

To: Regulatory Functions Board

On: 28th March 2019

Report by: Director of Finance and Resources

Heading: Taxi and Private Hire Car Drivers' Licences: Consultation on Medical Evidence and Further Procedure

1. Summary

- 1.1 At a meeting of the Regulatory Functions Board on 29th March 2018, there was submitted a report by the Director of Finance and Resources relative to a review of the Council's current practice requiring certain applicants for, and holders of, taxi and private hire car drivers' licences to produce medical evidence confirming their fitness to drive.
 - 1.2 The Board agreed a proposal for the purposes of consultation at the meeting, as set out at Paragraph 3.2 of this report. The Board authorised officers at the meeting to consult on the proposal with all taxi and private hire car drivers, representatives of the medical profession and the Council's Occupational Health advisers.
 - 1.3 The purpose of this report is to advise the Board of the responses received to the consultation and to ask the Board to agree new policies and practices in relation to the production of medical evidence by taxi and private hire car drivers.
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2. Recommendations

- 2.1 It is requested that the Board:-
 - 2.1.1 Agree that the current requirement that drivers of taxis and private hire cars provide a medical certificate at age 65 and annually thereafter be removed;
 - 2.1.2 Agree that taxi and private hire car drivers who declare a medical condition, and who are called upon to produce a medical certificate, be asked to do so in the terms set out at Appendix 1;

- 2.1.3 Agree that the following condition be attached to taxi and private hire car driver's licences:

"Should your DVLA driving licence fall to be renewed during the period of this licence, you require to exhibit evidence to the Council, within 14 days of expiry of your DVLA licence renewal date, that you have obtained a new driving licence from DVLA to cover the duration of your [taxi/ private hire car] driver's licence."

- 2.1.4 Agree that the existing conditions of taxi drivers' licences (Condition 21) and private hire car drivers' licences (Condition 19) be amended as follows-

"21. The holder of a taxi driver's licence shall be 21 years of age or older when first licensed. All drivers with a medical condition capable of affecting their ability to drive shall immediately disclose this condition to the Council and may be called upon to produce a medical certificate to confirm whether their doctor is aware of any medical condition which could render them unfit to drive a taxi."

"19. You must be at least 21 to get a licence. All drivers with a medical condition capable of affecting their ability to drive shall immediately disclose this condition to the Council and may be called upon to produce a medical certificate to confirm whether their doctor is aware of any medical condition which could render them unfit to drive a private hire car."

- 2.2 Otherwise note the terms of the report.

3. Background

- 3.1 At its meeting of 29th March 2018, the Board considered the terms of a report stating that officers had undertaken a review of the Council's current practices in relation to the production of medical evidence in respect of taxi and private hire car drivers. The report highlighted that applicants for a licence who declare a medical condition on their application currently require to provide a medical certificate in relation to their fitness to drive. A similar requirement applies to all drivers who have attained the age of 65 years, who require to provide medical evidence as to their fitness to drive on an annual basis. The report set out a number of alternative options for the Board's consideration and asked the Board to agree a proposal for consultation.
- 3.2 The Board agreed at the meeting to consult on a proposal to remove the requirement upon drivers to provide a medical certificate annually after attaining the age of 65 years. The consultation proposal also proposed changes to the current conditions of licence. These proposed changes would (i) introduce a requirement that drivers whose DVLA licence falls to be renewed during the period of their licence exhibit evidence to the Council within 14 days after their renewal date that they remain licensed by DVLA to drive, and (ii) require drivers to immediately disclose to the Council any medical condition capable of affecting their fitness to drive. The consultation proposal also proposed changes to the terms of correspondence currently sent to drivers who disclose a medical condition.

- 3.3 The Board agreed at the meeting that officers be authorised to consult on this proposal as set out at Paragraph 1.2 above and to report the responses received to the Board.
- 3.4 In response to the consultation, fourteen responses were received. These included eight from licence holders within the taxi and private hire trades, five from medical practices and one from a body representing medical practitioners. The responses received are summarised at Paragraphs 3.5 to 3.7.2 below.

Responses from Taxi and Private Hire Car Trades

- 3.5 Six of the eight responses from the taxi and private hire trades are supportive of the proposal consulted upon. They state that they have no objections and support the removal of the requirement to produce medical evidence annually to the Council after age 65, given that DVLA checks on fitness to drive are required from age 70. The comments received include a recognition of increased life expectancy and a general increase in people's fitness and health.
- 3.5.1 However, two of these respondents oppose the consultation proposal. One respondent would prefer that the status quo remains. He states that he does not support the proposed changes.
- 3.5.2 The other respondent refers to her General Practitioner's view that the production of medical evidence is unnecessary. She notes the requirement upon a GP to report any health concerns to DVLA. She considers that a request for further information following disclosure of a medical condition is an invasion of privacy. In this regard, the Board will note their responsibility under the Civic Government (Scotland) Act 1982 to assess the fitness, including medical fitness, of an applicant for a taxi driver's or, as the case may be, private hire car driver's licence. Finally, the response also states that the driver's GP's view is that the cost of any medical letter produced should be met by the Council.

Responses from Medical Practitioners

- 3.6 The responses received from medical practices are summarised below at Paragraphs 3.6.1 to 3.6.5.
- 3.6.1 Response 1- This medical practice state that they are content to detail drivers' medical history and medication, but not to confirm fitness to drive or hold a licence. They add that, as a report is chargeable, this should be made clear in the letter sent by the Council to the driver.
- 3.6.2 Response 2- This medical practice comments only on charges for medical letters, stating that the letter to drivers should make it clear that it is the driver's responsibility to meet the fee.

- 3.6.3 Response 3- This practice comment that they will require to implement a clear internal policy on how they deal with requests for medical information. It appears from the response that a licensed taxi or private hire car driver, in light of the consultation, approached the practice seeking a medical report due to a misunderstanding of the purpose of the consultation.
- 3.6.4 Response 4- This practice state that they are not Occupational Health Specialists and are unable to provide medical reports under their NHS contract. They state that the proposed letter to drivers, as consulted upon, appears to suggest that this is something that they are able to do and that the letter should therefore be amended. They state that they copied the consultation to their Local Medical Committee. The terms of the proposed letter as consulted upon has been amended in light of these comments, as attached at Appendix 1.
- 3.6.5 Response 5- This medical practice state that they welcome that changes are proposed to the existing practice, but that they are not satisfied by the proposals consulted upon. They express concern over being asked to state whether a person is fit to drive. They comment on the workload of General Practitioners and the additional workload generated by patients seeking a note from their doctor for the purposes of various organisations. They express concern that an appointment with the driver's GP may be sought for the purpose of obtaining a letter and highlight that the letter will attract a fee. They ask the Council to consider changing the proposed letter as consulted upon, to state that the patient should hand in the request for medical information and that a fee will be charged by the GP as this is non-NHS work. The letter now proposed at Appendix 1 has been amended to take account of these comments.

Response from Representative Medical Organisation

- 3.7 This organisation set out concerns in relation to the current practice of medical certificates being required annually after drivers reach the age of 65. The response states that this practice puts GPs in a difficult position with their patients. They advise that they, and the Scottish General Practitioners Committee of the BMA, are of the view that GPs are not in a position to assess nor confirm that an individual is "fit to drive" or hold a licence. They state that, in accordance with DVLA medical guidance, a GP's duty is to advise their patient to contact the DVLA medical officer when they have a diagnosed condition that may affect their ability to drive. They state that it is the DVLA's role to assess the individual's medical fitness to drive. They do not consider that patients should be advised to obtain a letter from their GP to confirm their fitness to drive or hold a licence.

The organisation welcome the proposed removal of the current requirement for annual medical certificates after drivers reach the age of 65, but do not support drivers being asked to submit a letter from their doctor, for the reasons set out at Paragraphs 3.7.1 and 3.7.2 below.

- 3.7.1 They state that it is the driver's responsibility to inform DVLA, who will conduct an assessment of fitness to drive, seeking information from the GP where required. They consider that applicants should be asked whether they have a medical condition that may affect their driving (the Council already asks this question on application forms) and that, if the applicant answers in the negative, there is no need for any further enquiry. Otherwise, they suggest that an independent medical opinion or occupational health assessment of the driver is sought, to avoid the GP being involved in confirming a patient's declared medical condition. They state that the GP could support the obtaining of independent medical evidence by producing a medical summary with the patient's consent, subject to payment of a fee.
- 3.7.2 They also express concerns with regard to GP workload, noting that the Scottish Government and BMA recognise that existing workload should be reduced to support the quality of service to patients.

4 Proposal

- 4.1 The Board is asked to consider the above responses and to approve the changes to the Council's existing practices set out at Paragraphs 2.1.1 to 2.1.4 of this report. It appears from the responses received that the proposal to remove the requirement for annual medical checks after a driver attains the age of 65 is favoured by consultees, particularly those in the taxi and private hire car trades. However, officers have also had regard to the other concerns raised by the medical profession, as noted above.
- 4.2 A number of the concerns raised by medical practices relate to the proposed terms of the revised letter to drivers who have declared a medical condition. Accordingly, a further-revised letter is now proposed at Appendix 1. The changes to this letter make clear that a GP may charge for a report and that an appointment with the GP may not be necessary in order to obtain the report. While it is noted that concerns were raised during the consultation in relation to GPs being asked to confirm fitness to drive, the letter as consulted upon had already been amended to take account of this concern.
- 4.3 The Board is asked to agree the recommendations set out at Paragraphs 2.1 and 2.2 of this report. The recommended changes include removal of the requirement upon drivers to produce annual medical certificates after attaining the age of 65 years. It is anticipated that the removal of the requirement for annual medical reports should have the effect of reducing workload for medical practices.
- 4.4 In order to ensure that those holding licences continue to be medically fit to drive, it is proposed that the conditions of licence for taxi and private hire car drivers be amended to ensure that drivers remain entitled to drive and, separately, that they immediately disclose any medical condition which may arise during the period for which they are licensed, which could impact that ability. It is proposed that the conditions of licence be amended to require drivers whose DVLA driving entitlement falls to be renewed during the period of their taxi or private hire car driver's licence to provide evidence within 14

days of their DVLA licence expiry date that they have obtained a new DVLA driving licence.

- 4.5 It is the view of officers that the proposed changes will continue to ensure the safety of the travelling public while being of benefit to taxi and private hire car drivers. The proposed changes will relax the existing practice whereby drivers who have reached the age of 65 require to provide the Council, annually, with a medical certificate. They will bring the Council's practices more into line with the DVLA's requirement that driving licences are normally renewed at age 70. The proposed changes will require people aged 70 or over to provide evidence to the Council each time their DVLA licence is renewed. While it is recognised that any requirement which imposes a duty at a certain age could be seen to potentially create a negative impact for people of that age, those people will no longer have to produce an annual medical report to the Council.
- 4.6 The Board's current policy is to grant new taxi and private hire car drivers' licences for a period of one year and renewals for two years. As such, applicants for grant or renewal of a licence who have attained age 70, or whose DVLA licences are granted for restricted periods due to a medical condition, may not have an entitlement to drive for the full period for which their licence would normally be granted. In those situations, applicants for licences are currently asked whether they wish their licence to be granted by officers until the date of expiry of their current DVLA licence, or alternatively that their application is referred to the Board to consider granting it for the normal period. The Board in those cases seeks an undertaking, or attaches a condition of licence, that evidence of continuing entitlement to drive is produced within a stated period. The proposed policy will formalise the requirement to produce evidence of continuing entitlement to drive. It is the view of officers that this will benefit drivers who require to renew their DVLA licence during the period of their taxi or private hire car driver's licence, as they will no longer be asked to either restrict the period of their licence or to attend a meeting of the Regulatory Functions Board.

Implications of the Report

1. **Financial** - Nil.
2. **HR & Organisational Development** - Nil
3. **Council and Community Planning-**
 - Our Renfrewshire is safe – the continued monitoring of taxi licensing contributes to safer communities.
4. **Legal** – The Council, as licensing authority, requires to consider whether those seeking licences are fit and proper persons to hold them and, if satisfied that they are not, must refuse a person a licence. The Council is entitled to attach reasonable conditions to licences.

5. **Property/Assets** – Nil
6. **Information Technology** – Nil
7. **Equality & Human Rights** –The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report; the proposed changes to existing practices are likely to be of benefit to licensed drivers who have previously been asked to produce medical evidence annually after reaching age 65 or to attend a meeting of the Board to request renewal of their licence for two years where their DVLA licence requires to be renewed within that period. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
8. **Health & Safety** – Nil
9. **Procurement** – Nil
10. **Risk** – Nil
11. **Privacy Impact** – Nil
12. **CoSLA Policy Position-** Nil

List of Background Papers

- Consultation responses.

Author: Douglas Campbell, Assistant Managing Solicitor (Licensing)
douglas.campbell@renfrewshire.gov.uk
0141-618-7172

APPENDIX 1

Dear Sir

CIVIC GOVERNMENT (SCOTLAND) ACT 1982 GRANT/ RENEWAL OF A PRIVATE HIRE CAR DRIVER LICENCE

I refer to the above application which you lodged at this office on [date].

As you have declared a medical condition on your application form I would advise that I require sight of a letter from a medical practitioner, such as your GP, confirming whether s/he is aware of you having any medical condition which would cause them to advise you that it could affect your fitness to drive.

Please arrange to exhibit a doctor's letter including the information requested above to this office within 21 days from the date of this letter. Please note that the progress of your application will depend on the outstanding documentation being produced.

You may be charged for the report, as it is likely to be considered non NHS work. As you may not need an appointment with your doctor to obtain the report, you should hand in your request for this information to your medical practice.

Yours faithfully,