

BIRMINGHAM CITY COUNCIL

REPORT OF THE ACTING DIRECTOR OF REGULATION AND ENFORCEMENT TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE

15 JUNE 2016
ALL WARDS

REVIEWING THE GEOGRAPHICAL KNOWLEDGE TEST FOR PRIVATE HIRE DRIVERS

1. Summary

- 1.1 A recent change to legislation allowing private hire operators to subcontract jobs across Local Authority boundaries, has served to compound the problems already experienced with out of area hackney carriage drivers working for private hire companies across Birmingham.
- 1.2 These changes effectively allow licensed operators to pass jobs to a sister company licensed elsewhere and fulfil those jobs using drivers and vehicles licensed in another authority area. In the opinion of officers, these changes make it increasingly difficult to sustain a Knowledge Test for Private Hire Drivers, when candidates seeking to work in Birmingham are now so easily able to do so, using a licence obtained elsewhere.
- 1.3 This report outlines those changes and suggests an alternative to the Private Hire Knowledge Test which could encourage more drivers to licence in Birmingham.

2. Recommendations

- 2.1 That your Committee should:
 - i. Agree to remove the geographical element from The Knowledge Test for Private Hire Drivers.
 - ii. Instruct officers to pursue expansion of the Disability Awareness Training to include Safeguarding training.
 - iii. Withdraw the restricted private hire licence and replace existing licences on renewal, with a standard unrestricted licence.

Contact Officer: Chris Arundel, Principal Licensing Officer
Telephone: 0121 464 8994
E-mail: chris.arundel@birmingham.gov.uk

3. Background

- 3.1 As a Licensing Authority, Birmingham City Council has a statutory obligation to make provision for the licensing of hackney carriage and private hire drivers, vehicles and private hire operators under the provisions of The Local Government (Miscellaneous Provisions) Act 1976 and Town Police Clauses Act 1847.
- 3.2 The main purpose of the licensing regime is to ensure the safety of the public, primarily by ensuring licences are not granted to individuals who cannot be deemed fit and proper, or for vehicles which are not found to be safe or suitable.
- 3.3 The Knowledge Test for Private Hire Drivers owes its existence in no small part to a wish to improve standards and address concerns expressed by a number of operators at the time about the quality of new drivers coming into the trade. Specifically a basic lack of geographical knowledge and in some cases limited understanding of the role and responsibilities of a licensed driver. A working group of councillors from the former Licensing Committee was formed to gather evidence from interested parties and to make recommendations.
- 3.4 At its meeting in April 2009 the former Licensing Committee resolved to introduce a knowledge test for private hire drivers, one of the proposals recommended by the working group. Officers were charged with preparing a further report and bringing specific proposals back to the Committee.
- 3.5 On 15 July 2009 the proposals for the new Private Hire Knowledge Test were presented to the former Licensing Committee and after consideration it was resolved the new test would be introduced with effect from 1 April 2010. The test to be created as a parallel, but much simplified equivalent to the test for hackney carriage drivers.
- 3.6 The test as originally conceived consisted of questions relating to Law and conditions of licence, A to Z exercises and most challenging of all a geographical section requiring candidates to demonstrate a wide knowledge of locations and routes across the city. Although the test has been simplified further and the number of questions reduced, this is essentially still the form the test takes to this day.

4. Practical Application and Effect of the Test

- 4.1 The introduction of the test was unpopular with applicants from the beginning; the start date of 1 April 2010 was preceded with a rush to beat the deadline and has been followed by many applications for exemption and requests for permission to revive old abandoned applications which predated the introduction of the test.

- 4.2 The test did not retain popularity with operators for very long either as introduction of the test dramatically reduced the number of new drivers coming into the trade. Although not all would have gone on to gain a badge prior to the introduction of the new test as many as fifty new applicants a week applied to take the verbal communication test, afterwards numbers applying for the knowledge test dropped into single figures and many more applicants dropped out without even attempting the test.
- 4.3 It was clear from comments made by applicants and operators alike many believed a boycott of the test would lead to its withdrawal. Some applicants told officers they had been advised the test was impossible and were actively encouraged not to attempt it.
- 4.4 Although numbers passing the test have increased, only 106 new private hire licences were issued during the 2015/2016 operational year.

5. External Factors

- 5.1 Whatever the opinion of applicants and operators, it is possible the test would have been accepted over time and the pass rate may have increased as more people attempted the test. However, external factors intervened in a fashion which served very effectively to undermine the position taken by the former Licensing Committee and subsequently supported by the Licensing and Public Protection Committee.
- 5.2 The first was the increasing exploitation of a quirk in hackney carriage legislation which allows a hackney carriage driver using a licensed hackney carriage vehicle to accept a booking made outside his own licensed district. This was not new, TOA in Birmingham had been taking advantage of this opportunity for years in order to quite legally operate a mixed fleet of Birmingham and Solihull licensed vehicles across Birmingham, Solihull and beyond.
- 5.3 Commencing in the North East of England, exploitation of this loophole to allow fleets of out of area hackney carriage vehicles to be operated by private hire companies began on an ever increasing scale and attempts by local authorities to challenge the practice in The Courts, achieved little beyond clarifying the legality of the practice. By late 2010, drivers unwilling or unable to pass the test in Birmingham were starting to obtain hackney carriage driver and vehicle licences in other authority areas and returning to work for Birmingham Operators.
- 5.4 There has been a willingness on the part of some licensing authorities to put conditions in place to limit the ability of drivers to work out of area, but as one authority did so, another would become the authority of choice for drivers seeking a “flag of convenience”.
- 5.5 More important than the use of out of area hackney carriage drivers, is the practical effect of the Deregulation Bill 2015. From 1 October 2015 a private

hire operator has been able to pass jobs to an operator outside his own licensed area. Predictably this has seen Birmingham licensed private hire operators obtaining licences elsewhere with the intention of passing Birmingham jobs to their new bases and fulfilling those jobs using drivers licensed in another authority's district. Effectively a new applicant no longer needs to obtain a private hire licence in Birmingham in order to work as a private hire driver in the city.

- 5.6 If this trend continues and it is likely it will whilst Birmingham maintains a test more challenging than any test existing in surrounding areas, it is probable that fewer and fewer applicants will apply to Birmingham for a driver's licence. Operators could conceivably maintain a licence in Birmingham solely to invite bookings, with all jobs passed across authority borders to another operator and all of those bookings quite legally fulfilled by drivers licensed outside Birmingham. The appendix contains details of the requirements of the Birmingham private hire knowledge test in comparison with the requirements of local authorities most commonly used to obtain licences to be used for the subcontracting of jobs within Birmingham.
- 5.7 The prospect of Birmingham Licensing Enforcement Officers having to deal with a multitude of vehicles licensed by other authorities is rapidly becoming a reality and whilst extended powers to deal with out of town drivers were promised in response to the objections raised when the issue of cross border hiring was first mooted, the reality is no new powers have been granted. Neither the Licensing Enforcement Team, nor your Committee has authority over these drivers or their vehicles.
- 5.8 It is primarily for this reason officers recommend withdrawing the knowledge test for private hire drivers and replacing it with a less demanding, less time consuming procedure. Whilst maintaining high standards in the interests of the travelling public is a laudable aim, the fact is new legislation has made it a relatively simple matter to circumvent any local condition or policy and officers believe changing the application procedure in order to encourage as many drivers as possible to be licensed in Birmingham and so keeping them locally accountable, is very much the better option.

6 An Alternative to the Knowledge Test in its Current Form

- 6.1 Applicants for a private hire driver's licence are currently required to take Disability Awareness Training (DAT) as part of the application process. It is proposed officers should look into the practicalities of expanding the DAT training to include a wider safeguarding element designed to equip candidates to identify and ensure the safety of any vulnerable passenger.
- 6.2 The DAT concludes with a test to check understanding and it is considered important any expanded course should continue to do the same.
- 6.3 Whilst an enhanced DAT course will deal with many behavioural and customer service issues, it will not serve well to test conversational English, or

understanding of legislation or licence conditions. Accordingly it is suggested appropriate information should be made available for download on the Licensing pages of the BCC web site. This information would include a copy of the current conditions of licence and an overview of the legal responsibilities of a driver, very similar to the information included in the current Knowledge Test Folder. This information would be free to download and would equip a driver with the information necessary to pass a simplified Knowledge Test.

- 6.4 A simplified test along the lines of that currently employed for applicants seeking a restricted private hire badge would be relatively easy to devise and could be in place very quickly. The test would be conducted verbally on a one to one basis, but would not include the routes and two point locations which have been perceived as too challenging by a great many would be applicants.
- 6.5 Removal of the main geographical test element should dramatically reduce the amount of time taken to prepare for the test and the remaining elements, which would include an A to Z based navigation exercise and a test on the Law applicable to private hire drivers (overcharging, plying for hire etc.) and licence conditions, will ensure applicants are able to follow directions and communicate effectively with their customers. The resulting test would be considerably shorter, allowing many more tests to be conducted in the available time.
- 6.6 In recognition of the fact holders of the Restricted Private Hire Licence have already passed a simplified knowledge test with geographical elements removed, it is suggested existing licences could reasonably be converted to a standard licence on renewal.

7. Implications for Resources

- 7.1 The matters raised in this report have significant implications for resources. If the knowledge test is maintained, then we are likely to see a significant reduction in the number of licences issued in Birmingham. A consequential reduction in income may have a detrimental effect in the ability of the Licensing Service to undertake enforcement action.
- 7.2 Conversely, if the knowledge test is replaced with a less challenging regime, then we could see an increase in applications and demand for appointments resulting in pressure on the licensing service which has moved to smaller premises and reduced staff numbers since the introduction of the test in 2010.

8. Implications for Policy Priorities

- 8.1 The contents of this report contribute to the protection, safety and welfare of residents and visitors to the City by ensuring that licensed private hire vehicles are safe and compliant with required vehicle standards.

- 8.2 It also assists in promoting improvements in the standards of services provided by licence holders across the City and the Council's strategic outcome of staying safe in a clean, green city.

9. Public Sector Equality Duty

- 9.1 There are no specific implications identified.

ACTING DIRECTOR OF REGULATION AND ENFORCEMENT

Background Papers: Nil

APPENDIX

<u>Local Authority</u>	<u>Knowledge Test?</u>	<u>Other Training/Tests</u>
Birmingham	Yes - multiple questions – 7 Legal, 7 Conditions, 6 AtoZ exercises, 10 Routes (out of 30 in folder) and 50 locations (out of 250 in folder).	Disability Awareness , training and test. Safeguarding to be introduced.
Sandwell	Yes – 10 random Legal and Conditions based questions	Disability Awareness and Safeguarding to be introduced.
Solihull	No	Disability Awareness – training and test.
Dudley	No	An online assessment with Walsall Adult Community College. The test consists of reading, listening and mathematics questions.
Wolverhampton	No	A one day training course on issues such as customer care, disability awareness, licensing conditions and communication. This culminates in a theoretical test and will require a good standard of written and verbal English.