

## **Licensed Drivers' NVQ Qualification**

### **SUMMARY**

- 1.1 In December 2008, the Taxi Licensing and Appeals Committee considered a report in relation to introducing the requirement for training and qualifications to be mandatory for all hackney carriage and private hire drivers.
- 1.2 In September 2009, Council agreed to introduce a mandatory requirement that all holders of hackney carriage and private hire driver's licences were required to have passed the NVQ (EDEXCEL) in Road Passenger Vehicle Driving Level 2. For existing drivers, the requirement was that they acquire the qualification within 5 years of the adoption of the policy by the Council. For new drivers, the requirement was that they acquire the qualification within five years of their licence being issued. This means that the target date for compliance will begin to roll out from 9 September 2014.
- 1.3 Some drivers have not provided the necessary confirmation that they have completed the training and the report sets out proposals for what action is necessary to deal with this matter.

### **RECOMMENDATION**

- 2.1 To delegate the power to the Service Director of Environment and Regulatory Services, to take the action set out in Appendix 2 against drivers who have not provided the necessary confirmation that they have completed the NVQ (EDEXCEL) in Road Passenger Vehicle Driving Level 2.

### **REASONS FOR RECOMMENDATION**

- 3.1 To the extent that the policy remains valid and subsisting, it upholds the Committee's intentions for the application of a uniform quality standard within the trade and secures that those who fail to meet that standard are properly taken to task.
- 3.2 Failing to implement a process to address non-compliant licence holders' failure to adhere to the policy detracts from the underlying principle of driving standards up, would be unfair and disingenuous to the many drivers who have taken active steps to comply and, in extremis, could leave the Council vulnerable to challenge.

## SUPPORTING INFORMATION

- 4.1 In December 2008, the Taxi Licensing and Appeals Committee considered a report in relation to the introduction of training and qualifications to be mandatory for all hackney carriage and private hire drivers.
- 4.2 On 22 July 2009, the Taxi Licensing and Appeals Committee considered the Cross Party Working Group recommendations and resolved to;
- “Introduce a mandatory requirement that all holders of hackney carriage and private hire driver’s licences are required to have passed the NVQ (EDXCEL) in Road Passenger Vehicle Driving Level 2. For existing drivers this will be within 5 years of this being adopted by the Council. For new drivers this will be within five years of their licence being issued (subject to this provision being adopted by the Council)”.

This resolution was subsequently approved by Council on 9 September 2009.

- 4.3 This means that the date for compliance with the resolutions for the existing drivers is 9 September 2014. For new drivers licensed after the policy was introduced, the five-year period for compliance will expire on a rolling programme.
- 4.4 At the time of writing the report, there were 46 existing hackney carriage drivers and 110 existing private hire drivers that had not provided evidence to the Licensing Team that they have obtained the required qualification. All 156 held licences at the time the policy was introduced. This is despite reminder letters being sent out to licensed drivers in September 2009, January 2014 and May 2014.
- 4.5 Information obtained following enquiries made recently by the Licensing Team about the availability of NVQ courses around the country was passed on to the trade on 5 June 2014.
- 4.6 Under the current scheme of delegation, drivers who have not complied with conditions attached to their drivers licence are referred to the Taxi Licensing and Appeals Sub Committee.
- 4.7 If Sub Committee referrals had to be made in respect of all 156 drivers currently identified, based on the assumption that 5 cases could be considered at each Sub Committee session, this course of action would require in excess of thirty additional Sub Committee meetings.
- 4.8 The Taxi Licensing and Appeals Committee needs to decide:
- (a) whether action should be taken against drivers who have not complied with the training requirement (and assuming the decision is in the affirmative);
  - (b) what action, if any, should be taken against such drivers; and
  - (c) if action is to be taken, how the process will be undertaken.

- 4.9 In the opinion of your officers and on advice, the following options are available for consideration by the Taxi Licencing and Appeals Committee:
- Option A – Do nothing; failing to implement a process to address non-compliant licence holders' failure to adhere to the policy detracts from the underlying principle of driving standards up, would be unfair and disingenuous to the many drivers who have taken active steps to comply and, in extremis, could leave the Council vulnerable to challenge.
  - Option B – Reverse the Policy; amending a previous decision to address non-compliant licence holders' failure to adhere to the policy detracts from the underlying principle of driving standards up, would be unfair and disingenuous to the many drivers who have taken active steps to comply and, in extremis, could leave the Council vulnerable to challenge.
  - Option C – Refer Drivers to Sub Committee; pursuant to the current delegations, all drivers are referred to a Taxi Licensing and Appeals Sub Committee for individual determinations when conditions are not complied with. The impact on Members and Officers availability, as well as physical resources such as room availability needs to be considered, as does when and how and in which order drivers are seen by Sub Committee; or
  - Option D – An express delegation; given to the Service Director of Environment and Regulatory Services to take action. This would involve a more standardised approach being taken against all drivers who have not provided evidence that they have obtained the required qualification at the same time.
- 4.10 Officers believe that Option D sets out the most appropriate course of action to take. A proposed delegated approach is set out at Appendix 2.
- 4.11 At a future meeting, Committee will be asked to review the training requirement for new entrants. These will need to be aligned with any proposed national minimum qualification standards for licence holders that come out of Central Government's review of taxi licensing.

## OTHER OPTIONS CONSIDERED

5.1 Other options available to Committee are set out in Paragraph 4.9 of the report.

**This report has been approved by the following officers:**

<b>Legal officer</b> <b>Financial officer</b> <b>Human Resources officer</b> <b>Estates/Property officer</b> <b>Service Director(s)</b> <b>Other(s)</b>	Olu Idowu Amanda Fletcher n/a n/a n/a Michael Kay, Ann Webster
<b>For more information contact:</b> <b>Background papers:</b> <b>List of appendices:</b>	Sandra Mansell, 01332 641931, <a href="mailto:sandra.mansell@derby.gov.uk">sandra.mansell@derby.gov.uk</a> None Appendix 1 – Implications Appendix 2 – Recommended Delegated Approach to the Service

	Director of Environment and Regulatory Services
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<b>IMPLICATIONS</b>
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**Financial and Value for Money**

- 1.1 Although there are no financial implications as a direct result of this report, any future decision made that could leave the Council vulnerable to challenge may involve an application for costs against the Council and create a financial pressure to the Taxi Licencing budget.

**Legal**

- 2.1 The policy decision made in 2009 was made on justifiable public safety grounds that were aimed at addressing a perceived need to drive up standards within the licensed trade, to the benefit of the fare paying public. The policy manifests itself as a licence term, so that the failure to adhere to it by a driver amounts to a breach of their licence terms.
- 2.2 A licence is property, and property rights should not be interfered with without justification. A breach of a term of their licence by an individual licence holder, where that breach impacts on public safety, would justify the Council's intervention, in the circumstances set out the report.
- 2.3 The proposed measure set out at paragraph 4.10 of the report is both fair and proportionate and properly shift the onus onto the licence holder to demonstrate what active steps they have themselves taken to warrant the sanction trigger not having to be applied to them.

**Personnel**

- 3.1 None directly arising.

**IT**

- 4.1 None directly arising.

**Equalities Impact**

- 5.1 The proposal set out in the report will affect a number of specific drivers but this is justified as they have breached a term of their licence and is considered both fair and proportionate. The proposal will not affect those drivers who have complied with the terms of their licence.
- 5.2 The course has a module around customer care and it is essential that all the drivers licenced by the Council undertake this course to make sure they meet the needs of the diverse customers they come into contact with.

## Health and Safety

- 6.1 None directly arising.

## Environmental Sustainability

- 7.1 None directly arising.

## Property and Asset Management

- 8.1 None directly arising.

## Risk Management

- 9.1 Taking no action or reversing a previously made policy decision to address non-compliant licence holders' failure to adhere to the policy detracts from the underlying principle of driving standards up, would be unfair and disingenuous to the many drivers who have taken active steps to comply and, in extremis, could leave the Council vulnerable to challenge.

## Corporate objectives and priorities for change

- 10.1 The proposals set out in this report will deliver **better outcomes for our communities, more efficient and effective services and improved value for money for our customers.**

## Appendix 2

### **Recommended Delegated Approach to the Service Director of Environment and Regulatory Services**

1. During the week commencing 18 August 2014, a letter will be sent to all drivers who held licences at the time the policy was introduced that have not yet provided a copy of the original certificate confirming that they have completed the NVQ (EDEXCEL) in Road Passenger Vehicle Driving Level 2.
2. The letter will set out that if the driver does not provide, either an original certificate confirming completion of the NVQ (EDEXCEL) in Road Passenger Vehicle Driving Level 2 or documentary evidence of being enrolled on that course, by close of business on 8 September 2014:
  - their drivers licence will be suspended as from 9 September 2014;
  - they will not be able to drive a licensed vehicle from 00.01hrs on 9 September 2014 until they provide evidence that they have successfully completed the course; and
  - their badge must be returned to the Licensing Team on 9 September 2014.

The Council recognises the right of appeal to the Magistrates' Court which the decision to suspend triggers, which will be clearly set out in the letter.

3. The letter will also state that if the driver provides evidence prior to the 9 September 2014 that they are enrolled on a relevant course, they will be given 12 weeks from 9 September 2014 to complete the course and provide the certificate of successful completion to the Council. If they do not complete the course successfully or at all, then their badge will be suspended from 1 December 2014 and they will not be able to drive from 00.01hrs on 1 December 2014. As such, their badge must be returned to the Council House on that day until they provide evidence that they have successfully completed the course. Drivers' appeal rights will once again be preserved.
4. In the interests of reasonableness and proportionality and so as to avoid unnecessary appeal costs being incurred whether by a driver or the Council, if the driver subsequently provides a certificate between the period 9 September – 30 September 2014 confirming that they have successfully completed the NVQ (EDEXCEL) in Road Passenger Vehicle Driving Level 2, the Service Director of Environment and Regulatory Services will reverse the suspension and return the badge and no further action will be necessary.
5. This process will be replicated for other licence holders beyond those who



were licence holders at the time the policy was introduced. These are a different category of drivers whose five year period for compliance will expire on a rolling programme and have not yet provided a certificate confirming that they have successfully completed the NVQ (EDEXCEL) in Road Passenger Vehicle Driving Level 2.