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## **TAXI DRIVER AND PRIVATE HIRE DRIVER MEDICAL ASSESSMENTS**

**Report by Service Director Regulatory Services**

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### **CIVIC GOVERNMENT LICENSING COMMITTEE**

**17 November 2017**

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#### **1 PURPOSE AND SUMMARY**

- 1.1 The purpose of this report is to seek approval for the introduction of a formal policy regulating the assessment of medical fitness to drive taxis and private hire cars.**
- 1.2 The Council as Licensing Authority for the Scottish Borders area is responsible for the licensing of taxi drivers and private hire car drivers under the Civic Government (Scotland) Act 1982.**
- 1.3 In April 2016 the DVLA issued guidance to Licensing Authorities which recommended that taxi drivers and private hire car drivers should be medically assessed to a Group 2 driving licence standard as required for lorry and bus drivers.**
- 1.4 In November 2016 the Scottish Government wrote to the Conveners of all Licensing Authorities in Scotland specifically directing them to the updated guidance issued by DVLA.**
- 1.5 The recommendation contained in this report follows the conclusions of the Working Group set up to assess the need for a policy as explained in paragraphs 3.3 and 3.4.**

#### **2 RECOMMENDATIONS**

**I recommend that the Civic Government Licensing Committee:-**

**Agree to recommend to Council the introduction of a policy requiring all taxi and private hire drivers licensed by Scottish Borders Council be medically assessed to DVLA Group 2 standards:**

- (i) From the age of 18 and thereafter reassessed at age 45**
- (ii) From age 45 onwards reassessed on a five year basis.**
- (iii) From Age 65 to be reassessed on an annual basis.**
- (iv) In the event of a disability or medical condition which may affect an applicant's ability to drive being disclosed to the Council's Licensing Team whilst the grant of a licence is in force.**

### 3 BACKGROUND

- 3.1 The DVLA has different medical standards depending on the type of vehicle being driven. Group 1 covers cars and motorbikes while Group 2 covers buses and lorries. In April 2016 the relevant guidance previously provided by DVLA was updated. The recommendation within the updated guidance for licensing authorities' is that taxi drivers should meet the same medical standards that Group 2 bus and lorry drivers must meet under DVLA's requirements. While Scottish Borders Council as Licensing Authority for the Scottish Borders area does not yet have a policy adopting a Group 2 Assessment as the fitness criteria of all taxi drivers it has occasionally relied upon the terms of Section 13(4) of the Civic Government (Scotland) Act 1982 when an issue regarding a current licence holders continued medical fitness has come into question.
- 3.2 Section 13(4) of the Civic Government (Scotland) Act 1982 provides that a Licensing Authority may at any time for the purposes of satisfying themselves that an applicant is physically fit to drive a taxi or private hire car require an applicant to undergo a medical examination. The Scottish Government subsequently wrote to all Licensing Authorities on 30 November 2016 specifically drawing attention to the updated DVLA guidance with regard to the medical requirements recommended for taxi and private hire drivers. A copy of this letter is attached to this report.
- 3.3 Following the updated guidance from DVLA in 2016 and the subsequent correspondence received from the Scottish Government this authority set up a working group to assess the need to implement a policy to be followed in connection with the standard of medical assessments to be undertaken by taxi drivers and private hire drivers. During discussion members of the working group were of the opinion that a policy requires to be introduced so that taxi driver and private hire driver licence holders were clear about the level of medical required.
- 3.4 The DVLA Group 2 entitlement to drive Lorries or buses is normally given to people over 21 years of age and is valid until the age of 45. Group 2 Licences issued since 19 January 2013 are valid for a maximum of five years. Group 2 licences must be renewed every 5 years or at age 45 whichever is the earlier until the age of 65 when they are renewed annually without an upper age limit. All Group 2 applicants require a medical assessment by a medical practitioner with stipulated assessment criteria which includes nervous system, diabetes, psychiatric illness, including drug/alcohol dependency, cardiac related illnesses and sleep disorders. Upon reaching the age of 45 years a medical examination is required every five years upon renewal and at the age of 65 years an annual review medical is required. Licence Holders' have a legal duty to notify DVLA of any medical condition which may affect their ability to drive. Upon receiving such notification DVLA will make medical enquiries as they deem required. The working group took into account that in terms of the Civic Government (Scotland) Act 1982 an applicant for a taxi/private hire drivers licence must have held a full DVLA Drivers Licence for at least one year prior to submitting an application and therefore the age of assessment would need to be reduced from 21 years of age as required by the DVLA for Group 2 drivers to 18 years of age.

- 3.5 In addition the working group also concluded that in the interests of public safety and in line with the Council's continued efforts as taxi/private hire car licensing authority to improve standards generally then all existing licence holders should be medically assessed to a Group 2 standard when submitting an application for renewal of their licence.
- 3.6 The working group acknowledged that the current process whereby only those applicants who declared a medical condition which is likely to affect their ability to drive are requested to provide evidence from their own GP had worked well and should continue where possible. However there had been occasions where applicants GP's were unwilling to provide written confirmation to a Group 2 standard and in those situations it was felt that applicants should be able to discuss with the Council's Licensing Team alternative options whereby they will be able to undergo the required Group 2 Medical Assessment. For the avoidance of doubt it was the view of the working group that the costs of obtaining a medical assessment to a Group 2 Standard should be met by the applicant in all instances.
- 3.7 In addition and subsequent to the setting up of a working group this authority's decision to suspend a taxi driver's licence pending medical evidence from his doctor that he had been assessed to a Group 2 standard was challenged by way of appeal to the Sheriff at Selkirk Court. The basis of the applicant's appeal was that there was no legal requirement for a taxi driver to complete a Group 2 medical and that this authority had no formal policy to that effect. Following a hearing which took place at Selkirk Sheriff Court on 9 June 2017, the Sheriff issued a judgement whereby he found that this authority had not acted unreasonably in requesting that the applicant provide a medical report that he meets a Group 2 medical standard and that Section 13(4) of the Civic Government (Scotland) Act 1982 gave this authority the power to seek such a report. However, in his judgement the sheriff commented that in his opinion it was unfortunate that this authority do not have a published policy on the medical standards required. The Sheriff's comments reinforce the need for such a policy.
- 3.8 It is therefore proposed that the Council introduce a Policy requiring all taxi and private hire drivers licenced by the Council be medically assessed to DVLA Group 2 standard.
- (i) From the age of 18 and thereafter reassessed at age 45
  - (ii) From age 45 onwards reassessed on a five year basis
  - (iii) From age 65 to be reassessed on an annual basis
  - (iv) In the event of a disability or medical condition which may affect an applicant's ability to drive being disclosed to the Council's Licensing Team whilst the grant of a licence is in force.
- 3.9 In the event that the introduction of this policy is approved then Officers within the Council's Licensing Team will require to intimate the adoption and implementation date of the policy to the Taxi trade and to notify and liaise with the medical profession. In addition, Officers within the Council's Licensing Team will require to make appropriate amendments to the application forms and to the conditions attached to the grant of taxi driver and private hire car driver licences to make it mandatory for licence holders

to report any disability or medical condition which may affect their ability to drive to the Council's Licensing Team.

## **4 IMPLICATIONS**

### **4.1 Financial**

There are no substantive cost implications arising for the Council.

### **4.2 Risk and Mitigations**

There is a risk that the introduction of this policy will not be well received by the taxi trade and is likely to attract criticism. However, the introduction of a policy on medical assessment is desirable in the interests of ensuring public safety and is in line with the Council's continued efforts as taxi/private hire car Licensing authority to improve standards generally. In addition, DVLA have updated their guidance with regard to the suggested medical assessments required for taxi/private car hire drivers and this has been enhanced by the Scottish Government writing individually to the Convenors of all Local Authority Civic Government Licensing Committees in Scotland with the specific purpose of directing Licensing Authorities to the updated guidance.

### **4.3 Equalities**

An equalities impact assessment has been conducted and a copy of the assessment is attached to this report.

### **4.4 Acting Sustainably**

The Council as Licensing Authority for the Scottish Borders area is responsible for the licensing of taxi drivers and private hire car drivers under the Civic Government (Scotland) Act 1982. The proposals contained in this report seek to implement the recommendations contained in updated guidance issued by the DVLA in April 2016 regulating the standard of medical Licensing Authorities should seek from taxi drivers and private hire car drivers which updated guidance was subsequently echoed by the Scottish Government in November 2016.

### **4.5 Carbon Management**

There are no effects on carbon omissions arising from the proposals contained in this report.

### **4.6 Rural Proofing**

There are no effects on rural proofing arising from the proposals contained in this report.

### **4.7 Changes to Scheme of Administration or Scheme of Delegation**

There are no changes required to the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

## 5. CONSULTATION

5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer Human Resources and the Clerk to the Council have been consulted and any comments received have been incorporated into the final report.

**Approved by Brian Frater**

**Service Director Regulatory Services      Signature:**

### **Author(s)**

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**Background Papers:** None

**Previous Minute Reference:** n/a

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