

LICENSING COMMITTEE	AGENDA ITEM No. 5
18 JUNE 2015	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor North, Cabinet Member for Communities and Environment Capital	
Contact Officer(s):	Public Protection Manager Donna Hall	Tel. 453502

THREE YEAR TAXI / PRIVATE HIRE DRIVER LICENSING

R E C O M M E N D A T I O N S	
FROM : Licensing Department	Deadline date : N/A
<p>That the Committee note the new information in relation to the Deregulation Act 2015 and as a result, adopt a three year licence, and make a decision as to which of the two associated proposed options to adopt.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Committee following a referral from the Licensing Department.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to allow the adoption of a three year Taxi & Private Hire driver licence, following the implementation of the Deregulation Act 2015 and on adoption, a decision as to which of the two associated options to adopt.
- 2.2 This report is for the Committee to consider under its Terms of Reference No. 2.4.1.3(a) 'hackney carriage and private hire vehicle licensing'.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4 BACKGROUND

- 4.1 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 previously allowed for the granting of drivers' licences for hackney carriages and private hire vehicles for a period of three years or such a lesser period as the council may specify. The council opted for annual licence renewal. The Deregulation Act has now amended certain aspects of the Local Government (Miscellaneous Provisions) Act, including section 53, which now states:

“for a period of three years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.” This now means a driver's licence may be granted for a period of less than three years, but only in the circumstances of an individual case, not because of any blanket policy.

- 4.2 The fact that the legislation limits the period a licence remains valid, indicates an obligation on the Council to reconfirm the applicant's suitability, before a further licence is granted. In

fact, Section 51 of the same act stipulates a licensing authority shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence.

- 4.3 The aim of the local authority licensing the Taxi and Private Hire Vehicle (**PHV**) trades, is to protect the public, whilst ensuring their licensing requirements are not so unreasonable to restrict the supply of Taxi and PHVs. These licensed vehicles form a very important part of the public transport system and are often the only public transport available.
- 4.4 Previously, drivers renewing their licences annually would supply a Subject Access check. Following representations from Cambridgeshire Police and associated agencies, a Subject Access check can no longer be used to ascertain a driver's fitness and the more appropriate Disclosure and Barring Service (DBS) check should be utilised. The DBS check is more thorough and costs £44, as opposed to the £10 Subject Access check. However on initially submitting the check, the DBS applicant then has the opportunity to opt for an annual renewal subscription, costing £13 thereon. On opting for the annual subscription, the driver merely supplies his original certificate which allows the council to check online that there are no new concerns.
- 4.5 Sections 55 and 56 of the **Department for Transport – Taxi and PHV Best Practice Guidance (2010) (Appendix A)** states: *“It is obviously important for safety reasons that drivers should be licensed. But it is not necessarily good practice to require licences to be renewed annually. That can impose an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period and is in general the best approach. One argument against three year licences has been that a criminal offence may be committed, and not notified, during the duration of the licence. But this can of course also be the case during the duration of a shorter licence. In relation to this, authorities will wish to note that the Home Office in April 2006 issued revised guidance for police forces on the Notifiable Occupations Scheme. Paragraphs 62-65 of the guidance provide further information about this scheme.*
- 4.6 Paragraph 4.5 indicates an opinion from the DFT that given that a taxi driver is identified as a Notifiable Occupation, Police and the courts should advise the local authority of any cautions or convictions. In our officer's experience this is not always the case, with many cases in Peterborough falling through the net and only being discovered during the annual criminal record check in connection with the driver's licence renewal. Things have improved, with officers facilitating training for Northern Division Police Sergeants, but we still experience incidents where there has been a failure to notify the council. This is corroborated in the Police Consultation response in (**Appendix C**).
- 4.7 The Deregulation Act 2015 is an extensive document and covers a multitude of subjects. The relevant parts of the Act are set out verbatim in **Appendix B**. The purpose of 'the Act' is:
1. To make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals.
 2. To make provision for the repeal of legislation which no longer has practical use.
 3. To make provision about the exercise of regulatory functions and for connected purposes.
- 4.8 In summary, the amendments resulting from the Deregulation Act has changed the legislation affecting taxis and private hire vehicles with respect to licence renewals and the sub-contracting of PHV bookings. With regards to this particular report, the pertinent change is:
- “Making the standard duration for all taxi and PHV driver licences three years and five years for PHV operator licences. Further, it is proposed, that shorter durations will only be granted on a case-by-case basis where this can be justified. This, it is considered, will reduce the financial and administrative burden of having to make more frequent licence renewals.”*

At this stage we are only looking at driver's licences and may approach the committee on the subject of Private Hire Operators and sub-contracting at a later date.

As it currently stands, we licence over 1000 Taxi and PH drivers, all of which are renewed annually, over 600 of our drivers renew every August.

4.9 There are two options for consideration:

Option One:

Introduce a three year renewal process for licensed drivers and associated driver safety checks.

1. Remove the requirement to renew a driver's licence annually.
2. Remove the requirement to provide a Subject Access check annually.
3. Remove the requirement to provide a DVLA report annually.
4. Introduce the requirement to renew a driver's badge every three years.
5. Introduce the requirement to provide a DBS (Criminal Record check) every three years.
6. Introduce the requirement to provide a DVLA report every three years.

There are a number of perceived advantages and disadvantages:

Advantages:

1. Will simplify current arrangements and reduce the administrative burden on both the driver and council.
2. Will help to reduce the number of routine interactions between the driver and the council and hence help reduce any inconvenience or loss of income by avoidable visits to the council.
3. Will contribute to a more cost effective service, freeing up resources enabling issues to be dealt with in a more timely fashion.
4. The DBS check will be more robust than the existing Subject Access check undertaken currently.

Disadvantages:

1. It is the responsibility of every licensed driver to inform the council of any cautions or convictions (including traffic convictions) within seven days. Where a driver fails to inform the council this will be highlighted on the annual checks. By increasing the checks to three yearly intervals it is possible that some offences could go unnoticed for a substantial period of time.
2. The financial burden of paying for a 3 year licence instead of an annual fee.

Option Two:

Introduce a three year renewal process for licensed drivers; however retain annual driver safety checks.

1. Remove the requirement to renew a drivers badge annually.
2. Introduce the requirement to renew a drivers badge every three years.
3. Retain the requirement to provide a DBS (criminal record check) annually.
4. Retain the requirement to provide a DVLA report annually.

Advantages

1. Will partly reduce the administrative burden on both the driver and the council.
2. Will continue to monitor the safety checks of drivers as per the current process and allow any public safety issues to be discovered quicker.
3. The DBS check will be more robust than the existing Subject Access check undertaken currently.

Disadvantages

1. Will not reduce the number of routine interactions between the driver and the council as much as Option one.
2. Will not simplify the current process.

5. CONSULTATION

5.1 Consultees

A Consultation with relevant stakeholders covering a number of issues including this one, took place in February 2013 and the matter was deferred pending the progression of the Deregulation Bill through Parliament. Stakeholders included:

- The Peterborough Hackney and Private Hire licensed drivers
- All Peterborough Private Hire Operators
- Cambridgeshire Constabulary
- Peterborough Disability Forum
- Advert placed in the Peterborough Evening Telegraph.
- Notification placed on council website.

5.2 The Consultation Letter, Public Notice and subsequent responses can be found in **Appendix C**.

5.3 The Peterborough Hackney Federation are in favour of Option One, a three year licence with three year safety checks.

Two responses preferred a Three Year badge with annual safety checks.

Cambridgeshire Constabulary urged against moving away from annual safety checks and corroborated our officer's concerns that the authority is not always notified of driver convictions. They believe a three year badge with annual safety checks will provide the necessary modernisation, whilst retaining the current monitoring of risks to public safety.

6. ANTICIPATED OUTCOMES

It is anticipated that Members of the Licensing Committee will decide which of the two options are preferable and on doing so, enable the amendment of the licensing requirements to facilitate three year driver licensing.

7. REASONS FOR RECOMMENDATIONS

7.1 As detailed in Paragraphs 4.1 – 4.9

8. ALTERNATIVE OPTIONS CONSIDERED

8.1 When initially consulting with the trade we included a third option, which meant retaining the status quo. Following the Deregulation Act, this option is no longer justifiable.

Option Three: Retain the current annual renewal arrangements and the requirement for the application to be supported by the existing driver safety checks.

Option three is no longer feasible for a number of reasons:

1. Retaining our current requirements would not be in line with the Deregulation Act "*shorter durations than 3 years will only be granted on a case-by-case basis where this can be justified.*"
2. Requires resources that could be redirected in order to develop other areas of the service.

3. Will not simplify the process and will continue to remain an administrative burden on both driver and council.

9. IMPLICATIONS

- 9.1 It is anticipated that if a three year driver's licence is implemented, there would be a reduction in administration time required by the Licensing department in processing subsequent renewals. It would therefore be necessary to re-evaluate the costs of the licence, in order to correctly reflect the appropriate charging rate. This is in line with the Council's commitment to set an appropriate level of charge proportionate to the costs for these licences.
- 9.2 If the cost of a three year licence is discounted to reflect the reduced administrative burden, then this will be reflected in the amount of revenue collected by the council. It should be noted however that financial saving per driver will be limited, the more administration requirements retained the smaller the saving.
- 9.3 A three year licence would increase the financial burden on the driver, requiring them to pay for three years licensing fees in advance. However, it is worthy of note that a three year licence was preferred by those responding to the consultation.
- 9.4 There are no equalities impact arising from any decision relating to the content of this report. An initial Equality Impact Assessment has been completed and attached as **Appendix D**.

10. BACKGROUND DOCUMENTS

Local Government (Miscellaneous Provisions) Act 1976
Department for Transport – Taxi and Private Hire Vehicle – Best practice guidance
Deregulation Act 2015

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