

REPORT FOR DECISION

DECISION OF:	LICENSING & SAFETY PANEL
DATE:	3rd SEPTEMBER 2015
SUBJECT:	This report relates to amendments to the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 by virtue of the Deregulation Act 2015 in relation to the grant of Hackney Carriage/Private Hire Driver licences and Private Hire Operator licences. It also relates to the recent abolition of the DVLA Driver Licence Counterpart.
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is public
SUMMARY:	The abolition of the DVLA counterfoil has already occurred, the other legislative changes mentioned above take effect from 1 st October 2015. They provide for the routine granting of licences with a period of validity in respect of hackney carriage & private hire driver licences of 3 years and in respect of private hire operator licences of 5 years; unless the Council thinks it appropriate in the circumstances of the case to grant for a lesser period. The changes may impact on the Council's ability to determine an applicant/ driver's fit and proper status.
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none">1. Members are requested to approve the following delegations to Officers:<ol style="list-style-type: none">a. Duration of licences: Licensing Unit Manager is delegated to grant licences for a lesser period than the 3 and 5 year periods as mentioned within the report. This is the recommended option <p>Alternatively Members may not delegate the</p>

	function to the Licensing Unit Manager. Licences of less than the maximum permitted would be dealt with through Licensing & Safety Panel procedures.
IMPLICATIONS:	The relevant legislation which authorises a district council to grant the above Driver and Operator licences states that a district council shall not grant a licence unless they are satisfied that the applicant is a 'Fit and Proper' person to hold such a licence.
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals
Statement by Executive Director of Resources:	The cost of the licensing functions are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
Equality/Diversity implications:	None
Considered by Monitoring Officer:	This report is in accordance with the appropriate legislation.
Wards Affected:	All
Scrutiny Interest:	Overview and Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 INTRODUCTION

- 1.1 The Deregulation Act 2015, has amended both the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 so that with effect from 1st October 2015, a District Council will grant hackney carriage and private hire driver licences for a period of 3 years and private hire operator licences for a period of 5 years unless the Council thinks it appropriate in the circumstances of the case to grant for a lesser period.

2.0 BACKGROUND

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 states that a Council shall not grant a licence to a hackney or private hire driver or private hire operator unless they are satisfied that the applicant is a 'fit and proper' person to hold such a licence. In relation to an application for a hackney carriage or private hire driver licence, other criteria must also be met in terms of medical fitness and the requirement to have held a valid and full driving licence for at least 12 months prior to the date of the application.
- 2.2 In introducing the legislative changes there will be benefits to licence holders.
- 2.3 The amount payable for the initial licence grant will increase to reflect the increased licensed period and to cover the fee for a DVLA driver record check. The overall costs, averaged over the duration of the licence, will reduce as the associated consumables (licence plates, documentation etc) and associated labour costs of administrating applications will not now be required annually. Additionally, the frequency that most drivers have to attend the office will reduce.

3.0 FIT AND PROPER PERSON CHECKS

- 3.1 With the increased duration of licences the Council will want to be reassured that sufficient safeguards are still in place to monitor licence holders and the operation of licences.
- 3.2 As part of the process of ascertaining an applicant's 'fit and proper' status, the Council currently requires applicants and licence holders to submit themselves to a Disclosure and Barring Service (DBS) enhanced check on initial application and thereafter, on the third anniversary. These checks will continue.
- 3.3 It is considered that there will be a benefit to licence holders if the renewal dates of the licence and DBS check are synchronised to the same date. It will mean that both applications and renewals can be undertaken within a single appointment with the Licensing Service. In order to establish and then maintain synchronisation with the renewal of a licence and the DBS check, Members are requested to delegate to the Licensing Unit Manager, the authority to renew a licence for a lesser period of 3 or 5 years until such time that all current licence holders have their licence synchronised with the date that their next DBS check is due. This will take no longer than 3 years to achieve as all our private hire operators also hold a private hire driver licence. The delegation will not have an impact on new applicants who will be granted a licence for the new validity periods. If Members are minded to authorise a licence to be granted for a lesser period than 3-5 years in these circumstances, the appropriate licence fee will be reduced pro rata.

Sections 4 and 5 are for information only.

4.0 DISCLOSURE AND BARRING SERVICE CHECKS

- 4.1 It is a condition of both private hire driver and private hire operator licences that they must inform the council within 7 days if they are convicted of an offence or receive a simple caution, fine or driver licence endorsements. In addition, all drivers and operators are currently required to declare the same on the application form when they renew their annual licence. Now that the Council's current practice of granting these licences for a 12 month period is to cease (except in certain individual cases) applicant/ licence holders will be

encouraged to sign up to the Disclosure and Barring Service (DBS) Update Service. By paying an annual fee to the DBS (currently £13) in order to remain subscribed the Licensing Service is able to undertake online DBS checks for applicants. There is a financial saving as the current fee for the fixed 3 yearly DBS check is £56. Additionally in the case of a licence renewal application, this will save the applicant the inconvenience and potential loss of business associated with them having to make and attend a Licensing Service appointment to make an application to the DBS and then having to wait on the paper Disclosure Certificate being produced and sent to them through the post before any renewal licence could be granted.

- 4.2 Where individuals choose not to subscribe to the update service they will be required to submit themselves to a full DBS disclosure application before their driver licence expires in order that they can produce the enhanced disclosure certificate at the time of making their renewal application. Failure to produce a satisfactory Disclosure at the time of making the renewal application will result in their licence not being renewed until such time that a satisfactory Disclosure Certificate has been presented to the Licensing Service.
- 4.3 The DBS no longer provide copies of the disclosure to the Council. For initial applications we do not process the application until we have had sight of the disclosure certificate. Previously for existing licence holders we have allowed the renewal to proceed subject with the expectation the disclosure document will be provided to the Council when received by the licence holder. In a large number of cases production has been delayed and time and effort has been required to resource the chasing of documentation. As we move to 3 and 5 year licences the production of timely documentation is of great importance, therefore the requirement to produce the disclosure certificate will be changed so that the driver is required to produce it at the time of making the renewal application to the Licensing Service.
- 4.4 Signing up to the Update Service will result in a financial saving of £17 to licence holders over a 3 year period based on current fee comparisons and will also save them the inconvenience of having to attend a Licensing Service appointment in order to complete a DBS application form.

5.0 DVLA and EU/EEA DRIVER LICENCES

- 5.1 One of the current pre-requisites for obtaining a hackney carriage/private hire driver licence is that the applicant must have held either a full UK or an equivalent EU/EEA driver licence for at least 12 months prior to the date of making their application.
- 5.2 Officers have recently established via enquiries with DVLA, that the holder of an EU/EEA driver licence is entitled to drive in the UK up to the age of 70 or for 12 months if the licence was obtained in exchange for a non EU driver licence. Unfortunately, despite enquiries made via the DVLA, the Licensing Service has been unable to ascertain, how, from inspection of an EU/EEA driver licence if the holder is only entitled to drive in the UK for up to 12 months.
- 5.3 It is proposed to amend the application form so as to require an applicant to declare one of the following:
 - a. that they have a full UK granted driving licence (this is the current question) or
 - b. that they have an EU/EEA granted licence and Country of grant and/ or

c. if they have exchanged a non-EU/EEA licence within the EU/EEA when and where it was exchanged.

- 5.4 Where drivers do not hold a full UK driving licence applicants and existing drivers will be expected to provide their driving history via DVLA.
- 5.5 At present, we encourage holders of UK driving licences to sign a mandate authorising the licensing Service to carry out on line checks of their DVLA driving licence history.
- 5.6 The DVLA on line service is not available to those without a full UK licence but such drivers can make a request for their own driver history for the time they have driven within the UK. For drivers relying on a non-UK licence we will require drivers do provide their history prior to first application and thereafter at each renewal.

6.0 CONCLUSION

- 6.1 Members are requested to consider this report and to adopt the recommended options on page 1.

List of Background Papers:-

Deregulation Act 2015

Contact Details:-

Mr M. Bridge
Licensing Unit Manager
3 Knowsley Place
Duke Street
Bury
BL9 0EJ
Email: m.bridge@bury.gov.uk