

| Report of | Meeting | Date |
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| Director of Public Protection, Streetscene and Community | Licensing and Public Safety Committee | 23 July 2014 |

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976, REVIEW OF VEHICLE INSPECTION PROCESSES

PURPOSE OF REPORT

1. For the Licensing and Public Safety Committee to consider the current Private Hire / Hackney Carriage vehicle inspection process.
2. And to decide on which options available to the Council with regard to both the pre-inspection of vehicles and the Council's Taxi Testing arrangements will be agreed.

RECOMMENDATION(S)

3. That the Licensing and Public Safety Committee consider the contents of the report and any representation made or received, to advise officers of any changes the Committee wishes to make in relation to the Council's policy relating to conditions of applications for the grant of Private Hire (PH) and Hackney Carriage (HC) Vehicle Taxi Testing arrangements as appropriate.

Officers would seek Members approval to identify and introduce a pilot scheme to address pre-vehicle inspection provisions for a 12 month period. Should this proposal be approved, Officers believe this facility should be in place within 3 months and an update will be available for Members at the next meeting.

EXECUTIVE SUMMARY OF REPORT

4. At a meeting of the Licensing and Public Safety Committee held on the 19th March 2014, Members will recall instructing officers to undertake a review of the testing provisions for PH & HC vehicles that are licensed under the Local Government (Miscellaneous Provisions) Act 1976 within the Borough of Chorley. The request was a result of representations being received from members of the Taxi Trade at a recent Licensing Liaison Meeting. A copy of that report is attached as **appendix 1**.
5. Officers have conducted a consultation process to underpin the review which consisted of the following;
 - On the 14th April 2014 a meeting was held with the owners of the Council's appointed Taxi Testing stations;
 - A questionnaire was sent out to all Private Hire Operators and PH & HC vehicle proprietors seeking their views on the current provisions and to seek alternative suggestions to the current testing provisions;
 - The completed and returned questionnaires were evaluated with the assistance of Mr C Oaks of The Hackney Drivers Association Ltd together with officers, where the major concerns were identified;
 - A further discussion at an extra ordinary meeting of the Licensing Liaison committee held on 26th June 2014; and

- A further questionnaire was sent to neighbouring authorities to establish how they conducted Taxi Testing.
6. The scope of the review included; Private Hire / Hackney Carriage Vehicle pre-inspection, application and testing arrangements. The review has examined the following issues;
- a) Separating the VOSA MOT vehicle test from the Councils Taxi Test.
 - b) Identifying Policy & Guidance documents that control the entry for specific types of vehicles and Taxi Testing provisions.
 - c) To review the licensing processes and ensure that the Council is operating efficiently and with the appropriate level of resilience to the Taxi trade and to ensure best value for customers.
 - d) The costs and resources available to the Council for Taxi inspection and testing functions.
 - e) The potential to change the current administrative arrangements for the testing of Taxis, which are at the present time administered by the Council's transactional team,
 - f) A number of options for consideration by the Licensing and Public Safety Committee are summarised.
 - g) The limitations of the current process and the risks associated to changes to the process are detailed in the body of the report.

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| Confidential report Please bold as appropriate | Yes | No |
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CORPORATE PRIORITIES

7. This report relates to the following Strategic Objectives:

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| Involving residents in improving their local area and equality of access for all | | A strong local economy | |
| Clean, safe and healthy communities | X | An ambitious council that does more to meet the needs of residents and the local area | |

BACKGROUND AND DISCUSSION

8. The current vehicle inspection and licensing arrangements were introduced in 2008 following a decision by the Licensing and Public Safety Committee, a copy of the report for that meeting is attached as **appendix 2** as background information. The policy adopted is designed to be proactive to ensure that any vehicle presented for licensing as Private Hire / Hackney Carriage Vehicle is fit for purpose prior to the grant of a PH or HC Vehicle Licence. Members should note that there have been a number of limited changes to the detailed 2008 report, these do not impact on the matters raised in this report in any meaningful way.
9. The pre-inspection appointment is made directly with the officer and normally takes about 30 minutes; this allows the officer a one-off opportunity to assess the vehicle against the Council's specific policy conditions and is not repeated at any further application ie.at renewal of the licence. This is the only point a vehicle can be refused to be accepted for Licensing as a PH or HC vehicle.
10. The inspection provides proprietors with helpful advice, information and informs of the suitability of the vehicle to become a PH / HC vehicle, giving the opportunity for rectification of any issues the vehicle may require before any payment for formal testing have been made. Since the introduction of the policy no vehicles that have undergone the pre-

inspection have failed the formal Taxi Test in regards to the Council's conditions of licensing.

11. This stage of the process allows the Council to engage its discretion to ensure that the vehicle meets the conditions of application contained in the Council's Conditions of Application, it does not interfere with the limited number of taxi tests that are permitted under the Sec 50 LG(MP) Act 1976 (limited to not more than 3 per year). The Council's Policy concerning Private Hire / Hackney Carriage Vehicle Conditions of application is attached as **appendix 3**. The policy reduces the likelihood of enforcement action later in the process and further ensures that faults and defects are rectified prior to testing and that the vehicle is fit for purpose in the first instance.
12. It is worth noting that the vehicle pre-inspection considers aspects of the vehicle that the Taxi Test does not have a consideration for. The Taxi Test may not ordinarily address a fault or defect as it is designed to assess a vehicle to a minimum standard accepting all the vehicle conditions of application have been previously assessed and met.
13. There is evidence that this policy has prevented unsuitable vehicles being presented for Taxi Testing and entering into service.
14. The formal Taxi Testing provision is currently restricted to 6 garages within the Borough. The Taxi Test is made by appointment via the Council's One Stop Shop (OSS) as part of the Private Hire / Hackney Carriage Vehicle application process. Chorley Council's transactional team currently administer this part of the process by taking the application and fee from the proprietor and creating a unique reference for the vehicle. The transaction team then arranges for the testing directly with the garage, booking a testing slot and advising the proprietor of these details. The cost of the administration process including the vehicle pre-inspection is reflected in the vehicle licence fee. (Proprietors are encouraged to pre-arrange a suitable date & time for the Taxi Test with a nominated garage of their choice prior to accessing the application process). Following the Taxi Test the garage tester informs the Council of the test results by fax and the vehicle livery and licence are prepared as appropriate.
15. The garage proprietors have reported that there have been no missed appointments for taxi tests by PH / HC proprietors since the implementation of this scheme. (This was a major concern pre 2008) They have further indicated that they would not wish to change the administrative system in place for the following reasons;
 - a) The testers regard the Taxi Test as the property of the Council and therefore find it easier to manage any conflict that may arise as a result of the test.
 - b) The current financial arrangements remove the opportunity of haggling and any perceived favouritism to companies and/or individuals, it creates an impartial and level playing field.
 - c) The fee is set by the Council and is favourably priced in favour of the taxi trade, the price of the taxi test has not increased in 6 years.
16. The garage proprietors have unanimously stated that they would not be interested in extending their services to include the pre-inspection of vehicles for the following reasons;
 - a) They believe the taxi trade would use their business to shop around to see which garage would be applying the Council's conditions of licensing more favourably than others, this in turn would undermine the level playing field that is currently established.
 - b) The Testers would be uncomfortable in stepping into the shoes of the Council and applying the Council's discretion, as any adverse decisions would likely impact on the long term and wider commercial interests of their businesses, creating conflicting business interest and competition between the garages to attain the work.

- c) Having had sight of the pre-inspection process the testers were unable to put a value on this work due to the complexities of the policy and array of different possibilities that exist by way of vehicle designs.
 - d) Testers further commented that the Councils Taxi test is robust when worked in conjunction with the Pre inspection, however it does not properly address issues on vehicles that are presented for the renewal of their licence where the vehicle could be described as suffering the effects of its years and mileage, where the minimum standards have been reached in order to pass the Taxi Test.
17. In addressing the option to remove the VOSA MOT from the Taxi Test. The Department of Transport (DFT) guidance states that a Councils Taxi Test is required to be equivalent to or better than the VOSA (MOT) Vehicle Test. Members will recall attaching the MOT Vehicle Test to the Councils taxi testing conditions in 2008, as the Councils testing provisions at that time did not comply with this requirement. For this reason it would not be DFT compliant to separate the Councils Taxi Test element of the taxi test from the VOSA MOT vehicle test, without creating a further meaningful mechanical test that would be equivalent to or better than the VOSA MOT test. Should the Council adopt this approach, the proprietor of a PHV or HCV will also have to have their vehicle pass a VOSA MOT separately and in addition to the councils testing provisions where the vehicle is older than 3 years, incurring the additional costs.
18. The Councils Taxi Testing Conditions broadly addresses items within a vehicle that one might ordinarily expect to be present in a vehicle relating to comfort, safety and conditions of licensing and ensures specific (Taxi) items are present where there is a legislative requirement. A copy of the Councils Taxi Test is attached as **appendix 4**.
19. The Council adopted the VOSA MOT vehicle test to ensure that mechanical and safety concerns are addressed to a minimum standard. Members should note that at the present time the MOT Vehicle Test is a part of the Councils Taxi Test and is completed at the same time as and is an integral part of the Taxi Test. There are a number of reasons that the MOT Vehicle test is completed at the same time as the Taxi test and include; The Councils Taxi test must be conducted within the borough, the MOT vehicle test only ensures that the vehicle is road worthy at the time of testing, the MOT Vehicle Test underpins that part of the councils provision to ensure that the vehicles it licenses are fit to be licensed at the time it issues the licence. To separate the Taxi Test into two parts would undermine this requirement.
20. Members should note the differences in the vehicle inspection report used as a checklist by the testing centres in addition to the VOSA MOT requirement, attached at **appendix 4** and the Councils Conditions of application for Private Hire / Hackney Carriage Vehicles attached as **appendix 3**.

QUESTIONNAIRE RESPONSES

21. Officers can report that the questionnaire was sent to 240 PH & HC proprietors and PH operators. We received 45 responses of which; 32 responses were in connection to 21 HC vehicle licenses, 8 responses in connection to 19 Private Hire vehicle licenses and 5 from Private Hire Operator / proprietors. 3 responses were rejected.
22. Members will note that the number of responses does not equate to the number of vehicle licenses, this is because a large proportion of the HC Vehicles have one or more proprietors, whereas with the PH vehicles this is not the case where one individual may hold a number of vehicle licences. A copy of the questionnaire is attached as **appendix 5**. Members will note that the questionnaire is clear in that if it is not completed and returned then the Council will presume that the recipient is satisfied with the present service. Therefore we can say that of those consulted 195 have indicated that they are satisfied with

the present service. 21 would seek to change the way in which we test vehicles, 32 would like the ability to buy their own Taxi test.

23. A number of those who have responded feel that the Taxi Trade is sufficiently experienced and hold the expertise to determine which vehicles will fulfil the Councils requirements and there is no need for a vehicle pre-inspection, while others would like to see the Testing Stations undertake this role where the costs for doing so are included within the testing fee. A number of respondents were dissatisfied in that the current provisions are carried out by officers with no formal qualification to do so. It is evident throughout the responses that a number of the respondent's either didn't understand the purpose of the vehicle pre inspection is or don't value it. 40 respondents addressed the issue regarding this element of the Vehicle inspection process.
24. A number of representations received related to the ability of the trade to be able to shop around with the garages to get the best price for their services for the Taxi Test having the ability to pay the garages directly, this subject has in part been discussed above. Officers have further considered this issue and considered how other Local Authorities administer their schemes. In response to the representations received, Mr Oaks has advised the costs for the testing of Chorley Taxis is comparable with other local authorities where he represents Taxi Trade interests having the combined benefit of including the VOSA MOT. Some authorities benefit through the economies of scale and provide in house testing facilities having gained the Secretary of State exemption. A limited number of authorities do not administer their taxi testing scheme in any meaningful way and receive national criticism from all quarters for doing so, except from those who have advantage of such relaxed testing regimes.
25. The survey questionnaire also asked for comments on the length of time a Private Hire Operator Licence should be granted for, in light of the Councils present provision to grant such licenses annually. The responses received were predominately from existing PH Operators who favoured a 3 year term to a PH Operator Licence.

LIMITATIONS TO THE EXISTING PROCESS

26. Presently there is only a single officer, the Lead Licensing and Enforcement Officer, who is sufficiently experienced to carry out the vehicle pre-inspection. This is clearly a unsatisfactory position for the trade and the Authority, as the possibility of vehicles being delayed entry to the taxi trade due the officer being unavailable to undertake the vehicle pre inspection is inevitable.
27. Members of the trade have suggested that during such periods, provision for the pre inspection is undertaken by one of the authorised testing stations. Officers believe there is merit in the idea, and believe that a simple process could be arranged that would not raise the commercial concerns of the testing stations that have previously been discussed.
28. This would address issues relating to the pre-inspection of vehicles during periods when officers are on leave and when the councils non-essential services are closed, eg the Christmas closure.
29. In this instance the pre-inspection would be administered by the Councils OSS directing the applicant to the appointed garage, and administered by the OSS in the same way as taxi test are currently administered, the vehicle would be presented at the appointed time and examined in light of the Councils conditions of application for PH / HC vehicles.
30. The outcome of the examination would result in issuing to the proprietor of the vehicle the appropriate controlled documents to proceed to Taxi Testing or a refusal detailing the reasons for the refusal. It would be reasonable to exclude that testing station from the process of conducting the taxi test at this time.

31. Officers would seek Members approval to pursue this concept and introduce a pilot scheme for a 12 month period.
32. It is proposed that the costs of this pre-inspection back up service would be absorbed by the Council and Officers will develop a process to control access to this service.
33. This is a reasonable approach, as requests for pre inspection can be either as a necessity to replace a vehicle due to an existing licensed vehicle being damaged and removed from service, or an inquisitive enquiry where the proprietor wishes to have a car evaluated. It is not proposed to offer this service as an alternative to the existing provisions at this stage.
34. Should members favour the idea but would seek to attach a direct charge to the pre inspection, members are then reminded of the provisions of section 70 of the said act, where officers would be required to prepare a report to enable members to propose such fees.
35. Following the extra ordinary Licensing Liaison meeting held on 26 June 2014, all present believed the present testing provisions provide adequate standards for the licensing of PH & HC vehicles, where the most visible of the Councils Licensed vehicles being the Hackney Carriages are of a high standard, visually acceptable and represent the town in a positive light. None present wished to risk the quality of vehicles that other town centres can only aspire to.
36. The limitations to the existing processes have been previously discussed in more detail at the meeting of the 19th March 2014, attached at **appendix 1**.

OPTIONS FOR CONSIDERATION

1) To retain the existing Taxi testing provisions making no changes.

This course of action would lead the Council open to criticism in that its policies do not allow access to the trade in a reasonable time frame.

2) To retain the existing system and train further officers to conduct the pre inspection of vehicles.

There would significant resource implications associated to this course of action, however officers have identified suitable training opportunities through NALEO, to provide B-Tech qualifications in vehicle inspection that would address any concerns that have been raised through the consultation.

3) To allow self-regulation of the Councils Policy Conditions for PH & HC vehicles.

Officers would warn against such a motion as there is no evidence that a prospective proprietor of a HC or PH vehicle has the sufficient vehicle knowledge and or experience to present a vehicle that conforms to the Council Policy, any vehicle then licensed would be subject to enforcement action and possible revocation of the Vehicle licence.

This would remove the council's barrier which prevents vehicle access to the councils HC fleet unless other appropriate measures were adopted.

There would be a high risk that the standards that we presently enjoy with regards to vehicle condition and presentation would be eroded.

The emphasis of officer resources would be diverted to reactionary enforcement as opposed to the current pro-active regime we currently employ; this may result in a requirement for further resourcing of the taxi enforcement function.

4) To produce a new Taxi Testing Policy to include the conditions of vehicle entry and re tender the taxi vehicle testing contracts.

Officers believe the current system of testing and the appointed testers play a significant role in sustaining the standards currently enjoyed. There would be a significant risk to the existing standards should the testing stations be placed in a position to bid for work that has the possibility to undermine the integrity of the currently successful system.

The existing Testing garages have already been consulted and expressed concern over this proposal.

5) To implement a pilot scheme to appoint an authorised garage to conduct the vehicle pre-inspection in exceptional circumstances as discussed at para 27 - 34.

This proposal is limited to a) successfully engaging with a suitable garage to undertake the work and b) Officers developing a suitable process in a timely manner.

6) To allow the taxi trade to shop around the authorised testing stations to get the best deal and to allow the taxi trade to pay directly to the garage the fees for testing.

Members attention is drawn to Sec 70 of the said Act Of 1976, where the responsibilities for setting the licensing fees is the responsibility of the Licensing Authority and therefore allowing garages to negotiate fees is outside the scope of the legislation because we would be unable to advertise the true cost of the application.

7) To remove the itemised headings of the forms TAXI 115B HC, TAXI 115C PH and associated renewal forms, thereby clarifying to the applicant that the VOSA MOT Test and Taxi Test are not separate entities.

The implications of this action are likely to affect the cost of the VOSA MOT test, when it would attract a further cost for VAT at 20% as HMRC would view this as a service offered by the garage and therefore attracts a VAT element to the charge.

8) To remove the VOSA MOT as an integral part of the taxi test

This option is discussed in more detail in the body of the report in Paragraph 17 however; in summary this would have significant resource implications for the Council. In addition, following consultation with the testing garages, this option would likely lead to an increase in the overall cost of the taxi test regime for the vehicle proprietors. The Hackney Drivers Associated Ltd also expressed concerns that removal of the VOSA MOT from the current testing arrangements would have detrimental implications.

9) The review has identified issues within the administrative processes for PHO, PH, HC vehicles and drivers Licenses. The issues identified are in part due to recent changes in IT & service delivery functions, Officers would seek Members approval to allow officers to review the current administrative processes, Policy documents and to identify and propose appropriate changes to the current processes where there would be policy implications.

IMPLICATIONS OF REPORT

37. This report has implications in the following areas and the relevant Directors' comments are included:

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| Finance | | Customer Services | |
| Human Resources | | Equality and Diversity | |
| Legal | | Integrated Impact Assessment | |

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| | | required? | |
| No significant implications in this area | | Policy and Communications | |

COMMENTS OF THE STATUTORY FINANCE OFFICER

38. None

COMMENTS OF THE MONITORING OFFICER

39. Under Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 the Council may not licence a private hire vehicle unless it is satisfied that the vehicle is safe, comfortable, and suitable for use as a private hire vehicle and in a suitable mechanical condition. The Council can attach conditions which are reasonably necessary to a private hire vehicle licence under Section 48. Conditions which are reasonably necessary can be attached to a hackney carriage vehicle licence under Section 47 of the 1976 Act. The Council has the power under Section 50(1) of the 1976 Act to require that the owner of a private hire vehicle or hackney carriage presents the vehicle for inspection and testing at a location specified by the Council within the Council's area. This is limited to three occasions per year. Failure to present vehicles without reasonable excuse is an offence.

JAMIE CARSON

DIRECTOR OF PUBLIC PROTECTION, STREETSCENE AND COMMUNITIES

There are no background papers to this report.

| Report Author | Ext | Date | Doc ID |
|------------------|------|---------------------------|--------|
| Stephen Culleton | 5665 | 7 th July 2014 | NA |