

REPORT: Regulatory Committee

DATE: 30th June 2021

REPORTING OFFICER: Strategic Director Enterprise, Community and Resources

PORTFOLIO: Resources

SUBJECT: Taxi Licensing Matter

WARDS: Borough-wide

1. PURPOSE OF REPORT

To consider amendments to the medical element of the Taxi Licensing Policy for hackney carriage and private hire drivers as set out below.

2. RECOMMENDED

That the Committee considers the proposals and make appropriate recommendations to the Executive Board.

3. INTRODUCTION AND BACKGROUND INFORMATION

3.1 Halton Borough Council's current policy on deciding the fitness part of the "fit and proper person" test is to apply the DVLA Group 2 Medical Assessment. A copy of the current policy can be found at Appendix A of this report.

3.2 During the past 3 years, licensed drivers (and new applicants) have advised the licensing section of problems they have encountered with the medical assessment. These problems mostly relate to:

- their own medical centre not undertaking the required medical assessment
- appointment dates considerably far into the future
- exceptionally high costs charged for the assessment

- 3.3 Further checks have found that following the pandemic further local medical centres have taken the decision not to undertake these assessments any more. This issue has been exacerbated by the fact that North West Boroughs Healthcare NHS Foundation Trust (Hollins Park) have yet to restart assessing drivers.
- 3.4 The Committee is responsible for determining the Council's policies in connection with the grant, variation, suspension or revocation of licences relating to taxi and private hire (see Terms of Reference of the Regulatory Committee part 17B).
- 3.5 However, the Constitution must now be interpreted in accordance with the case of R (On the application of 007 Stratford Taxis Limited v Stratford on Avon District Council 2011. This Court of Appeal decision interpreted the meaning of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 in respect of matters which must be dealt with by a Council's Executive or by a committee of its council. Essentially, the court held that: (1) it was clear that individual applications relating to taxi matters must be dealt with by the equivalent of this Council's Regulatory Committee and (2) matters calculated to facilitate, or be conducive or incidental to such applications must also be dealt with in the same way but (3) any "plan or strategy" associated with such a function would be an executive function and therefore have to be determined by a council's executive. The Stratford case concerned the introduction of a wheelchair access policy. The decision was taken by the Council's cabinet rather than its Licensing Committee. The challenge from the taxi trade was that the Licensing Committee should have adopted the policy. This element of the challenge was rejected by the court.
- 3.6 Consequently, any decision of the Regulatory Committee on matters contained in this agenda will be by recommendation to the Executive Board.
- 3.7 In deciding whether or not to adopt or to recommend the adoption of a policy the following questions should be addressed:
- 3.7.1 Has proper consultation been undertaken?
- 3.7.2 Are the proposals necessary and proportionate?

4. SUPPORTING INFORMATION

4.1 Consider amending the current policy in order to:

- **Agree a minimum standard for 3rd party medical assessments**
- **Delegate the authority of approving who can undertake medical assessments in accordance with current policy to the Licensing Manager**
- **Allow a technical exemption for certain licence-holders from having to undertake the same medical assessment twice**

4.2 The purpose of a minimum standard is to ensure that the same quality of medical assessment is undertaken irrespective of whether it is conducted by an individual's own GP or an approved 3rd party.

4.3 A significant number other licensing authorities (Liverpool, St Helens and Sefton Councils included) have been using 3rd party companies to undertake their driver's medicals for a number of years.

4.4 The benefits of 3rd party medical companies are reduced costs and considerably more flexibility on dates/times of appointments.

4.5 Unfortunately not all licensing authorities require the medical examiner to have sight of a driver's medical history. This can have obvious consequences as the medical examiner can only make their decision of whether an individual meets the required medical standard based on the information they have available to them.

4.6 An example of what the minimum standards could look like are as follows:

- Only medical assessment packs issued by Halton Borough Council licensing team are allowed to be used
- Where the applicant is not using their registered GP to conduct the medical assessment then they must obtain a recent summary care record from their medical practice. The summary care record must be presented to the examining medical officer when attending their examination.
- Photo identification (passport or DVLA licence) must be presented at the medical.

These standards must be met by both the applicant and the medical assessment provider.

- 4.7 The purpose for requesting delegation for approving the medical assessment providers to the Licensing Manager is to save having to refer the matter back to the Regulatory Committee and then the Council's Executive Board should a medical assessment provider need to be changed due to non-compliance with the proposed standards or that they cease to trade. Not doing so may result in an applicant being denied a licence and therefore unable to work while a new provider is being referred through the Council's appropriate licensing channel.
- 4.8 At present there a small number of hackney carriage/private hire licence-holders who also hold licences to drive heavy goods vehicles (HGV) and public service vehicles (PSV). These individuals also have to undertake the DVLA Group 2 medical assessment in order to drive very large vehicles. At present they have to successfully pass the same medical assessment twice at similar times. One for Halton Borough Council and a further one for the DVLA. This means that 2 lots of medical fees are paid by the same person as well as time taken to undertake such assessments.
- 4.9 It is still believed to be good practice to require a person applying for a licence to driver hackney carriage/private hire vehicles for the first time to undertake a DVLA Group 2 medical assessment even if they already hold a HGV/PSV licenses. This is because of the potential time lapse between completing a medical for their HGV/PSV licence and applying for a hackney carriage/private hire licence i.e. up to 24 years.
- 4.10 For consideration is that upon applying to renew a hackney carriage/private hire driver's licence, licensing staff could request the applicant sign a medical self-declaration and verify that the applicant has successfully passed a DVLA Group 2 medical by checking they still hold the appropriate status with the DVLA.
- 4.11 As and when a hackney carriage/private hire decides not to renew their HGV/PSV licence then DVLA Group 2 medicals would then resume in line with existing policy.

5. CONSULTATION

- 5.1 As part of a consultation the local trade were contacted on 16th April 2021 by email for any comments on this matter. Details of the consultation were also posted on the Council's website with a closing date for comments or opinions to be made by 21st May 2021.

5.2 The following replies were made to the licensing team as part of the consultation process. Each person submitting their views on this matter has had their identities removed but has been referred to with a number for audit purposes only. No comment has been amended, corrected or rephrased.

5.2.1 Number 1

Medical Consultation

1). Where drivers can obtain medicals from

It is correct that ever since the introduction of the current medical policy whereby restrictions allowed only for the registered GP and Hollins Park to conduct medicals. The provision by both is very poor and fraught with difficulties regarding the obtaining of an appointment within the time scale for the application/renewal of licences. In particular, referring to GP practice, taxi medicals are quite literally placed on to the back burner. This is now grossly exacerbated with the pandemic making GP appointments virtually unobtainable.

The recommendation of an additional contract outside of the GP infrastructure may help. It is our recommendation in addition to this, that applicants may obtain a medical from any GP. Historically this was the case and a small number of GPs were popular with the trade due to the lower charges. Competition lowers prices.

With the computerisation of GP records, patients/applicants records can be accessed by any Doctor of medicine across the United Kingdom. This takes away the lack of background knowledge provided by access to medical records. Quite frankly, with GP practices adopting nominated doctors (partners from the same practice) to perform such examinations (medicals) rather than the regular GP of the applicant/patient our proposal is very much the same as the current policy, standards wise and should introduce much needed capacity and possibly costs savings.

The Department of Transport allow any GP to perform medicals for LGV and PCV applicants where Group 2 medicals are mandatory unlike taxi medicals which is merely adopted or best practice of DoT guidance. That is to say it is not legally binding to have Group 2 medicals as taxis actually fall within Group 1.

5.2.2 Number 2

I am all for a new service provider for the taxi badge medical. In the past I've been overcharged, and messed around.

5.2.3 Number 3

Thank you for inviting comment regarding the proposed changes.

We welcome the proposed changes for a number of reasons:

We are trying to employ additional Taxi Drivers to support our business expansion in Cheshire. We hope to employ 65 additional drivers each year for the next 5 years. In the past 12 months we have only been able to license and employ 21 which is well short of our target and the main reason for this being that appropriate candidates have been unable to obtain Taxi Medical through their GP's due to Covid reduced services.

The proposed changes will certainly enable us to employ more people. As an example we have one gentleman who agreed to join us as a driver in Sept 2020 who is still waiting unable to get a GP medical. This is quite an intolerable situation and most people simply don't have the means to wait that long in order to start work. Currently we still have a large number of applicants wishing to join us but are stuck with their GP unwilling to process a medical.

The difficulty in obtaining medicals is making it very difficult to recruit people because the delays are off putting and this forces them to find other work elsewhere.

Many GP's have wised up to this situation and are raising the cost. We had to pay £180 recently to one GP practice for a Taxi Medical.

I believe that LA's in Cheshire are finding it challenging to award essential Transport Contracts due to a shortage in drivers. No doubt the difficulty in obtaining medicals is a contributing factor.

Thank you very much for allowing me to comment on the challenges we face in relation to this matter.

5.2.4 Number 4

Hi I believe that if a driver requires a medical they should be able to go to any approved examinations example is my doctor's beeches no longer do them and advised me that they refer there patients to a approved taxi and lorry drivers medical in st Helen's which I have advised nick wheeler on at a cost of around £60 which is substantially less then Hollins park which is around £150 as long as examinations me standards are safe I don't see why we should be made to pay excessive amounts

5.2.5 Number 5

I would support these changes fully.

5.3 Members of the Regulatory Committee may add any weight to the above comments as they see reasonable.

6. REGULATORS' CODE 2014

6.1 The Regulators' Code 2014 requires regulators (such as the Council) to take into account a number of factors when introducing new policies.

6.2 For example, paragraph 1.2 of the Code states: "When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:

- understand and minimise negative economic impacts of their regulatory activities;
- minimise the costs of compliance for those they regulate;
- improve confidence in compliance for those they regulate, by providing greater certainty; and
- encourage and promote compliance."

6.3 The Code also states that regulators should base their regulatory activities on risk. In the present case the balancing exercise is to weigh any negative consequences on the taxi trade against the positive consequences on the public who use the services of the trade.

6.4 It is taken as read that unnecessary burdens should never be imposed and that all actions need to be proportionate.

7. OPTIONS

7.1 The options available to the committee are to **recommend:**

- Agreement to some or all of the potential changes or
- Amendment to some or all of the potential changes or
- Rejection of the potential changes.

- 7.2 Should the Committee recommend a course of action other than outright rejection of any potential changes the policy will need to be altered. The Committee would therefore be requested to include within the resolution a delegation of the task of preparing detailed wording and other consequential matters.

8. POLICY IMPLICATIONS

- 8.1 Any changes made would change elements of existing policy relating to applicants applying to hold a hackney carriage and private hire driver's licence (referred to as a Single Status Driver's Licence) issued by Halton Borough Council..

9. OTHER IMPLICATIONS

None

10. IMPLICATIONS FOR THE COUNCILS PRIORITIES

10.1 Children and Young People in Halton

None

10.2 Employment Learning and Skills in Halton

N/A

10.3 A Healthy Halton

N/A

10.4 A Safer Halton

None

10.5 Halton's Urban Renewal

N/A

11. RISK ANALYSIS

There are no associated risks which have been identified with this item.

12. EQUALITY AND DIVERSITY ISSUES

There are no equality or diversity issues related to a review

13. LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972

Document	Place of Inspection	Contact Officer
1. Taxi Consultation File	Licensing Section	Kay Cleary Nick Wheeler
2. Current licensing policies		