

LICENSING BOARD

Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Wednesday, 15 September
2010

Time: 9.30 a.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Minutes of the Board held on 11th August, 2010 (herewith) (Pages 1 - 2)
4. Amendment to CRB Disclosure and Medical Certification Procedure (report herewith) (Pages 3 - 11)
5. Exclusion of the Press and Public.
The following item is likely to be considered in the absence of the Press and Public as being exempt under the Police Act 1997 and Paragraphs 3 and 7 of Part 1 of Schedule 12A to the Local Government Act 1972 (business affairs and prevention of crime)
6. Applications for the Grant/Renewal/Review of Hackney Carriage/Private Hire Drivers' Licences (reports herewith) (Pages 12 - 27)

LICENSING BOARD
11th August, 2010

Present:- Councillor Wootton (in the Chair); The Mayor (Councillor McNeely); Councillors Barron, Buckley, Burton, Dodson, Donaldson, Doyle, Goult, J. Hamilton, N. Hamilton, Jack, Nightingale and Swift.

Apologies for absence were received from Councillors Falvey, Foden, Havenhand, P. A. Russell and Sangster.

Q13. MINUTES

Resolved:- That the minutes of the meeting of the Licensing Board held on 14th July, 2010 be approved as a correct record for signature by the Chairman.

Q14. EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the Police Act 1997 and Paragraphs 3 and 7 of Part I of Schedule 12A to the Local Government Act 1972 (business affairs and prevention of crime).

Q15. HACKNEY CARRIAGE/ PRIVATE HIRE DRIVERS' LICENCES

The Board considered reports by the Director of Housing and Neighbourhood Services relating to the hackney carriage/ private hire drivers' licences held by Messrs. Z.A. and M.A.S.(1).

Messrs. Z.A. and M.A.S.(1) attended the meeting and were interviewed by the Board.

Resolved:- That the licences held by Messrs. Z.A. and M.A.S. (1) be revoked.

Q16. HACKNEY CARRIAGE/ PRIVATE HIRE DRIVERS' LICENCES - APPLICATIONS

The Board considered reports by the Director of Housing and Neighbourhood Services relating to applications for the grant of hackney carriage/ private hire drivers' licences from Messrs. S.A.Y., N.R., M.B.W., A.K., M.A.S.(2) and G.M.

Messrs. S.A.Y., N.R., M.B.W., A.K., M.A.S.(2) and G.M. attended the meeting and were interviewed by the Board.

Resolved:- (1) That the application from Mr. G.M. be refused.

(2) That Messrs. M.B.W and N.R. be granted a licence for a period of 12 months subject to the satisfactory completion of the Driving Standards Agency test and medical.

(3) That Mr. S.A.Y. be granted a licence for a period of three years subject to the satisfactory completion of the medical.

(4) That Messrs. A.K. and M.A.S.(2) be granted a licence for a period of three years subject to the satisfactory completion of the Driving Standards Agency test and medical.

(The Chair, Councillor Wootton, being known to the applicant, declared a personal and prejudicial interest in the matter relating to Mr. M.B.W. having been a former neighbour, and left the room during consideration of the application. Councillor Barron, Vice-Chair, assumed the Chair for this item.)

(Councillor Dodson left the room for the determination of the application in respect of Mr. A.K.)

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Licensing Board
2.	Date:	15 September 2010
3.	Title:	Amendment to CRB Disclosure and Medical Certification procedure.
4.	Programme Area:	Neighbourhood and Adult Services

5. Summary

The purpose of this report is to streamline the current Licensing Authority procedures relating to the obtaining of CRB disclosure certificates and medical fitness to drive certificates that are required from applicants for the grant and renewal of hackney carriage / private hire driver licences.

6. Recommendations

- i) **That the Licensing Board approves the procedure for obtaining CRB Enhanced Disclosure certificates as detailed in Appendix A to this report.**
- ii) **That the Licensing Board approves the procedure for obtaining medical certification of fitness to drive as detailed in Appendix B to this report.**

7. Proposals and Details

Since 1992, it has been a requirement for holders of a hackney carriage / private hire driver's licence to be in possession of a medical certificate of fitness to drive. Once issued (by the driver's own General Practitioner) the certificate is valid for a period of five years (drivers aged 60 and over are required to produce a medical certificate annually).

In 2006, the council introduced a policy of obtaining Enhanced Disclosure Certificates from the Criminal Records Bureau for all licensed drivers. The disclosure certificates obtained as a result of this policy were considered valid for a period of up to three years, after this time a further disclosure certificate would be required.

As a result of the timing of the introduction of these requirements, it became the case that the CRB and medical certificates became due for renewal at different times from the licence itself. For example, it is possible for the holder of three year driver's licence to be required to renew their CRB certificate in August 2010, renew their actual licence in January 2011, and then undertake a medical examination in May 2011. Each of these renewals would involve time and expense for both the licence holder and members of the licensing team (as a result of administrative processes and associated costs).

In order to streamline and simplify the process (for both drivers and the council), the following is proposed:

CRB Certificates

CRB certificates will become due for renewal at the point of application for a grant or renewal of a driver's licence. Existing driver's licence holders in possession of an appropriate Enhanced CRB Disclosure Certificate that is less than six months old will not be required to produce a further CRB certificate at the point of renewal. Driver's in this situation will instead they will be required to produce a certificate at the time when they next renew their licence.

The Board is requested to approve the amended procedure for requesting a CRB certificate as detailed in Appendix A to this report:

Medical certification of fitness to drive

The requirements regarding medical certification should be brought into line with the Driver and Vehicle Licensing Agency (DVLA) requirements in relation to Public Carriage Vehicles (PCV) and Heavy Goods Vehicles (HGV).

Medical certification of fitness to drive will be required at the point of application for the grant of a hackney carriage / private hire driver's licence. The medical certification will not ordinarily become due for renewal until the driver reaches the age of 45 (situations may require an additional medical before this time, for example if the driver notifies the council that they have been diagnosed with a particular medical condition). Medical certification will then be required every five years at the point of renewal of the licence, until the driver reaches the age of 65 whereupon certification will be required annually.

The Board is requested to approve the amended procedure for the certification of medical fitness to drive as detailed in Appendix B to this report:

8. Finance

It is envisaged that the revised procedures will result in savings to the authority through increased staff efficiencies and reductions in direct and indirect administrative costs.

In most cases there will be no additional financial costs to licensees for Criminal Records Bureau Disclosures other than those currently experienced.

The result of amendments to the medical certificate requirements will result in a reduction of cost to the licensee, the amount of reduction will be dependent on the individual licensee's age and medical circumstances.

The licensee would also experience an expected saving in both time and expense incurred in making less visits to the licensing authority office to process these various applications.

9. Risks and Uncertainties

The principal role of the licensing authority is to protect the safety of the travelling public. The proposed procedures with regard to medical certification follow current DVLA standard procedures, and we do not believe that the revision of the CRB requirements will result in any increased risk to the safety of the public. However, members should satisfy themselves that the procedures and processes followed by the council adequately promote the authorities role in safeguarding those that choose to use hackney carriage / private hire vehicles.

10. Policy and Performance Agenda Implications

An effective and efficient licensing service contributes to Rotherham Safe and Rotherham Proud. In addition, the service will contribute to the NAS priorities of creating safer neighbourhoods and safeguarding vulnerable adults.

11. Background Papers and Consultation

Policy and Resources Committee Minutes from June 1992

Licensing Board Minutes from June 2006 relating to the disclosure of criminal records by applicants for hackney carriage/private hire driver's licences

The Policy and Resources Committee minutes from February 1994, October 1995, and January 1996

General Purposes Committee in January 1997 and September 1997

Licensing Board minutes from November 2001.

Department for Transport "Taxi and Private Hire Vehicle Licensing: Best Practice Guidance" for March 2010

Department for Transport, Driver & Vehicle Licensing Agency "At a glance guide to the current medical standards of fitness to drive".

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Licensing Authority Procedures - Criminal Record Disclosure Requirements (Rev 09/2010)

- This authority will only accept an Enhanced Check Certificate where the checks and processes have been made by this authority.
- This authority does not accept or support the portability of Disclosure Certificates (in line with Criminal Records Bureau Guidance)
- All applicants for the grant of a hackney carriage/private hire driver licence will be required to complete the appropriate CRB Disclosure application processes in full at the time of application for the driver licence/badge.
 - All identification documents required by the CRB must be supplied with the correctly completed application form
 - No licence/badge will be issued until a suitable CRB Disclosure Certificate has been returned and approved by the Licensing Authorities named countersignatory.
- All applicants for renewal of their current hackney carriage/private hire driver licence will be required to complete the appropriate CRB Disclosure application processes in full at the same time they apply for the renewal of their driver badge/licence.
 - All identification documents required by the CRB must be supplied with the correctly completed application form.
 - A renewed licence/badge will be issued prior to receipt of the returned CRB Disclosure Certificate
 - The named Licensing Authorities countersignatory will review the Disclosure Certificate and as appropriate may refer a pre-issued licence to the Licensing Board for review.

Drivers in possession of an appropriate Enhanced CRB certificate that is less than six months old at the time of application are exempt from this requirement. Drivers in this situation will be required to produce a CRB certificate at the time when their licence is next due for renewal.

- The Licensing Authority may request an applicant or licensee to complete a further additional CRB Disclosure Application form and processes, in part or in full, where the Authority believes there are serious concerns relating to the previously completed form or the issued disclosure certificate.
- The Licensing Authority may request a licensee to complete a further additional CRB Disclosure Application form and processes, in part or in full, where the Authority believes there are concerns relating to the “fit and properness” of an individual due to a perceived or actual failure to disclose relevant convictions
- The Licensing Authority may request a licensee to complete a further additional CRB Disclosure Application form and processes, in part or in full, where the Authority considers there may be other relevant reasons of public safety under consideration.

Further Relevant Background Information - The Department for Transport

A criminal record check is an important safety measure particularly for those working closely with children and the vulnerable. Hackney carriage and private hire drivers are working in a “Regulated Activity” and an Enhanced Disclosure through the Criminal Records Bureau may be requested.

An Enhanced Disclosure may also include any other information held in police records that is considered relevant by the police, for example, details of minor offences, non-conviction information on the Police National Computer such as Fixed Penalty Notices and, in some cases, allegations. An Enhanced Disclosure is for those working in Regulated Activity¹ and the Government has produced guidance in relation to this and the proposed “Vetting and Barring Scheme”. Guidance is available at www.isa-gov.org.uk. *[The Department will issue further advice as the new SVG scheme develops.]*

In considering an individual’s criminal record, the local licensing authority will consider each case on its merits, but should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, the local authority will have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

The licensing authority will also have a policy on background checks for applicants from elsewhere in the EU and other overseas countries by requiring a certificate of good conduct authenticated by the relevant embassy. *The Criminal Records Bureau website (www.crb.gov.uk) gives information about obtaining certificates of good conduct, or similar documents, from a number of countries.*

Government best practice for Criminal Records Bureau disclosures is that a Disclosure Certificate should be sort when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority. ¹ “Regulated Activity” is defined in The Safeguarding Vulnerable Groups Act 2006 (Miscellaneous Provisions) Regulations 2009

Notifiable Occupations Scheme

Under this Scheme, when an individual comes to the notice of the police and identifies their occupation as a taxi or PHV driver, the police are requested to notify the appropriate local licensing authority of convictions and any other relevant information that indicates that a person poses a risk to public safety. Most notifications will be made once an individual is convicted however, if there is a sufficient risk, the police will notify the authority immediately. The police may occasionally notify licensing authorities of offences committed abroad by an individual however it may not be possible to provide full information.

Notifications are made directly to the local licensing authority identified by the police following interview. However, it is expected that all licensing authorities work together should they ascertain that an individual is operating under a different authority or with a fraudulent licence. *The Notifiable Occupations Scheme is described in Home Office Circular 6/2006, Further information can also be obtained from the Criminal Records Team, Joint Public Protection Information Unit.*

Immigration checks

The Department considers it appropriate for a licensing authority to check on an applicant's right to work before granting a HC or PH driver's licence. It is important to note that a Criminal Records Bureau Certificate is not a Right to Work check and any enquires about the immigration status of an individual should be addressed to the Border and Immigration Agency. *Further information can be found at www.bia.homeoffice.gov.uk/employingmigrants.*

Licensing Authority Procedures - Medical fitness Requirements (Rev 09/2010)

- This authority will only accept a Group 2 Standard Medical Certificate where the checks and processes have been made by this authority and the individuals own registered GP's Service.
- This authority does not accept or support the portability of Group 2 Standard Medical Certificates.
- All applicants for the grant of a hackney carriage / private hire driver licence will be required to complete the appropriate Group 2 Standard Medical Certificate application processes in full at the time of application for the driver licence/badge.
 - All identification documents required by the GP must be supplied directly to that GP along with any fee charged by that GP
 - No licence/badge will be issued until a suitable Group II Standard Medical Certificate has been returned and approved by the Licensing Authority.
- All applicants for renewal of a current hackney carriage / private hire driver licence will be required to present a satisfactory Group 2 Standard Medical Certificate in full at the same time they apply for the renewal of their driver badge / licence as follows:
 - a completed medical report and certificate will be required once the licence holder reaches the age of 45 years (in line with PCV/HGV requirements) at the time their licence/badge is renewed.
 - a further completed medical report and certificate will be required as the licence holder reaches the ages of 50, 55, 60 and 65 years old (in line with PCV/HGV requirements) at the time their licence/badge is renewed
 - once the licence holder reaches the age of 65 years, a completed medical report and certificate will be required annually (in line with PCV/HGV requirements) at the time their licence/badge is renewed.
 - All identification documents required by the GP must be supplied at the time of the medical to the GP.
 - No renewed licence / badge will be issued to a licensee prior to receipt of the returned satisfactory Group 2 Standard Medical Certificate.
 - Where a PCV/HGV Medical has been carried out by the applicant / licence holder's GP within 12 Months of application a shortened medical certificate would be available upon request of the Licensing Authority.
- The Licensing Authority may request an applicant or licence holder to complete a further additional Group 2 Standard Medical Certificate and processes, in part or in full, where the Authority believes there are serious concerns relating to the previously completed form or the issued certificate.
- The Licensing Authority may request a licence holder to complete a further additional Group 2 Standard Medical Certificate and processes, in part or in full, where the Authority believes there are concerns relating to the "fitness" of an individual due to a perceived or actual failure to disclose relevant medical conditions

- The Licensing Authority may request a licence holder to complete a further additional Group II Standard Medical Certificate, in part or in full, where the Authority considers there may be other relevant reasons of public safety under consideration.
- The Licensing Authority may request a licence holder to require a further report to be supplied to the Licensing Authority by any Specialist that the licensee may have been referred to by their GP in relation to any medical condition that individual may be receiving Specialist Medical treatment for.
- All medical reports and certificates will be supplied to the Licensing Authority by the applicant/licence holder at their own cost.

Further Relevant Background Information - The Department for Transport

It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. There is general recognition that it is appropriate for taxi/PHV drivers to have more stringent medical standards than those applicable to normal car drivers because: they carry members of the general public who have expectations of a safe journey; they are on the road for longer hours than most car drivers; and they may have to assist disabled passengers and handle luggage.

It is common for licensing authorities to apply the “Group 2” medical standards – applied by DVLA to the licensing of lorry and bus drivers – to taxi and PHV drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (i.e. 3500-7500kgs lorries); the position is summarised at Annex C to the Guidance. It is suggested that the best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.

Age Limits

It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.

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