

 Licensing and Regulatory Committee		Agenda Item No. <h1 style="text-align: center;">6</h1>
Title	Hackney Carriage and Private Hire Drivers who fail to undertake the Disability Awareness Training in accordance with the requirements of their Licence.	
For further information about this report please contact	Marianne Rolfe, Regulatory Manager, Tel: 01926 456320 Email: marianne.rolfe@warwickdc.gov.uk	
Wards of the District directly affected		
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	Yes/No If yes state why	
Date and meeting when issue was last considered and relevant minute number	Licensing and Regulatory Committee, 16 th December 2014	
Background Papers		

Contrary to the policy framework:	Yes/No
Contrary to the budgetary framework:	Yes/No
Key Decision?	Yes/No
Included within the Forward Plan? (If yes include reference number)	Yes/No
Equality Impact Assessment Undertaken	Yes/No (If No state why below)

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service	23.11/15	Richard Hall
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)	23.11.15	Moira Ann Grainger
Legal	18.11.15	Warwickshire Legal services
Consultation & Community Engagement		
Final Decision?	Yes/No	
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 This report is to provide an update regarding the number of drivers who have failed to undertake the compulsory Disability Awareness Training Course in accordance with the requirements of their licence despite numerous attempts/courses offered by officers and the training providers.

2. **Recommendation**

- 2.1 That the committee are made aware that officers intend to send Licensed Hackney Carriage Private Hire Drivers to committee for failing to undertake the course.
- 2.2 That the committee are aware that drivers who have allowed their licences to lapse and reapplied for licences are required to retake the Disability Awareness Course.
- 2.3 That the committee continues to regard a failure to complete the course as a serious matter that impacts upon a driver's fitness to be licensed. Completion of the course is a clear requirement and it is important to ensure that drivers licensed by Warwick District Council comply with the requirements of the Equalities Act 2010 and that people with disabilities, who often particularly rely on taxis, are not subject to discrimination.

3. **Reasons for the Recommendation**

- 3.1 Drivers licenced by Warwick District council to drive Hackney Carriage and Private Hire Vehicles are required to take the nominated Disability Awareness Course run by the Guide Dogs for the Blind in Leamington Spa. The course costs £45.
- 3.2 Since December 2014 this course must be undertaken prior to a driver receiving their licence.
- 3.3 Prior to December 2014, a driver was required to take the Disability Awareness course within 12 months of being granted a Hackney Carriage Private Hire Drivers Licence (HCPHDL). Currently we have:
- 10 drivers who have not attended the compulsory course.
 - 5 of those drivers have not undertaken the course in 12-24 months of their initial licence application.
 - 1 of those drivers have not undertaken the course in 24-36 months of their initial licence application.
 - 3 of those drivers have not undertaken the course in 48-60 months of their initial licence application. (2 licence durations)*
 - *2 drivers are refusing to attend the course as they have previously held licences with WDC and undertook the Disability Awareness Course (2007) before allowing their licences to expire (2009 & 2010). They have subsequently reapplied for licences in 2010 and have not recompleted the course as required by licensing application procedure.
 - 1 driver is refusing to attend the course as he 'is not driving at the moment'

- 3.4 The requirement to attend this course is not only part of the application process for a HCPHDL in determining if a person is 'Fit and Proper' but is important in ensuring a suitable standard of service delivery to all persons using taxis.
- 3.5 Whilst there has been a 75% reduction in drivers that had not taken the Disability Awareness course since this matter was last reported to the Committee, there remains a percentage of licenced Hackney Carriage Private Hire Drivers as demonstrated by the figures above that are refusing to attend the course.
- 3.6 Officers repeatedly chase licenced drivers with letters prior to the date of the next course to inform them of their required attendance at the disability awareness course. This lack of co-operation with officers and failure to meet the requirements of the Hackney Carriage Private Hire Drivers licence calls into question whether the drivers are fit and proper to hold such a licence.
- 3.7 When a person applies to be a Hackney Carriage Private Hire Driver there are a set of requirements placed upon them in order to demonstrate that they are fit and proper. If one of these drivers then allows a licence to lapse and reappplies for a licence at a later date they are required to meet these requirements again.

4. **Policy Framework**

- 4.1 **Policy Framework** – The subject of this report will not alter the policy framework.
- 4.2 **Fit for the Future** – Officers use graduated compliance/enforcement activities with those drivers that are failing to meet the conditions of their licence or the requirements of the applications process.
- 4.3 Refusing the licences of those who do not attend/refuse to attend the Disability Awareness Course and ensuring the drivers meet the requirements of the application process, ensures that the process is fit for the future, allows clearer understanding of what is required by the applicants and ensure the safety of the residents, visitors and workers of Warwick District.
- 4.4 **Impact Assessments** – The actions described within this report will ensure that all of the licenced drivers have the necessary skills and awareness required to enable them to deal with all types of disabilities and the challenges that they may pose for both the driver and the passenger.

5. **Budgetary Framework**

- 5.1 No impact

6. **Risks**

- 6.1 The current situation provides for a number of risks. Firstly that drivers may refuse journeys due to a lack of confidence in dealing with the particular challenges posed by a passenger with disabilities. This is not acceptable under the terms of the Hackney Carriage Licence. Secondly, as a local authority, Warwick District Council has a duty under the Equality Act 2010 to eliminate unlawful discrimination and advance equality of opportunity. A failure to ensure that drivers licensed by the Council are aware of and in compliance with their

duties towards disabled passengers could mean that the Council is in breach of this duty.

- 6.2 That drivers without the skills provided by this course could in correctly restrain wheel chair a wheelchair causing injuries to passenger in the event of an accident.

7. Alternative Option(s) considered

- 7.1 That the current situation remains unchallenged and officers continue to chase drivers in order to persuade them to attend the compulsory course or officers continue to wait for renewal licence applications to be submitted so that the delegated power may be used.
- 7.2 Of the 10 drivers there are 4 drivers whose licences will expire in 2016.
- 7.3 That drivers that have taken the Disability Awareness Course with our nominated course provider under a previous licence held with Warwick District Council are no longer required to retake the Disability Awareness Course as part of their HCPHDL application.
- 7.4 Officers do not believe that this is a suitable alternative as the Disability Awareness Course ensure that the drivers have the skills to safety, effectively and correctly provided a service to persons with a disability. Drivers who find themselves in this position receive a refresher in the standards expected.
- 7.5 Any driver who is unable to demonstrate the skills or standards required are advised that they must re-attend the Disability Awareness Course. A number of drivers have already received refresher training after failing to demonstrate their ability to correctly secure a wheelchair in their vehicle.
- 7.6 In 2015 the Disability Awareness course has been altered to include a Dementia Friends qualification. In addition to the My Guide Level 1 and Disability Awareness Certificate.

8. Background

- 8.1 The Equalities Act 2010 imposes a general duty on public authorities to have due regard to the need to eliminate discrimination and advance equality of opportunity when carrying out its functions. In addition the Act prohibits discrimination by those who offer services to the public and imposes particular duties on drivers of hackney carriage and private hire vehicles in relation to people in wheelchairs and people with assistance dogs.
- 8.2 In order to both show compliance and good practise with the Act and its predecessor (the Disability Discrimination Act 1995) from early 2007 all drivers were required to attend a Disability Awareness Course as part of their application process.
- 8.4 Prior to December 2014 the requirement for a driver to attend the Disability Awareness Course was outlined in the requirements for all new applicants: 'all drivers must have taken within 12 months of obtaining a licence from the council, a course on disability awareness, nominated by the council and paid for directly by the applicant'. This is described in the Guidance Notes and Conditions for Hackney Carriages and Private Hire Owners, Operators and Drivers. This document is published on the council website.

- 8.5 In December 2014 the requirement was amended to state that all new applicants would be required to take the Disability Awareness Course prior to a licence being issued.
- 8.5 Whilst this training course is not directly a condition upon their licence it is part of the application process and therefore part of establishing if an applicant is 'fit and proper'.
- 8.6 The Council has nominated the Guide Dogs for the Blind in Leamington Spa to deliver the Disability Awareness Course. The course covers:
- Wheelchair Users
 - Ambulant Disabled
 - Visually Impaired passengers
 - Hearing Impaired passengers
 - Mental Health, Autism and Dementia
- 8.7 The wheelchair section of the Disability Awareness Course specifically includes how to correctly strap a wheelchair in to a vehicle. This is very important as incorrect fitting of the wheelchair can result in fatal injuries during road traffic accidents.
- 8.8 In 2009 an inquest into the death of a 14 year old girl who had been traveling in a taxi found that her fatal injuries were directly attributable to the methodology used to restraint and load the wheelchair in the taxi. i.e. side on positioning of the wheelchair and lack of restraints used.
- 8.9 Officers of Warwick District Council continue to see poor practices identified in the inquest. At the fleet inspection events a driver's ability to restrain a wheelchair is tested. Those drivers with the disability awareness training were able to correctly restrain a wheelchair. However those without demonstrated the following practises:
- Facing the wheelchair to the side of the vehicle
 - Lack of/incorrect/inadequate restraints i.e. bungee cords
 - In ability to restrain a wheelchair
- 8.10 At the last disability awareness course 13 persons attended the course and only 3 were licenced drivers. The drivers who are outlined in 3.3 were also invited to attend that course.
- 8.11 Feedback from attendees on the Disability Awareness Course rates the course 93% excellent. Comments from the course included:
- I will communicate more with customers.
 - The training was superb.
 - Thank you. The course has been educational to our industry.
 - I'm more aware of disabled people after this training.
 - The blindfold section highlights how someone with visual impairment may feel.
 - I had a wheelchair customer I could not help properly – now I can.
 - Everybody should do this course.
- 8.12 The Guide Dogs for the Blind send notification of the date of the next Disability Awareness course to a list of drivers that have not attended the Disability Awareness course as provided by Licensing Officers. In addition licensing officers write to each of the drivers who have not attended the disability awareness course to advise them:

- that have not attended the disability awareness course,
 - that they are required to do so
 - therefore they will be receiving a letter from the Guide Dogs regarding an available course.
- 8.13 Officers have taken the Disability Awareness Course themselves and have said that the ` It was very informative and useful interactive. The drivers get involved and come away enthused.'
- 8.14 There are four letters sent to drivers which graduate in strength in order to remind them of their obligation to attend and the possibility of licence refusal upon renewal. The last two letters advised that failure will be viewed seriously and as result disciplinary action will be considered against their licence. This resulted has resulted in 75% of drivers refusing or failing to attending the disability awareness course, doing so since December 2014 .
- 8.15 The Guide Dogs for the Blind have run the following courses since 2011.
- 2 in 2011 (2nd March & 16th November)
 - 2 in 2012 (27th June & 14th November)
 - 1 in 2013 (24th April)
 - 3 in 2014 (26th February, 9th July & 5th November)
 - 4 to date in 2015 (18th March, 29th April, 8th July, 7th October)
- 8.16 Following the course the Guide Dogs provide us with a list of drivers who have attended and we update our records. The guide dogs inform us that maximum attendance is 24 per course. Only one course (8th July 2015) has been filled to maximum capacity.
- 8.17 A driver who has held a licence with WDC but allowed it to lapse before reapplying is treated in exactly the same manner as a new driver. The re applying driver must submit an application form, two recent photographs, medical assessment, evidence that the Driving Standards Agency Hackney Carriage Private Hire Drivers Test has been taken, DBS application and subsequently the DBS certificate, retake the Knowledge Test and the Disability Awareness Course. Pre-December 2014 retake the Disability Awareness Course within 12 months of the grant of their licence.
- 8.18 The two drivers that are in this position as listed in 3.3, allowed their licences to expire for periods of 26 days & 16 months before reapplying were informed that they would be treated as new applicants. As once a licence has expired, it has expired and cannot be renewed.
- 8.19 Both drivers undertook all of the immediately required activities in order that they could receive a licence with Warwick District Council. This includes retaking the Driving Standards Agency Hackney Carriage Private Hire Drivers Test and the Knowledge Test. The results from their previously held licence were not carried forward to their new licence.
- 8.20 However, as required by their application neither driver took within 12 months of their grant of their new licence the Disability Awareness Course. Both drivers are currently refusing to take the course as they have completed it previously.
- 8.21 There are other drivers who have found themselves in this exact position and have retaken the Disability Awareness Test. There are also drivers who Officers have required that they retake the disability awareness course as they have

been unable to demonstrate that they have learned thus placing their passengers at risk.

- 8.22 A licence is issued for a duration of three years before it expires. It remains valid during the full three year period unless the licence is suspended or revoked for reasons determined by the committee. The licence does not automatically renew and not does it cease to be valid if a licence driver chooses not to drive a licenced vehicle for any period of time.
- 8.23 Whilst a driver may state that they have cease driving. Licensing officers do not accept this as a surrender of the licence until they have receive written notification that the driver is ceasing to drive, the Hackney Carriage Private Hire Drivers Licence and Licenced Drivers Identification Badge are returned to the office. It is assumed that any driver who does not do this wishes to have the option to continue to drive at some point in the future prior to the licence expiry.
- 8.24 There is a driver refusing to attend the disability awareness course as he is currently not driving. He was advised by the licensing officers on the 16th April 2015 to provide the officer with the information in 8.23 but to date has not done so.
- 8.25 Officers have refused the renewal application of two drivers who have failed to undertaken their Disability Awareness Course and their licences has reached their duration expiry.
- 8.26 All licenced HCPH drivers have been made aware that this delegated power will be used through the Driver and Operators Forum, the minutes of the forum, in the renewal and new driver application pack and in the letters sent by officers prior to every organised Disability Awareness Course since December 2014.
- 8.27 A further 3 drivers who have failed to attend the disability awareness course have also independently chosen not to renew their expired Hackney Carriage Private Hire Divers licence in 2015.