

Licensing & Regulatory Committee

Date: 25th October 2017

Age UK Complaint

Report of the Chief Fire Officer: Mr Paul Hedley

Cabinet Member: Councillor John Riddle

Purpose of Report

To inform Members of a complaint from Age-UK regarding issues they feel are discriminatory in the current NCC Hackney Carriage and Private Hire Licensing Policy and to seek approval for an amendment that will remove this non-compliance. This report seeks to correct an apparent inconsistency between the issues surrounding medical fitness of older drivers and their ability to access licences of longer duration. By being licensed for three years instead of one, the driver will save £50 and will reduce his annual administrative burden.

Recommendations

1. That the Policy be amended to enable taxi drivers aged over 65 to purchase 3 year licences.
2. That the licences for private hire vehicle drivers over 65 years of age include a condition that they produce a medical certificate every year on or before the anniversary of the issue of the licence .
3. That the licences for hackney carriage drivers over 65 include a request that they produce a medical certificate every year on or before the anniversary of the issue of the licence .

Key Issues

The current policy, which has been in force since December 2015 states in the section on **Medical Assessments** "At 45 years of age, applicants wishing to renew a hackney carriage and/or private hire vehicle driver's licence, further Medical Certificates (completed on the same terms as those for new licences) will be required every five years, e.g. at the age of 45, 50, 55, 60 and 65 years. From 65 years of age a medical is required at every annual renewal thereafter."

The section headed **Term of Licence** states

"Driver licences may be granted for a period of up to three years but may where the Council considers it appropriate may grant for shorter periods.

A list of the circumstances where it may not be considered appropriate to licence drivers for the full 3 year period is as follows:

- a. Drivers newly licensed by NCC;
- b. A renewal applicant who has accumulated 9 penalty points on their DVLA licence;
- c. A renewal applicant who does not sign up for and continue to subscribe to the Disclosure & Barring update service;
- d. A renewal applicant who has been to committee before their licence was renewed;
- e. A renewal applicant where there are medical reasons to grant a shorter duration licence; and
- f. Any other reasonable cause.

Where it is not considered appropriate to licence an applicant or driver for three years they may be licenced for one year initially, for two years on renewal and for three years on second renewal providing that they are no longer caught by one of the circumstances outlined in a-f above.

Drivers eligible to apply for a three year licence may apply for a licence of shorter duration.”

Currently the costs are £130 for a 3 year licence, £100 for a two year licence and £60 for a 1 year licence.

3. The Equality Act 2010, Section 4, recognises ‘age’ as a protected characteristic. Section 13 of the Act covers direct discrimination and states: -

“(1)A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

(2)If the protected characteristic is age, A does not discriminate against B if A can show A’s treatment of B to be a proportionate means of achieving a legitimate aim.”

Age UK would argue that the fact that the current policy requires an annual renewal for drivers aged over 65, because of their need to annually produce a medical certificate is a disproportionate way of achieving the legitimate aim of ensuring that all drivers who are licensed by the Authority are fit to drive. Other non-discriminatory means should be found instead.

4. The Department for Transport Taxi and Private Hire Vehicle Licensing Best Practice Guidance states:

Age Limits

“It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made.....Applicants should be assessed on their merits”

5. The issues arise because Private Hire (PH) vehicles and Hackney Carriages (HC) are controlled by two different pieces of legislation. HCs are covered by the Town Police Clauses Act 1847 and PHs by the Local Government (Miscellaneous Provisions) Act 1976. The latter Act, at Section 57 talks about conditions being attached to a licence. The older Act doesn't say anything similar.

A 2001 case of *Wathan v Neath Port Talbot Borough Council* decided that conditions attached to a Hackney Carriage Licence were not enforceable. If we were to attach a condition to a HC drivers licence requiring them to provide a medical certificate each year we would be unable to take action if they failed to do so. Whilst we have no doubt that Mr Skinner would comply with all that was reasonably asked of him, we cannot be so certain of other drivers.

6. This matter has been discussed with a colleague at North Tyneside Council. The paragraphs below are from their policy.

'Applicants attaining 45 years of age must provide evidence of their medical fitness to hold a licence every five years up until the age of 65 years, after which a medical is required every year.'

'Where a medical is due within the term of the licence, the Authority will contact the driver in writing to advise of this. Should the medical not be provided within the relevant timescale, the driver's licence will be suspended until such evidence is provided and in certain cases with immediate effect'.

One of the objectives of the current Policy is: -

- a) To protect the public and to safeguard children and vulnerable persons by:.....
2. ensuring that drivers, proprietors and private hire operators are fit and proper persons.

The current Policy was developed within the framework of the two main pieces of legislation covering taxis (The Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976) and is influenced by other legislation, case law and official guidance on best practice. It seeks to reduce the content of this legislation and guidance into a practical form that can be understood and used by those in the industry, by Members and by staff in the Licensing Team. It can be influenced by local issues and it can be amended to reflect concerns as they arise as long as Members feel that public safety is not compromised.

If the Policy is amended as recommended, the Licensing Team will be empowered to suspend any private hire drivers who fail to provide the required certification. They will also monitor the situation in relation to hackney carriage drivers and will bring a report back to this Committee if the new arrangements are abused.

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BACKGROUND

BACKGROUND PAPERS

NCC Hackney Carriage and Private Hire Licensing Policy

IMPLICATIONS ARISING OUT OF THE REPORT

Policy:	The NCC Hackney Carriage and Private Hire Licensing Policy would be amended.
Finance and value for money: income	May lead to a slight reduction in licensing
Human Resources:	None
Property:	None
Equalities:	None
Risk Assessment:	Not applicable
Crime & Disorder:	None
Customer Considerations: apply for 3 year licences	Taxi drivers aged over 65 would be able to
Carbon Reduction:	Not applicable
Consultation:	None
Wards:	All

Finance Officer	n/a
Monitoring Officer/Legal	n/a
Human Resources	n/a
Procurement	n/a
I.T.	n/a
Executive Director	PH
Portfolio Holder(s)	JR

