

ITEM

Title: Deregulation Act 2015 and transitional arrangements for driver licences

North Tyneside Council Report to Regulation & Review Committee Date: 28 January 2016

Report from Service Area: Environment, Housing and Leisure

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Wards affected: All

PART 1

1.1 Purpose

The purpose of the report is to ask Committee to consider the introduction of transitional arrangements when issuing driver licences for two or three years so that criminal checks and licence time periods run concurrently.

1.2 Recommendations

Committee is recommended to:

Agree the transitional arrangements for driver licences in 2.1.2 to enable criminal checks and renewal terms to be in sync.

2.0 Background Information

2.1 Background

2.11 The Deregulation Act 2015 includes three aspects of the Law Commission review into Hackney Carriage and Private Hire Licensing. The new legislation which came into force in October 2015 amended section 53 and section 55 of the Local Government (Miscellaneous Provisions) Act 1976 to require driver licences to be granted for a period of 3 years and operator licences for 5 years unless a reduced period is appropriate due to the individual circumstances of the case.

On 15 September 2015 this Committee approved new fees for 2 and 3 yearly driver licences and 5 year operator licences.

2.1.2 Transitional arrangements

Since October 2015 two and three yearly licences have been granted however a query has been raised on transitional arrangements which clarity is sought from this Committee.

The North Tyneside Hackney Carriage and Private Hire Licensing Policy requires an enhanced Disclosure provided by the Disclosure & Barring Services (DBS) (formerly through the Criminal Records Bureau (CRB)) by all applicants for a driver's licence. Once licensed, drivers are required to undergo a further criminal record check at each three yearly renewal of their licence in accordance with the Policy.

A DBS check on a driver is an important measure in assessing whether or not an applicant is suitable to hold a hackney carriage or private hire driver's licence.

In keeping with the provisions of the new Deregulation Act 2015 in the majority of cases the Authority expects that it will issue driver licences for three years, which will reduce bureaucracy and the cost of a licence to applicants.

Drivers have requested licences of a term of two or three years where the latest DBS check was one or two years ago. If such a term were to be granted the DBS check would be out of sync with the term of the driver licence. This would result in a period of the licence where no criminal check would be in place. Officers would then have to take action to ensure that the driver applied for a new DBS check during the term of the licence. This would result in additional administrative work and may lead to enforcement action should the driver fail to apply.

Officers wish to phase in three year licences so that they will be granted to new applicants and to existing drivers when a DBS is due. This will then mean that in future the DBS and licence renewal will occur at the same time. For those drivers who do not require a DBS this year or next year shorter licences will continue to be granted. The Authority will advise which licence can be applied for and when the renewal is required.

It is still recognised that in certain cases a three year licence will not be appropriate, for example where there is a 'right to work' issue but the Licensing Section will advise if this is the case on an individual basis.

In addition, in instances where drivers are applying for a DBS criminal check before the expiry of their current DBS certificate, in order to apply for a three year licence an option that can be considered is for the taxi budget to pay for those checks. It is recognised that there is a surplus on the taxi account and it could be considered that part of this is used to fund the cost.

3.0 Decision Options

Committee is requested to consider the following options:

3.1 Option 1

To agree the transitional arrangements whereby criminal checks and licence terms will run concurrently.

And to fund the applications for criminal checks where the current DBS certificate has 1 or more years left to expiry date.

Option 2

To agree that licence terms may differ from that of criminal checks.

Officers recommend option 1 as this will enable renewals and criminal checks to occur at the same time. By funding the criminal check this will allow drivers to go straight to a three year driver licence.

4.0 Appendices:

4.1 No appendices

5.0 Contact Officers:

5.1 Colin MacDonald, Senior Manager, Technical & Regulatory Services, Tel: 0191 643 6620
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Alan Burnett, Principal Trading Standards & Licensing Officer, Tel: 0191 643 6621

6.0 Background Information:

6.1 The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author of the report.

1. Deregulation Act 2015
2. North Tyneside Council Hackney Carriage and Private Hire Licensing Policy
3. Town Police Causes Act 1847 and 1889
4. Local Government (Miscellaneous Provisions) Act 1976

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and Other Resources:

There are financial implications for the Authority arising directly from this report should a decision be made to fund DBS criminal checks however it would be funded from existing budgets via the surplus within the hackney carriage and private hire licensing reserve.

2.2 Legal

Chapter 3 North Tyneside Council Hackney Carriage and Private Hire Licensing Policy sets out the procedure for granting and renewing driver licences.

The sections of the Deregulation Act 2015 relating to taxi licensing came into force on 1 October 2015. The legislation states as follows:

10 Taxis and private hire vehicles: duration of licences

(1) The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows.

(2) In section 53 (drivers' licences for hackney carriages and private hire vehicles)—
(a) in subsection (1)(a), for “for such lesser period as the district council may specify in such licence” substitute “for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”;

(b) in subsection (1)(b), for “for such lesser period as they may specify in such licence” substitute “for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”.

(3) In section 55 (licensing of operators of private hire vehicles), for subsection (2) substitute—

“(2) Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case.”

53 Drivers' licences for hackney carriages and private hire vehicles (Local Government (Miscellaneous provisions) Act 1976

(1)(a) Every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period as the district council may specify in such licence.

(b) Notwithstanding the provisions of the M1 Public Health Act 1875 and the M2 Town Police Clauses Act 1889, every licence granted by a district council under the provisions of the Act of 1847 to any person to drive a hackney carriage shall remain in force for three years from the date of such licence or for such lesser period as they may specify in such licence.

2.3 Consultation/Community Engagement:

The Authority has discussed this issue with the North Tyneside Hackney Carriage and Private Hire Licensing Forum where different views on this issue were held. A commitment was made to bring this issue before the Regulation and Review Committee.

2.4 Human Rights:

There are no human rights issues arising directly arising from this report.

2.5 Equalities and Diversity:

There are no equality and diversity implications arising directly from this report. Equality Impact Assessments will be undertaken as part of the development of regulatory option proposals.

2.6 Risk Management:

There are no significant risk management implications to the Authority arising directly from this report.

2.7 Crime and Disorder:

It is not considered that there are any crime and disorder implications arising directly from this report.

2.8 Environment and Sustainability:

It is not considered that there are any environment and sustainability implications arising directly from this report.