

OXFORD CITY COUNCIL

Licensing Committee

17th June 2005

Report of: Transport & Parking Business Manager

Title: Applications for Hackney Carriage and Private Hire Driving
Licences

Ward: All

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Key Decision: No

Lead Member:

Scrutiny responsibility: Not applicable

RECOMMENDATIONS

The Licensing Committee is recommended to agree to

- Approve the criteria for new applicants for a Hackney Carriage or Private Hire Drivers Licence shown at Appendix 1.
- Delegate the responsibility for formulating and revising the testing procedures when necessary, to the Transport and Parking Business Manager.
- Approve the charges associated with the grant of a driving licence and delegate responsibility to the Transport and Parking Business Manager to revise the fees when necessary. (Shown at Appendix 2).

SUMMARY

1. In order to be able to continue to ensure as well as possible that the persons granted hackney carriage and private hire driving licences are suitable and safe drivers, it has become necessary to make amendments to the present regulations in respect of Applicants for a Hackney Carriage and Private Hire Driving Licence.
2. This has come about because of changes in UK legislation in respect of new drivers and regulations entitling the holders of E.E.A. driving licences to drive in the UK until the age of 70 without obtaining a UK licence.
3. There has been a large increase in the number of drivers who are recent arrivals in this country. It is proving difficult to carry out criminal records checks to cover a sufficiently long period since the Criminal Records Bureau only have access to records within the UK and cannot check records prior to the applicants arrival in this country.
4. The Taxi Licensing Office is funded from the fees paid by the licence holders and although applicants are required to pay for Criminal and Driving Licences checks and the local knowledge test, the current licence holders fund all other costs including a driving test and administration costs

BACKGROUND

5. Oxford City Council currently requires that the driving licences of all applicants for a hackney carriage or private hire driving licences are checked with DVLA Swansea, to ascertain when they were first issued with a full DVLA driving licence, the types of vehicles for which they are qualified to drive and any endorsements or disqualifications. Driving records are subsequently checked annually through the DVLA. All applicants are also checked with the Criminal Records Bureau, must pass a local knowledge test, a driving test and provide a full medical report.

6. The Local Government (Miscellaneous Provisions) Act 1976 requires that all new applicants who apply for either a Hackney Carriage or Private Hire Drivers Licence must have held a full United Kingdom driving licence for 12 months.

CURRENT LEGISLATION AND LOCAL REGULATIONS

Driver Competence

7. Having perceived a problem with the safety record of newly qualified drivers, the Government introduced new legislation. The Road Traffic (New Drivers) Act 1995 affects drivers who first passed a driving test on or after 1 June, 1997. If a driver reaches six or more penalty points within two years of passing the driving test (ie during the probationary period) the Driver and Vehicle Licensing Agency (DVLA) will automatically revoke the driving licence.

To regain a full licence a driver must then:

- obtain a provisional licence
 - drive as a learner
 - pass the theory test (both elements) and practical test.
8. Since the change in legislation the Licensing Office has found that the DVLA driving licences of a number of potential new drivers had been revoked by DVLA under this provision. In the last year, 14 new applicants had held their full DVLA driving licence for less than two years. They could potentially be granted a licence by this authority (after passing all the requirements), acquire 6 or more points on their DVLA licence during the probationary period of two years as new drivers and have their DVLA licence revoked.
 9. On one occasion in the past year a driver informed the Taxi Licensing Office of such a revocation and returned his drivers badge. Unless a driver informs the Taxi Licensing Office of the revocation of the DVLA licence, the Oxford City Council remains unaware and the driver could carry on driving until the annual DVLA check was carried out. This has

already happened with a driver disqualified by the courts. Vehicle insurance may also be in question as most taxi insurance policies state that the person driving must hold a current DVLA licence.

10. Oxford City Council Guidelines currently require that once restored, any new DVLA licence must remain free of endorsement for 12 months before a licence to drive either Hackney Carriage or Private Hire Vehicles can be granted.

Drivers from outside the UK

11. The holder of a driving licence issued by countries within the European Economic Area (EEA) and some other countries may now drive motor vehicles, in the UK, using the licence of the issuing country until reaching the age of 70, without being required to exchange it for a UK driving licence.

12. Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council shall not grant a licence to drive private hire vehicles:

(a) unless it is satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) to any person who has not for at least 12 months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

Section 59 of the Act makes similar requirements for applicants for a hackney carriage driver's licence.

13. The Driving Licences (Community Driving Licence) Regulations 1996 states that the EEA driving licence is acceptable to fulfil the conditions of sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976.

14. Although legislation permits the use of an EEA licence, there is no practical possibility of accurately checking a drivers previous record

unless the licence is either exchanged for a UK licence or the applicant, whilst retaining his EEA licence, acquires a D9 counterpart form from the DVLA, (this is the form accompanying the new 'picture' driving licence which carries any endorsements).

15. It would neither be safe for the public, which must be the Council's main concern, or fair to other applicants, if a driver who has passed a driving test, possibly in a country where requirements are less than the UK, whose experience of driving in the UK may be limited or even none, can be granted a licence to immediately drive a vehicle carrying up to eight passengers for hire or reward when there is no possibility of checking his driving record, whereas the holder of a DVLA licence for whom there is a record may have been refused.
16. To be issued a temporary permit to drive private hire vehicles in London, an applicant must satisfy the following minimum criteria which is described in The Private Hire Vehicles (London) Act 1998: Must be 21 years or over, hold a full DVLA, Northern Ireland, or other EEA state driver licence, have held one of the above licences for at least 3 years. Amongst the documentation required is a counterpart licence showing current address.
17. Unlike London and many other licensing authorities, which have set a minimum age limit of 21 and/or require that applicants hold a DVLA driving licence for up to three years, Oxford City Council has no requirement.
18. It is essential that new conditions are put in place in respect of the length of time driving licences must be held prior to the grant of a Hackney Carriage or Private Hire driving licence and for those applicants whose DVLA licence has been revoked during the first two years of issue.

PROPOSED ADDITIONAL CRITERIA

19. A Hackney Carriage or Private Hire Drivers Licence will not be issued to any new applicant who has not held a full United Kingdom driving licence granted under Part III of the Road Traffic Act 1972 for a minimum of 24 months, or held a licence from another EEA state for a minimum of 24 months together with a counterpart to the licence, which must have been held for a minimum of 12 months and show the applicants current address.

20. If the DVLA driving licence of an applicant was revoked following the acquisition of six or more points during the first two years since passing the driving test, then a period of 24 months following the restoration of the licence must have elapsed before a licence can be granted.

(The proposed additional criteria are also set out at Appendix 1)

21. The minimum age for drivers to obtain a licence with this authority would thus be 19 years.

22. The medical criteria will stay the same

CRIMINAL RECORDS CHECKING

22. The below paragraphs were added to the report as a result of recommendations, both verbal and written from the hackney carriage and private hire trade. **(Letter from COLTA at Appendix 3)**

23. This Authority requires drivers to have a satisfactory Criminal Records Bureau check at Enhanced level, before a licence is granted and every third year thereafter. The CRB requires that an applicant provides an address history for the previous five years but can only provide details of convictions within the United Kingdom, thus an applicant who has only been resident in the UK for a short period cannot be checked satisfactorily. However it is possible for an applicant to obtain a

Certificate of Good Conduct or an equivalent document from a number of countries, which coupled with the CRB check, may prove satisfactory.

24. For the safety of the public and in order that checking procedures be equitable a further condition is recommended.
25. Applicants who have been resident in the UK for less than five years from the date of application are required to provide a Certificate of Good Conduct or an equivalent document from any country in which they have lived within the previous five years, this is to be in English, at their own expense and in addition the CRB check. **(The proposed additional criteria are also set out at Appendix 1)**

LOCAL KNOWLEDGE TEST AND STANDARDS OF ENGLISH

Current Practice

26. As part of the requirements before being granted a hackney carriage or private drivers licence, an applicant must pass a Local Knowledge test that includes local rules and regulations. The test takes the form of a multiple-choice paper and involves no writing, but reading simply worded questions and marking the correctly chosen answer.
27. It has become apparent that the test is failing in that it contains no appraisal of the applicant's ability to communicate or understand English. This applies not only to those applicants who are fairly recent arrivals in this country but to some who have lived here for many years, whose understanding of the English language both written and verbal is minimal..
28. Although licence holders have successfully passed the present local knowledge tests their inadequate command of English has resulted in a number of complaints and incidents being reported to the Taxi Licensing Office. Many of these complaints have clearly either been caused by the drivers inadequate English or could have been diffused by a driver satisfactorily explaining a situation. Problems with money and

understanding the directions given in writing, or by passengers also with poor English have occurred

29. The driver involved in one recent complaint dealt with by the Licensing Office could not be interviewed without the services of a trained interpreter. It was apparent that the complaint resulting from the drivers poor spoken English and he agreed to take English lessons as an alternative to an appearance before the Licensing Sub-Committee as 'not being suitable to hold a driver's licence', because of his poor spoken English.
30. The present style of test was formulated some years ago and is no longer adequate. This has been recognised by a number of Authorities who in addition to a Local Knowledge test, have introduced a test of English, both written and spoken together with basic numeracy.
31. As will be seen in following paragraphs, a number of applicants who have successfully passed the tests do not take up a licence. There is presently no time limit, this could mean that by the time the licence is taken up the knowledge has been lost.
32. It is recommended that a licence must be taken up within six months of a candidate being informed that he has successfully passed the Local Knowledge test.

(The proposed additional criteria are set out at Appendix 1)

Proposals for an Additional English Test

33. There shall be an initial personal interview of each new applicant with a basic mathematics test, basic test of written English and an assessment of spoken English. At the interview, application forms, particularly the CRB forms that have proved difficult for some applicants and the required proofs of identity will be checked.

34. The **Diversity** Officer has been contacted about the proposals . The Commission for Racial Equality has confirmed her opinion that there would not be a problem.

(The proposed additional criteria are set out at Appendix 1)

35. Additional testing will not be possible without additional staff hours. This is addressed in another report before the Committee today.

CHARGES

36. Apart from recouping, the basic charges made to the Council by the Criminal Records Bureau and the Driver and Vehicle Licensing Agency from the applicant, the only charge currently made is one of £10 for each Local Knowledge test taken. The introduction of the Criminal Records Bureau has greatly increased the workload, as has the checking of an applicant's entitlement to work (although the Council does not employ drivers it is an offence to employ a person who does not have work entitlement an employer would certainly assume that the holder of a licence granted by this Authority, would have this entitlement). Each application takes a great deal of time and no charge is made for the considerable administration work involved in the application process.

37. At present, the charge made for the driving test that is carried out by Transport Services at Marsh Road and billed to the Licensing Office (currently £16.11) is not passed on to the applicant.

38. In the last 12-month period there were 204 new applicants for a driving licence of whom 95 were licensed. In addition, 23 passed all the tests including the driving tests but did not take up a licence, thus a great deal of work has been carried out by the Taxi Licensing Office together with some financial outlay.
39. The 204 applicants took a total of 323 Local Knowledge tests; this included the 27 applicants for a hackney carriage driving licence, some of whom already held licences to drive private hire vehicles. It must be noted that some applicants withdraw or are refused a licence prior to taking the tests
40. No payment is obtained from the applicant until a licence is taken up, when the fee is the same as that paid by licensed drivers for the annual renewal of their licence.
41. Taxi Licensing is funded entirely through the licence fees and in order to ensure that applicants are suitable and that the existing licence holders are not paying the costs of new applicants, additional criteria to require payment and increase charges are necessary.
42. The charge for the initial personal interview of each new applicant shall be £10. This is calculated from 15 minutes of Taxi Licensing Office time and rounded down.
43. The charge for the multiple-choice Local Knowledge test will be increased from £10 to £15.
44. The charge for the driving test made by Transport Services to the Licensing Office will be recovered from the applicant, together with an administration fee of £5. This is calculated from 10 minutes of Taxi Licensing Office time and rounded down.

(The proposed additional criteria and Charges are set out at Appendix 2)

HUMAN RIGHTS

45. Although a licence is deemed to be a possession covered by Article 1, of the first Protocol of the European Convention on Human Rights, no licence has yet been granted to a new applicant by this Authority, thus any decision made by the committee to change the criteria of new applicants will not be subject to Article 1.

THIS REPORT HAS BEEN SEEN AND APPROVED BY

Legal & Democratic Services (Jeremy Franklin)

The Transport & Parking Business Manager

Financial Management (Claire Reid)

Additional Criteria for Applicants for a Hackney Carriage and Private Hire Driving Licence

1. A Hackney Carriage or Private Hire Drivers Licence will not be issued to any new applicant who has not held a full United Kingdom driving licence granted under Part III of the Road Traffic Act 1972 for a minimum of 24 months, or held a licence from another EEA state for a minimum of 24 months together with a counterpart to the licence, which must have been held for a minimum of 12 months and show the applicants current address.
2. If the DVLA driving licence of an applicant is revoked following the acquisition of six or more points during the first two years since passing the driving test, then a period of 24 months following the restoration of the licence must have elapsed before a hackney carriage or private hire driving licence can be granted.
3. Applicants who have been resident in the UK for less than five years from the date of application are required to provide a Certificate of Good Conduct or an equivalent document from any country in which they have lived within the previous five years, this is to be in English, at their own expense and in addition the CRB check.
4. Prior to taking the written Local Knowledge test, each new applicant for a Hackney Carriage or Private Hire Drivers Licence is required to attend an interview where there will be an appraisal of his spoken English, English comprehension, a test of reading, basic written English, and basic mathematics. Drivers not reaching a satisfactory level will be refused a licence
5. A driving licence must be taken up within six months of a candidate being informed that he has successfully passed the Local Knowledge test.

Essential requirements

Requirements	Achieved by	Present Charge	Proposed charge
Ability to converse in, write and comprehend English. Basic numeracy	Interview by Officer, short written test, assistance with forms, checking identification etc.	Nil	£10
Satisfactory previous criminal record	Criminal Records Bureau and/or Certificate of Good Conduct.	At cost (£34)	At cost
Satisfactory previous driving record	Driver and Vehicle Licensing Agency	At cost (£5)	At cost
Knowledge of Oxford City. Knowledge of rules, regulations and legislation	Local Knowledge test	£10	£15
Medical fitness	Medical certificate	By medical practitioner	
Driving Ability/safety	In house driving test.	Nil	At cost plus £5

Local Government (Miscellaneous Provisions) Act 1976 S. 53 (2) power to recover costs