

FAREHAM

BOROUGH COUNCIL

Report to Licensing and Regulatory Affairs Committee

Date **16 September 2014**

Report of: **Director of Community**

Subject: **RESPONSE TO DEPUTATION TO COUNCIL**

SUMMARY

On 24 July 2014 there was a deputation made to Full Council by a Fareham taxi driver. This was made following a string of similar complaints made to various members and officers within the Authority regarding the taxi and private hire licensing requirements in place at Fareham over a number of years. This report details the licensing procedures currently in place in respect of the issues raised in this deputation.

RECOMMENDATION

That the Committee notes the content of the report and determines whether it is satisfied with the current licensing procedures in place in respect of taxi and Private Hire driver applications

INTRODUCTION

1. Under the Local Government (Miscellaneous) Provisions Act 1976 and the Town and Police Clauses Act 1847, the local Authority is made responsible for the licensing and regulation of Private Hire and Hackney Carriage drivers.
2. A District Council may require under the aforementioned legislation an applicant to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted i.e. the applicant is a “fit and proper person”.
3. The information that Fareham Borough Council currently considers to be reasonably necessary in determining the above is the following:-
 - A completed application form – requiring basic personal information e.g. name/address.
 - A Disclosure and Barring Service check - formerly a Criminal Records Bureau check (CRB).
 - A certificate signed by the Council’s medical referee that the applicant is medically fit to drive a Private Hire / Hackney Carriage vehicle – The adopted medical standard is the DVLA Group 2 medical standard.
 - To pass either the Blue Lamp or Driving Standards Agency taxi driving test
 - Driving Licences are checked with the DVLA for authenticity and for undeclared driving offences.
 - To pass the Fareham knowledge test

DEPUTATION

4. On 24 July 2014 there was a deputation made to Full Council by a Fareham taxi driver. This was made following a string of similar complaints made to various members and officers within the Authority regarding the taxi and private hire licensing requirements in place at Fareham over a number of years.
5. The matters raised were regarding :-
 - The authenticity of letters of good conduct for foreign applicants.
 - The authenticity of EU driving licences.
 - The Group 2 medical assessment and access to medical history.
6. Following the most recent deputation, the Chairman had asked for this report to be prepared in order that members can fully consider the matters raised.
7. As a result of previous concerns raised regarding the knowledge test that was put into place in 2006, this test this year has been completely revised and was re-launched in April this year.

ISSUES RAISED

Authenticity of Letters of Good Conduct

8. The concern raised was that, if the Council does check with the Embassy concerned, letters of good conduct may be presented which are forgeries and the applicants may have foreign convictions the Council is unaware of.
9. Every Fareham driver has had a DBS check and, where they have lived outside the UK since the age of 10 for a period of longer than 3 months, has also provided a letter of good conduct from the appropriate Embassy.
10. Since this requirement has been in place, the Council has received a number of letters of good conduct from a number of different Embassies. As a result, the officers have become familiar with many of the Embassies letter heads, official stamps and official paper. In almost every case the applicant has to apply in person at the Embassy concerned as most Embassies will not deal with their Nationals over the phone, by letter or by email. Unsurprisingly they will not deal with a third party i.e. Fareham Borough Council at all.
11. Given the above, there is no way of checking the authenticity of letters of good conduct in most cases, other than by the officers' own experience. This has been confirmed by a number of other local authorities canvassed over the matter.
12. It should be remembered that a letter of good conduct is provided in addition to a DBS check, to cover any periods of residence spent abroad. The presence of any conviction on a person's record doesn't automatically bar them from becoming a taxi/private hire driver, it means that the Licensing Panel in line with the Council's scheme of delegation must determine the application. This determination must be made on the individual circumstances of each case as blanket rules cannot be applied.
13. The system in place at Fareham was devised by Fareham and has been adopted by many other local authorities and is considered by those that use it as a process that is "*reasonably necessary*" and that any other approach would probably be unreasonable and as such not lawful.

Authenticity of EU driving licences

14. The concern raised is that there are a number of companies advertising on the internet that, on certain criteria being satisfied, they will provide non-EU citizens with an EU Driving licence and the original test, if one was taken at all, was not as stringent as that a person would take in England.
15. At Fareham, an applicant is required to have held an EU or UK driving licence for 2 years before becoming a taxi driver and applicants who become licensed as a taxi driver with an EU licence are required to have that EU licence converted by the DVLA to a UK licence within the first year of being licensed.
16. It is unreasonable and probably impossible for the Licensing section to check other than with the DVLA the authenticity of UK driving licences. If a loophole exists and the DVLA is able to issue driving licences which have dubious origins, that is quite clearly a matter for DVLA.

17. In addition to the DVLA driving licence check every applicant is required to pass either the Blue Lamp or Driving Standards Agency taxi driving test. These tests include a practical driving test and give some assurance that each applicant is able to drive to an acceptable and appropriate standard before becoming licensed.

Group 2 medical assessment and access to medical history.

18. Currently all drivers have to be registered with a local GP and this GP then completes the Group 2 medical assessment which is then sent to the Council's nominated medical referee to confirm the applicant meets the criteria for the group 2 medical standard.
19. The process outlined above was changed by the medical referee following pressure from the trade. Previously foreign applicants could go through their own GP in their country of origin.
20. The concern now raised at the deputation is that the local GP with whom a foreign applicant is required to register with would not have the applicants' medical history to hand and that if the applicant doesn't volunteer information about conditions such as epilepsy the GP would be unaware of it.
21. In respect of the above again it is a question of what is reasonably necessary. There doesn't appear to be any specific guidance to GPs as to the method they must employ when assessing the Group 2 standard. Therefore if in a GP's professional opinion a person meets the standard, there is little the Licensing Team can do to question this. Furthermore, with any medical assessment there has to be a reliance on the truthfulness of the person subject to the medical as the symptoms of any condition can present themselves at any time.

RISK ASSESSMENT

22. There are no risks associated with this report. The Council may require an applicant to submit to them such information as it may reasonably consider necessary to enable it to determine whether the licence should be granted. The requirement regarding application information states "the Council may", which suggests there is discretion.

CONCLUSION

23. That the current licensing procedures and information requirements in respect of taxi and Private Hire driver applications are requesting what is reasonably considered necessary and that no further action in respect of these matters is necessary at this time.

Background Papers:

None.

Reference Papers:

None.

Enquiries:

For further information on this report please contact Ian Rickman (Ext 2401).