

## INTRODUCTION OF A KNOWLEDGE TEST FOR DRIVERS

### Executive Summary

This report presents a proposed change to the Private Hire Operators licensing regime, specifically the introduction of a Knowledge Test for Operators Licence Holders.

### Recommendations

The Committee is requested to:

**RESOLVE That** a requirement for an Operators Knowledge Test be implemented in order to ensure Operators are fully aware of their legal requirements.

The Committee has the authority to determine the recommendation(s) set out above.
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**Background Papers:** None.

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**Date Published:** 30 September 2018

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### 1.0 Introduction

- 1.1 In the words of the Institute of Licensing, “A private hire operator (“an operator”) does not have direct responsibility for the safety of passengers, other road users or direct contact with passengers who are in the private hire vehicle (except where they are also licensed as a private hire driver). However, in performing their duties they obtain and hold considerable amounts of personal and private information about their passengers which must be treated in confidence and not revealed to others, or used by the operator or their staff for criminal or unacceptable purposes. As public trust and confidence in the overall safety and integrity of the private hire system is vital, the same standards will be applied to operators as those applied to drivers”
- 1.2 The Local Government (Miscellaneous Provisions) Act 1976 (“the Act”), which was adopted by Woking Borough Council in 1977, gives the Licensing Authority the powers to issue licences for Taxis, Private Hire Vehicles and Private Hire Operators. In order to do this, each authority is tasked with drafting with its own set of policy, practice and guidance. As such, the actual set rules of the Act are few and far between and it is the Licensing Authorities role to ensure that those licenced are ‘fit and proper’ to do so, thus ensuring the safety of the travelling public.
- 1.3 Section 55(3) of the Local Government (Miscellaneous Provisions) Act 1976 states that a council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary. In order to assist Licensing Authorities with this task, the Government has produced suggested ‘good practice’ guidance giving a basic skeleton set of conditions to which an Authority can build from. These good practice guidance formed the basis of the vast majority of the conditions for Private Hire Operators all across the U.K.
- 1.4 The Operator’s Licence is therefore issued to the applicant by Woking Borough Council (as the Licensing Authority) and conditions are attached in order to maximise good practice and safe working standards of Operators, thus ensuring the safety of the travelling public.
- 1.5 A copy of these conditions is attached as Appendix 1.
- 1.6 Since the conditions and practices for Taxi and Private Hire legislation were introduced over forty years ago, great changes have taken place with regard to the drivers and vehicle licences. However, there has been little change to the Operators Licences and the requirements to obtain one. It is therefore our view that certain changes need to be made to ensure that the Operators continue to be safe, secure, open and trustworthy, understanding of their requirements, safely provide for their drivers, and above all – knowledgeable of the law.

### 2.0 The Operators Knowledge Test

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 is the main piece of guiding legislation for Private Hire Operators and sets the foundation for how they are required to behave.
- 2.2 Failure to comply with the Local Government (Miscellaneous Provisions) Act 1976 is an offence, which can result in the licence holder becoming liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- 2.3 As you will see from Appendix 1, the Operator’s Licence Conditions, there are quite a few requirements that an Operator is required to comply with in order to prevent offences being committed.
- 2.4 Operators Licences have been issued to those who are able to present a recent and clean Disclosure and Barring Service Check and make the relevant payment.

## Introduction of a Knowledge Test for Drivers

- 2.5 In 2017 Officers of the Licensing Department drafted a “Private Hire Operator Licence” Pack which provides the Operators with full guidance on the process and practices required to ensure safe and proper running of their businesses. On all application forms and renewal forms, a tick box was added so that the applicant had to tick it to confirm that they had read this guidance.
- 2.6 The Operators Pack and Guidance is attached as Appendix 6.
- 2.7 Unfortunately it is evident from incidents that have happened both before the guidance was produced and afterwards – that some Operators are not suitably displaying the correct understanding of their legal requirements.

**For example:** Condition 1 on the Operator’s Licence Conditions (Appendix 1) relates to the requirement to keep logs of every journey that their drivers carry out. This is mainly in relation to Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 which states that

*“Every person to whom a licence in force under section 55 of this Act has been granted by a district council shall keep a record in such form as the council may, by condition attached to the grant of the licence, prescribe and shall enter therein, before the commencement of each journey, such particulars of every booking of a private hire vehicle invited or accepted by him, whether by accepting the same from the hirer or by undertaking it at the request of another operator, as the district council may by condition prescribe and shall produce such record on request to any authorised officer of the council or to any constable for inspection.”*

As such you can see that this is not a condition attached by the Local Authority – but a nationally required piece of legislation. Despite this – we have had cases where Operators are still failing to comply with this condition. Not just the small and new ‘one man band’ Operators, but there have been some situations recently where some of Woking’s well established running Operators have been failing to comply with this condition.

- 2.8 The Licensing Authority feels that a ‘Knowledge Test’ for holders of Operators Licences would be of huge benefit as it would ensure that applicants and licence holders are fully familiar with the laws that surround their occupation.
- 2.9 The proposal is that the Knowledge test would be a multiple choice test, much in the same way that the drivers are required to complete a “Laws and Standards” test. For reference, five example questions from the Drivers “Laws and Standards” Test are attached as Appendix 2.
- 2.10 An example five questions from a possible Operators Knowledge Test are attached as Appendix 3.

### 3.0 Consultation

- 3.1 Following the previous discussion of this matter in a Licensing Committee meeting on the 12<sup>th</sup> of March 2019, it was agreed that before proceeding, a full consultation should take place.
- 3.2 On the 29<sup>th</sup> of May 2019, a consultation letter was sent out to a seven-hundred-and-eighty-eight drivers, operators and vehicle owners, as well as being emailed to a further fifty-six people involved with Taxi and Private Hire Licensing (such as Local Authority Officers, Councillors, etc.). A copy of the letter is attached as Appendix 4.
- 3.3 During the consultation period we received only one response on the subject of the Operators Knowledge Test (0.11%). The response is attached as Appendix 5.

## 4.0 Proposal

### 4.1 The Licensing Authority therefore proposes the following

- i) The Knowledge Test would be a multiple choice test on the laws and standards required of an Operator, similar in style to the 'Laws and Standards' Knowledge Test that is required by all drivers, but with a heavy lean towards the requirements of the Operator's Licence.
- ii) There would be around 40 questions, all multiple-choice and all based upon Conditions seen in Appendix 1 and the guidance as seen in Appendix 2.
- iii) The requirement for a pass rate would be 100%, the same as is required for the Laws and Standards for drivers. This is due to the high level of importance in knowing the laws and ensuring that no offences are committed accidentally.
- iv) The cost of the Operators Knowledge Test would be £15.00. This is the same as the cost of the Knowledge Test required for Private Hire and Hackney Carriage applicants. The price is worked out on the basis of the staffing time of monitoring the test, the staffing time for marking the test and the cost of materials.
- v) All new Operators Applicants would be required to pass this test prior to being issued a licence.
- vi) In general, all existing Operators will be required to pass this Knowledge Test prior to the next renewal of their Operator Licences. Those Operators to whom the renewal dates are very soon (e.g. next month) may be permitted to have extra time to complete the test (e.g. before their next renewal in a year and a month). This will be at the Authority's discretion.
- vii) Those Operators who do not complete the Knowledge test will not have their licences issued / renewed until such time as the Authority is able to evidence that they have a sufficient level of understanding through the completion of the Knowledge Test.

## 5.0 Implications

### Financial

5.1 No financial implications.

### Human Resource/Training and Development

5.2 Not applicable

### Community Safety

5.3 An improved understanding of the laws surrounding their profession should lead to an improvement in community safety.

### Risk Management

## Introduction of a Knowledge Test for Drivers

5.4 Not applicable

Sustainability

5.5 Not applicable

Equalities

5.6 Not applicable

Safeguarding

5.7 Not applicable

REPORT ENDS

**APPENDIX 1 - STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A PRIVATE HIRE OPERATOR LICENCE**

**(These notes are for guidance only and are not a complete summary of the Act)**

1. The operator shall keep (in permanent and easily legible form) a record of the following particulars in respect of every booking of a private hire vehicle operated by him, whether the booking is effected directly with the hirer or undertaken at the request of another operator:
    - (a) the date and time of the booking
    - (b) the date and time of commencement of the journey
    - (c) the name of the hirer
    - (d) the place or places at which the passenger or passengers were collected
    - (e) the place or places at which the passenger or passengers were set down
    - (f) the private hire vehicle licence number of the vehicle used
    - (g) the name and licence number of the driver
    - (h) the fare charged and whether or not calculated by means of a meter.
  
  2. The operator shall keep in permanent and easily legible form a record of the following particulars of every private hire vehicle operated by him:
    - (a) the make
    - (b) the model
    - (c) the registration mark
    - (d) the private hire vehicle licence number
    - (e) the expiry date of the private hire vehicle
    - (f) the District Council who issued the private hire vehicle licence
    - (g) the proprietor of the vehicle
    - (h) a service history of each vehicle including details of any modifications thereto and details of all accident repairs.
  
  3. The operator shall notify Woking Borough Council of any material change in the circumstances on the basis of which the licence was granted. In particular the operator must inform the Council of:
    - (a) any change of place of business or any additional place of business
    - (b) if the operator is a Company, any change in the address of the registered office
    - (c) any change in the nature of the business carried on by him
    - (d) any change in the composition of the firm if a partnership
    - (e) any convictions recorded against the operator or a partner of his
    - (f) any other change in the information given by the operator to the Council at the time of granting the current licence
    - (g) details of all staff connected with running of operator's licence.
- Notification must be given in writing within fourteen days of the event.
4. No advertising material, letter headings or other stationery, or any business name used by the operator, shall include the words 'Taxi' or 'Cab' whether in the singular or plural and whether they form part of another word or not.
  
  5. When a booking is accepted for a private hire vehicle to be present at a particular time and place, the operator shall take all reasonable steps to ensure that such a vehicle is so present.
  
  6. The operator shall ensure that all vehicles used by him and all drivers employed by or contracted to him are properly licensed and the conditions attached to those licences are complied with at all times.
  
  7. The operator shall keep a copy of driver and vehicle licences and insurance details.

## Introduction of a Knowledge Test for Drivers

### Important note

The above conditions are additional to the requirements of the Local Government (Miscellaneous Provisions) Act 1976. Licence holders are required to be fully conversant with the relevant requirements of this Act but the most important are summarised below:

- (i) No operator shall operate any vehicle in a controlled district as a private hire vehicle unless both vehicle and driver are correctly licensed under the Act. (Section 46)
- (ii) An operator who accepts a booking for a private hire vehicle is liable under the contract for its hire whether or not he himself provides the vehicle. (Section 56(1))
- (iii) The particulars required to be kept under conditions 1 and 2 must be produced to an authorised Officer of the Council or to a Police Officer when required (Section 56(2) and (3), as must this licence. Section 56(4))

### Conditions attached to the display of door signs on private hire vehicles

It shall be the responsibility of the Operator to ensure that all **private hire vehicles** under his control display the **door signs** in accordance with the conditions below:

- (i) The sign shall be displayed on the front doors of the private hire vehicle only.
- (ii) The sign shall only give details of the name, address and telephone number of the private hire company from which the licensee obtains his clients.
- (iii) The word 'taxi' or 'cab' whether in the singular or the plural should not form part of the sign.
- (iv) The proprietor should be able to easily remove the sign should the vehicle's licence be suspended, revoked or not renewed, and he shall be responsible for its removal.
- (v) The proprietor shall submit for the approval of the Council the proposals for the sign prior to its display.
- (vi) **These signs are compulsory.**

### You are further advised that:

- (a) To operate a private hire vehicle is to make provision in the course of business for the invitation or acceptance of bookings for it.
- (b) This licence is granted to a particular person and cannot be sold or transferred. Therefore, for example, a new owner of the business must apply for a new licence.
- (c) The carrying on of a business may need planning permission. Operators must comply with all relevant legislation.

## **APPENDIX 2 – Five example questions from the Drivers Laws and Standards Knowledge Test**

**Q – What is the difference between a Private Hire Vehicle and a Hackney Carriage Vehicle?**

- Nothing
- Private Hire can only carry passengers who have pre-booked through an Operator

**Q – As a Private Hire Driver/Vehicle, the information your Operator must provide you with in order to pick up a passenger (legally) is...**

- Where they will be standing
- Where they will be travelling to
- The street they will be in
- The customer's name, pick up point, destination and fare to charge

**Q – You must tell the Council within 7 days of any cautions or convictions you receive?**

- True
- False

**Q – If you are not working, can you remove the plates (and/or taxi light) from your vehicle?**

- Yes, providing you replace them when back at work
- No, a licensed vehicle must be plated at all times

**Q – Where must your rear WBC vehicle licence plate be displayed?**

- Parcel shelf
- Rear window
- Rear bumper

### APPENDIX 3 – Five example questions from a proposed Operators Knowledge Test

- Q.** As part of every booking a Private Hire Operator must record the following information
- a) the date and time of the booking
  - b) the place or places at which the passenger or passengers were collected
  - c) the private hire vehicle licence number of the vehicle used
  - d) all of the above
- Q.** As a Private Hire Operator you must ensure that your vehicle door signs
- a) only give details of the name, address and telephone number of the private hire company from which the licensee obtains his clients
  - b) not contain the words 'taxi' or 'cab' whether in the singular or the plural
  - c) be displayed on the front doors of the private hire vehicle only
  - d) all of the above
- Q..** Before you can become a licensed Private Hire Operator you must
- a) register your company with Companies House
  - b) have premises in the borough of Woking with appropriate planning permission granted
  - c) ensure you have a full time controller to deal with the calls
- Q.** Can a passenger with a wheelchair be charged more because the wheelchair is classed as luggage?
- a) Yes, if they choose to sit in a seat
  - b) No, if they stay in the wheelchair
  - c) Never
- Q.** What must a Private Hire driver do if approached by someone who has not pre-booked?
- a) Accept the fare
  - b) Advise them to book with the Operator
  - c) Radio through the booking for them

**Appendix 4 – May 2019 Consultation Letter**

29 May 2019

**Consultation regarding changes to Private Hire Operator licensing**

The below is notification of a consultation now taking place regarding proposed changes to Private Hire Operator licensing at Woking Borough Council.

Public trust and confidence in the overall safety and integrity of the whole private hire system is vital. It is imperative that the same standards and expectations that apply to licenced drivers also apply to Private Hire Operators. It is the role of the Licensing Authority to ensure that those licenced are ‘fit and proper’, ensuring the safety of the travelling public.

It is the view of the Licensing Authority that some changes are required to current licence conditions to ensure that Operators continue to be safe, accountable and trustworthy; understanding of their requirements; safely providing for their drivers; and knowledgeable of the law, namely:

- (i) a change of procedure used in licensing multiple Private Hire Operators, including a fixed fee of £10.50 for each additional name
- (ii) the requirement to undertake and pass a Knowledge Test for Operators
- (iii) a requirement for Operators door signage to be sticker/vinyl as opposed to magnetic

**The consultation will run from 1<sup>st</sup> of June 2019 until 15<sup>th</sup> of July 2019, inclusive and a brief summary of each proposal can be found overleaf.**

### **Proposal (i): Operators 'Trading As' Names**

In order to create a clear and transparent system the Licensing Authority proposes to issue one licence per named Operator. Any "trading as" names will be issued a separate licence with a unique reference number linking back to the "parent" licence. The Licensing Authority also proposes an administrative fee of £10.50 per "trading as" company name, in line with current charges.

It is proposed that this procedural change is implemented upon renewal of each licence or upon each request to add a new "trading as" name to a licence.

### **Proposal (ii): Operators Knowledge Test**

When applying for a new or renewed Private Hire Operator licence, applicants are required to sign a declaration of having read and understood the guidance. Unfortunately, despite this, some Operators are not demonstrating an understanding of their legal requirements and have failed to adhere to conditions on their licences.

In order to safeguard against this, and increase public confidence in the trade, the Licensing Authority proposes the introduction of a Private Hire Operator Knowledge Test. All new applicants would be required to pass the test prior to being issued a licence. Existing Operators will be required to pass the test prior to the next renewal of their licence.

### **Proposal (iii): Operators Door Signage Regulations**

Private Hire Operators are required to ensure that all vehicles carrying out work under their company name display the correct signage in order to be easily identifiable. It has become evident, through conversations with drivers who have failed to display door signs, that magnet based door signs are not fit for purpose. Semi-permanent vinyl stickers are highly unlikely to fall off or blow off in the wind, and are very difficult to steal.

The Licensing Authority proposes that a condition stating that all operator door signs must be of a semi-permanent vinyl sticker type, no smaller than 210mm x 297mm, be added to Private Hire Operator licences.

**The above is a summary of the proposals. For more information, and details on how to submit representations, please visit [www.woking.gov.uk/taxi](http://www.woking.gov.uk/taxi)**

## **Appendix 5 – May 2019 Consultation Responses**

### **Proposal (2) Operators knowledge test:**

**I have no issue in ensuring that all PH drivers are aware of their legal and ethical responsibilities and dependent upon how the test is administered and any potential cost implications( loss of working time, administration fee etc) then I personally would not have an objection to the principal**