them passing the theory test have also been raised.*

- 3.4 Full consultation has taken place with the Trade Liaison Group and the wider trade in respect of these proposed changes. The only comments that have been received were from Mr David Wilson on behalf of the three local trade associations regarding the proposed amendments. However, these related to the wording of the conditions rather than the content. These comments have been noted and amendments accordingly. No other comments or objections have been received.
- 3.5 A full copy of the additional requirements to be added to the fitness policy are attached as Appendix 1. No other amendments have been made to the fitness policy. Copies of the full draft policy will be made available at the Licensing Board.

4. Multiple Convictions

- 4.1 Prior to any application for a driver licence being made, all prospective applicants are provided with a copy of the Council's Fitness Policy and it is also available on the Council's website
- 4.2 There are occasions when applications are received from prospective drivers where they have a range of convictions of differing types and severity, as such the current policy only takes account of convictions of a similar nature e.g. dishonesty.
- 4.3 To ensure that Members, Officers, the public and licensed drivers have full and appropriate guidance in respect of convictions and that all applications are dealt with in a fair, open and transparent manner, further guidance is required in relation to multiple convictions of differing types.
- 4.4 The current charge for a Criminal Records Bureau check is £56 and prospective applicants are able to check the fitness policy and make a reasoned decision as to whether a licence will be granted prior to incurring these costs.
- 4.5 Officers are therefore recommending the addition of the following paragraph regarding multiple offences of different types to the fitness policy (A full copy of the proposed additional criteria is also attached as Appendix 1):

Multiple offences of differing types

There will be occasions where a driver has been convicted of a number of offences from different sections of part three e.g. drugs, dishonesty and violence.

In these cases it will be necessary for each driver to be assessed on their own merits and consideration should be given to the types of offences, the severity of the offences, the penalties imposed, how long ago the offences took place and the Councils standard timescales before a person becomes fit and proper.

5. New Applicants – Theory Tests

- 5.1 All new applicants for Private Hire and Hackney Carriage driver licences are required to attend an induction session with Licensing Enforcement Staff. At the end of this session they complete a theory test relating to customer service, disability awareness, local knowledge, licensing legislation, Highway Code, literacy and numeracy. The theory test lasts for a maximum of one hour and comprises 80 multiple choice questions and has a minimum pass rate of 75%.
- 5.2 Prior to attending the induction session and theory test, all prospective drivers are provided with a revision pack and made aware that additional support can be provided by the Council where the person makes Officers aware of a disability such as Dyslexia.
- 5.3 The current pass rates for the theory test are:

First attempt	28%
Second attempt	41%
Third attempt	16%
Fourth attempt	3%
Fifth attempt	1%
Sixth attempt	1%
Seventh attempt	3%
Eight attempt	2%
Ninth attempt	2%
Ten or more attempts	0
Not completed	3%

- 5.4 82% of all applicants complete the theory test within three attempts; however, 8% take six or more attempts to pass the test. In the majority of cases where a person fails the theory test on six or more occasions their test scores are consistently below 50%. It is also evident that where a person fails their first theory test and prepares for the second test they are likely to pass on this occasion.
- 5.5 The Council needs to ensure that all new applicants for licences to drive Private Hire and Hackney Carriages vehicles are competent to do so and that they have the appropriate skills and levels of knowledge to ensure that public safety is maintained and that their passengers are treated in a satisfactory manner.
- 5.6 There must be significant doubt of the skill sets of any person who continually fails the theory test and therefore Officers are recommending the inclusion of the following paragraph in the fitness policy (A full copy of the proposed additional criteria is also attached as Appendix 1):

Requirements for new applicants

The Council needs to ensure that all new applicants for licences to drive Private Hire vehicles and Hackney Carriages are competent to do so and therefore the following requirements will apply to new applicants:

- (a) Where a person fails three consecutive theory tests within a four month period it will be unlikely that the person will have the appropriate skills and attributes to be a licensed driver with this Authority and therefore the person should be barred from undertaking any further theory tests for a period of six months, from the date of the last failure, to allow the person to develop the necessary skills, unless there are exceptional circumstances.*

6.0 New Applicants – Receipt of Documentation

6.1 The application process for some people wanting to become licensed drivers can be protracted due to their personal circumstances and the requirements for them to complete the driving assessment, theory test and medical/criminal records bureau (CRB) checks. Applicants can undertake the assessments in any order they choose and this can be over a significant time period, which on occasions can be anything up to one year.

6.2 Documents certifying a person's good character or fitness to drive have by their nature a limited shelf life as they relate to an assessment at a specific point in time. At present, there is no mechanism for Officers to reject documentation that is considered to be out of date and a person could have been convicted of an offence or have had a medical condition come to light during the interim period since the documents were submitted to the Council which would preclude them from being licensed.

6.3 Officers are therefore recommending the inclusion of the following paragraph in the fitness policy (A full copy of the proposed additional criteria is also attached as Appendix 1):

- (a) At the date of application a medical questionnaire will not be accepted unless it has been signed by a General Medical Practitioner within the last three months and contains the practice stamp.*
- (b) At the date of application the Certificate of Good Character must have been completed, signed and dated by the referee within the last three months.*
- (c) At the date of application the Criminal Records Bureau check must have been completed within the last three months.*

In the case of b), c) and/or d) above it may be necessary for further forms to be completed where the determination process for the licence is protracted.

Note: the above wording is intended to follow on from that contained within paragraph 5.6 above and as such is numbered accordingly.

7. Options

7.1 In determining these amendments to the Policy Guidance to assist with the assessment of 'fit and proper person' when considering applications for Private Hire and Hackney Carriage driver licences and Private Hire Operator licences Members may:

- (a) Approve the amendments
- (b) Reject the amendments
- (c) Substitute all or part of the proposed amendments with other recommendations

8. Compatibility with European Convention on Human Rights

8.1 This report and the attached policy/guidelines are compatible with the rights and freedoms under the European Convention of Human Rights.

9. Crime and Disorder implications

9.1 The Council has a statutory duty under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 to ensure that all those granted or holding a Private hire or hackney carriage drivers or private hire operators licence is a 'fit and proper' person to do so. Failing to meet this requirement could place members of the public at risk from unscrupulous drivers, have an impact on crime and disorder and have an impact on public safety.

10. Financial Implications

10.1 There are no financial implications resulting from this report.

11. List of Appendices

Appendix 1 – Proposed additional paragraphs to be included in the fitness policy

2.9 Multiple offences of differing types

There will be occasions where a driver has been convicted of a number of offences from different sections of part three e.g. drugs, dishonesty and violence.

In these cases it will be necessary for each driver to be assessed on their own merits and consideration should be given to the types of offences, the severity of the offences, the penalties imposed, how long ago the offences took place and the Councils standard timescales before a person becomes fit and proper.

2.10 Requirements for new applicants

The Council needs to ensure that all new applicants for licences to drive private hire vehicles and hackney carriages are competent to do so and therefore the following requirements will apply to new applicants:

- a) Where a person fails three consecutive theory tests within a four month period it will be unlikely that the person will have the appropriate skills and attributes to be a licensed driver with the authority and therefore the person should be barred from undertaking any further theory tests for a period of at least six months to allow the person to develop the necessary skills, unless there are exceptional circumstances.*
- b) At the date of application a medical questionnaire will not be accepted unless it has been signed by a medical practitioner within the last three months and contains the practice stamp.*
- c) At the date of application the certificate of good character must have been completed, signed and dated by the referee within the last three months.*
- d) At the date of application the Criminal Records Bureau check must have been completed within the last three months.*

In the case of b), c) and/or d) above it may be necessary for further forms to be completed where the determination process for the licence is protracted.