



AGENDA ITEM: 8

**LICENSING & APPEALS
COMMITTEE: 2 JUNE 2015**

Report of: Assistant Director Community Services

Relevant Managing Director: Managing Director (People and Places)

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SUBJECT: THE DEREGULATION ACT 2015

Wards affected: Borough wide

1.0 PURPOSE OF REPORT

1.1 That Members take the necessary action in response to the Deregulation Act 2015.

2.0 RECOMMENDATIONS

2.1 That with effect from the 1st October 2015, the licence duration for Hackney Carriage and Private Hire driver licences is increased from 12 months to 3 years.

2.2 That with effect from the 1st October 2015, the licence duration for Private Hire operator licences is increased from 12 months to 5 years.

2.3 That the proposed changes in Hackney Carriage and Private Hire driver and Private Hire operator licensing fees contained in Table 1 in this report are approved.

2.4 If the recommendation at Paragraph 2.3 is approved, that delegated authority is granted to the Assistant Director Community Services to give notice under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 of the Council's intention to vary the fees for Hackney Carriage and Private Hire driver and Private Hire operator licences.

2.5 That all relevant sections of the Hackney Carriage and Private Hire Licensing Policy 2013 are amended to take account of the matters contained in this report.

3.0 BACKGROUND

3.1 Members will recall the previous Update to this Committee during 2014 regarding the potential implications of the Deregulation Bill on Hackney Carriage (HC) and Private Hire (PH) licensing. The Bill received Royal Assent on 26 March 2015 and the following provisions relating to HC and PH are contained in the Deregulation Act 2015 (the 2015 Act):

(i) **Section 10(2) – duration of HC and PH driver licences**

The Act amends Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act) in such a way to establish a standard duration of three years for HC and PH driver licences. Section 10(2) specifies that such licences may be granted for a period of less than three years but only in the circumstances of an individual case, not because of a blanket policy.

(ii) **Section 10(3) – duration of PH operator licences**

The Act amends Section 55 of the 1976 Act in such a way to establish a standard duration of five years for a PH operator licence. The section specifies that a licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of a blanket policy.

(iii) **Section 11 – subcontracting of PH vehicles**

The Act inserts two new Sections (55A and 55B) into the 1976 Act which permits the subcontracting of bookings between PH operators in two ways:

- (a) One PH operator within the Borough may subcontract a booking to another PH operator within the Borough, so long as the booking was also made within the Borough;
- (b) One PH operator within the Borough may subcontract a booking to another PH operator outside of the Borough, so long as the booking was made within that Borough. Members should note that subcontracting a booking in this manner may also be between two separate offices of the same company.

3.2 The 2015 Act does not state the commencement date for the above provisions. However, the Deregulation Act 2015 (Commencement No. 1 and Transitional and Saving Provisions) Order 2015 subsequently states that Section 10 and 11 of the 2015 Act will come in to force on 1 October 2015.

4.0 ISSUES

4.1 HC and PH driver and PH operator licences are currently granted for 12 months. Recommendations 2.1 to 2.4 in this report are required to ensure these licences are granted in accordance with the 2015 Act and that an appropriate fee is levied against each application. All relevant costs are included in the fees, which include all direct and indirect costs. Members should note that other fees are levied in addition to the relevant fee (for example, any required enhanced

Disclosure and Barring Service (DBS) check and/or medical examination) and are borne by the applicant.

- 4.2 If Members approve the proposed fees detailed in Table 1, the Council is required to give notice under Section 70 of the 1976 Act of its intention to vary the fees for driver and operator licences. The Notice will be published in the local press, on the Council's website and in the Licensing Reception at Robert Hodge Centre. Objections against the proposed increases can be made within 28 days from the date of the Notice. If any objections are received, the matter will be reported back to the next meeting of the Committee for further consideration. Table 1 contains the proposed changes in relevant Hackney Carriage and Private Hire licensing fees from 1 October 2015.

Table 1

The Deregulation Act 2015 Proposed Hackney Carriage and Private Hire licence fees			
Existing		Proposed	
Hackney Carriage Driver (12 month licence)	£60.95	Hackney Carriage Driver: renewal (3 year licence)	£73.15
		Hackney Carriage Driver: new (3 year licence)	£97.56
Private Hire Driver (12 month licence)	£55.31	Private Hire Driver: renewal (3 year licence)	£67.51
		Private Hire Driver: new (3 year licence)	£91.92
Private Hire Operator (1 year licence)		Private Hire Operator (5 year licence)	
1 - 10 Vehicles	£246.09	1 - 10 Vehicles	£258.29
11 - 20 Vehicles	£277.70	11 - 20 Vehicles	£289.90
21 - 30 Vehicles	£434.62	21 - 30 Vehicles	£446.83
31 - 40 Vehicles	£562.17	31 - 40 Vehicles	£574.38
41 - 50 Vehicles	£690.87	41 - 50 Vehicles	£703.07
Over 50 Vehicles	£830.85	Over 50 Vehicles	£843.05

HC and PH Driver licences

- 4.3 To avoid unnecessary and unmanageable peaks and troughs in demand, it is important to maintain the current spread of driver licence applications across the year. However, it is also important to implement 3 year driver licences in a fair and transparent way that takes the opportunity to reduce any administrative burden on the licensed trade and the Council. Therefore, it is proposed to bring each 3 year driver licence in line with the date of the corresponding individual licence holder's DBS report and DVLA mandate - both of which are required every 3 years. This will ensure that the licence renewal and other checks can be conducted at the same time. [Members should note that that the current requirements for medical examinations do not fit into a 3 year cycle. These

standards have been subject to considerable previous scrutiny by this Committee and therefore no changes are proposed. The Licensing Service will continue to ensure that licensed drivers adhere to these requirements as part of the 3 year licence.]

- 4.4 Accordingly, a transitional period is proposed whereby all annual driver licences will be converted to the 3 year licence. During this period, any existing 12 month driver licence that expires before the corresponding DBS and DVLA checks will be required to complete a transitional application form. This form will seek confirmation that the driver's details are unchanged from the previous renewal application and will require the return of the driver licence. A replacement driver licence will be issued with an expiry date that corresponds to the expiry date of the corresponding DBS and DVLA check. The existing administrative fee of £31.60 for a replacement driver licence will be charged for this process. Upon the expiry of this licence, the applicant will be required to complete the usual renewal process and be issued with a 3 year licence at the appropriate fee stated in Table 1.
- 4.5 Any 12 month licences that expire on the same date as the corresponding DBS and DVLA checks will be subject to the usual renewal process and replaced with a 3 year licence at the appropriate fee stated in Table 1.
- 4.6 Members will also note that two HC and PH driver licence application fees are proposed – separating a new application from a renewal application. This is proposed to reinforce the relevant legal and policy requirements on new drivers given the extended duration of licence period. New applicants will be subject to additional requirements to ensure they understand the contents of the Council's Hackney Carriage and Private Hire Licensing Policy and related legal responsibilities. Accordingly, recommendation 2.5 ensures that all references contained in the Council's Hackney Carriage and Private Hire Licensing Policy 2013 are amended to take account of the implications of the 2015 Act.

PH Operator licences

- 4.7 There are no administrative implications for the transfer of PH Operator licences from 12 months to 5 years. Upon expiry, all existing 12 month PH Operator licences will be subject to the usual renewal process and replaced with a 5 year licence at the appropriate fee stated in Table 1.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 5.1 The licensing of HC and PH drivers and operators impacts upon many areas within the Community. This report links to the Safer Communities Key Objective of the Sustainable Community Strategy.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 6.1 The previously issued Members Update highlighted the potential for the 2015 Act to have a negative impact on licence income. It is estimated that licence fee income could reduce by approximately £29k in any one given year and therefore

has already been reported as part of the budgetary process for 2015/16. The proposed fees contained in this report are levied at a rate that serves to cover the costs to the Council as allowed under relevant legislation and case law. However, in response to recent case law, a full review of all licence fees will be conducted this year and reported to Members in December 2015 for implementation in 2016/17.

7.0 RISK ASSESSMENT

- 7.1 The Council has a legal duty to carry out the functions of the legislation that dictates the licence durations and proposed fees contained in this report.
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Background Documents

There are no background documents (as defined in Section 100D (5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

Appendices

1. Equality Impact Assessment.