

Briefing Notes

Committee name: Licensing Committee

Date: 02 August 2017

Responsible officer: Philip Cooper

This note contains information to keep Members informed of matters relating to the work of the Cabinet or a committee but where no decisions from Members are needed.

If Members have questions relating to matters shown, they are asked to contact the Officer indicated.

Licensing Policy, Guidance and Conditions for Private Hire and Taxis Policy Review Working Group 2017

Background

Cheltenham Borough Council's current licensing policy for private hire and taxis ("taxi policy") was approved by Cabinet on 15 July 2014. While there is no statutory requirement to undertake a review of the taxi policy, there is a commitment set out in the policy to do so at least once every three years to ensure the policy remains up to date and relevant.

To facilitate the review and better engage with key stakeholders, a working group was set up by the Licensing Committee earlier this year. The working group was made up of Licensing Committee members, representatives of the hackney carriage and private hire trade, and council licensing officers.

This briefing note is to update the committee on the work of the working group and to apprise the committee about certain proposed changes.

In due course Cabinet will be asked to approve a revised policy, following which a full consultation will be undertaken with the trade, the committee and other stakeholders.

Working Group

The working group met on four occasions. Each meeting was attended by representatives of the hackney carriage and private hire licensed trade, members of the Licensing Committee and council licensing officers.

The topics covered at the meetings were as follows:

Meeting 1	30 March 2017	Drivers
Meeting 2	6 April 2017	Vehicles
Meeting 3	13 April 2017	Vehicles
Meeting 4	20 April 2017	Operators and miscellaneous

Matters under consideration

NVQ

In 2010 the council introduced a mandatory requirement on all licensed drivers to undertake and successfully pass a recognised NVQ in road passenger vehicle driving, which was free to most drivers due to government funding. Government funding for the NVQ has now ceased, as a result of which the cost to drivers is now several hundred pounds.

Since the NVQ requirement was introduced, the council has introduced several other requirements on drivers such as mandatory safeguarding training, a more robust practical driving test, an English proficiency test and a more robust knowledge test. Due to these enhancements and the fact that the NVQ is no longer government-funded, it is proposed to change the policy to remove the mandatory requirement on drivers to undertake the NVQ.

Mandatory online DBS checks

As part of the council's duty to ensure that all taxi and private drivers licensed by it are fit and proper people, all drivers in Cheltenham are required to produce, on new application and renewal, an enhanced criminal records certificate from the Disclosure and Barring Service (DBS). In 2013 the DBS introduced an 'update' service whereby people who obtain DBS checks regularly, such as taxi and private hire drivers, can register online. This enables licensing authorities, with the drivers' permission, to check drivers' DBS status online when they renew their licence, which is more efficient and cost effective than carrying out a new DBS check each time. Many of Cheltenham's drivers have signed up for the update service but some have not. It is intended to introduce this as a mandatory requirement, which will achieve the following:

- Reduced costs to the driver (the update service currently costs drivers £13 every year whereas a new DBS check carried out through the council costs drivers £55 every 3 years);
- Significantly reduced application processing times;
- Reduction in the number of times the driver is required to attend the council offices when making an application and a reduction in the number of documents they are required to produce;
- Reduced officer time and resource costs to the council.

Knowledge tests / training day

The application process for new drivers currently includes a mandatory knowledge test covering geographical knowledge of the borough, the Highway Code, general arithmetic and knowledge of taxi / private hire policy and legislation. Officers propose to review this process so that instead of a knowledge test there will be a mandatory training day. The day will include everything applicants need to know about local policy and national legislation as well as safeguarding and other important matters, followed by a shorter test solely covering geographical knowledge and general arithmetic.

Convictions policy / penalty points / "three strikes" scheme

Appendix J of the existing policy provides guidance on how the council will deal with applicants and licence holders who have been convicted of offences or who have received endorsements for driving offences. When an existing driver commits a misdemeanour, a breach of policy or an offence, but one which does not result in prosecution, officers refer the matter to the licensing committee on a case-by-case basis depending on the seriousness of the matter. To formalise the process, with the agreement of the working group, it is proposed to introduce a penalty points or "three strikes" scheme, whereby such misdemeanours will be formally recorded and once a certain number of "points" have been reached, the licence will be subject to review by the licensing committee. Notwithstanding such a penalty points scheme, the committee would retain its discretion to review a licence where a serious matter has occurred but where the points limit has not been triggered. Issues that could be covered by such a points scheme will include, for example, refusing a fare without justification, failing to report a change of address, failing to report a driving offence, or failing to properly display the vehicle's licence plate.

Advertising on vehicles

Appendix E of the existing policy permits proprietors of hackney carriage vehicles to display third-party advertising subject to the written approval of the council, and subject to certain restrictions (for example no advertising that is insulting, offensive or abusive).

In the case of private hire vehicles, the only permitted forms of advertising are the operator's approved signage and advertising of public safety initiatives such as Crimestoppers. All other forms of third-party advertising are prohibited on private hire vehicles.

The working group propose an amendment to the existing policy to enable private hire vehicle proprietors to display third-party advertising in the same way and subject to the same restrictions as hackney carriages.

Restriction of numbers

The local Hackney Carriage association have asked the council to introduce a limit on the number of taxis that are licensed in the borough, due to their assertion that there are too many licensed vehicles and consequently there is insufficient work for the existing drivers. Such a limit can lawfully be imposed but only if a local licensing authority is satisfied that there is no significant unmet demand for taxis in the area. Common practice elsewhere in the country in determining this matter has involved the commission of an independent formal survey to establish whether or not an unmet demand exists.

The Department for Transport and the Competition and Markets Authority have both recommended, through non-statutory guidance, that local authorities should not impose a restriction on the number of taxis. Whilst the council should have regard to the national guidance, its discretion to make a decision locally on the individual circumstances in this area should not be fettered by it. This matter will be referred to Cabinet to determine as part of the review of the policy.

Designated vehicles

In April 2017 sections 165 and 167 of the Equality Act 2010 were enacted, giving local authorities the power to maintain a list of wheelchair-accessible vehicles and to place a duty on drivers of such vehicles to carry passengers in wheelchairs and to provide assistance to those passengers without charging extra. The licensing team in Cheltenham has for several years informally maintained such a list and it is now proposed to use the new powers to adopt and maintain a formal list. Drivers who have a valid reason to be exempt from the requirements – for example on medical grounds – will be able to apply to the council for an exemption certificate.

Vehicle specifications

Officers are currently undertaking a review of several aspects of the specification required for licensed vehicles, many of which were highlighted or proposed by the working group. Once this work has been undertaken the proposed changes will be included in the report to Cabinet for consideration, after which they will form part of the wider consultation. Vehicle specification issues under review are: type approval and specifications for wheelchair accessible vehicles; emissions; tinted windows; the maximum age of new vehicles and whether this should be relaxed for fuel-hybrid vehicles; the standard roof-sign (toplight) for hackney carriages; and the carriage of emergency equipment in licensed vehicles.

Approved testing station

All licensed taxis and private hire vehicles are subject to an enhanced MOT test on new application and annually on renewal of the licence. Vehicles over 8 years of age are subject to testing every 6 months. The council currently approves only one testing station for licensed hackney carriage and private hire vehicles, the Ubico testing station on Swindon Road. As part of the policy review and with the approval of the working group, officers are currently researching alternatives so that the testing of licensed vehicles can be opened out to additional testing stations, thereby providing licence holders with additional options.

Operators' records

The existing policy requires all licensed private hire operators to maintain records of drivers, vehicles and desk clerks used by them and to provide those records to the council at quarterly intervals. The working group proposes to amend this so that operators will be required to maintain records and submit them to the council on request but they will not be required to complete quarterly submissions. This will remove an unnecessary burden on both the operators and the council's officers in maintaining and recording quarterly submissions.

Contact Officer: Philip Cooper

Tel No: 01242 775200

Email: phil.cooper@cheltenham.gov.uk