

CHANGES TO DRIVER KNOWLEDGE TEST

Meeting	21st March 2023 - 10:00am
Report Author	Alison Brock – Technical Support Team Manager
Portfolio Holder	
Status	For Decision
Classification:	Unrestricted

Executive Summary:

To consider a report to amend the Council's current Knowledge Test.

Recommendation:

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.

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"

In considering this application the Licensing Board will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.

There is a right of appeal to a Magistrates' Court within 21 days of the date of the decision of the Licensing Board with regard to the grant/refusal of a licence or any of the conditions attached to it. The risk of appeal/challenge is increased if any decision made is not evidence-based and proportionate.

Whilst there is no statutory guidance with regards to the definition of a fit and proper person, in 2018 The Institute of Licensing produced guidance on determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire Trades in order to bring clarity and conformity to the definition of a 'fit and proper person'.

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 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.

Introduction and Background

All applicants who apply to be a Private Hire Driver or a Hackney Carriage Driver are required to take a Knowledge Test. The current test was introduced towards the end of 2019.

The Thanet Private Hire Association, which consists of 3 of the local operators, there are 42 operators currently registered with the Council, requested a meeting with Mr Mackinlay and council officers which was held at the office of Mr Mackinlay in November 2022 to discuss the lack of drivers passing the current knowledge test.

2.0 The Current Situation

2.1 The knowledge test is held fortnightly with up to 20 applicants attending.

The details of the current test are attached at Annex A

2.2 There is currently a national shortage of drivers. A number of Thanet drivers left during the pandemic or following it and have not returned. In April 2022 it also became a requirement at renewal to register for Tax with the HMRC.

The table below shows the number of PHD licences issued and closed/not renewed over the last 6 years.

Calendar Year	New PHD Licences Issued	Closed/not renewed
2022	30	101
2021	26	32
2020	11	69
2019	42	81
2018	54	11
2017	55	28

2.3 As can be seen from the table a large number did not renew their licence in 2022. Drivers do not have to retake the test at renewal only drivers applying for a new licence have to take the test.

2.4 All local authorities are required to test applicants who wish to become a Private Hire or Hackney Carriage Driver having regard to the

Home Office – Guidance for licensing authorities to prevent illegal working in the taxi and private hire sector in the UK – 2022

Taxis and Private Hire Vehicles (Disabled Persons) Bill – duties of drivers

Statutory guidance – Access to taxis and private hire vehicles for disabled users.

Statutory Taxi and Private Hire Vehicle Standards – July 2020 – Driver section attached at Annex B

Taxi and Private Hire Vehicle Licensing Best Practice Guidance - 2010

A consultation document on the Best Practice Guidance was issued in 2022.

Fit and Proper Test

As stated in the Statutory & Best Practice Guidance for taxi and PHV licensing authorities.

Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is a fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for who you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of the day or night?

If on balance of probabilities, the answer to the question is 'no' the individual should not hold a licence.

- 2.5 Attached at Annex C is a list of some of the other authorities within Kent and the tests that they require for a new driver.

All information in regard to the Thanet current knowledge test along with a study guide can be found online at

<https://www.thanet.gov.uk/info-pages/taxi-and-private-hire-vehicle-knowledge-test/>

with links to the courses required and to conditions of licences, byelaws etc to KCC for school information, and the Visit Thanet site for details of local attractions, pubs & hotels.

- 2.6 The current process if someone wishes to apply for a private hire drivers licence is

- 1) Collect a DBS form from the reception desk and once completed request an appointment to have the form checked and sent off. Appointment times are Tues and Thurs mornings. These are sent off the same day, we have no control over how long they take to be returned.
- 2) Take the online Safeguarding course and Visitor Ambassador Course once these have been completed then

- 3) Take the knowledge test, this cannot be booked until the above 2 courses have been completed, as the certificates need to be attached to the booking – these are held fortnightly on a Wednesday morning for up to 20 candidates.
- 4) once the knowledge test has been passed then the New driver application paperwork can be completed and an appointment made for this to be checked and if the DBS has been sent back the licence can be issued that day or the next at the latest.

Applicants used to pay the full application fee and then apply to take the test. They only now have to pay for the DBS application (£40) and knowledge test (£41) and pay the actual application fee once they have passed the knowledge test.

- 2.7 Thanet Private Hire Association have submitted a statement and further information as public speaking is not allowed at a Licensing Board meeting - Annex D
- 2.8 Details of the costings for the tests mentioned in the TPHA paperwork are attached at - Annex E
- 2.9 The other operators were contacted and asked for their comments – attached at Annex F

3.0 Options – some options for the Board to consider

- 3.1 Keep the test in its current format
- 3.2 Make changes to the test, i.e. lower the pass rate and/or split the test into a longer Hackney Driver Test (more local knowledge) and a Private Hire Driver Test with less local knowledge. Review all the questions.
- 3.3 Include the first test with the application fee and further tests charged for. This would mean the full application fee would have to be paid at the beginning of the process.
- 3.3 Any requirement for in house training would mean employing a member of staff to be trained on all aspects of the test including safeguarding, disability awareness, training the trainer courses etc. This would be at a cost of approx. £36,500 - £40,000 (this includes on cost but no training costs)
- 3.4 Change the test to include a driver assessment course, the online classroom course for safeguarding both paid for by the applicant and a shortened in-house knowledge test, of which the first test could be included in the application fee. This would of course mean the whole application fee would have to be paid at the beginning of the process.
- 3.5 Any changes/additions the Board deem appropriate for the test

Contact Officer: Alison Brock – Technical Support Team Manager

Reporting to: Penny Button Director of Neighbourhoods

Annex List

Annex A - Details of current test

Annex B – Extract from Standards

Annex C – Other Kent authority tests and costs

Annex D – Paperwork submitted by TPHA

Annex E – Costings of tests mentioned by TPHA

Annex F – Comments on Knowledge test from other operators

Background Papers

Suitability of applicants and licences in the hackney carriage and private hire trades-

Access to taxis and private hire vehicles for disabled users

<https://www.gov.uk/government/publications/access-to-taxis-and-private-hire-vehicles-for-disabled-users/access-to-taxis-and-private-hire-vehicles-for-disabled-users--2>

Statutory Taxi and Private Hire Vehicle Standards

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/928583/statutory-taxi-and-private-hire-vehicle-standards-english.pdf

Consultation on Best Practice guidance

<https://www.gov.uk/government/consultations/taxi-and-private-hire-vehicle-best-practice-guidance>