
**REVIEW OF CONDITIONS AND POLICIES RELATING TO HACKNEY CARRIAGES,
PRIVATE HIRE VEHICLES AND THEIR DRIVERS AND OPERATORS
AMENDMENT TO POLICY IN RESPECT OF TESTING OF VEHICLES**

PURPOSE OF THE REPORT

- 1 To consult with Members in respect of the proposal to amend the Council's current Private Hire and Hackney Carriage Licensing Policy and permanently transfer the testing arrangements for hackney carriages and private hire vehicles to the Council's in house testing facilities, and to invite Members to support the amendments.

BACKGROUND

2. Currently, a mixture of primary legislation, council policies, licence conditions and byelaws controls hackney carriages and private hire vehicles.
3. The Local Government (Miscellaneous Provisions) Act 1976 (The 1976 Act) permits the Council to attach conditions to the grant of Private Hire and Hackney Carriage Vehicle Licences "as it may consider reasonably necessary". Policies are umbrella requirements which often act as a pre-requirement to the making of an application.
4. Section 48 of the 1976 states that a district council shall **not** grant a private hire vehicle licence until they are satisfied that the vehicle is:
 - i) *"suitable in type, size and design for use as a private hire vehicle;*
 - ii) *not of such a design and appearance as to lead any person to believe that the vehicle is a hackney carriage;*
 - iii) *in a suitable mechanical condition;*
 - iv) *safe; and*
 - v) *comfortable"*
5. Section 50 of the 1976 Act permits the council to require a licensed vehicle proprietor of any hackney carriage or private hire vehicle to:-

"present such hackney carriage or private hire vehicle for inspection and testing by or on behalf of the council within such period and at such place within the area of the council as they may by notice reasonably require"
6. Section 57 of the 1976 Act permits a council to require any applicant for a licence (hackney carriage driver or vehicle licence; private hire driver or vehicle licence and private hire operator licence) to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted.
- 5 Section 68 of the 1976 Act states that:

"Any authorised officer of the council in question or any constable shall have power at all reasonable times to inspect and test, for ascertaining its fitness, any hackney carriage or private hire vehicle licensed by a district council or any taximeter affixed to such a vehicle, and if he is not satisfied as to the fitness of the hackney carriage or private hire vehicle or as to the accuracy of its taximeter he may by notice in writing

require the proprietor of the hackney carriage or private hire vehicle to make it or its taximeter available for further inspection and testing at such reasonable time and place as may be specified in the notice and suspend the vehicle licence until such time as such authorised officer or constable is so satisfied."

6. The Council's entire policies and conditions relating to the taxi trade were last reviewed and approved by Council in January 2012. Section 86 of the policy, which specifically relates to the testing of vehicles and taximeters states:

"All vehicles are required to undergo an inspection conducted by VOSA examiners prior to being licensed and every 6 months thereafter. Any vehicles failing this test will be required to have a retest and the licence will be suspended. Evidence of taxi meter testing is also required.

7. The Policy at section 88 which relates to the application procedure for private hire vehicles and hackney carriages states that a vehicle test certificate showing that the vehicle has passed its test must be produced along with a current MOT certificate for the vehicle or legal equivalent

INFORMATION AND ANALYSIS

8. In approximately August 2000 Darlington Borough Council signed an agreement with VOSA to transfer vehicle testing from the Council's own in house provision to VOSA at Darlington. Officers understand that one of the reasons for the transfer was that at that time the Council's own testing station was not an approved MOT testing station and therefore there was not an appeal provision for anyone dissatisfied with the outcome of a test.
9. VOSA carried out testing of licensed vehicles on behalf of the Council in excess of 10 years, however, in June 2012 VOSA gave formal notice to the Council that they would no longer be able to carry out this function on behalf of the Council after 31 March 2013 because of a change in the way VOSA nationally was to be operated.
10. As a result, Officers immediately entered into dialogue with the Council's own depot with a view that they would achieve MOT testing status and provide in house testing to the standard previously agreed with VOSA.
11. It was anticipated that the Council's own provision would commence from 1 April 2013, however Members will be aware that there were issues in relation to the relocation of the Depot and this date was not viable. VOSA advised officers that the period for testing could not be extended beyond 31 March 2013
12. Given the fact that the Council could not grant a licence unless satisfied that the vehicle was in a suitable mechanical condition, an interim measure was proposed in that Licensing Officers would conduct the cosmetic testing of all licensed vehicles and a current MOT certificate would be required to ensure the vehicle was mechanically safe and roadworthy.
13. Following consultation with Members of the Licensing Committee, a report was prepared for full Council on 21 March 2013 to seek Members' approval of the proposal.
14. Members approved the interim measure with an understanding that once the Council's in house facilities were ready, a further report would be submitted for full Council to approve the transfer of testing to the Council's own in house testing facility.

15. It is now understood that the Council's in house testing facilities will be available from 1 April 2014 and Members are invited to approve the transfer of the function to the Council's Testing station from that date.
16. The Council's Private Hire and Hackney Carriage Licensing Policy has been amended at Section 86 to outline the Council procedure in relation to vehicle testing. A copy of the amended Section is attached at Appendix 1.
17. In the event that the testing station is not operational on that date it is further proposed that Licensing Officers will continue to conduct the cosmetic testing of vehicles with an MOT certificate until such time as the Testing Station is operational.

Referral to Council

18. As Members are aware, only full Council can approve policy matters. The amended Policy will therefore be placed before Council for consideration on 20 March 2014

Recommendations

19. Members are invited to:
 - a) Note the contents of this report.
 - b) Support the proposals for new and/or amended conditions as detailed in Appendix 1 to this report.
 - c) Confirm that all other policies and conditions in relation to the testing of vehicles as detailed in the current licensing policy document be rescinded.

BACKGROUND PAPERS

The Local Government (Miscellaneous Provisions) Act 1976

The Town Police Clauses Act 1847

The Council's Licensing Policy in respect of Hackney Carriages and Private Hire Vehicles, Drivers and Operators

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Vehicle and Meter Testing

86. All vehicles will be required to meet approved standards of roadworthiness as set out in this policy at Appendix Q and R. The vehicle must be presented to the Council's nominated test centre prior to being licensed and every 6 months thereafter. Any vehicles failing this test will be required to have a retest and the licence will be suspended. Evidence of taximeter testing is also required.

The Best Practice Guidance suggests that an annual test may be appropriate for all vehicles and that more frequent tests may be appropriate for older vehicles and suggest twice yearly for vehicles more than 5 years old.

However, given the large number of miles undertaken in any one year by licensed vehicles no change in the number of tests is proposed. This policy is also currently in accordance with that of the Tees Valley Authorities and also reflects a national approach to vehicle testing by the majority of local authorities. Officers have analysed the number of vehicles under the age of 5 years that fail one or more tests per annum and the numbers are such to warrant the requirement of two tests per annum.

The following procedure is to be applied for grant and renewal of a vehicle licence and where an authorised officer suspends a vehicle due to accident damage to ensure that repairs have been carried out to a satisfactory level

Grant of Vehicle Licence

- a) Proprietors wishing to licence a vehicle shall advise the Licensing Section who will arrange a test appointment at the nominated vehicle test centre and will issue an appointment letter to be presented to the Vehicle Examiner at the time of the vehicle inspection.

Payment for test must be made to the test station prior to any test being undertaken.

- b) If a vehicle fails the test, a Fail Certificate will be issued. If the applicant wishes to proceed with the application, a further test appointment will be required (a further test fee will be charged).
- c) Any vehicle that is not presented for a test at the appointed time will be classed as a 'failure to attend'. If the applicant wishes to proceed with the application, a further appointment will be necessary. (a further test fee will be charged).
- d) Once a vehicle has met the Council's requirements a Pass Certificate will be issued, which must be presented to Licensing with the completed paperwork, fee and required documents as detailed at Section 88 of this Policy.
- e) Once a vehicle is licensed then vehicle tests will be conducted bi-annually and, under normal circumstances, no later than 6 months from the date of the licence start date

- f) For the second vehicle test, an appointment will be arranged and a notice sent to the proprietor requiring the vehicle to be presented at the testing station. Proprietors will be given a minimum of 6 weeks' notice of requirement to attend

If the date and time is not suitable, then, the appointment may be re-arranged to bring the appointment **forward** to a date and time which is convenient.

In case of emergency breakdown of the vehicle, then providing a minimum of 48 hours' notice is given to the Licensing Section, the appointment may be re-arranged at the discretion of an Authorised Officer.

- g) If the vehicle meets the Councils requirements a Pass Certificate will be issued, and a copy sent to the Licensing Section

A Pass certificate will only be issued if a vehicle passes the entire vehicle test at the same time.

- h) If a vehicle does not comply with the test for any reason then a Fail Certificate will be issued along with the test sheet detailing the failures. The garage will have the option to suspend the vehicle licence for major failures or allow up to 10 working days to effect minor repairs.

Once the vehicle has been re-tested and found to comply with the required standard, then a Pass Certificate will be issued

- i) If a vehicle does not return to the garage within the specified period then the test station will advise the Licensing Section and an Authorised Officer will issue an immediate suspension notice under Section 60. The vehicle will remain suspended until it has been re-examined and a Pass Certificate issued and submitted to the Licensing Section.

If major failures have been attended to and minor cosmetic failures have not been attended to then the suspension notice will not be lifted as the proprietor has already had up to 10 working days to comply with the notice.

- j) If the vehicle fails to attend for test, then the test station will advise the Licensing Section and an Authorised Officer will issue a suspension notice to the vehicle proprietor and the vehicle will remain suspended until such time as it passes the vehicle examination and a pass certificate is submitted to the Licensing Section. (a further test fee will be charged).
- k) Where a vehicle licence is suspended, the vehicle may not be used at any time for the carriage of passengers for public or private hire.
- l) The Council reserves the lawful right to call for a further mechanical test if necessary

Renewal of Vehicle Licence

- m) Where the vehicle licence is due for renewal, proprietors will be issued with a renewal letter and a test appointment at the nominated vehicle test centre. This letter must be presented to the Vehicle Examiner at the time of the vehicle inspection.

Payment for test must be made to the test station prior to any test being undertaken.

- n) If a vehicle does not comply with the test for any reason then a Fail Certificate will be issued along with the test sheet detailing the failures. The garage will have the option to suspend the vehicle licence for major failures or allow up to 10 working days to effect minor repairs.

Once the vehicle has been re-tested and found to comply with the required standard, then a Pass Certificate will be issued

- o) If the vehicle fails to attend for test, then the test station will advise Licensing who will issue a suspension notice to the vehicle proprietor and the vehicle will remain suspended until such time as it passes the vehicle examination and a pass certificate is submitted to the Licensing Section. (a further test fee will be charged).
- p) Once a vehicle has met the Councils requirements, a Pass Certificate will be issued and the vehicle licence will be issued.
- q) The vehicle will be subject to an additional test on a bi-annual basis as detailed at f) to l) above.
- r) Where a vehicle licence is suspended, the vehicle may not be used at any time for the carriage of passengers for public or private hire.
- s) The Council reserves the lawful right to call for a further mechanical test if necessary

Transfer of Vehicle Licence

Where a vehicle licence is transferred to another proprietor, the Licensing Section will send a notice of vehicle test to the new proprietor with the licence.

M.O.T

The test station will offer a combined vehicle test and MOT or proprietors may wish to have an MOT conducted at another authorised MOT testing station.

The legal requirement is that all hackney carriage vehicles should be subject to an MOT test or its equivalent once a year. For private hire vehicles, the requirement is for an annual test after the vehicle is three years old.

Payment of Test Fees

Where a cheque is submitted as payment for a vehicle test which is subsequently marked as “refer to drawer”, the test station will inform the Licensing Section and an Authorised Officer will issue a suspension notice. The vehicle will remain suspended until such time as payment has been received by the test station. In addition, a £15 charge shall be levied against the proprietor. The test station will decide if they will only accept cash payments in future.