

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 9 September 2014

Subject: Hackney Carriage Proprietors (HCP) – appropriate suitability assessment – update report.

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

Summary of main issues

1. The Council has in place an approved policy for dealing with the transfer of HCP licences which applies a suitability requirement in respect of a Disclosure and Barring Service (DBS) convictions check and an English language comprehension assessment.
2. Representations have been made by the Hackney Carriage trade that the English comprehension requirement should be removed on the basis that when a HCP dies the widow could be excluded from taking over the proprietorship because of a lack of English language skills.
3. A Licensing Committee Working Group (WG) was formed which consulted with the trade and Officers as well as obtaining legal advice. The WG were advised that the initial proposal from the trade, that the English comprehension requirement be removed only from the wives of Hackney carriage Proprietors, would be in conflict with equality legislation.
4. Following discussion at the Licensing Committee on the 10 June 2014, Members asked for clarity on the 'inheritance issues'.
5. For ease of reference the original report outlining all of the issues appears at **Appendix 1**.

Recommendations

6. In addition to the updated information that Members consider all the elements of the previous report, the potential impact on licensing regulation, enforcement and administrative control along with the legal implications and determine whether the policy should :-
 - (a) Remain in line with the recommendations of the earlier Licensing Committee.
 - (b) The English comprehension requirement be removed only in respect of Hackney carriage proprietors.
 - (c) The policy is amended to enable a longer lead in period to attain the English comprehension requirement for the wife or partner when they have been included on the Proprietors licence.
7. If Members elect to change the policy in favour of recommendation 5(b), that they approve the change in principle and direct Officers to prepare a report for the consideration of the Executive.
8. Whichever option Members approve, that they direct Officers to write to every Hackney Carriage Proprietor to offer appropriate advice about the decision.

1 Purpose of this report

- 1.1 To supply Members with further information on issues raised at Licensing Committee on 10 June 2014 when the full report was presented.

2 Background information

- 2.1 Members will recall that there was a wide discussion on the issue with a number of views aired in the full Licensing Committee meeting.
- 2.2 Resulting from the fullness of these discussions regarding the impending changes to the interpreting services, the extent of responsibilities of proprietors, issues around inclusivity and the amount of access there was to language classes, that further consideration should be given by Officers to re-presenting the policy in a way that did not damage the business or future plans of the dependants of proprietors.
- 2.3 Members also asked that the report clarify issues around inheritance and the possible effects on a business as a consequence of the Proprietor not speaking English.

3 Main issues

- 3.1 **Inheritance:** Wills, probate, and inheritance issues are matters of private law and therefore are not matters that public sector lawyers deal with or are required to have expertise in. Whilst a will is a legally binding document recording a person's wishes for the distribution of their assets upon death, it can be subject to challenge by family members. Likewise a person dying leaving no will can also create uncertainty and give rise to disputes from family members.
- 3.2 The option available for Members to consider which would avoid all of the concerns around wills and inheritance disputes would be for the Proprietor to place their spouse or civil partner on the Proprietor's licence at the earliest opportunity. On the death of a proprietor the Council would only deal with the remaining licensed proprietor.
- 3.3 It was also highlighted that this simple measure can enable the time constraints of the current policy to be extended because the Council could be satisfied that the existing Proprietor can meet all of the legal obligations and policy requirements.
- 3.4 If the existing requirement in respect of English comprehension was relaxed, it would enable the prospective or new joint Proprietor to be included on the Proprietors licence and be able to take more time to attain the ESOL level standard. Previous discussions with the Hackney Carriage trade have indicated that a period of six or nine months would satisfy this.
- 3.5 The consequences of a Proprietor not speaking English can the following effects.
- The licensing functions of the Council can be difficult to meet when English is not understood.

- Arrangements for meetings with Officers face obvious difficulties with communications.
- There is significant cost involved in supplying an authorised interpreter.
- On a daily basis the Proprietor would have to place their trust in someone who could advise them impartially on issues arising.
- If they sought assistance from a business agent or solicitor they could face high costs for managing their business.
- The Council does not translate legal documents into foreign languages because of the complexity of strictly interpreting the exact meaning of the legislation.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The WG met on the following occasions for the purpose indicated:-

25/6/13	Initial planning meeting.
31/7/13	Meeting with Hackney Carriage trade.
15/10/13	Meeting with Elected Members.
15/11/13	Meeting with Private Hire trade.
12/2/14	Working Group considerations of the consultation, legal advice and Officer comment.
17/2/14	Formulation of final considerations.

4.1.2 Public and trade consultation has taken place for one month. There were two forms of feedback, one from the Council's website and the other from the organised collection of pre-prepared questions on the taxi rank by someone, we are unsure who but think it was a taxi marshal. Clearly the main responses have been from the HC trade but Members will note that there has also been some limited feedback to say that this is not an area of concern but opposing concerns also. Clearly the comments are from directly opposing schools of thinking on this subject and it is for Members to balance the self-interest viewpoint of the Hackney Carriage trade and the other consultation responses and the observations of Officers.

4.1.3 Please refer to the consultation forming part of original report.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Screening Assessment has been completed and is available as a background document. There are no contra indicators to this being acceptable practice in terms of equality.

4.3 **Council policies and City Priorities**

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 **Resources and value for money**

4.4.1 Set out in previous report but Members are asked to consider the only potential problems around intestacy law.

4.5 **Legal Implications, Access to Information and Call In**

4.5.1 Set out at 4.5.1 – 4.5.3 in Appendix A of earlier report.

4.5.2 As this is a policy document the route of appeal is by way of Judicial Review and similarly other policies may fall within that arena if Members choose to apply this policy in an exclusive way.

4.6 **Risk Management**

4.6.1 There are several challenges which would need to be safely managed at the adoption of the policy and in the long term:-

Accountability and public safety

The following paragraph is reproduced from the original report so that the reality of non-compliance is not lost on the trade.

'Members were insistent that this position could not be compromised on the basis of an argument of lack of knowledge, understanding or control of the driver of the vehicle. Where there were such proven issues the licence should be revoked and returned to the Council. It was felt by Members that this statement and the control measures in the policy would be sufficient to ensure proportionate control of the licence. The policy would also make very clear to Proprietors the absolute necessity to adhere to all the responsibilities of the Proprietors licence and the consequences of failing to do so.'

5 Conclusions

5.1 Members will note that the original well intentioned request might now have much wider implications for service provision and the report has to deal with three distinct issues. Firstly, the arrangements for the transfer of a HCP licence upon the death of a Proprietor and the English language requirement.

5.2 Secondly, how government driven policies to promote English language comprehension on the basis of inclusivity might be viewed.

5.3 Thirdly, the potential impact of the licensing section and translation services.

5.4 The issue is much wider than first thought by the trade and Members have to balance all of their licensing responsibilities, considerations of the Service against those examples presented by the trade of lack of opportunity or disadvantages to non- English speaking relations.

6 Recommendations

6.1 In addition to the updated information that Members consider all the elements of the previous report, the potential impact on licensing regulation, enforcement and

administrative control along with the legal implications and determine whether the policy should :-

- (a) Remain in line with the recommendations of the earlier Licensing Committee.
- (b) The English comprehension requirement be removed only in respect Hackney carriage proprietors.
- (c) The policy is amended to enable a longer lead in period to attain the English comprehension requirement for the wife or partner when they have been included on the Proprietors licence.

6.2 If Members elect to change the policy in favour of recommendations 5(b) that they approve the change in principle and direct Officers to prepare a report for the consideration of the Executive.

6.3 Whichever option Members approve of, that they direct Officers to write to every Hackney Carriage Proprietor to offer appropriate advice about the decision.

7 Background documents¹

Equality impact assessment.

Town and Police Clauses Act 1847 Sections 43, 45 - 55

Local Government (Miscellaneous Provisions) Act 1976 Section 47, 49, 50, 57, 58, 60, 66, 68, 69, 71, 72, 73.

LCC Byelaws

LCC conditions attached to HC Proprietors licence 1-15

LCC Hackney Carriage vehicle conditions

LCC conditions attached to a Wheelchair Accessible Hackney Carriage Proprietor licence 1 -9

LCC Special conditions attached to the grant of a Wheelchair Accessible vehicle Hackney Carriage vehicle licence

Equalities Act 2010 Sections 163, 165, 166, 168

Licensing Committee report and minutes – 11 March 2014

Working Group minutes

Interpreting and Translating Services – Policy and Procedures

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.

Scrutiny Board (Resources and Council Services) report and minutes– 7 April 2014.



Report author: Des Broster

Tel: 3781561

Report of Head of Licensing and Registration
Report to Licensing Committee**Date: 10 June 2014****Subject: Hackney Carriage Proprietors (HCP) – appropriate suitability assessment.**

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Summary of main issues

1. The Council has in place an approved policy for dealing with the transfer of HCP licences which applies a suitability requirement in respect of Disclosure and Barring Service (DBS) convictions check and an English language comprehension assessment.
2. Representations have been made by the Hackney Carriage trade that the English comprehension requirement should be removed on the basis that when a HCP dies the widow could be excluded from taking over the proprietorship because of lack of English language skills.
3. A Licensing Committee Working Group (WG) was formed and it consulted with the trade, Officers and obtained legal advice. The WG has been advised that the initial proposal from the trade that the English comprehension requirement be removed only from the wives of Hackney carriage Proprietors would be in conflict with equality legislation.
4. This has resulted in a recommendation by the WG to the Licensing Committee that the English comprehension requirement be removed for all HCP's.

Recommendations

5. That Members consider all the elements of the report, the potential impact on licensing regulation, enforcement and administrative control along with the legal implications and determine whether the policy should :-
 - (d) Remain in line with the recommendations of the earlier Licensing Committee.
 - (e) The English comprehension requirement be removed only in respect Hackney carriage proprietors.
6. If Members elect to change the policy in favour of recommendations 5(b) that they approve the change in principle and direct Officers to prepare a report for the consideration of the Executive.

1 Purpose of this report

- 1.1 To inform Members of the legislation applicable to Hackney Carriage Proprietors, the existing policy of the Licensing Committee, legal advice and the recommendation of the WG.

2 Background information

- 2.2 The role of the HCP is distinct from that of a HCD or PHD in that they do not have to drive the vehicle, but they are accountable for a wide range of statutory responsibilities, Byelaws and Council conditions. In effect they are responsible for the safety of the vehicle, controlling drivers, some relationships with the public, and responding to the Council when it requires certain statutory actions, for example, complying with vehicle inspections as well as providing information and meeting general licensing requirements.
- 2.3 The extent of the legislation and conditions is set out at paragraph 7 of this report, 'Background documents'.
- 2.4 Licensing and Regulatory Panel on 7 February 2006, determined that every PHD, PHO, HCD and HCP should, within certain terms, undertake English comprehension testing. For reference, the relevant extract of that report is attached at **Appendix 1**.
- 2.5 The administrative process of transferring a HCP licence undertaken by Officers has operated over those intervening years and sympathetic consideration has been applied to individual circumstances in order that decisions can be taken by families beyond the grieving period. This enables potential new proprietors to undertake English comprehension training in line with the UK Citizenship standard.
- 2.6 Licensing Committee agreed that the policy be referred to a WG to consider the removal of the English comprehension requirement on the basis that when a HCP dies some widows could be excluded from taking over the proprietorship because of lack of English language skills.
- 2.7 Following the formation of the WG full consultation was undertaken with the trade. Officers highlighted the issues of concern, the legislation and legal advice was offered by way of guidance and to clarify the variety of ideas which had been proposed on how the formal transfer of the HCP licence could be managed and the licensing responsibilities properly managed by the HCP after transfer.

3 Main issues

- 3.1 The usual 'fit and proper' person test does not totally apply to a HCP licence as there is no necessity for a Proprietor hold a DVLA licence. However, because of the potential links between having control of a HCV and criminal activity, Proprietor responsibilities and the extent of legislation covering the role of a HCP a DBS check and English comprehension requirement was placed upon the grant of a HCP licence. That is referred to at **Appendix 1**.

- 3.2 The representation made to the Council was that some non-English speaking wives of HCP's could be financially disadvantaged by not receiving on-going income from the use of the licensed vehicle upon the death of the Proprietor.
- 3.3 During the WG consultation process Members listened to a range of views, considered the legal implications, the concerns of Officers and balanced those with a recommendation which was considered to be proportionate and fair to the trade and the removal of the pre-requirement for HC Proprietors would then be in line and consistent with current policy for PH Proprietors. It was from those observations that the policy proposal was formed.
- 3.4 Members should note that the policy cannot apply solely to a 'widow' as requested by the trade. In order to meet Equality requirements it must apply to any spouse or civil partner of a HCP. Additionally, it would be discriminatory to apply the policy to women only or those who do not have a recognised legal partnership. The scope of the change would have to apply significantly beyond the trades request and to all HCP's. Attention is drawn to paragraph 4.6. Risk Management.
- 3.5 An amended policy is shown at **Appendix 2** which sets out the process steps for every HCP, not just in the event of a death of a HCP.
- 3.6 Officers commented in the WG meeting that the existing policy had not raised a notable problem and that discretion had been exercised in allowing time to achieve ESOL level 3, the UK Citizenship standard. The original request was not as extensive as it is now and some of the trade wanted the timescales to achieve this standard extended up to a maximum period of 1 year. It was also only requested that it be in place upon the death of the Proprietor but it is difficult to see how it would be defensible to apply a policy in such a restrictive way; it would in effect produce dual standards.
- 3.7 There is a simple solution to the concerns of some trade members in that they can place their wife, partner or any other relation on the Proprietors licence now, as a joint HCV Proprietor and the policy can then reflect a more relaxed time scale to the English comprehension requirement. This is legally acceptable and is quite common in respect of other HCP licences now with other business or family relationships. This also resolves the difficult issue of resolving differing claims that sometimes occur with estate matters in wills.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.2 The WG has met on the following occasions for the purpose indicated:-

25/6/13	Initial planning meeting.
31/7/13	Meeting with Hackney Carriage trade.
15/10/13	Meeting with Elected Members.
15/11/13	Meeting with Private Hire trade.

12/2/14 Working Group considerations of the consultation, legal advice and Officer comment.

17/2/14 Formulation of final considerations.

4.1.2 Public and trade consultation has taken place for one month. There were two forms of feedback, one from the Council's website and the other from the organised collection of pre-prepared questions on the taxi rank by someone, we are unsure who but think it was a taxi marshal. Clearly the main responses have been from the HC trade but Members will note that there has also been some limited feedback to say that this is not an area of concern but opposing concerns also. Clearly the comments are from directly opposing schools of thinking on this subject and it is for Members to balance the self-interest viewpoint of the Hackney Carriage trade and the other consultation responses and the observations of Officers.

4.1.3 **Appendix 3** contains all of the feedback comments.

4.2 **Equality and Diversity / Cohesion and Integration**

4.2.3 An Equality Screening Assessment has been completed and is available as a background document. There are no contra indicators to this being acceptable practice in terms of equality.

4.3 **Council policies and City Priorities**

4.3.4 The Taxi & Private Hire Licensing policies contribute to the following aims:

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- Reduce crime levels and their impact across Leeds
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4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 **Resources and value for money**

4.4.1 The transfer process has to take place in any event and the responsibility for making the necessary arrangements will rest with the transferee in which case there would be additional costs and service time. That service time would probably extend to 3 hours. If this was an infrequent event it could be managed with existing resources. The proposed policy reflects the view of the WG to reduce the element of financial risk to the section.

4.5 **Legal Implications, Access to Information and Call In**

4.5.1 The context of equality law moved the original intention of the trade request to much wider parameters and the background to that is set out at 3.4. Paragraph 3.6 also refers to the risks of restricting a policy unfairly to one small part of the trade that could be unfairly exclusive.

4.5.2 Although the relevant legislation for which HCP's have to be compliant is mentioned in background documents at paragraph 7, Members may wish to view the extent of the relevant legislation and that will be available within the Committee meeting if required.

4.5.3 The legislation around who is the lawful Proprietor is not based just on Council licensing records but on who owns the licensed vehicle. For clarity, the Proprietors licence (the plate) is placed on the vehicle and the law is quite specific; the plate follows the vehicle. If the vehicle is sold then the Proprietor's licence goes with it. The obvious difficulty is overcome by Proprietors purchasing a new vehicle and transferring the 'plate' to that before then selling the unlicensed

old vehicle. The Council is obliged in law to transfer the licence to the person who can demonstrate they are the registered keeper.

4.6 Risk Management

4.6.1 There are several challenges which would need to be safely managed at the adoption of the policy and in the long term:-

Accountability and public safety

Members were insistent that this position could not be compromised on the basis of an argument of lack of knowledge, understanding or control of the driver of the vehicle. Where there were such proven issues the licence should be revoked and returned to the Council. It was felt by Members that this statement and the control measures in the policy would be sufficient to ensure proportionate control of the licence. The policy would also make very clear to Proprietors the absolute necessity to adhere to all the responsibilities of the Proprietors licence and the consequences of failing to do so.

Control measure

At the point of transfer Officers will serve upon the new proprietor the relevant legislation which will be summarised by the interpreter.

The interpreter and Proprietor will each sign statement of understanding detailing what has taken place. This will be an acceptance and understanding of the responsibilities and accountabilities of the Proprietor. It will also set out the consequences of non-compliance to conditions, byelaws or breaches of legislation, or a failure to exercise management or control of the vehicle or driver.

Financial risk

- 1) There was potential for some limited financial risk to the Council by interpreting fees not being paid and it would not be an acceptable proposition to expect the Council to recover such costs through a civil debt procedure. The WG insist that this cost should be met by the individual non English speaking HCP or HCP applicant.
- 2) The engagement with a HCP for all licensing matters would also necessarily involve the Interpreting Services and the WG insist that this cost should be met by the individual non English speaking HCP or HCP applicant.
- 3) Refer to 4.5.4 also

Control measure

- 1) A potential solution is that organised meetings are given time parameters and a schedule of hourly costs obtained from the Interpreting Services in advance. This would enable the interpreting fee to be paid immediately to the Taxi & Private Hire Licensing Office at the time of transfer or other procedure which could then be re-directed by internal budgets to the Interpreting Service.

- 2) The existing transfer administration fee would also need to be increased in such cases and reflected in the extended timescales for the transfer process as would all of the other licensing functions.

Extent of change impact

To date the number of events involving non English speaking transferees has been minimal but if the practice was to be taken up on a wider basis and further develop into other areas of licensing there could be adverse impact upon proposed training initiatives, enforcement investigations and licensing administration functions. This potential cannot be measured at this time.

Legal challenge

As this is a policy document the route of appeal is by way of Judicial Review and similarly other polices may fall within that arena if Members choose to apply this policy in an exclusive way.

5 Conclusions

- 5.1 Members will note that the original well intentioned request might now have much wider implications for service provision and the report has to deal with three distinct issues. Firstly, the arrangements for the transfer of a HCP licence upon the death of a Proprietor and the English language requirement which is dealt with at **Appendix 2**.
- 5.2 Secondly, how government driven policies to promote English language comprehension on the basis of inclusivity might be viewed.
- 5.3 Thirdly, the potential impact of the licensing section and translation services.
- 5.4 The issue is much wider than first thought by the trade and Members have to balance all of their licensing responsibilities, considerations of the Service against those examples presented by the trade of lack of opportunity or disadvantages to non-english speaking relations.

6 Recommendations

- 6.1 That Members consider all the elements of the report, the potential impact on licensing regulation, enforcement and administrative control along with the legal implications and determine whether the policy should :-
 - (a) Remain in line with the recommendations of the earlier Licensing Committee.
 - (b) The english requirement be removed only in respect Hackney carriage proprietors.
- 6.2 If Members elect to change the policy in favour of recommendations 5(b) that they approve the change in principle and direct Officers to prepare a report for the consideration of the Executive.

7 **Background documents²**

Equality impact assessment.

Town and Police Clauses Act 1847 Sections 43, 45 - 55

Local Government (Miscellaneous Provisions) Act 1976 Section 47, 49, 50, 57, 58, 60, 66, 68, 69, 71, 72, 73.

LCC Byelaws

LCC conditions attached to HC Proprietors licence 1-15

LCC Hackney Carriage vehicle conditions

LCC conditions attached to a Wheelchair Accessible Hackney Carriage Proprietor licence 1 -9

LCC Special conditions attached to the grant of a Wheelchair Accessible vehicle Hackney Carriage vehicle licence

Equalities Act 2010 Sections 163, 165, 166, 168

Licensing Committee report and minutes – 11 March 2014

Working Group minutes

Interpreting and Translating Services – Policy and Procedures

Scrutiny Board (Resources and Council Services) report and minutes– 7 April 2014

² 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.

Extract of Report

Report of the Director of Legal & Democratic Services

To the Licensing and Regulatory Panel

Date: 7th February 2006

Subject: Knowledge Testing for the Private Hire and Hackney Carriage Trade – Supplementary Report (English literacy, language & numeracy skills).

1.0 Purpose Of This Report

1.1 To enable Members to consider the introduction of testing of English literacy, language and numeracy skills to an approved standard before licences are issued by the Taxi and Private Hire Licensing Section to drivers, Operators and Proprietors.

2.0 Background Information

2.1 The Council issues licences to Hackney Carriage Proprietors and drivers and to Private Hire Operators and drivers. There are standard tests applied prior to the grant of a licence to assess the suitability of the applicant, and thereafter there are Conditions, Byelaws and various other acts of Parliament controlling the conduct of licence holders. There is no element (other than ability to pass a driving test) in any of these controls which reflects on a licence holders ability to read, write and speak English or use basic mathematics.

2.2 In 2003 when Scrutiny Board (Central and Corporate functions) reviewed the Council policy in respect of the issue of additional Hackney Carriage Proprietor licences, several concerns were expressed by Members of their own experiences in respect of licence holders who had difficulty in speaking English. Officers would add weight to those concerns from their experiences of applicants or existing drivers where speaking or understanding English was quite clearly a difficulty in some cases. Similar concerns have been expressed by the trade and the public contacting the Licensing Section.

2.3 In recent years the Government has recognised the need to increase the vocational skills of the workforce and improve the nation's literacy and numeracy skills. A national strategy was launched by the Government in autumn 2000.

2.4 On Tuesday 10th January 2006 the Licensing and Regulatory Panel approved, in principle, the introduction of knowledge testing and customer service commitments for the trades (draft minute 68 refers). Part of the range of skill requirements approved for training and testing the Hackney carriage and Private Hire services was English comprehension and numeracy.

3.0 Main Issues

3.1 Who it affects

The key proposal of this report is that all applicants for an issue of a Hackney Carriage Proprietor or driver or a Private Hire Operator or driver licence satisfy the Council they can speak, read or write English and are sufficiently numerate to enable them to function in their role.

It is proposed that current licence holders are exempted from the requirements to meet this standard unless there is a reasonable cause to believe it should apply to them; for example, a substantiated public complaint or an expressed concern which was considered reasonable.

3.2 The testing standard

Officers have consulted widely to develop an appropriate scheme which meets the needs of the Council, public expectation, is complementary to the Government adult education program, and beneficial to the individual.

4.0 Implications For Council Policy And Governance

4.1 It is considered that the introduction of such testing would not only contribute to the singular aspect of 'customer care' within the trades but would complement a range of issues within the Councils plan and vision. Better to make reference to them if we can

4.2 The whole of this process has been monitored by the Council's Equalities Team who approve of how the process is undertaken, the marking structure and its relevance to the service provided.

5.0 Legal And Resource Implications

5.3 Members are informed that this proposal is one of a number being prepared which are intended to create an entry level to the trades which is commensurate with the standards of customer care and safety and compliance with the law necessary to safely

Vehicle Transfer Policy: Who does my Hackney carriage licence transfer to in the event of my death?

Legislation requires written authorisation before a Hackney carriage proprietor licence can be transferred. You must therefore either have a legally binding Will in place or have notified Leeds City Council of who you intend to transfer your licence to in the event of your death.

I want to transfer the licence to my spouse but they don't speak English very well. How will the transfer process work?

On notification of the death of a licensed proprietor, the Licensing Office will contact the proprietor's Association, where known, and also the family to arrange a meeting to explain the process.

Is there a charge for this?

Yes. The fees may change so you need to check with the licensing office. The policy directs that where a party does not have English comprehension skills to ESOL level 3 that an interpreter from the Council's Interpreting and Translation Service must attend the transfer process and any training at the applicant's expense.

An estimate of time for the transaction and training will be given and this must be paid before the process takes place.

Will the proposed new owner have to undertake a DBS check?

Yes, the new owner must pay the current fee and complete a DBS check before the transfer can take place.

Where any party or an Authorised Officer considers it appropriate, an interpreter will attend at the time of transfer. Any translator requirements, including costs, are the responsibility of the proposed proprietor. Due to potential legal challenges it is appropriate that the translation service is provided by the Council's preferred service.

How can I let you know who I nominate to transfer the plate to?

You can update details of your nominee at any time by informing the Taxi and Private Hire Licensing Section in writing.

You must provide the full name and date of birth of the person you wish to transfer the Hackney carriage proprietor licence to, their full address and their relationship to you.

I am a joint proprietor; can I nominate my share to go to the other proprietor?

In the case of joint proprietors, it is acceptable for them to nominate each other to transfer their share of their plate.

What happens if the information in my Will does not match the information held on my licence file?

In the case of any conflicting claims the vehicle licence will return to the Council to be re-issued.

Appendix 2

Will I be reminded to provide this information?

The licence renewal letter will include a reminder for you to update this information. We will keep this information stored on your licence file to be used in the event of your death. Please remember this is your responsibility

I don't know who I want to transfer the licence to... what should I do?

If you haven't yet thought about whom you would transfer your Hackney carriage licence to, now should be the time to do so and you are advised to take legal advice.

If you don't have a will and we do not have a record of your written nomination in place, in accordance with this policy, the proprietor licence will return to the Council to be re-issued. We will ask you to sign a declaration at the time of your next renewal to say you understand that this will happen.

Proprietors are advised that they can include a person of their choice on the licence as a joint proprietor at any stage, subject to a Disclosure and Barring Service check.

Why do you require a signed declaration?

Councillors have recognised that the legal responsibilities of proprietorship are important and these cannot be compromised on accountability.

Leeds City Council must be satisfied that the proposed proprietor understands all terms and conditions of the licence and we will require a signed declaration to this effect.

Any proposed new proprietor, whatever the level of their English comprehension skills, is liable to have their licence revoked on issues of non-compliance so it is extremely important that they fully understand the conditions and legislation surrounding the grant of their licence.

Appendix 2

The Taxi and Private Hire Section received 68 survey responses from members of the Hackney carriage trade. These did not originate from the Section and it is assumed that they were distributed by the JTC.

	Yes	No	No response
Do you think every plate holder should pass the English test?	23.5%	70.6%	5.9%

	Yes	No	No response
Do you think plate holders that only drive should pass the English test?	75.0%	22.1%	2.9%

	Yes	No	No response
Do you think that plate holders who do not drive should be exempt from English requirement?	69.1%	30.9%	0.0%

However, there are some anomalies that must be highlighted within these results.

Of the 16 respondents who indicated 'Yes' to every plate holder should pass the English test, the following percentages were recorded as 'Yes' responses for the remaining questions;

	Only plate holders that drive	Plate holders who do not drive exempt
Do you think every plate holder should pass the English test? YES	63%	31%

This confuses the results as although these respondents state that every plate holder should pass the English test, 63% (10) went on to indicate that only plate holders who drive should undertake the test. And 31% (5) of the 16 respondents indicated that plate holders who did not drive should be exempt from the English test.

Of the 48 respondents who indicated 'No' to every plate holder should pass the English test, the following percentages were recorded as 'Yes' responses for the remaining questions;

	Only plate holders that drive	Plate holders who do not drive exempt
Do you think every plate holder should pass the English test? NO	81%	81%

These respondents indicated that not every plate holder should pass the English test; 81% (39) went on to specify that plate holders that drive should undertake the test but also stated that plate holders who do not drive should be exempt from the test.

Appendix 2

The following comments were recorded amongst the survey returns:

* Or demonstrate the recognised UK education qualification eg. GCSE/O level etc. All plate holders should be able to demonstrate competence in the English language.

The following feedback was received from licensed drivers via the Taxi and Private Hire Section's email account:

* It should be clear to every one that being able to speak and understand english is a must if you are a taxi driver working in Leeds as for owning one that is completely different as long as you have access to an interpreter and do not drive the vehicle

* Regards to the transfer of the taxi licence after the death of a driver it should be given to the the next of kin. For Example to the wife or children's regardless whether they can speak English or not. What does the English language got to do with holding a taxi licence. If you are saying about English language that means you're targeting communities who speaks little or no English where is equal opportunities policy gone.

The following feedback was received from Elected Members via the Taxi and Private Hire Section's email account:

* I understand that The Council has in place an approved policy for dealing with the transfer of Hackney carriage proprietor licences which applies a suitability requirement in respect of Disclosure and Barring Service (DBS) convictions check and an English language comprehension assessment. I also understand that representations have been made by the Hackney carriage trade that the English comprehension requirement should be removed on the basis that when a proprietor dies, the widow could be excluded from taking over the proprietorship because of a lack of English language skills. I am strongly opposed to removing or diluting the English language requirement.

* I feel it is essential that all taxi drivers should have a sound competence in the English Language. In Spain the taxi drivers speaks Spanish irrespective of where they come from. Germany is the same. An anomaly like a wife not being able to take over a business in the event of her husband's death or retirement seems a non sequitur. If all drivers have to be English Speaking she cannot be a driver but who owns the business is a different matter

* I wish to register my view that the English language comprehension assessment should be retained in the policy. This element should be retained when considering the proprietor licence.

The following feedback was received from Eurocabs via the Taxi and Private Hire Section's email account:

* I am not surprised but appalled that licensing officers did not attach the actual next of kin policy as approved in September 2007, to the policy document presented as part of the proposed policy document to the Licensing Committee on 11th March 2014. Instead the policy attached was just the English requirement policy as approved in February 2006. In legal terms any policy agreed some considerable time after the first policy instantly replaces the first policy unless there is clear and precise points that have not been changed or it is clearly noted under what circumstances the policy does apply or not apply.

As there are such points noted in the policy document approved in September 2007 Eurocabs members want that policy which is the latest approved next of kin policy and therefore has to be deemed as the "current policy" to remain in that format and the Licensing officers should work to that policy.

This document does not state that there is a requirement that the vehicle proprietor must pass an English Literacy Test. Instead it states that "In the opinion of the authorised officer dealing with the transfer, if an interpreter is needed by one or both parties then one should be provided from the council's approved list and the cost must be paid by the person requiring the interpreter".

When I stated this point in the working group meeting Mr Brosters reply was that "there is an error in the policy document" If that is the case why didn't Mr Broster or other legal officers identify this error when the policy was approved and it has taken them nearly 6 years to notice this error. These officers do not pass their own standards of being "fit and proper" to carry out their duties in an efficient and responsible manner as is required from licenced drivers and operators.

The English language requirement should only apply to proprietors that will be driving and they will have to go through the full driving licence applications procedure as required by any Private Hire and Hackney Carriage driver applications.

Further safeguards for the travelling public are that, it is the driver's legal duty to ensure that any vehicle he/she is intending to drive is safe, legal and fit for purpose. This means that all the documents like the vehicle licence, insurance, MOT, their badge are all current and valid. Vehicle check must then be carried to ensure that all tyres are within the safety limits and are legal, all the brake systems are working, all fluids like brakes, engine oil and radiator fluid are to the required levels. Any driver failing to ensure that these checks are carried out could end up losing their HC licence and could have points or fines on their driving licence or could be banned from driving any car depending on the level or seriousness of the offence or offences.