

Report to Regulatory Panel

Agenda
Item:

A.3

Meeting Date: 30th March 2016
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and Budget Framework YES
Public / Private Public

Title: PRIVATE HIRE OPERATOR - DURATION OF LICENCE AND FEES
Report of: Director of Governance
Report Number: GD20 /16

Purpose / Summary:

The De-regulation Act 2015 has amended Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 which amends the standard duration of Private Hire Operator licences from 1 to 5 years, with only 'individual exceptional circumstances' negating the issue of a 'lesser' period of licence.

Accurate calculation of fees has been undertaken and consultation on these have now concluded.

Recommendations:

Members are requested to consider this report and agree the fee structure in 3.3 and recommendations in point 4.

Tracking

Executive	n/a
Overview and Scrutiny	n/a
Council	n/a

1 CURRENT POSITION

- 1.1** At present, Carlisle City Council issues one year Operator Licences, with renewal dates being 15th January each year and has 24 licenced Operators.
- 1.2** Charges are dependent on the amount of vehicles an Operator controls.
- 1.3** Licences are granted along with terms and conditions that an Operator must adhere to. These have been amended to include the need for an operator to undertake a basic criminal disclosure for directors and staff, provision for these includes:
- Inspecting and retaining a hackney/ private hire driver's licence
 - keeping appropriate records in accordance with section 56(2) LGMP Act 1976 regarding booking details
 - notifying the Council in writing of complaints received and action taken to rectify
 - Inform the Council of any conviction details imposed on himself/directors within 7 days
 - Ensuring all drivers employed by him, or vehicles they are responsible for, complies with terms and conditions and codes of practice attached to drivers and vehicle licences.
- 1.4** Licensing also receive and investigate complaints direct regarding Operators.
- 1.5** Licensing carry out administration and compliance checks of Operator records.

2 PROPOSALS

- 2.1** Although the legislation states that an operator's licence should be granted for 5 years, there may be circumstances in which it may be appropriate to grant a licence for a shorter period.
- 2.2** Advice from the Institute of Licensing and the Council's Legal section is that each Local Authority should be undertaking disclosure checks of Operators. This would be in respect of all directors and telephone operators of companies. Under Section 55 LGMP Act 1976 it clearly states that each Council should not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence
- 2.3** Operators are given a wealth of knowledge and placed in a position of trust by the public and it is for the Local Authority to ensure an Operator is 'Safe and Suitable' or 'fit and proper' in line with driver suitability checks.

- 2.4** The aim of local authority licensing of the taxi and private hire trade is to protect the public and the Department of Transport's Best Practice guide supports this along with public safety in its widest sense.
- 2.5** It is therefore suggested to commence disclosure checks for directors and telephone operators of companies from 1st April 2016/their next renewal date and these be updated on renewal of the Operator Licence every 5 years.
- 2.6** Operator fees are levied under the Local Government Miscellaneous Provisions Act 1976 s70. Fees have been calculated for the various licence periods. The methodology used to calculate the fees is summarised below and is based on the costs incurred in the issue and administration of a licence, as well as the current fee setting structure.

The Proposed fees take account of the cost of:

- Initial enquiries from new operators
- External agency checks
- Processing and administration
- Monitoring costs
- Committee hearing apportioned across all Operators
- Legal advice apportioned across all Operators
- Complaints received and investigated across all Operators
- Issuing and producing of Licences
- Annual administration check
- Training of staff

- 2.7** Operator Conditions will be amended to take account of the need to undertake basic criminal record checks for all directors and staff (**Appendix B 6a**)

3 CONSULTATION

- 3.1** Consultation with the trade and public period commenced on 12th February 2016 and due to addendum at committee on 24th February was extended until 23rd March 2016.
- 3.2** No responses were received from public or trade.
- 3.3** Fees proposed from 1st April 2016 have been calculated as follows:

PH Operator	Existing 1 year	1 year new/renewal	5 year new/renewal
1-5 vehicles	140.00	175.00	495.00
6-10	210.00	245.00	550.00
11-20	390.00	460.00	670.00
21-30	445.00	595.00	745.00

4 RECOMMENDATIONS

- 4.1 To delegate authority to the Licensing Manager to enable the grant or refusal of a 'lesser period licence', in the circumstances which she considers appropriate, and to charge the proportionate fee.
- 4.2 If the decision to refuse a lesser period licence is made, an Operator will have the appeal rights to the Regulatory Panel and a report submitted for their casting decision.
- 4.3 Agree fees as detailed in 3.3
- 4.4 To review fees on an annual basis in line with the charging report.
- 4.5 To agree the commencement of basic criminal record checks for directors and staff of Operating companies with effect from 1st April 2016.

5 CONCLUSION

- 5.1 To comply with Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 and De-Regulation Act 2015 Chapter 10 which details that duration of Operators' licences for a 5 year period, or lesser only where the Council think appropriate in individual cases with effect from 1st April 2016. **Appendix A**
To amend Operator Terms of Conditions to reflect the new 5 year period and disclosure checks **Appendix B**

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Appendices
attached to report: **Appendix A – Legislation**
Appendix B – Operator terms and Conditions

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's – N/A

Deputy Chief Executive – N/A

Economic Development – N/A

Governance – included within this report N/A

Local Environment – N/A

Resources – N/A



Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

55 Licensing of operators of private hire vehicles.

- (1) Subject to the provisions of this Part of this Act, a district council shall, on receipt of an application from any person for the grant to that person of a licence to operate private hire vehicles grant to that person an operator's licence:

Provided that a district council shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.

- (2) Every licence granted under this section shall remain in force for such period, not being longer than five years, as a district council may specify in the licence.
- (3) A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.
- (4) Any applicant aggrieved by the refusal of a district council to grant an operator's licence under this section, or by any conditions attached to the grant of such a licence, may appeal to a magistrates' court.

Annotations:

Modifications etc. (not altering text)

- C1** S. 55: functions of local authority not to be responsibility of an executive of the authority (E.)
(16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1 Table B5
S. 55 extended (13.3.2000) by S.I. 2000/412, art. 4(4)



Deregulation Act 2015

2015 CHAPTER 20

Measures affecting business: particular areas

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.”

CITY OF CARLISLE
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976
PRIVATE HIRE VEHICLE OPERATORS LICENCES
CONDITIONS

GENERAL

The Operator of any Hackney Carriage or Private Hire vehicle shall observe and perform all the following terms and conditions which shall be attached to and form part of his Private Hire Vehicle Operator's Licence. Where a Hackney Carriage is allocated a private hire booking these terms and conditions shall also apply:-

1. Every contract for the hire of a licensed vehicle shall be deemed to be made with the Operator who has accepted the booking for the vehicle whether or not he himself provides the vehicle.
2. This Licence is pursuant to the Operator named herein and the Operator may not in any circumstances assign it or in any way part with the benefit thereof to any other person.
3. The Operator shall forthwith withdraw from operation any vehicle in respect of which the Licence is for any reason revoked suspended or not renewed.
4.
 - (a) The Operator shall not allow, or shall cease to allow forthwith, any person who does not hold or ceases to hold a current Hackney Carriage/Private Hire Vehicle Driver's Licence to drive any vehicle operated by him.
 - (b) Before allowing any person to drive a licensed vehicle the Operator shall first inspect and retain his current years Hackney Carriage/Private Hire Driver's Licence and failure to take such action shall be presumed to imply that the Operator had notice of any matter which would have been drawn to his attention should such action have been taken.
 - (c) The vehicle shall be classed as a Licensed Vehicle at all times whether or not it is under hire.
5. The Council shall have power to suspend, revoke or refuse to renew any Operator's Licence for any reasonable cause including:-

- (a) the committing by the Licensee of any offence under or non-compliance with any of the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 including failure to comply with any part of these conditions;
 - (b) any conduct on the part of the Operator which appears to the Council to render him unfit to hold an Operator's Licence which may include the conviction for any offence whatever;
 - (c) where there has been a material change in the circumstances of the Operator on the basis of which the Licence was granted.
- 6.
 - (a) The Operator shall ensure that all company directors and staff Involved in bookings are 'fit and proper' and have undertaken a basic criminal disclosure check for each member' (apply through www.disclosurescotland.co.uk)
 - (b) If during the currency of this Licence any of the particulars supplied in relation to the Operator's application shall change, details of the change shall forthwith be notified in writing to the Council.
- 7. The Council may at any time add, delete or alter any of the foregoing conditions and upon notice thereof having been served upon the Licensee such additions, deletions or alterations shall as from the date of such service be deemed to be incorporated herein.
- 8. Any notice required to be served by the Council under this Licence or under any of the provisions of the Local Government (Miscellaneous Provisions) Act 1976 shall be deemed to have been properly served if sent by them by prepaid post to or left at the last known address of the premises from which the Licensee operates.
- 9. Records
 - (1) The record required to be kept by the Operator under Section 56(2) of the Local Government (Miscellaneous Provisions) Act 1976 shall be kept in a suitable book, the pages of which are numbered consecutively and the Operator shall enter or cause to be entered therein, before the commencement of each journey, the following particulars of every booking of a Licensed Vehicle invited or accepted by him:-
 - (a) The time and date of the booking.
 - (b) The name and address of the hirer.
 - (c) How the booking was made (ie. by telephone, personal call etc.)
 - (d) The time of pick-up.

- (e) The point of pick-up.
 - (f) The destination.
 - (g) The time at which a driver was allocated to the booking.
 - (h) The registration number and licensing number of the vehicle allocated for the booking.
 - (i) The driver allocated the booking.
 - (i) Remarks (including details of any sub-contract).
- (2) The Operator shall also keep records of the particulars of all Private Hire Vehicles operated by him, which particulars shall include details of the owners, registration numbers and drivers of such vehicles, together with any radio call sign used.
 - (3) All records kept by the Operator shall be preserved for a period of not less than two years following the date of the last entry.
 - (4) This Licence and any book, register or record required to be kept under the terms of this Licence shall be produced on request to any authorised Officer of the Council and to any Police Constable for inspection.
10.
 - (a) The Operator when accepting a booking shall communicate to the hirer the Licence number of the vehicle allocated to the booking.
 - (b) The Operator shall inform the driver of the allocated vehicle the name of the hirer.
 - (c) The Operator shall ensure that only the vehicle allocated to the hirer at the time of the booking is boarded by the hirer.

11. Standard of Service

The Operator shall provide a prompt, efficient and reliable service to members of the public at all reasonable times and for this purpose shall in particular:-

- (a) Ensure that when a Licensed Vehicle has been hired to be in attendance at an appointed time and place, the vehicle shall, unless delayed or prevented by sufficient cause, punctually attend at that appointed time and place.

- (b) Ensure that a despatched vehicle is 'fit for the purpose of the hirer' e.g. correct number of seats for passengers, suitable size vehicle to accommodate wheelchair etc.
 - (c) Keep clean, adequately heated, ventilated and lit any premises which the Operator provides and to which the public have access, whether for the purpose of booking or waiting.
 - (c) Ensure that any waiting area provided by the Operator has adequate seating facilities.
12. (a) Complaints - The Operator shall immediately upon receipt notify the Council in writing of any complaints concerning a contract for hire or purported contract for hire relating to or arising from his business and of the action (if any) which the Operator has taken or proposes to take in respect thereof.
- (b) Lost Property – The Operator shall respond to lost and found property requests and inform customers and drivers that Police are under a duty to receive found 'identifiable property' (mobile phone, bank card, camera etc) but it is a drivers responsibility to try and re-unite any found property with the owner in the first instance as per a hackney driver's code of practice and private hire driver's terms and conditions

13. Convictions

The Operator shall within seven days disclose to the Council in writing details of any conviction imposed on him (or if the Operator is a company, on any of its directors and staff) during that period of the Licence.

14. Conduct of Drivers

1. The Operator shall ensure at all times that a driver in charge of a Licensed Vehicle shall not:-
 - (a) station his Private Hire vehicle on any place provided as a stand for Hackney Carriage vehicles or any Licensed vehicle in an area of the highway marked out as a loading bay or bus stop;
 - (b) station his Private Hire vehicle for hire or ply for hire or solicit any person to hire or to be carried for hire or reward on any road or in any public place or in any place readily accessible and visible from a road;
 - (c) cause or procure any person to tout or solicit on a road or other public place any person to hire or be carried for hire in any

Private Hire Vehicle or offer that vehicle for immediate hire while the driver of that vehicle is on a road or other public place;

- (d) accept any offer for the hire of the vehicle whilst the driver of that vehicle is on a road or other public place except where such offer is first communicated by the Operator to the driver by a telephone or by two way radio system (other than CB Radio) fitted to that vehicle;
 - (e) station any vehicle on a public highway in such a manner so that it is double parked or otherwise obstructs the free flow of traffic and this condition shall apply at all times and including whilst and before and after the hirer is boarding or alighting from the vehicle;
 - (f) station any vehicle so as to obstruct the exits or fire exits of any place licensed for regulated entertainment or to station the vehicle in such a way that a condition attached to the Premises Licence as to access by emergency vehicles cannot be complied with.
- 2. The Operator shall in general ensure that all drivers employed by him comply with the terms and conditions for the time being attached by the Council to their Hackney Carriage/Private Hire Vehicle Drivers Licences.
 - 3. In these conditions the term "him" shall include "her" as the case may be.