

# WIRRAL COUNCIL

## LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

19 NOVEMBER 2014

<b>SUBJECT:</b>	<b>MEDICAL REQUIREMENTS FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR OF REGENERATION AND ENVIRONMENT</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR WJ DAVIES</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is for Members to authorise officers to consult Private Hire and Hackney Carriage Driver, Vehicle and Operator licence holders and members of the public in respect of a review of the medical requirements for Hackney Carriage and Private Hire Drivers

### 2.0 BACKGROUND AND KEY ISSUES

2.1 It is a requirement that an applicant for a Hackney Carriage or Private Hire Driver Licence is a fit and proper person to hold such a licence.

2.2 In accordance with Section 57(1) of the Local Government (Miscellaneous Provisions) Act 1976 the Council may request such information it considers necessary to determine whether conditions should be attached to the licence.

2.3 The provisions of Section 57(2) of the Local Government (Miscellaneous Provisions) Act 1976 specifically allow a local authority to require a medical certificate certifying that the applicant for a Hackney Carriage or Private Hire Driver Licence is physically fit to undertake that role.

2.4 The current requirements that must be satisfied before an individual may be granted a Hackney Carriage or Private Hire Driver Licence are as follows:

- Vocationally Related Qualification (VRQ)
- Knowledge test pass
- Satisfactory driving licence
- Satisfactory enhanced certificate from the Disclosure and Barring Service (criminal record check)
- Satisfactory medical

- 2.5 Currently, following the grant of a licence, licensed Hackney Carriage and Private Hire Drivers are not required to undertake a further medical check until they reach the age of 65 years, when medical checks are required annually on renewal of the licence.
- 2.6 The Department for Transport (DfT) Best Practice Guidance states:
- 'It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal.'
- 2.7 Legislation provides that the renewal period for driver licences may be up to three years. The recommendation made by the DfT for the frequency of medicals to be at each renewal is therefore not necessarily on an annual basis.
- 2.8 In September 2010 the Local Government Regulation (LGR) Working Group published a standardised conditions template following a review undertaken by the LGR Working Group. This Group was made up of representatives from each region in England and Wales as well as the Institute of Licensing (IoL) and National Association of Licensing and Enforcement Officers (NALEO). The template is intended to act as a guide and sets out minimum standards. In respect of the requirement for medicals the template sets out the following minimum standard:
- 'All drivers, regardless of age, should have Group 2 medical checks on initial application and at regular intervals thereafter'
- 2.9 Group 2 medical checks are required for holders of Light Goods Vehicle (LGV) or Public Carriage Vehicle (PCV) licences. These licences are renewable from age 45 years and every 5 years thereafter until the age of 65 years, unless restricted to a shorter period for medical reasons. Licences are renewable annually from the age of 65 years.
- 2.10 It is recognised by the General Medical Council that passengers of taxi and private hire vehicles have expectations of a safe driver and reliable service and that "Drivers need to meet the physical and mental demands of the task..."
- 2.11 On 20 March 2013 Members approved a draft consultation document to be circulated in order to seek views from Private Hire and Hackney Carriage Driver, Vehicle and Operator licence holders and members of the public in respect of a review of the medical requirements for Hackney Carriage and Private Hire Drivers. It was also resolved that the consultation should take place over a period of six weeks.
- 2.12 The consultation took place through an online questionnaire on the Council website. All 1317 licence holders were notified of the consultation through a newsletter sent directly to them advising them of the consultation and directing them to the website. A total of five responses were received.
- 2.13 During this time the Council's current requirement for private hire drivers to undertake an annual medical from the age of 65 years was challenged by a licensed driver on the grounds that he considered the policy discriminated against him in respect of his age. This challenge was considered in the County Court in January 2014 and it was determined that whilst the policy did discriminate in respect of age the requirement for licensed drivers to have an annual medical from the age of 65 years was a proportionate means of achieving the legitimate aim of protecting public safety.

- 2.14 Due to the poor response to the consultation and the lapse of time between the consultation and the outcome of the County Court judgement it was not considered appropriate to adopt any change to the current medical requirement at that time, and that further consultation would be required.
- 2.15 Officers remained concerned that there was a lack of medical checks on licensed drivers from the time that they were granted a licence until the age of 65 years, as this was not in accordance with published guidelines as well as the standards imposed by other local authorities. In seeking to address this concern it has been highlighted on renewal documents sent to licensed drivers that they must notify the Licensing Office of any change in their medical condition that may have occurred since their licence was previously renewed.
- 2.16 It is considered both appropriate and necessary to review the current medical requirement to both protect the public and have positive health outcomes for licensed drivers.
- 2.17 Members are requested to authorise officers to undertake further consultation on the options shown in paragraph 3 below as an amendment to the requirement for medical checks to be undertaken by licensed drivers and report back to this Committee the outcome of that consultation.

### **3.0 OPTIONS**

- Option 1** to require medical checks to be undertaken on initial application and then annually from age 65, as currently.
- Option 2** to require medical checks on initial application and thereafter annually.
- Option 3** to require medical checks to be undertaken on initial application and thereafter every three years to coincide with the current requirement for Disclosure and Barring Service criminal records checks, with checks being undertaken annually from age 65.
- Option 4** to require medical checks on initial application and thereafter every five years, with checks being undertaken annually from age 65.
- Option 5** to require medical checks on initial application and thereafter for each renewal, with checks being undertaken annually from age 65.
- Option 6** to require medical checks on initial application and subsequently every five years from the age of 45 years until the age of 65 years, when checks would be undertaken annually. This would be in line with Driver and Vehicle Licensing Agency (DVLA) requirements for LGV and PCV drivers.

The fees charged by General Practitioners for medical examinations are typically between £100 and £140.

#### **4.0 OTHER LOCAL AUTHORITIES**

4.1 The frequency of medicals imposed by other local authorities on Merseyside is as follows:

- Knowsley: initial application, age 45, age 50, age 55, age 60, age 65 and then annually
- Sefton: initial application, age 45, age 55, age 65 and then annually
- Liverpool: initial application, age 45, age 50, age 55, age 60, age 65 and then annually
- St Helens: initial application, age 45, age 55, age 65 and then annually

#### **5.0 RELEVANT RISKS**

5.1 There are none arising from this report.

#### **6.0 OTHER OPTIONS CONSIDERED**

6.1 This report is seeking approval to consult on a number of options.

#### **7.0 CONSULTATION**

7.1 It is proposed that the consultation will take place over a six week period and the results of the consultation will be reported to a future meeting of this Committee.

#### **8.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS**

8.1 There are none.

#### **9.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

9.1 There are no specific implications arising from this report.

#### **10.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

10.1 There is a cost implication of undertaking the consultation, this cost will be recovered through licence fees.

#### **11.0 LEGAL IMPLICATIONS**

11.1 A decision of this Committee may be subject to legal challenge.

## **12.0 EQUALITIES IMPLICATIONS**

12.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

Yes and impact review is attached.

<http://www.wirral.gov.uk/my-services/community-and-living/equality-diversity-cohesion/equality-impact-assessments/eias-april-2014/eias-regeneration-envir>

## **13.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS**

13.1 There are no specific implications arising from this report.

## **14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

14.1 There are no specific implications arising from this report.

## **15.0 RECOMMENDATION/S**

15.1 That Members authorise officers to undertake consultation on the options set out in paragraph 3 of this report regarding the medical requirement for Hackney Carriage and Private Hire Drivers. That the consultation period be 6 weeks.

## **16.0 REASON/S FOR RECOMMENDATION/S**

16.1 The current medical requirement has not been subject to review.

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## **APPENDICES**

## **BACKGROUND PAPERS/REFERENCE MATERIAL**

### **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Licensing Health and Safety and General Purposes Committee</b>	<b>20 March 2013</b>

## BRIEFING NOTES HISTORY

Briefing Note	Date