

NORWICH CITY COUNCIL

Report for Resolution

6

Report To Regulatory Committee
16 June 2009

Report of Head of Legal and Democratic Services

Subject Medical Requirements for Hackney Carriage and Private
Hire Vehicle Drivers

Purpose

To ask members, following an issue raised under the Employment Equality (Age) Regulations 2006, to determine the frequency of medicals for licensed Norwich city council hackney carriage and private hire vehicle drivers.

Recommendations

That members amend the existing qualifications for applications for hackney carriage and private hire vehicle drivers licences from:

“Applications from licensed drivers for the renewal of their licence in the year in which they reach the age of fifty five shall be subject to a satisfactory medical examination and to a further examination each year”

to

“Applications from licensed drivers for the renewal of their licence shall be subject to a satisfactory medical examination on the third anniversary of the date from when the licence was first granted and then every three years thereafter”.

Financial Consequences

The financial consequences of this report are nil.

Corporate Objective/Service Plan Priority

The report helps to achieve the service plan priority of protecting the interests of the public through the administration of the licensing function.

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Background Documents

Department for Transport Best Practice Guidance for Taxi and PHV Licensing

Background

1. Members will be aware of the 'Green Book' which contains the byelaws, regulations and conditions applicable to hackney carriage and private hire vehicles, proprietors, drivers and operators licensed by Norwich city council.
2. A section of the 'Green Book' deals with the qualifications for applications for hackney carriage and private hire vehicle driver's licences. The current medical requirements for applicants read:

"A medical certificate must be submitted by the applicant as to his/her physical fitness to drive a hackney carriage or private hire vehicle. The Council reserves the right to demand a second opinion at the applicant's expense from a medical practitioner of their own choice".

"Applications from licensed drivers for the renewal of their licence in the year in which they reach the age of fifty five shall be subject to a satisfactory medical examination and to a further examination each year"

3. An applicant for the grant of a licence is therefore required to submit a medical certificate with their initial application and a further certificate with their renewal application from age 55, and then annually thereafter.
4. In October last year a letter was received from Mr D E Bennett questioning whether the council was acting in breach of the Employment Equality (Age) Regulations 2006 by virtue of the requirements contained in the qualification for renewals, set out in paragraph 2 above.

Employment Equality (Age) Regulations 2006

5. Regulation 3 of Employment Equality (Age) Regulations 2006 states that a person (A) discriminates against another person (B) – if on the grounds of (B)'s age (A) treats (B) less favourably than he treats or would treat other persons. Whilst the council does not directly employ hackney drivers, Regulation 19 of the Employment Equality (Age) Regulations 2006 makes it unlawful for a 'qualifications body' - in this case the Council - to discriminate against a person in the terms in which it is prepared to confer a professional or trade qualification on him.
6. It seems clear that a hackney carriage or private hire driver's licence is a 'trade qualification' for the purposes of the Regulations and accordingly discrimination on the grounds of age - which would include making an older person take more tests than a younger person, may not be a compliant practice within the regulations.
7. Discrimination is not unlawful within the regulations as long as the Council can show the practice is a proportionate means of achieving a legitimate aim.
8. In relation to the licensing of hackney carriage and private hire drivers, the legitimate aim could be construed as the safety of the travelling public and the safety of the public at large who may be put at risk if the driver is medically

unfit to drive such a vehicle. It would also need to pass the proportionality test and the council would need to be able to show that drivers over 55 are more likely to have medical conditions that would render them less safe to drive hackney carriage or private hire vehicles, and further that those medical conditions could reasonably and realistically be expected to be detected by annual medicals.

9. Although the current Department for Transport's *Best Practice Guidance for Taxi and Private Hire Vehicle Licensing* states on the subject of age limits that: "*It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made*", there appears to be no credible research available at the moment in relation to the safety of older drivers to support the justification of the current qualification requiring renewal applications from licensed drivers in the year in which they reach the age of 55 to be subject to a satisfactory medical examination and to a further examination each year.

Conclusion

10. To ensure compliance with the Employment Equality (Age) Regulations 2006 the current medical requirements for renewal applications will need to be amended. Any changes will need to be balanced against the primary concern of public safety.
11. One of the statutory tests for determining a hackney carriage or private hire drivers licence application is whether the applicant is a 'fit and proper person'. In addition to providing certification to confirm medical fitness, the applicant is also required to provide details of any current convictions they may have and are required to undertake an enhanced Criminal Records Bureau check. This check is repeated in accordance with best practice on a three yearly basis.
12. The relevant legislation allows for hackney carriage and private hire driver's licences to be issued for a maximum period of three years. Currently hackney carriage and private hire drivers are required to renew their licence on an annual basis, but this may be reviewed with a view to increasing the period of licence to three years and would be the subject of a further report to this committee.
13. It is proposed, therefore, that hackney carriage and private hire drivers licence holders be required to submit a satisfactory medical examination with their renewal application on the third anniversary of the date from when their licence was first granted and then every three years thereafter. This will ensure that licence-holders continue to satisfy the statutory test in line with the maximum period for which licence may be granted and in accordance with best practice in respect of criminal record checks.