

Driver Training as an enforcement option for Licensing Board

Meeting	Licensing Board - 4th October 2022 - 10am
Report Author	Alison Stocker - Senior Licensing Officer
Portfolio Holder	Cllr D Saunders, Cabinet Member for Finance
Status	For Decision
Classification:	Unrestricted
Key Decision	N/A
Reasons for Key (if appropriate)	N/A
Previously Considered by	N/A
Ward:	N/A

Executive Summary:

Remedial driving courses and/or Disability Awareness Courses, can be used as an enforcement option for Licensing Board, where the reason for a report to Licensing Board is related to their driving and/or conduct.

Recommendation(s):

The instructions of the Board are requested.

Corporate Implications

Financial and Value for Money

Costs associated with processing the application are taken from licensing fee income. Costs for the relevant courses will be paid for by the driver.

The applicant or any other person (objector) may appeal the Committee's decision to Magistrates' Court within 21 days. Should this decision be appealed the Council will incur costs defending the appeal. Should the appeal be successful it could result in costs being awarded against the Council. Therefore all decisions should ensure that they are in line with the Local Government (Miscellaneous Provisions) Act 1976

Legal

The Licensing Board must pay proper attention to the applicant's rights under the provisions

of the Human Rights Act 1998, which gives further effect in the United Kingdom to the fundamental rights and freedoms contained in the European Convention on Human Rights. The Licensing Board must have proper regard to the rights of the individual applicant when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found and think hard about how it can cause the least possible harm to individuals, bearing in mind its duty to ensure the protection of the public.

Section 17 of the Crime and Disorder Act 1998 states: "Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those function on, and the need to do all that is reasonably can to prevent crime and disorder in its area"

Risk Management

This enforcement option allows greater discretion to Licensing Board members in reaching fair and proportionate decisions.

There is a risk in not introducing the enforcement option that decisions may not be proportionate to the offence.

Corporate

The Council's Core Business Objectives set out the direction of travel for the Council until 2023 laying the strong foundations that will benefit, shape and grow the district. By taking this approach, the Council's resources will be focused on what matters most, service delivery will be strengthened and both staff and partners will be working towards a common goal - ensuring prosperity and improved quality of life for our residents and the community. These Core Business Objectives are:

Growth

We will continue to ensure we work to consider new ways to generate income and invest our current resources. Delivering a Council that is financially strong to discharge its services and invest in the growth of the District.

Environment

Having a clean and well-maintained environment remains important to us. We will be clear with our residents on what we do and what our asks of residents are - cultivating a shared responsibility approach. Delivering a clean and accessible living environment, maintaining an emphasis on prevention but where necessary we will use an enforcement approach.

Communities

Through effective partnership working with both the public sector agencies and the community, we will provide leadership and direction across the district and the region to ensure everyone is working to the same goal. Delivering high-quality housing, safer communities and enhancing the health and wellbeing of our residents.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

In considering this application it is appropriate to consider the rights of both the applicant and other parties, such as "responsible authorities" and/or "other persons" (objectors). The procedure for determining licences has a prescribed format to ensure fair representation of the relevant facts by all parties.

This report relates to the following aim of the equality duty: -

This enforcement option allows greater discretion to Licensing Board members in reaching fair and proportionate decisions and will be applied equally to all private hire and hackney carriage licensed drivers.

Corporate Priorities

This report relates to the following corporate priorities: -

- Growth
- Communities
- Environment

1.0 Introduction and Background

- 1.1 This report requests Members to consider whether they wish to introduce remedial driving courses for licensed taxi and private hire drivers who appear before a Licensing Board, where the reason for the hearing is related to their driving and/or conduct which requires a hearing for Members to adjudicate on appropriate enforcement action.
- 1.2 If Members decide that this is an appropriate enforcement tool, any driver required to undertake such a course would have their Thanet District Council licensed taxi or private Hire driver's licence suspended until such time as they had successfully completed such a course and provided evidence of the same to licensing officers.

2.0 Background

- 2.1 When a licence holder is brought before the Licensing Board, the Committee may decide the appropriate action is for the licence holder to take an additional driving standards test. However, no options for courses, content details or cost implication to the licence holder has been made available to the Committee thus far.
- 2.2 This approach is in line with the Department for Transport Statutory Taxi & Private Hire Vehicle Standards July 2020 Section 9 "Enforcing the Licensing Regime" page 33 to 34 (attached as Appendix II). Paragraph 9.10 suggests suspension may be appropriate in conjunction with additional training for minor issues where on the balance of probability the driver is not considered to present a risk to public safety.
- 2.3 There are two suppliers in Kent that can be used to provide remedial driver training courses; with one of these providers also offering a physical driving course. Licensing Board members may select from either of these two suppliers, as a relevant remedy dependent on the nature of the offence. Drivers will be suspended pending successful completion of the training course - see Annex 2 and 3. We will periodically review the availability of relevant courses and add any new suppliers meeting these requirements to the list, as required.

3.0 Proposal

- 3.1 Where the Licensing Board deem appropriate action to be suspension of the licence until the licence holder undertakes additional training, the licence holder will need to take a remedial driving course and send confirmation to the Licensing Team that the course has successfully been completed before their licence can be reinstated; with the original expiry date still in force.

The fee and any expenses incurred in attending the course will be paid directly by the licence holder.

4.0 Alternative options

- 4.1 Members may choose to require licence holders to sit and pass the Thanet District Council Knowledge Test before their licence is reinstated.
- 4.2 Members may decide that the introduction of remedial driving courses as an enforcement option for a Licensing Board is not necessary.

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Annex 1: Department for Transport Statutory Taxi & Private Hire Vehicle Standards July 2020 Section 9 Enforcing the Licensing Regime.

Annex 2: Available training options

Annex 3: Driver assessment details, prices and provider details.

Annex 4: : Licensing Enforcement Policy

Background Papers

N/A

Corporate Consultation

CMT not required as not relevant to other departments agreed by the Neighbourhood director and circulated to the Portfolio holder.

Finance: No additional TDC budget requirements. Suspended driver's will be required to fund the training course.

Legal: Additional Enforcement Option for Licensing Board. Same legal considerations apply, as above.