

# Crawley Borough Council

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## Report to Licensing Committee

7 January 2009

### **Amendment of conditions applying to Private Hire Vehicles, Hackney Carriages, Hackney Carriage Drivers and Private Hire Drivers**

#### **1. Summary**

- 1.1 The recommendations within this report are based upon the conclusions made further to a Policy Development Forum concerning Private Hire and Hackney Carriages on 24<sup>th</sup> September 2008<sup>1</sup>.
- 1.2 Licensing has been identified as an area requiring review by the Business Enterprise and Regulatory Reform Office BERR. It is therefore timely and appropriate that the suggested improvements to current practices are implemented in the light of guidance issued by BERR namely the Code of Practice on Guidance for Regulators<sup>2</sup>.
- 1.3 The changes proposed within this report will greatly simplify current practices allowing a more structured approach to be taken concerning risks and also significantly reduce administrative burdens.

#### **2. Recommendations**

- 2.1 To approve the contents of this report.

ANGELA TANNER  
Head of Environmental Services

### **3. Background Information**

- 3.1 Further to the consideration of current policies regarding the manner in which private hire vehicles and hackney carriages are licensed by way of a Policy Development Forum on 24<sup>th</sup> September 2008, the following opportunities for improvements to the process are recommended for consideration.

### **4. Private Hire and Hackney Carriages.**

#### **4.1 Providers of Certificates of Compliance**

Certificates of Compliance are currently required for both Hackney Carriages (HC) and Private Hire Vehicles (PHV), one per year being required for vehicles less than 4 years of age and two per year after this time. The purpose of a Certificate of Compliance is to add additional elements to a standard MOT test to include items concerning passenger comfort and additional safety such as a first aid kit.

The Council currently allows 4 specified garages to undertake Certificate of Compliance testing. Despite researching this matter and requesting that the Solicitor to the Council search the Strong Room for any 'Tender Documents' or 'Contract' arrangements, no records have been found to show how this relationship was originally agreed.

It is therefore recommended that this service is made subject to a Tendering Process as of the 1<sup>st</sup> April 2009 to ensure the award of this work is fair, transparent and accountable.

The current method used in the vehicle licensing process relies upon the driver presenting the PHV or HC and paying the garage directly. However, an opportunity exists for this payment to be included in the Licence fee which could then be reimbursed to any garages appointed to undertake the work through a contract arrangement. This will enable all administration costs to be recouped from the garages and provide additional control and security for the Council.

Whilst Certificates of Compliance are a legal document replacing the need for an MOT, they are not entered onto the DVLA computer system which gives rise to problems for drivers and vehicle operators in respect of renewing vehicle tax discs or being stopped due to apparently having no MOT (according to DVLA records).

It is therefore recommended that:

Certificates of Compliance are required of Hackney Carriages (HC) and Private Hire Vehicles (PHV), every year for vehicles less than 4 years of age and two per year after this time (as at present).

The proposed Contract includes a clause to also entitle a person presenting a vehicle to the garage for the issue of a Certificate of Compliance to an MOT certificate also at no additional cost.

#### **4.4 Driver Licence Renewals**

The Local Government (Miscellaneous Provisions) Act 1976 allows for the Local Authority to determine the period licences shall be in force (valid) up to a maximum of 3 years. Crawley Borough Council currently license private hire and hackney carriage drivers for 12 months which means that drivers must renew their licence on an annual basis.

Upon renewal the Council must ensure that the driver continues to be a “a fit and proper person” to hold the licence. This is a legal test and factors which are looked at to determine whether a driver is a fit and proper person to hold a licence include criminal convictions and medical fitness, amongst other things. However, changes in the way that convictions may be checked means that it is only permitted to check convictions with the Criminal Records Bureau on a five year cycle. Also, the accepted period for medical checks is every three years until a driver reaches 60 years of age, at which point they are required annually.

Given these matters, issuing licences for only 12 months no longer adds any value to the licensing controls. It should be noted that although checks cannot be made by the Council during the 5 year period, private hire drivers are still bound by the conditions the Council have placed on their licences which include a requirement that they declare within 14 days any pending proceedings for criminal or motoring offences and any convictions for criminal or motoring offences. Should it subsequently be revealed that they failed to report a conviction (for example through the next CRB check), the licence is the subjected to an enforcement review.

It is recommended, therefore, that the validity of driver licences issued by Crawley BC be increased to 2 years, as it is believed that this will reduce unnecessary administrative burdens whilst retaining adequate control of licensed drivers. This amended process will be reviewed each year and would also be reviewed should any concerns arise.

#### **4.5 Medical Checks**

At the present time drivers are required to undertake a medical based on the criteria set by the Council which is designed to mirror a Category 2 Public Service Vehicle Test Standard. Drivers are nevertheless entitled to use any qualified medical practitioner for this purpose and concerns about the quality of the content of the forms have arisen on a number of occasions.

It is therefore recommended all drivers continue to undertake a 3-yearly medical which is equivalent to a Category 2 Public Service Vehicle standard but if this test is not undertaken by a Medical Examiner who is also their registered General Practitioner, then in addition there be a requirement that the form must be countersigned and approved as accurate by their General Practitioner prior to being submitted to the Council.

#### **4.6 Dimension of Rear Seats**

The Council's Licence Conditions state that the minimum size for a seat within a licensed vehicle should be 48". This has traditionally been measured from edge to edge of the seat itself.

As a result of changes to the design of many multiple person vehicles, the Licensing Officers have been made aware that a space of 48" is available within certain models when measured between arm rests although not when measured across the rear seat directly. Due to an oversight in 2008 such a vehicle was issued with a licence to carry 6 persons as opposed to the normal 5 and the licence was subsequently rescinded. However, the said vehicle was operated for a number of months without any complaint due to the available rear space and is in fact considered fit for purpose.

It is therefore recommended that the current condition concerning the rear seat of Private Hire Vehicles and Hackney Carriages be amended to as follows.

*the rear edge of the back seat of the vehicle shall measure at least 48” or provide a minimum of 48” between each side of the vehicle when taking into account space available within the side recesses when carrying three passengers in the rear. Each vehicle will be dealt with on its own merits and shall be approved by the Head of Environmental Services prior to any licence being granted.*

## **5. Ward Members' Views**

5.1 Ward Members' views were sought at the Policy Development Forum.

## **6. Staffing, Financial and Legal Implications/Powers**

6.1 It is not possible to fully ascertain accurate costs or savings. It is nevertheless possible to speculate that a potential may exist to reduce administration costs by changing renewals for drivers' licences to a biannual process.

6.2 Furthermore, a potential exists to negotiate a competitive price for the supply of Certificates of Compliance on behalf of the local vehicle operators and added security and control will be afforded through developing a closer defined formal relationship. For example whilst the garages providing the current service to the Council normally promptly advise of any failures, this could be written as an explicit requirement allowing swift action to suspend unsatisfactory vehicles operating. Any additional administration costs could also be directly recouped from the service provider.

## **7. Other Implications**

7.1 Licensing has been identified as an area requiring review by the Business Enterprise and Regulatory Reform Office (BERR). It is therefore timely and appropriate that the matters outlined above should be considered in the light of guidance issued by BERR namely the Code of Practice on Guidance on Regulation<sup>1</sup>.

## **8. Links to the Community Strategy and Corporate Plan**

8.1 The proposals contained in this report relate to the following key areas of the Community Strategy

Local Economy	y	Health and Social Care	
Affordable Housing		Community Safety	y
Lifelong Learning		Local Environment	y

8.2 The following key principles are applicable:-

(i) Working together	y
(ii) Dignity, respect and opportunities for all	y
(iii) Leaving no-one behind	y
(iv) Making it last	y

8.3 This report achieves the following aims as set out in the Corporate Plan

Providing high quality services	y	Giving exemplary customer service and satisfaction	y
Being financially efficient and well managed	y	Developing motivated, positive and empowered staff	y

## 9. Reasons for the Recommendation

- 9.1 To improve public safety and protect the Council or its Officers from any accusations of restrictive practices, due to the absence of any formal tendering processes concerning the right to test hackney carriage vehicles and private hire vehicles for the purposes of issuing a Certificate of Compliance.
- 9.2 To update the current conditions concerning the rear seats of private hire vehicles and hackney carriage in line with improved vehicle design.

## 10. Background Papers

- 1 PDF Notes 24/09/2008
- 2 Code of Practice on Guidance on Regulation  
<http://www.berr.gov.uk/files/file46950.pdf>

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