

REPORT FOR DECISION

DECISION OF:	LICENSING & SAFETY PANEL
DATE:	3rd December 2015
SUBJECT:	PRIVATE HIRE OPERATOR LICENCE FEES
REPORT FROM:	ASSISTANT DIRECTOR (LOCALITIES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report relates to private hire operator fees.
OPTIONS	<ul style="list-style-type: none"> That the report be noted
IMPLICATIONS:	
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 function 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:	Yes No (see paragraph below)
Considered by Monitoring Officer:	Under the legislation the Council is required to determine applications. The report is in accordance with the appropriate legislation, as amended by the Deregulation Act 2015.

	Members are advised that Licences are regarded as possessions within the terms of the Human Rights Act 1998. Under the Act everyone is entitled to the peaceful enjoyment of one's possessions and so actions interfering with those possessions must be lawful, reasonable and proportionate. It is lawful to impose reasonable conditions as a way of protecting the safety of the travelling public, so long as it is not out of proportion. It is a balancing act between the public interest and the individual's rights.
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 BACKGROUND

- 1.1** Under the provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847, the Council is required to consider applications for Hackney Carriage/Private Hire Driver licences and Private Hire Operator licences. Bury Council currently grants such licences for a 12 month period.
- 1.2** Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states that a district council may charge such fees for the grant of vehicle and operator licences as may be resolved by them from time to time.
- 1.3** Section 10 of the Deregulation Act 2015, has amended both the 1976 and the 1847 Acts so that with effect from 1st October 2015, a District Council must grant driver licences for a period of 3 years and 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.
- 1.4** As a result of the above change in legislation, it is proposed that the current fees for operator licences be varied to reflect the longer duration of licences and the reduction of officer time which will no longer be required on an annual basis so that the income is maintained for the duration of these licences with the Licensing Service.

- 1.5** Section 70(2) of the Local Government (Miscellaneous Provisions) Act 1976, gives authority to a District Council to set the fees in relation to the Licensing of Hackney Carriage and Private Hire vehicles and also for Private Hire Operator licenses. When it proposes to vary the fees the Council is required to advertise them in a local newspaper so as to allow persons wishing to object to them a period of 28 days from the date of publication of the notice.
- 1.6** There are currently 40 private hire operators licensed with this Authority. In accordance with the legislation the proposed fees were published in the Bury Times on 10th September 2015. Objections have been received from two private hire operators
- 1.7** Members will recall that this matter was considered at the Licensing and Safety Panel meeting on the 15th October 2015 when Members decided that the matter regarding the approval of the advertised fees, with or without modifications, should be deferred to this meeting with a further report on the issue of payment options to be included.

2.0 INTRODUCTION

2.1 Following the meeting on the 15th October 2015, officers of the Licensing Service have considered the decision of the panel and they have investigated the issue of payment options. The findings are as follows:-

- The proposal of issuing a five year licence with a payment plan is not a viable option, this is based upon the additional administration that would be created both for the Council's finance and licensing services.
- A deferred payment plan requires the Council's Finance service to set up a facility whereby the full fee is payable on application and the recovery of the fee takes place over a number of instalments. This would involve setting up an account for each applicant, taking the initial instalment, monitoring the receipt of future instalments and setting up debt recovery processes in the absence of instalments being received. This function would require additional staffing and additional funding resources as both services are currently at capacity.
- Any additional costs associated with the above issues would have to be included within the licensing budget and may/would have a consequential impact on the cost of licences to all licence holders in the future.

2.2 The Local Government Association has issued guidance regarding the Deregulation Act 2015. It states that the Act provides for the removal or reduction of burdens on businesses, civil society, individuals, public sector bodies and in principle has the effect that it reduces the burdens for law abiding firms and drivers who provide a quality service"

The explanatory notes to the legislation detail that the law is changed in such a way as "to establish a standard duration of five years for a private hire vehicle operator licence." It states that a licence "may be granted for a period of less than five years but only in the circumstances of the individual case, not because of a blanket policy."

2.3 The Licensing Service has based upon legal advice, deemed that 'the circumstances of the case' will be where the conviction guidelines that have

been approved by this Authority have been applied and a matter having been referred to the Panel, the Panel decide to grant for a lesser period.

- 2.4** The Licensing Service had a Hackney Carriage and Private Hire Liaison meeting on the 13th November. Three Private Hire Operator's from the Private Hire trade commented that they were happy for a review of the cost of a five year licence to take place and in particular the fee structure relating to vehicles.
- 2.5** In addition to the above, the licensing service have identified that the fees relating to all aspects of Hackney Carriage/Private Hire licensing need to be reviewed to ensure that the Council is recovering it's costs for the issue of licences, administration associated to that issue and other costs in connection with the control and supervision of hackney carriage and private hire vehicles. Part of the review of fees would be to consider further cost saving benefits for the provision of a 5 year licence as well as a review of the banding charges for different numbers of vehicles.
- 2.6** In order for the review to take place, it is proposed that the status quo remains in respect of the private hire operators; therefore they will be granted/renewed on a 12 month basis under the current fee structure until the review has been completed.
- 2.7** Once the review has been completed, the licensing service will ensure that the requirements of section 70 of the Local Government (Miscellaneous Provisions) Act 1976 as amended will be complied with.

3.0 Conclusion

- 3.1** Members are requested to note this report.

List of Background Papers:-

Report –Representations received in respect of the proposed variation to the Private Hire Operator Fees – 15th October 2015

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