



AGENDA ITEM: 10

SUMMARY

Report for:	Licensing, Health & Safety and Enforcement Committee
Date of meeting:	28 July 2015
PART:	I
If Part II, reason:	

Title of report:	Deregulation Act 2015 – Private Hire Services
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	<ol style="list-style-type: none"> 1. To advise the Committee of upcoming deregulation affecting the regulation of private hire services 2. To approve necessary amendments to licensing procedures arising from these changes
Recommendations	<p>That Committee approve the following changes to licensing procedures, with effect from the 1st October 2015:</p> <ol style="list-style-type: none"> a) That the option of applying for a 1-year hackney carriage driver, private hire driver, or dual driver licence be withdrawn; b) That use of the DBS Update service will be permitted for drivers, in place of the requirement to obtain a new DBS Enhanced Disclosure certificate (the original disclosure certificate must state the applicant's occupation as either a taxi driver, private hire driver or similar, and must be an enhanced disclosure. Where an update cannot be obtained, a new enhanced disclosure must be supplied); c) That the standard duration of private hire operator's licences granted shall increase to 5 years; d) That the fee payable for a private hire operator's licence for applications be set for the period 1st October 2015 to 31st March 2016 at: <ol style="list-style-type: none"> i. £378.00, for operators with 1-3 private hire vehicles ii. £636.00, for operators with 4+ private hire vehicles
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> • Maintain a clean and safe environment

Implications:	<p><u>Financial</u> There will be a reduction of income as a result of the changes to licence duration.</p> <p><u>Value for Money</u> Licences will be valid for a longer duration, and with less frequent administration will represent better value for money.</p> <p><u>Risk / Health And Safety Implications</u> No new powers have been given to licensing officers to stop or question out of borough drivers who may now be working legitimately in this area.</p> <p>There is an increased likelihood of customer confusion, as out-of-borough vehicles may arrive to fulfil a job booked through a Dacorum operator.</p> <p><u>Equalities Implications</u> This report details a change in the law, for which the Government produced an impact assessment.</p>
Consultees:	Changes to fees will be subject to a public notice and objection process after being set.
Background papers:	
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. One of the last pieces of legislation passed by the Coalition Government was the Deregulation Act 2015. This is a particularly wide-ranging statute covering a whole host of issues, which included a number of changes to licensing legislation affecting taxi and private hire licensing, and alcohol and entertainment licensing. This report focusses on the changes to taxi and private hire licensing.
- 1.2. Changes to taxi legislation were a fairly late addition to the Act during its progress through Parliament, with the Government originally bringing forward three proposals from the draft reform Bill put forward in 2014 by the Law Commission. These were:
 - a) To standardise the licence duration for hackney carriage and private hire driver's licences as three years, and for private hire operator's licences as five years (with discretion to issue a shorter licence if the circumstances warrant this – currently councils may set the duration as any period up to three or five years, respectively);

- b) To allow unlicensed persons to drive 'off-duty' private hire vehicles for social, domestic or pleasure purposes (currently only licensed private hire drivers may drive a private hire vehicle);
 - c) To permit sub-contracting of private hire bookings between licensed private hire operators across council boundaries (currently bookings may only be sub-contracted to another operator within the same licensing area, to be fulfilled by a driver and vehicle licensed by the same council).
- 1.3. The 'off-duty' proposal was dropped in the face of opposition from the Local Government Association, safety charities and campaigners. The other two proposals have become law, to be commenced on the 1st October 2015.
- 1.4. The full range of measures proposed by the Law Commission, including additional enforcement powers for licensing authorities to prevent abuse of the cross-border sub-contracting relaxation, have not been taken forward at this time. We await the Government's decision as to how to progress the much-needed reform to the legislative framework for this area.

2. CHANGES TO DRIVER LICENCES

- 2.1. At the present time, the Council issues hackney carriage driver, private hire driver and dual driver licences for a duration of 3 years. This means that the Council is already complying with the revised legislation for the vast majority of our licences.
- 2.2. The Council currently offers the option of applying for a 1-year driver's licence, where the driver wishes to utilise this (for example, if they are planning to retire within the next year), and charges a loss-making fee for such licences. This is viewed as incompatible with the amended legislation, which states that licences should last for 3 years in all but exceptional circumstances. It is therefore proposed to withdraw this option, although Sub-Committees will retain the option of issuing a shorter licence, if a particular circumstance of a case warrants this (e.g. medical issues). It is believed that the 1-year licence option has only been used once in the last 2 years, so this should have a minimal impact.
- 2.3. Although not arising from the Deregulation Act, a further change to driver licensing procedures is also proposed – to begin accepting use of the Disclosure and Barring Service's (DBS) Update Service as an alternative to requiring a new disclosure certificate. The Update Service was launched around 18 months ago, and allows an individual who has received a criminal record disclosure certificate to pay an annual subscription fee, in return for ongoing monitoring of their criminal record status. With the subject's consent, licensing authorities or prospective employers can verify that the data held on the original certificate remains correct, several years after it was issued (providing that the subscription has been maintained continuously). If any changes (e.g. new convictions) are detected, then the system will state this, and the driver will be obliged to obtain a new certificate (at which point they can resubscribe). The system has been in use for around 18 months and feedback from licensing authorities who have used it is generally positive. The biggest benefit would be for drivers who are licensed by several different authorities, as it would save them from having to apply for multiple disclosure certificates (at a cost of £44 a time). There would be a smaller benefit to

drivers licensed by a single authority – over a 3-year licence duration, the Update subscription would cost £39, as opposed to £44 to obtain a new certificate.

2.4. Use of the Update service would remain discretionary – drivers would not be obliged to subscribe, and will still be asked to complete a new enhanced disclosure certificate on each application if they have not subscribed.

3. CHANGES TO OPERATOR LICENCES

3.1. At the present time, the Council issues private hire operator licences for a duration of 2 or 3 years, dependent upon the amount of vehicles that the operator (intends to) provide bookings for. Following the changes, this duration will need to increase to 5 years (although Sub-Committees will retain the option of issuing a shorter licence, if a particular circumstance of a case warrants this).

3.2. The changes to sub-contracting rules are summarised in the box below:

<ul style="list-style-type: none">• Operator licensed by ABC Council receives a booking.• He can either:<ul style="list-style-type: none">○ fulfill that booking using an ABC Vehicle and ABC Driver; or○ sub-contract that booking to an Operator licensed by ABC Council, to fulfil using an ABC Vehicle and ABC Driver.○ sub-contract that booking to an Operator licensed by XYZ Council, to fulfil using an XYZ Vehicle and XYZ Driver.
<p>However:</p> <ul style="list-style-type: none">• ABC Officers will be able to inspect ABC Operator's records, which will show that the booking was sub-contracted to another Operator, but not the vehicle/driver who undertook the fare.• ABC Officers will not have powers to inspect XYZ Operator's records (unless joint delegations are in place).• ABC Officers will not have specific powers to stop or inspect the XYZ Vehicle (unless joint delegations are in place).• There is no requirement for ABC Operator to tell the customer to expect an XYZ Vehicle, although this will be recommended as good practice.• The Act stipulates that ABC Operator and XYZ Operator can be the same person/company, holding licences from both councils.• The Act is silent on the issue of commissions or booking fees payable to the first operator.• The Act is also silent on what constitutes a sub-contract – there would appear to be nothing to stop an agreement that every booking received by ABC Operator will be fulfilled by XYZ Operator, so that ABC Operator would not employ any drivers or vehicles directly.

- 3.3. The longer duration licences mean that it is necessary to review the fees charged for those licences. Fees are set on a cost-recovery basis, and include components for both the administrative processes involved in issuing a licence, and the ongoing enforcement and compliance work undertaken to inspect records, resolve complaints and general supervise and control the vehicle fleet. Although a longer-duration licence will mean that the administrative work is undertaken less frequently, it will be necessary to reflect the additional enforcement and compliance work carried out over the longer licence duration.
- 3.4. Having examined costings, it is therefore recommended that the fee levels be set, for the period from 1st October 2015 to 31st March 2016 at
- i. £378.00, for operators with 1-3 private hire vehicles
 - ii. £636.00, for operators with 4+ private hire vehicles
- 3.5. Officers have reviewed the standard conditions applied to operators licences, and believe that no amendments are necessary to these as a result of the legislative changes.

4. RECOMMENDATIONS

- 4.1. That Committee approve the following changes to licensing procedures, with effect from the 1st October 2015:
- a) That the option of applying for a 1-year hackney carriage driver, private hire driver, or dual driver licence be withdrawn;
 - b) That use of the DBS Update service will be permitted for drivers, in place of the requirement to obtain a new DBS Enhanced Disclosure certificate (the original disclosure certificate must state the applicant's occupation as either a taxi driver, private hire driver or similar, and must be an enhanced disclosure – where an update cannot be obtained, a new enhanced disclosure must be supplied);
 - c) That the standard duration of private hire operator's licences granted shall increase to 5 years;
 - d) That the fee payable for a private hire operator's licence for applications be set for the period 1st October 2015 to 31st March 2016 at:
 - i. £378.00, for operators with 1-3 private hire vehicles
 - ii. £636.00, for operators with 4+ private hire vehicles