Leeds CITY COUNCIL

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Report of Head of Elections, Licensing and Registration

Report to Licensing Committee

Date: 9 February 2016

Subject: Review of driver licensing requirement for Group II medicals

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

1. Following the significant fatal road traffic collision enquiry in Glasgow, where a number of people died as a consequence of the medical condition of a Glasgow Council employee, which apparently had not been disclosed to the Council, a Corporate concern has been raised to the Taxi and Private Hire Licensing Section regarding the adequacy and frequency of the existing Group II medical assessments policy

2. This policy determines at what stages and with what regularity existing licensed drivers have to undertake additional Group II medical assessments. That detail is set out at paragraph 3.2.

3. This report is to enable the Licensing Committee to consider the effectiveness of the existing control measures and any perceived necessity to change policy and the proportionality of any extended testing requirement.

Recommendations

4. That Members consider the information and views supplied by Officers of the Council and determine whether they are satisfied that the existing requirements are sufficient or if they should be increased to a more rigorous regime of annual testing.

1 Purpose of this report

1.1 To enable Members to consider currently available information and determine whether or not the existing Group II medical policy is sufficient in terms of public safety or if it needs to be strengthened by more frequent medical assessments.

2 Background information

2.1 On 18 November 2008 the author of this report submitted a report to the then Licensing and Regulatory Panel concerning the introduction of a Group II medical report requirement on all existing licensed drivers and new applications. A copy of that report appears at **Appendix 1**.

2.2 There was good reasoning for the adoption of this policy following on from The House of Commons Transport Select Committee on Taxis and Private Hire Vehicles recommended in February 1995 that taxi licence applicants should pass a medical examination before such a licence could be granted. (Previously LCC operated a weaker form of medical assessment which was not compliant with DVLA Group II medical assessments. Responsibility for determining the standards, including medical requirements, to be applied to taxi drivers, over and above the driver licensing requirements, rests with the Transport for London in the Metropolitan area and the Local Authority in all other areas. Current best practise advice is contained in the booklet "Fitness to Drive": A Guide for Health Professionals published on behalf of the Department by The Royal Society of Medicine Press Limited ((RSM) in 2006. This recommended that the applicant or licence holder must notify DVLA unless stated otherwise in the text 6 the Group 2 medical standards applied by DVLA in relation to bus and lorry drivers should also be applied by local authorities to taxi drivers.

2.3 Our current policy is compliant with the DVLA medical standards of fitness to drive (Group II).

2.4 Members adopted the recommendations and since that time the Group II medical requirement has remained in place in line with the national DVLA standards.

2.5 Corporately it is thought appropriate that the existing policy for ensuring licensed taxi, Private Hire and Permit Drivers are medically fit, should be reviewed in light of the Glasgow fatal accident enquiry. It is proposed that Members should consider the risks, the costs, benefits and proportionality of requiring a newly certified Group II medical report to be provided at each subsequent renewal, which is a DfT best practice guidance advice.

2.6 The 19 recommendations of the 'Glasgow enquiry' are reproduced below. Members will note that the first 13, in the main, distinctly refer to the relationships between the driver, the DVLA, the driver's GP and the DfT. This part of the recommendations do not created any new responsibilities for the Council.

1. Doctors generally, and general practitioners in particular, should take steps to ensure that medical notes are made and kept in such a way as to maximise their ability to identify repeated episodes of loss of

consciousness, loss of or altered awareness, in the case of patients who are or may become drivers.

2. When a doctor is advising an organisation employing a driver as to that driver's fitness to drive following a medical incident whilst driving, that organisation should provide all available information about the incident to the doctor and the doctor should insist on having it prior to giving advice to the organisation and the driver.

3. The Driver and Vehicle Licensing Agency (DVLA) should satisfy itself as to precisely what the categorisation is intended to mean and to achieve in the loss of consciousness/loss of or altered awareness section of the guidance contained in its "At a Glance Guide to the Current Medical Standards of Fitness to Drive" ("at a glance"). Having done so, DVLA should then ensure that the meaning is made clear to those who apply the guidance in practice.

4. DVLA should consider if a flow chart could be provided to guide doctors through the categorisations contained in the loss of consciousness/loss of or altered awareness section of "at a glance".

5. DVLA should consider whether the section of "at a glance" on loss of consciousness/loss of or altered awareness gives sufficient weight to the absence of prodrome [symptoms experienced in advance of an episode] given its significance for road safety.

6. DVLA should consider whether the section of "at a glance" on loss of consciousness/loss of or altered awareness gives sufficient weight to a medical event occurring at the wheel of a vehicle and its consequences.

7. DVLA should change its policy on notification from third parties so that relevant fitness to drive information from ostensibly reliable sources, such as the police, can be investigated whether or not it comes in written form.

8. DVLA should redouble its efforts to raise awareness of the implications of medical conditions for fitness to drive amongst the medical profession.

9. The Secretary of State for Transport should instigate a consultation on how best to ensure the completeness and accuracy of the information available to DVLA in making fitness to drive licensing decisions with a view to making legislative change.

10. The Secretary of State for Transport should instigate a consultation on whether it is appropriate that doctors should be given greater freedom, by the General Medical Council, or an obligation, by Parliament, to report fitness to drive concerns directly to DVLA.

11. Occupational health doctors performing D4 examinations and providing advice to employers on applicant drivers, and employers of drivers who facilitate their staff applying for renewal of group 2 licences without the involvement of GPs, should consider whether to require the applicant to

sign a consent form permitting release by any GP of relevant medical records to the occupational health doctor.

12. DVLA and the Department for Transport should consider how best to increase public awareness of the impact of medical conditions on fitness to drive and the notification obligations in that regard.

13. DVLA, the Crown Prosecution Service and Crown Office and Procurator Fiscal Service should review whether there are policies in place which prevent or discourage prosecution for breaches of sections 94 and 174 of the Road Traffic Act 1988. If there are such policies, consideration should be given by DVLA and the prosecuting authorities to whether they are appropriate where the current fitness to drive regime is a self-reporting system which is vulnerable to the withholding and concealing of relevant information by applicants.

2.7 The remaining 6 recommendations deal with the employment and recruitment processes of local Authorities and relate particularly to refuse collection vehicles, (but probably because it was such a vehicle that was involved in the Glasgow fatal incident). Corporately LCC are considering the implication of these recommendations in respect of drivers who are in control of vehicles of 3.5 tonnes or over

Impact on Local Authority

14. Local Authorities, when employing a driver, should not allow employment to commence before references sought have been received.

15. Local Authorities should carry out an internal review of its employment processes with a view to ascertaining potential areas for improvement in relation to checking medical and sickness absence information provided by applicants, for example by having focussed health questions within reference requests for drivers and obtaining medical reports in relation to health related driving issues from applicants' GPs.

16. Local Authorities should provide its refuse collection operators with some basic training to familiarise them with the steering and braking mechanisms of the vehicles in which they work.

17. Local Authorities and any other organisations which collect refuse, when sourcing and purchasing refuse collection vehicles which are large goods vehicles, should seek to have AEBS fitted to those vehicles wherever it is reasonably practicable to do so.

18. Local Authorities and any other organisations which collect refuse and which currently have large goods vehicles without AEBS but to which AEBS could be retrofitted, should explore the possibility of retrofitting with the respective manufacturer.

19. Local Authorities should seek to identify routes between refuse collection points which, so far as is reasonably practicable, minimise the number of

people who would be at risk should control be lost of a refuse collection lorry. Sheriff Becket said the extent of the harm which may be caused by a large goods vehicle could be reduced further by careful route risk assessment, to avoid “exceptional numbers of pedestrians at particular times”.

3 Main issues

3.1 LCC policy, which is, in principle, in line with DVLA requirements, in that all applicants should provide a certified Group II medical report from their GP. This Authority has offered a slight variation to enable a GP who can demonstrate they have had access to the full medical records held by the patients GP and has used them to assist in the medical assessment, as evidence that they are medically fit to hold a taxi or Private Hire driver licence. This variation was introduced because not all GP surgeries will undertake Group II medicals and in some cases there is a significant cost. GP’s are not obliged to undertake such assessments.

3.2 A newly certified Group II medical report is also required at the age of 45, 50, 55, 60 and 65 and then annually thereafter. At all other times the licensed driver is required to self-certify at the point of renewal that there have been no changes to their health.

3.3 Re-produced below are the relevant extracts from the DfT best practice guidance.

3.4 Medical fitness

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 (ie 3500-7500 kgs 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.

3.5 A concern is that there may be a risk to the Council and the public if the driver conceals medical health issues at the point of renewal or in the duration of a licence and that this may result in injury to passengers and other members of the public. On the other hand, the implications of introducing an annual requirement

for every driver to undertake a Group II medical prior to the licence being renewed would lead to the following issues:-

- Significant on-cost to drivers;
- Heavy administrative burden for staff and potentially the need to increase staffing levels;(the detail of each document has to be checked in respect of 6,000+ drivers)
- General Practitioners unable to cope with the demand;
- The risk of legal challenge on the basis that the requirement would be disproportionate to risk; and
- Such an onerous requirement may lead to drivers leaving the Leeds licensing authority and moving to 'out of town' businesses leading to significant enforcement challenges and reduction in service to the residents of Leeds and visitors to Leeds.

3.6 The Licensing Committee will, therefore, want to be sure that such a rigorous licensing requirement is in proportion to the risk it aims to address and also whether the cost of such a requirement in terms of its effect on the availability of transport to the public is at least matched by the associated benefit to the public, for example through increased safety.

3.7 As an overview of previous issues, Officers have dealt with one public complaint, in recent years, concerning a driver with a sleeping disorder which was dealt with quickly and appropriately through the existing procedures. Other medical risk issues have been identified at the point of renewal and dealt with accordingly. In the preceding two years there have been 42 suspensions and 1 revocation. The majority of all these issues have been dealt with without incident and usually resulted in remedial attention prior to a licence being renewed or the licence remaining suspended until a new Group II medical assessment is produced.

3.8 It may be considered neither practical, nor necessary, to conduct a more detailed, quantitative, cost-benefit assessment in this case; particularly as there have been limited instances of enforcement activity, none of which was the result of an issue leading to injury or a road traffic collision.

3.9 Officers would suggest Members should determine whether all of the negative potential consequences are commensurate with the benefits that such a policy change is intended to achieve.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 No consultation has taken place on this issue and Members would need to consult if they thought it was necessary to change the existing policy. However, if Members considered that the report prepared by Officers gives a sufficient

indication of the adequacy of the current measures and make no change to the existing policy then there would be no need to consult on that decision.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no implications for the equality and diversity/cohesion and integration arising from this report. If Members decide to consult on a revised policy, an appropriate assessment will be conducted at that time on the revised policy.

4.3 Council policies and Best Council Plan

4.3.1 There are no directly linked policies which cover the matter set out in this report but Members will see the link to the current Corporate review being undertaken by the Council in respect of LCC drivers of vehicles of 3.5 tonnes or over

4.4 Resources and value for money

4.4.1 The existing arrangements are adequately catered for within the staffing structure. A change to the policy would have significant financial impact upon the trade but would also impact upon staffing requirements at Taxi and Private Hire Licensing leading to a further potential cost to the trade.

4.5 Legal Implications, Access to Information and Call In

4.5.1 A key issue in moving away from the existing policy to a more rigorous one would undoubtedly be the risk of legal challenge by way of Judicial Review on the basis that such a requirement may be considered wholly disproportionate in the safety context considering the effectiveness of the existing provision; the DVLA standard and the financial impact upon the trade. This final matter has to be seen in the light of GPs not being able to accommodate Group II medicals on this scale.

4.6 Risk Management

4.6.1 Licensing Officers consider that the existing scheme which follows the DVLA standard is adequate and proportionate to the risk that may be caused by the ill health of a driver. It is very difficult to account for anyone who may not provide information or be honest about their health to a GP or the Council and Members may want to consider that remark in the context of paragraph 3.7.

5 Conclusions

5.1 That Members may feel that it is most appropriate to follow the tone of the report set out by Officers and retain the existing requirement as opposed to moving to a much more onerous requirement.

6 Recommendations

6.1 That Members consider the information and views supplied by Officers of the Council and determine whether they are satisfied that the existing requirements are sufficient or if they should be increased to a more rigorous regime of annual testing.

7 Background documents[1]

7.1 DfT best practice guidance

7.2 Taxi & Private Hire Licensing Group II medical examination report form (completed by the clients General Practitioner).

[1] The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.