

APPEALS AND REGULATORY COMMITTEE

Wednesday, 3rd August, 2016

Present:-

Councillor Derbyshire (Vice-Chair, in the Chair)

Councillors	Bexton	Councillors	Hitchin
	Bingham		A Murphy
	Brady		Parsons
	A Diouf		Rayner

*Matters dealt with under the Delegation Scheme

**43 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS
RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were received.

44 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Bellamy, Dean Collins, Lisa Collins, Peter Innes and Niblock.

**45 HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING POLICY -
AMENDMENTS (A410)**

The Licensing Manager submitted a report for Members to consider proposed amendments to the Hackney Carriage and Private Hire Licensing Policy, in respect of non-Chesterfield hackney carriages being used as private hire vehicles within the controlled district of Chesterfield Borough Council together with subsequent changes to the requirements for new drivers and a trade proposal to defer Driving Standards Agency (DSA) driving tests, and of training in child sexual exploitation (CSE).

The proposed amendments aimed to safeguard public safety while balancing the requirements for Chesterfield drivers against those from other authorities.

The report set out the background to the proposed amendments arising from a challenge to the Council's existing policy of only allowing operators licensed by Chesterfield Borough Council to use drivers and vehicles licensed by the Council. This challenge had resulted in non-Chesterfield hackney carriages being able to operate as private hire vehicles within the controlled area of Chesterfield Borough Council. The Council had no enforcement powers over such non-Chesterfield vehicles and drivers unless a criminal offence was committed. It was noted that this was an issue for licensing authorities nationally.

Some private hire operators had argued that the more stringent requirements to be met by applicants for a combined hackney carriage and private hire driving licence in Chesterfield forced them to recruit drivers licensed by other authorities.

Most of the non-Chesterfield hackney carriages were licensed by Rossendale Borough Council, which had now introduced an 'Intended use Policy' requiring applicants for a new hackney carriage vehicle licence to use the vehicle predominantly in the Borough of Rossendale and to be resident within 30 miles of the council boundary. Chesterfield Council officers had developed an information sharing system with their Rossendale colleagues where there was clear evidence of a hackney carriage working predominantly outside Rossendale to enable Rossendale to consider revoking the licence.

These issues had been the subject of consultation through the Taxi Consultative Committee and with local private hire operators, and the report set out a number of options to address this, including:

- A voluntary code of conduct for private hire operators to take responsibility for the behaviour of non-Chesterfield hackney carriage drivers while working locally on a private hire basis (attached as Appendix A to the report);
- Having separate private hire and hackney carriage driving licences, with a simplified practical test of geographical knowledge but not a written geography test for private hire drivers. Private hire drivers would then only be eligible to drive private hire vehicles, not hackney carriages. The application process for hackney carriage drivers would remain the same and a hackney carriage licence would allow the holder to drive both hackney carriages and private hire vehicles.

Ms M Shaw, proprietor of Shaws Taxis and Chairperson of Chesterfield Hackney Owners Association, addressed the meeting in respect of delays experienced in arranging DSA tests, as required for Chesterfield applicants, which she felt was contributing to operators looking to recruit non-Chesterfield hackney drivers. She had proposed that provision be made to issue a temporary licence for a maximum of three months to allow time for the DSA test to be taken. The Licensing Manager proposed that this should be at the discretion of officers based on the availability of a test, the efforts of the driver or operator to obtain a test date and the driving history of the applicant and not based on the inability of the applicant to pass the test.

It was noted that a training package on child sexual exploitation (CSE) awareness had been developed and was being delivered to taxi drivers, with the issue also being incorporated into the knowledge test for new applicants. The Licensing Manager proposed that this training should be mandatory with sanctions to be applied where drivers failed to attend within a reasonable time period without reasonable excuse.

Members expressed concern at the limited scope for the Council to take action as the local licensing authority in respect of non-Chesterfield hackney carriage drivers within the national legislative framework and were of the view that this needed to be addressed at a national level.

In response to Members' concerns and questions, it was confirmed that:

- complaints of poor service, such as drivers not being familiar with the area, were taken up with the responsible operator;
- operators were required to maintain booking records, including details of vehicles and drivers used, which the Council's enforcement staff could inspect to determine if non-Chesterfield drivers were working predominantly out of the area in which they had been licensed;
- all taxi drivers licensed across the country were required to produce an enhanced DBS check of previous criminal convictions as part of the application process;

- vehicles licensed in Chesterfield were checked every six months and were generally in good condition; vehicles licensed in Rossendale were checked annually.

*** RESOLVED –**

- (1) That the Hackney Carriage and Private Hire Licensing Policy be amended as follows:
 - (a) A voluntary code of practice for private hire operators be adopted and included within the policy (as set out in Appendix A to the report);
 - (b) Schedule 7 of the policy be amended to allow the use of non-Chesterfield hackney carriages as private hire vehicles within the controlled area of Chesterfield Borough Council;
 - (c) The option of a separate driver's licence for a private hire or hackney carriage vehicle be offered within the policy - a private hire driver's licence to permit the holder to drive only private hire vehicles; a hackney carriage driver's licence to permit the holder to drive both hackney carriage and private hire vehicles;
 - (d) Applicants for a private hire driver's licence to not be required to take the written paper on geographical knowledge but to pass a simplified practical test of their geographical knowledge; the application process of obtaining a hackney carriage driver's licence to remain unchanged;
 - (e) Officers to be given authority to defer the requirement to pass a DSA driving test for a maximum of three months, during which time the applicant could drive a licensed vehicle - this decision to be based on the availability of a test centre, the efforts made to obtain a test appointment and the driving history of the applicant, not on the inability of the applicant to pass the test;
 - (f) If a licensed driver fails, without reasonable excuse, to attend a child sexual exploitation awareness session within a reasonable time period, officers be given authority to issue 12 penalty points and refer the driver to the Appeals and

Regulatory Committee for determination as to whether they remain a fit and proper person.

- (2) That the above amendments to the Hackney Carriage and Private Hire Licensing Policy commence with effect from 1 September 2016.