

BRISTOL CITY COUNCIL

PUBLIC SAFETY AND PROTECTION COMMITTEE

9th June 2020

Report of: Executive Director, Growth and Regeneration

Title: Proposed amendment to Draft Hackney Carriage and Private Hire Fit and Proper Person Policy approved by committee for consultation on 18th February 2020

Ward: Citywide

Officer Presenting Report: Emma Lake, Licensing Team Leader

Contact Telephone Number: 07584 480599

Purpose of Report

To seek permission for the Licensing and Trading Standards Manager to commence a consultation on an amended draft Fit and Proper Person Policy for hackney carriage and private hire drivers with changes in respect of expired licences.

RECOMMENDATION

The committee are recommended to:

- (1) consider the information within this report and;
- (2) to delegate authority to the Licensing Manager to consult on the draft fit and proper persons policy attached to this report;
- (3) to bring a report back to committee to consider the responses to the consultation and any further proposed changes.

Summary

The Public Safety and Protection committee approved a draft Fit and Proper Person policy for consultation in respect of amending the policy to include requirements in respect of the DBS update service in February 2020. The draft policy approved included removing the requirements relating to expired licences. We are now seeking amendments to the draft policy in respect of expired licences including requirements for the gold standard and knowledge

tests for drivers that have expired.

Policy

1. The Council, as the Licensing Authority under the Local Government (Miscellaneous Provisions) Act 1976, is responsible for licensing all Hackney Carriage and Private Hire Drivers operating within its area, pursuant to Sections 51, 57 and 59 of the Act.

2. The Council has a legal duty to ensure that all licensed drivers are fit and proper persons to apply for and continue to hold such a licence. This includes the power to refuse to grant a licence and suspend or revoke a licence where a driver is not deemed or no longer deemed to be 'Fit and Proper' where they have been convicted or cautioned for criminal and road traffic offences.

3. The Council's current Hackney carriage and Private Hire fit and proper person policy was last revised in August 2017. It states the requirements in respect of DBS applications and expired licences.

Consultation

4. Internal

Not applicable

5. External

If members are minded to approve the amended draft policy, an external consultation would take place in line with Department for Transport Best Practice Guidance which recommends that local authorities consult with the following parties in respect of any significant proposed changes:

- hackney carriage and private hire vehicle trades via newsletter
- trade representatives
- groups representing equalities groups
- PC Patrick Quinton

The consultation will be take place over an 8 week period and the consultation will be published on the Councils Consultation finder.

Context

6. The Hackney Carriage and Private Hire trades are the only parts of the public transport system that are operational 24 hours a day, 365 days a

year. It is therefore important that the Council regularly reviews its fit and proper person policy to ensure it is effective and fit for purpose.

7. The committee report from 18th February 2020 is attached as Appendix 1, the draft policy approved on 18th February 2020 is attached as Appendix 2 and the current Fit and Proper Person policy is attached as Appendix 3.

Proposal

8. Members are being asked to support the recommendations set out in this report and approve that the following be added to draft Fit and Proper Person policy approved by committee attached as Appendix 4 which includes:

Expired Licences

In the event a private hire or Hackney carriage driver licence expires the following applies:

- *For applications submitted less than 12 months from expiry of the previous licence the applicant will not be required to complete the Gold Standard or Knowledge Test if they have previously completed this requirement. If the applicant has not yet completed the Gold Standard training they shall be required to complete this by their next renewal or grant application;*
- *For applications submitted 12 months from expiry of the previous licence and over from expiry the applicant will be treated as a new applicant;*
- *Where an application is submitted by a driver who still holds a current Hackney carriage or private hire driver licence the applicant will not be required to complete the Gold Standard or Knowledge Test.*

This proposal would in effect reinstate the current policy requirements in place in respect of expired licences. With the exception of introducing a requirement for those drivers that have not previously completed the Gold Standard would need to complete it by their next renewal if their application is submitted less than 12 months from expiry of the previous licence.

Other Options Considered

9. Do nothing and consult on the draft policy approved by committee in February 2020. However this is likely to cause issues for applications submitted by drivers that have recent expired in that if they are submitted less than 12 months from expiry they would need to meet all the policy requirements as a new driver.

Risk Assessment

10. The report outlines the main options that may be considered by members and the possible implications of policy changes.

11. The Council is under a duty to ensure that all new applicants and current licence holders of private hire and hackney carriage driver licenses are fit and proper persons to hold a licence and that they do not pose a risk to any fare paying passengers or other members of the public.

Public Sector Equality Duties

21a. Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following “protected characteristics”: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation. Each decision-maker must, therefore, have due regard to the need to:

- i) Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Equality Act 2010.
- ii) Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to --
 - remove or minimise disadvantage suffered by persons who share a relevant protected characteristic;
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it (in relation to disabled people, this includes, in particular, steps to take account of disabled persons' disabilities);
 - encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- iii) Foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to –
 - tackle prejudice; and
 - promote understanding.

21b. An Equalities Impact Relevance Check has been produced and updated which is attached as Appendix 5.

Legal and Resource Implications

Legal

The proposals set out in the report are lawful.

There is no legal requirement to consult upon the proposed changes to the fit and proper person policy. However, should a consultation process be undertaken, case law guides on what constitutes lawful consultation and from this some key guiding principles have been established, in summary that those being consulted must:

- a. be provided with material upon which a decision is likely to be made;
- b. be given enough time for intelligent consideration of that material and to respond to it;
- c. be given the opportunity to make considered representations;
- d. have their representations conscientiously considered.

It is therefore important that members are satisfied that that any consultation process allows sufficient time to enable any person or body wishing to make representations to obtain relevant material, to consider it and to put their representations to the Council.

Lynne Harvey, June 2020

Financial

(a) Revenue

(b) Capital

No comments received.

Land

Not applicable

Personnel

Not applicable

Appendices

Appendix 1 – Public Safety and Protection (PSP) report February 2020f
Successful status checks

Appendix 2 – Draft Hackney Carriage and Private Hire Driver Fit and Proper Person Policy approved February 2020

Appendix 3 – Current Fit and Proper Person Policy

Appendix 4 – Draft Fit and Proper Person Policy June 2020

Appendix 5 – Equalities Impact Assessment Relevance Check

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers:**

N/a