

Notice of Meeting

Licensing Committee

Date: Thursday 10 February 2022
Time: 5.30 pm
Venue: Conference Room 1, Beech Hurst, Weyhill Road, Andover,
Hampshire, SP10 3AJ

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The recommendations contained in the Agenda are made by the Officers and these recommendations may or may not be accepted by the Committee.

PUBLIC PARTICIPATION SCHEME

If members of the public wish to address the meeting they should notify the Legal and Democratic Service at the Council's Beech Hurst office by noon on the working day before the meeting.

Membership of Licensing Committee

MEMBER

WARD

Councillor G Bailey (Chairman)	Blackwater
Councillor P Lashbrook (Vice-Chairman)	Bellinger
Councillor I Andersen	Andover St Mary's
Councillor J Budzynski	Andover St Mary's
Councillor T Burley	Andover Harroway
Councillor N Daas	Romsey Abbey
Councillor C Donnelly	Andover Downlands
Councillor A Dowden	Valley Park
Councillor N Gwynne	Romsey Cupernham
Councillor A Johnston	Mid Test
Councillor L Lashbrook	Charlton & the Pentons
Councillor N Matthews	Andover Romans
Councillor R Meyer	Andover Winton
Councillor J Parker	Romsey Tadburn
Councillor R Rowles	Andover Winton

Licensing Committee

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AGENDA

**The order of these items may change as a result of members
of the public wishing to speak**

- 1 Apologies**
- 2 Public Participation**
- 3 Declarations of Interest**
- 4 Urgent Items**
- 5 Minutes of the meeting held on 21 October 2021**
- 6 Minute of the Licensing Sub-Committee held on 18
October 2021**
- 7 Hackney Carriage and Private Hire Vehicle Driver
Licensing and Fees** **4 - 9**

A report recommending changes to the criminal records
checking processes for licensed taxi drivers.

ITEM 7 Hackney Carriage and Private Hire Vehicle Driver Licensing and Fees

Report of the Head of Legal and Democratic (Portfolio: Democracy & Governance)

Recommended:

- 1. That as from 1 April 2022 the Council offer a service of obtaining overseas criminal records checks to new applicants for a Hackney Carriage/Private Vehicle Driver Licence.**
- 2. That as from 1 April 2022 applicants for the grant or renewal of a Hackney Carriage/Private Hire Vehicle Driver Licence pay the fee for a Disclosure and Barring Service criminal records check at the time of submitting their identification documents to the Post Office.**

Recommended to Cabinet:

- 3. The fee for a obtaining an overseas criminal records check be set at the cost charged by the third party provider plus a fee of £27.00.**
- 4. The fees for the grant or renewal of a Hackney Carriage/Private Hire Vehicle Driver Licence be set at the amounts listed in paragraph 7.1 of this report.**

SUMMARY:

- Taxi driver applicants are required to undergo criminal records checks with the UK Disclosure and Barring Service to make sure there are no matters which would make them unsuitable for being granted a licence.
- At present the fee for this check is included as part of the overall licence fee but it is proposed this be paid at the Post Office as part of the ID verification process.
- The Council requires applicants that have lived overseas prior to applying for a licence to provide an equivalent check from that country arranged and paid for by the applicant. In future the Council could provide this service.

1 Introduction

- 1.1** In considering applications for taxi driver and operator licences the Council must not issue a licence unless it is satisfied that the applicant is 'fit and proper'. In this regard the consideration of an applicant's criminal convictions and other relevant character or behaviour information is a key part of the 'fit and proper' assessment.

2 Background

- 2.1 Hackney carriages and private hire vehicles form a vital part of the public transport network within the Borough by providing transport for the public who may not have any safe alternative means of transport available to them. In recent years there have been cases across the country of licensed drivers being involved in criminal activity including the sexual exploitation of children. It is important that all licensing authorities take appropriate steps to prevent future cases by ensuring that licensed drivers are 'fit and proper'.
- 2.2 When considering the subject of criminality checks for taxi drivers the Department for Transport Statutory Taxi and Private Hire Vehicle Standards published last year – considered by this Committee at its meeting on 23 September 2021 – emphasises how all licensing authorities in England and Wales have a requirement that an enhanced criminal records check is undertaken with the Disclosure and Barring Service (DBS) at first application and then upon renewal.
- 2.3 The DBS check will only provide details for the time a person has resided in the UK. Several drivers have lived outside of the UK and in these cases the driver is asked to provide the equivalent of a DBS check for the country in which they have resided. The onus is upon the driver to obtain and pay for this check. This generally involves contacting the embassy of the country involved although arrangements vary considerably across different countries.

3 Corporate Objectives and Priorities

- 3.1 Hackney Carriage and Private Hire licensing falls within the broader remit of public safety which cuts across the Council's corporate priorities with reference to growing the potential of our Communities and People. In deciding whether a licensed driver should be issued with and then retain their licence, the overriding consideration will be the protection of the public. The Council's role in safeguarding and protecting the travelling public cannot be understated.

4 Consultations/Communications

- 4.1 No consultation has been undertaken on these proposals with the taxi trade, but no adverse impact is anticipated such that any member of the trade would be unhappy with the proposals. A wide-ranging consultation which will encompass aspects of the driver licensing procedure is currently being undertaken and will provide an opportunity for the trade to comment on various aspects of the licensing process.

5 Options

- 5.1 The options available to the Committee are:

5.2 Option 1

To separate out the charge for the DBS check from the driver licence fee and introducing the ability for overseas criminal records checks to be obtained through the Council rather than by the applicant. This is the recommended option.

5.3 **Option 2**

To reject the recommendations.

5.4 **Option 3**

To resolve to take some other course of action.

As stated in paragraph 6.1 below there is specific legal advice – endorsed by James Button one of the leading licensing lawyers in the UK who has previously delivered training to the Committee – that the fee levied by the Council should not include charges for any additional checks. The move to drivers paying the DBS fee directly will resolve this. Separating out the DBS fee will also assist drivers who already have a current enhanced criminal records disclosure and do not need to apply for another.

Obtaining an overseas criminal records check can be a time-consuming process and previously some driver licence applicants have been discouraged from applying because of the perceived difficulties in obtaining an overseas check. Being able to offer a service to future applicants may encourage those who have previously not had the ability to undertake the check themselves.

6 Options Appraisal

- 6.1 At present the Council charges a single fee for a driver licence which includes the cost of a DBS criminal records check. However, current legal advice is that any requirements such as this are charged separately. This is because in relation to driver licences, section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 states a fee can only be levied on the grant of the licence. Therefore, if costs are not separated, where a licence is not granted the Council will end up refunding the costs of those checks, in addition to the licence fee.
- 6.2 The current method of undertaking a DBS check requires drivers to take their identification documents to a Post Office for verification. The third-party provider used by the Council to manage DBS checks advises that the charge for undertaking the DBS check could be paid by the driver at the same time which would then resolve this issue.
- 6.3 As mentioned, the DBS only covers the period during which a person has resided in the UK and so in the case of an applicant who has lived overseas for any time since the age of 10 a satisfactory letter of good conduct or similar documentation for the country or countries in which they have lived must also be available. Any costs associated in obtaining this documentation must be met by the applicant. Certain countries do have a similar arrangement to the Disclosure & Barring Service, but it may need the applicant to contact that country's representative in the United Kingdom.
- 6.4 Undertaking overseas criminal records checks can be complex, as processes differ from country to country in the level of information available, the application data required to run the check, the process that needs to be followed, turnaround time, and cost. Additionally, throughout the world, in-country data-protection laws protect criminal record information from being

released. In some countries, criminal data is only accessible for specific positions, and in others information can be released for any role. There are also countries where criminal records are only released directly to the candidate.

- 6.5 To overcome these issues the Council’s provider of UK DBS checks advises they can undertake overseas criminal records checks in over 145 countries. The driver would need to complete a form and provide documentation which would then be forwarded to the provider. Based on current numbers it is likely that only a handful of such applications would be received in a year but having this facility may prove of benefit to a driver that has difficulty in applying for the check themselves.

7 Resource Implications

- 7.1 It is necessary to recalculate the 2022/23 licence fees as those previously approved by Cabinet on 27 October 2021 included an element for work associated with the Council processing DBS checks. The fees can be reduced to remove the charges relating to the DBS fee (£40.00), the administration charge levied by Council’s provider (£10.00), the fee charged by the Post Office for verifying the applicant’s identification documents (£6.85) and a charge relating to 30 minutes of staff time (£13.50) which would have been spent undertaking this work. Consequently, the new fees for driver licences from 1 April 2022 will be:

	1 YEAR	3 YEAR
NEW	£87.00	£100.00
RENEWAL	£60.00	£87.00

The fee for overseas criminal records checks varies depending upon the country but currently range from £88.00 to £386.00. The applicant will have to pay this fee plus a charge of £27.00 equating to one hour of staff time which it is estimated will be needed to deal with these applications.

- 7.2 The Annex compares the currently approved charges for 2022/23 with the recommendations included in this report. For ease of reference, the affected charges have been shaded.

8 Legal Implications

- 8.1 There are specific powers contained in legislation, most notably the Local Government (Miscellaneous Provisions) Act 1976, which allow the Council to specify the requirements that drivers must meet to be licensed, and to refuse a licence to drivers if the Council is not satisfied that the drivers are fit and proper persons to hold a licence. Undertaking an enhanced criminal records check is regarded as the primary means of determining the suitability of an applicant and as mentioned there is clear legal advice that the charge for such a check should be levied separately from the licence fee.

9 Equality Issues

- 9.1 There are no equality and diversity implications resulting from adopting the recommendations.

10 Other Issues

- 10.1 Community Safety – nothing specific other than the general comments contained in section 2 above.
- 10.2 Environmental Health Issues – no implications identified.
- 10.3 Sustainability and Addressing a Changing Climate – no implications identified.
- 10.4 Property Issues – no implications identified.
- 10.5 Wards/Communities Affected – none specifically but potentially the whole Borough.

11 Conclusion

- 11.1 Criminality checks on new and existing drivers are an important part of the overall “fit and proper” person test. The changes recommended in this report will reduce the administrative burden upon the Council and potentially drivers. The ability for new applicants to obtain an overseas criminal records check via the Council may be of significant benefit to any new applicant that has lived overseas at any time and would have difficulty in obtaining a check themselves.

<u>Background Papers (Local Government Act 1972 Section 100D)</u>			
Minutes of the Licensing Committee meeting held 23 September 2021			
<u>Confidentiality</u>			
It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	1		
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File Ref:			
Report to:	Licensing Committee	Date:	10 February 2022

	APPROVED CHARGES 2022/23 £	RECOMMENDED CHARGES 2022/23 £
Replacement Plate	13.00	13.00
Hackney Carriages - Vehicle	98.00	98.00
Hackney Carriages - Temporary Change of Vehicle	49.00	49.00
Hackney Carriages - Transfer of Vehicle Ownership	25.00	25.00
Hackney Carriages - Inspection (Initial)	53.00	53.00
Hackney Carriages - change of vehicle registration number	25.00	25.00
Private Hire - Vehicle	98.00	98.00
Private Hire - Temporary Change of Vehicle	49.00	49.00
Private Hire - Transfer of Vehicle Ownership	25.00	25.00
Private Hire - Inspection (Initial)	53.00	53.00
Private Hire - change of vehicle registration number	25.00	25.00
Operator Licence - One Year	83.00	83.00
Operator Licence - Five Years	212.00	212.00
New Driver Licence - One Year*	162.00	87.00
New Driver Licence - Three Years*	178.00	100.00
Renewal Driver Licence - One Year*	112.00	60.00
Renewal Driver Licence - Three Years*	129.00	87.00
Overseas equivalent DBS check (plus charge for that country)	N/A	27.00
Driver ID Validation service	7.50	7.50
Replacement licence or badge	10.00	10.00

* Currently, all driver licences fees are reduced by £71 if a current enhanced criminal records disclosure can be provided