



Thursday, 13 January 2022 at 2.00 pm
Council Chamber - South Kesteven House, St. Peter's
Hill, Grantham. NG31 6PZ

Agenda Supplement

4. Review of the Hackney Carriage and Private Hire Policy (English language skills test) (Pages 3 - 10)

An incorrect version of Appendix 2 was attached to the report for this item in the agenda pack originally published.

Attached to this agenda supplement is the correct version of Appendix 2 which highlights proposed changes to the wording of the Policy, as referred to in the report.

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PART 3 DRIVERS

3.1 General

- 3.1.1 The statutory and practical criteria and qualifications for a private hire driver are similar to those for a hackney carriage driver. The sections below, therefore, apply equally to private hire and hackney carriage drivers unless indicated.
- 3.1.2 The Authority will not licence anyone to drive a hackney carriage or private hire vehicle unless it is satisfied that they are a "fit and proper" person to hold that licence.
- 3.1.3 The term "fit and proper" is not legally defined. It is for the Authority to determine the information is necessary to enable it to determine whether a person is fit and proper. This includes a range of documentary evidence, practical criteria and assessments as detailed in this policy.

3.2 Licences

- 3.2.1 Separate driver's licences shall be held in respect of driving hackney carriage and private hire vehicles. Where a licensed private hire driver wishes to drive a hackney carriage he will be required to hold a dual licence. Licences shall be issued for a maximum period of 3 years or for such a lesser period, as the Authority consider appropriate in the circumstances.
- 3.2.2 Applicants shall be over 18 years of age and shall have held a full driving licence issued in the UK, the European Community (EC) or one of the other countries in the European Economic Area (EEA) for at least 12 months.
- 3.2.3 Holders of EC or EEA driving licences must register their non GB driving licence with the DVLA. Alternatively, they may elect to exchange the licence for a GB licence.
- 3.2.4 All driving licences will be checked annually with the DVLA. Failure to produce the necessary documents by each anniversary of the licence may result in penalty points under the South Kesteven Penalty Point Scheme, see Appendix J or may be referred to the Licensing Committee.

3.3 Eligibility to Live and Work in the UK

- 3.3.1 Licensing authorities are under a duty not to issue licences to people who are disqualified by their immigration status from holding them. In determining whether someone is disqualified, the Authority will have regard to the statutory guidance issued by the Home Office.
- 3.3.2 Proof of the right to live and work in the UK must be provided by driver and operator applicants in accordance with the Immigration Act 2016.

- 3.3.3 Where a person's immigration permission to be in the UK is time-limited to less than the statutory length for a driver or operator licence, the licence will be issued for a duration which does not exceed the applicant's period of permission to be in the UK and work.
- 3.3.4 In the event that the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence issued as a consequence of an application which was made on or after 1 December 2016, that the person holds will automatically lapse.

3.4 Topographical Knowledge (Driver Knowledge Tests)

- 3.4.1 Hackney carriage drivers need a good working knowledge of the area for which they are licensed, because vehicles can be hired directly at ranks or on the street. The Authority also considers it necessary for private hire drivers to know the area. In addition, it is expected that drivers should be able to communicate with their customers, convey important safety information and be able to carry out the basic arithmetic associated with the paying of fares.
- 3.4.2 In order to assist the Authority in determining the fitness of an applicant to hold a hackney carriage or private hire driver's licence, applicants are required to demonstrate an understanding of this policy, pass an arithmetic test and a practical test (the practical test is applicable to hackney applicants only) aimed at challenging their knowledge of the district. Applicants who cannot demonstrate that they hold a qualification taught and examined in English (the subject of the qualification does not matter as long as it was taught in English) will also be required to undertake an English language skills test. Additional fees are payable.
- 3.4.3. The tests must be taken within one month of the Authority receiving the DBS disclosure result. If this test is not taken within one month, the applicant will be required to re-apply as a new applicant.
- 3.4.4 There is no limit on the number of times the test can be taken, however, the applicant must pay the appropriate fee on each occasion so is advised to consider whether they require any form of training to improve their language skills before taking the test.
- 3.4.5 The practical test will be undertaken in the area of the district where the driver expects to primarily operate. Should substantiated complaints relating to the driver's knowledge of the area be received, they may be required to undertake a re-test.
- 3.4.6 The English language skills test does not automatically apply to existing drivers. However, any current licensed driver may be required to undertake the assessment where the Authorised Officer believes there are reasonable grounds to require assessment. Reasonable grounds would include instances where Authorised Officers have identified through enforcement activity or substantiated complaint that a driver may have insufficient English language proficiency.

3.5 Driving Proficiency

- 3.5.1 The Lincolnshire Road Safety Partnership (LRSP) provides a driving assessment specifically designed for hackney carriage and private hire drivers.
- 3.5.2 First time applicants having more than 6 points (both current and expired accrued within a 4 year period) on their DVLA Driving Licence are required to pass the LRSP assessment prior to the granting of the licence.
- 3.5.3 Existing drivers with more than 8 points (both current and expired accrued within a 4 year period) on their DVLA Driving Licence are required to pass the LRSP test within 3 months from the time of accruing the points or their licence will be suspended until such time as the test has been passed.

3.6 Driver Qualification

- 3.6.1 The Authority encourages all passenger transport drivers, whose role demands high standards in driving and customer service, to obtain a nationally recognised qualification. These would cover customer care - including how best to meet the needs of people with disabilities and other sections of the community - and also topics such as the relevant legislation, road safety, the use of maps and GPS, the handling of emergencies, and how to defuse difficult situations and manage conflict.

3.7 Medical Examination

- 3.7.1 The DfT recognises that it is good practice for medical checks to be made on each driver before grant of a licence and thereafter at each renewal. There is general recognition that it is appropriate for hackney carriage and private hire vehicle drivers to have more stringent medical standards than those applied to normal car drivers.
- 3.7.2 The Authority requires Group 2 Standards of Medical Fitness, as applied by the DVLA to the licensing of lorry and bus drivers, as the appropriate standard for licensed hackney carriage and private hire drivers.
- 3.7.3 Applicants shall provide the Authority with the prescribed medical examination form completed by their own General Practitioner (GP), or a Doctor who has access to the applicant's medical history, on first application and every 3 years thereafter until aged 65 years. Once the driver has reached the age of 65 years or if they have a relevant medical condition, an annual medical will be required thereafter. The applicant will be responsible for paying the fee for the examination to the relevant surgery and for ensuring all sections are completed in full by their GP. The certification must be less than three months old. Application procedures are detailed in Appendix C.

- 3.7.4 Holders of Public Service Vehicle (PSV) and/or Heavy Goods Vehicle (HGV) licences, where the holder is able to produce proof of current medical examination less than 3 months old, shall not be required to undergo a medical examination on first application.
- 3.7.5 If, once licensed, the driver's medical circumstances change they must advise the Authority by the next working day.
- 3.7.6 Where there is any doubt as to the medical fitness of an applicant or a licensed driver, the Authority will require them to undergo a further medical examination or review by a GP or other approved practitioner. They will be expected to give an opinion on the applicant/driver's ability to meet the Group 2 standard.
- 3.7.7 Where there remains any doubt about the fitness of any applicant, the Licensing Committee will review the medical and any other evidence and make any final decision in light of the evidence available.
- 3.7.8 No licence shall be issued until medical fitness has been established. Where a medical is due for an existing driver they will be required to submit the medical certificate before their renewal licence can be granted.

3.8 Safeguarding and Child Exploitation

- 3.8.1 All new drivers must complete and pass a Child Sexual Exploitation and Safeguarding test prior to being issued with a Hackney Carriage or Private hire driver's licence.
- 3.8.2 Existing drivers will be required to complete and pass a refresher course every three years as part of the licence renewal process. See **Appendix C**.
- 3.8.3 All drivers must follow the Code of Good Conduct at **Appendix G**.

3.9 Disclosure & Barring Service (DBS)

- 3.9.1 As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, the Authority complies fully with the code of practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information.
- 3.9.2 The Authority also complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.
- 3.9.3 In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. Certificate information is only used for the specific

purposes for this it was requested and for which the applicant's full consent has been given.

- 3.9.4 A DBS Certificate is seen as an important safety measure by the Authority to ascertain whether or not an applicant is fit to hold a licence. An Enhanced DBS Certificate is required.
- 3.9.5 The Rehabilitation of Offenders Act 1974 does not apply to applicants for both hackney and private hire drivers licences. They are required to disclose all convictions, including those that would normally be regarded as spent.
- 3.9.6 South Kesteven District Council is an approved DBS Registered Body and new driver applicants must apply for a DBS certificate through the Authority's Licensing Team and pay the appropriate fee. The Authority will not accept portability of a DBS unless all relevant checks, including the Barred List checks have been obtained. In this case, Certificates must be less than 3 months old.
- 3.9.7 An Enhanced DBS is required with all new applications and every 6 months for existing drivers. At initial application and at renewal for existing licensees (following the implementation of this policy), the applicant will be required to subscribe to the DBS Update Service throughout the currency of their licence.
- 3.9.8 Every 6 months, the Authorised officer, will undertake an online check of the DBS Update Service to check the driver's current status. Depending on what is revealed in the check, the Authority may require an additional DBS check to be undertaken at the applicant's expense.
- 3.9.9 All existing licenced drivers must subscribe to the DBS update service when their next DBS certificate becomes due and will be required to renew their subscription on an annual basis, before their current subscription ends.
- 3.9.10 Where a driver fails to maintain and/or renew their subscription before it ends they will be required to apply for a new Enhanced DBS check and register for the update service again at their own expense.
- 3.9.11 The Authority does not receive the DBS disclosure certificate directly from the DBS. It is the responsibility of the applicant to ensure the Licensing Team has sight of the disclosure before a decision can be made as to whether or not a licence can be renewed/issued. Licences will not be issued without a valid DBS certificate.

3.10 Certificate of Good Conduct (residency outside the UK)

- 3.10.1 A **new licence** applicant who has, from the age of 10 years, spent 6 continuous months or more living outside the United Kingdom will be required to provide a Certificate of Good Conduct from the Embassy of every country where they have lived other than the UK (after the age of 10 years old). This must be no older than 3 months at time of

presentation. The Certificate of Good Conduct must be obtained and translated into English at the applicants own expense.

- 3.10.2 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the appendix D to this document, the applicant should seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.
- 3.10.3 A licence will not be granted ~~or renewed~~ in the absence of a current Certificate of Good Conduct.
- 3.10.4 **At renewal, if during the currency of their previous licence the applicant has spent 6 continuous months or more living outside the United Kingdom, they will be required to provide a Certificate of Good Conduct from the Embassy of every country where they have lived other than the United Kingdom during this period. This must be no older than 3 months at time of presentation. The Certificate of Good Conduct must be obtained and translated into English at the applicants own expense.**

3.11 Relevance of Convictions and Cautions

- 3.11.1 In relation to the consideration of convictions and police cautions recorded against persons, the Authority has adopted the policy set out in **Appendix D** under Relevance of Convictions.
- 3.11.2 In assessing whether the applicant is a fit and proper person to hold a licence, the Authority shall consider each case on its merit. It will take account of cautions and convictions, whether spent or unspent, but only in so far as they are relevant to an application for a licence. Upon receipt of a disclosure from the DBS, an Authorised Officer will assess whether any or all of the convictions, and any additional information received, is capable of having real relevance to the issue of whether or not the applicant is a fit and proper person to hold a licence in line with the policy at **Appendix D**. Where the Authorised Officer's assessment results in any doubt, the application will be referred to the Licensing Committee.

3.12 Application Procedure

- 3.12.1 An application for a hackney carriage or private hire driver's licence shall be made on the specified application form. The application procedure is set out in **Appendix C**.
- 3.12.2 Any dishonesty by an applicant or other person on the applicant's behalf which is discovered to have occurred in any part of the application process e.g. failure to declare convictions, false names or addresses etc will result in the application being referred to the Licensing Committee. This could result in the licence being refused, or if already granted, revoked and may result in prosecution.

3.13 Renewal of Licences

3.13.1 The Authority aims to send a reminder to licence holders in the month preceding the expiry date of their licence. However, it remains the responsibility of the driver to renew in good time. Completed application forms, appropriate fees, and supporting documentation, as set out in **Appendix C**, must be submitted at the time of application.

3.14 Conditions of Licence

3.14.1 The Authority is not permitted to attach conditions to a hackney carriage driver's licence, however, they are subject to the Council's Hackney Carriage Byelaws. See **Appendix F**

3.14.2 The Authority considers that the conditions of licence as set out in **Appendix E** are reasonable, necessary and appropriate for all licensed private hire drivers.

3.15 Convictions – Licence Holders

3.15.1 Once a licence has been granted, there is a continuing requirement on the licence holder to maintain their safety and suitability. Any conviction or other actions on the part of the licence holder which would have prevented them from being granted a licence on initial application will result in referral of the licensee to the Licensing Committee and may result in the licence being revoked.

3.15.2 Where offences, leading to conviction or police caution, are committed by licensed drivers, it is important - in the interests of consistency and transparency - that a procedure is in place to consider what effect this should have on their licence.

3.15.3 Licence holders must notify the Authority's Licensing team in writing within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence, any motoring offence or fixed penalty.

3.15.4 If a licensed driver ceases to have a valid DVLA driving licence then their hackney carriage or private hire driver's licence issued by this Authority shall be deemed invalid.

3.15.5 Convictions, police caution and breaches of legislation, licence conditions, byelaws and of this policy, by licence holders, shall be dealt with in accordance with this Authority's enforcement policy as set out at **Appendix I**.

3.16 Driver's Conduct

3.16.1 The standards expected of licensed hackney drivers are set out in sections 5 to 13 of the byelaws made under the Town Police Clauses Act 1847 and the Public Health Act 1875, which should be read in conjunction with the other statutory and policy requirements set out in this document. The byelaws are attached as **Appendix F**. Failure to comply with the

requirements of the byelaws may result in action being taken which may affect the licence.

3.17 Dress Code

3.17.1 Drivers are a front line transport service for visitors and residents and as such, all drivers are required to be respectably dressed, clean and tidy in appearance. Drivers are expected to dress in smart/casual clothing. "Unsatisfactory appearance" is part of the South Kesteven District Council Penalty Points Scheme. See **Appendix J**.